HOUSE OF REPRESENTATIVES—*Sunday, August 21, 1994*

The House met at 1 p.m.

Rev. W. Douglas Tanner, Jr., executive director, Faith & Politics Institute, Washington, DC, offered the following prayer:

Almighty God, Creator of us all: We would seek today to do justice, love kindness, and walk humbly with You.

We pray for clarity and courage as this House considers the legislation to come before it. Connect our spirits with those of both the victims and the perpetrators of criminal acts. Remind us that there, but for Your grace, go we.

Strengthen in us a commitment to do all that we can to reduce the violence in our land. Grant us wisdom to discern the proper role of punishment, and determination to administer it fairly. Grant us equal wisdom to discern the root causes of criminal behavior, and equal determination to address them effectively.

In the process, we pray, save us from pride and arrogance that can render us unable to do either. Amen.

THE JOURNAL

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

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

Ms. DELAURO. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

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

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 248, nays 165, not voting 21, as follows:

[Roll No. 413]

YEAS—248

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Bateman
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Chapman
Clay
Clement
Clinger
Clyburn
Coleman
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
English
Eshoo
Evans
Everett
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Foglietta
Ford (TN)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gillmor
Gilman
Glickman
Gonzalez
Gordon
Green
Greenwood
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Houghton
Hoyer
Hughes
Hutto
Inglis
Inslee
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Lipinski
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDermott
McHale
McKinney
McNulty
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Myers
Nadler
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pombo
Pomeroy
Poshard
Price (NC)
Rahall
Reed
Richardson
Ridge
Roemer
Rostenkowski
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Schenk
Schumer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (IA)
Smith (NJ)
Snowe
Spratt
Stark
Stenholm
Strickland
Studds
Stupak
Swett
Swift
Synar
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Unsoeld
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Wheat
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NAYS—165

Allard
Archer
Armey
Bachus (AL)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Brown (CA)
Bunning
Burton
Buyer
Calvert
Camp
Canady
Castle
Clayton
Coble
Collins (GA)
Cox
Crapo
Cunningham
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Emerson
Ewing
Fawell
Fields (TX)
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gekas
Gilchrest
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Gunderson
Hancock
Hansen
Hastert
Hefley
Hobson
Hoekstra
Hoke
Horn
Huffington
Hunter
Hutchinson
Hyde
Inhofe
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Livingston
Lloyd
Lucas
Machtley
Manzullo
McCandless
McCollum
McCrery
McHugh
McInnis
McKeon
McMillan
Meehan
Meyers
Mica
Michel
Miller (FL)
Molinari
Moorhead
Morella
Murphy
Nussle
Orton
Oxley
Packard
Paxon
Petri
Porter
Portman
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Regula
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Saxton
Schaefer
Schiff
Schroeder
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stokes
Stump
Sundquist
Talent
Tauzin
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—21

Applegate
Baker (CA)
Callahan
Crane
Engel
Flake
Ford (MI)
Frank (MA)
Gallo
Herger
McDade
Moran
Murtha
Rangel
Reynolds
Rose
Rowland
Tucker
Valentine
Washington
Whitten

□ 1332

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Texas, Mr. GENE GREEN, please come forward and lead the House in the Pledge of Allegiance.

Mr. GENE GREEN of Texas led the Pledge of Allegiance as follows:

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

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

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AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

A WELCOME BACK TO THE HONORABLE TOM LANTOS AND AN EXPRESSION OF SYMPATHY TO THE HONORABLE SONNY CALLAHAN

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

Mr. FOLEY. Mr. Speaker, I take the floor for two purposes: One, a happy one and one sad one.

The happy one is to welcome back to our midst our distinguished colleague, fit, ready for duty and restored to health, the gentleman from California [Mr. LANTOS].

The sad duty, Mr. Speaker, is to call the attention of this House to the tragic death of Cameron Callahan, the fifth child of our colleague, the gentleman from Alabama, SONNY CALLAHAN. The 23-year-old young man at Auburn University was killed yesterday in an automobile accident. His father is not with us, but I am sure I can speak for every Member of this House in expressing to him and to his family our heartfelt condolences and sympathy.

Mr. Speaker, may I suggest a moment of silence by the House to express to our colleague our sympathy to him and his wife, Karen, and the family and our concern and our support. Our thoughts are with them now.

CONFERENCE REPORT ON H.R. 3355, VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1993

Mr. BROOKS submitted the following conference report and statement on the bill (H.R. 3355) to amend the Omnibus Crime Control and Safe Streets Act of 1968 to allow grants to increase police presence, to expand and improve cooperative efforts between law enforcement agencies and members of the community to address crime and disorder problems, and otherwise to enhance public safety:

CONFERENCE REPORT (H. REPT. 103-711)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the amendment of the Senate to the bill (H.R. 3355), to amend the Omnibus Crime Control and Safe Streets Act of 1968 to allow grants to increase police presence, to expand and improve cooperative efforts between law enforcement agencies and members of the community to address crime and disorder problems, and otherwise to enhance public safety, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Violent Crime Control and Law Enforcement Act of 1994".

SEC. 2. TABLE OF CONTENTS.

The following is the table of contents for this Act:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—PUBLIC SAFETY AND POLICING

Sec. 10001. Short title.
Sec. 10002. Purposes.
Sec. 10003. Community policing; "Cops on the Beat".

TITLE II—PRISONS

Subtitle A—Violent Offender Incarceration and Truth in Sentencing Incentive Grants

Sec. 20101. Grants for correctional facilities.
Sec. 20102. Truth in sentencing incentive grants.
Sec. 20103. Violent offender incarceration grants.
Sec. 20104. Matching requirement.
Sec. 20105. Rules and regulations.
Sec. 20106. Technical assistance and training.
Sec. 20107. Evaluation.
Sec. 20108. Definitions.
Sec. 20109. Authorization of appropriations.

Subtitle B—Punishment for Young Offenders

Sec. 20201. Certain punishment for young offenders.

Subtitle C—Alien Incarceration

Sec. 20301. Incarceration of undocumented criminal aliens.

Subtitle D—Miscellaneous Provisions

Sec. 20401. Prisoner's place of imprisonment.
Sec. 20402. Prison impact assessments.
Sec. 20403. Sentences to account for costs to the Government of imprisonment, release, and probation.
Sec. 20404. Application to prisoners to which prior law applies.
Sec. 20405. Crediting of "good time".
Sec. 20406. Task force on prison construction standardization and techniques.
Sec. 20407. Efficiency in law enforcement and corrections.
Sec. 20408. Amendments to the Department of Education Organization Act and the National Literacy Act of 1991.
Sec. 20409. Appropriate remedies for prison overcrowding.
Sec. 20410. Congressional approval of any expansion at Lorton and congressional hearings on future needs.
Sec. 20411. Awards of Pell Grants to prisoners prohibited.
Sec. 20412. Education requirement for early release.
Sec. 20413. Conversion of closed military installations into Federal prison facilities.
Sec. 20414. Post-conviction release drug testing—Federal offenders.
Sec. 20415. Reporting of cash received by criminal court clerks.
Sec. 20416. Civil rights of institutionalized persons.
Sec. 20417. Notification of release of prisoners.
Sec. 20418. Correctional job training and placement.

Subtitle D—Family and Community Endeavor Schools Grant Program

Sec. 30401. Community schools youth services and supervision grant program.
Sec. 30402. Family and Community Endeavor Schools Grant Program.

TITLE III—CRIME PREVENTION

Subtitle A—Ounce of Prevention Council

Sec. 30101. Ounce of Prevention Council.
Sec. 30102. Ounce of prevention grant program.
Sec. 30103. Definition.
Sec. 30104. Authorization of appropriations.

Subtitle B—Local Crime Prevention Block Grant Program

Sec. 30201. Payments to local governments.
Sec. 30202. Authorization of appropriations.
Sec. 30203. Qualification for payment.
Sec. 30204. Allocation and distribution of funds.
Sec. 30205. Utilization of private sector.
Sec. 30206. Public participation.
Sec. 30207. Administrative provisions.
Sec. 30208. Definitions.

Subtitle C—Model Intensive Grant Programs

Sec. 30301. Grant authorization.
Sec. 30302. Uses of funds.
Sec. 30303. Program requirements.
Sec. 30304. Applicants.
Sec. 30305. Reports.
Sec. 30306. Definitions.
Sec. 30307. Authorization of appropriations.

Subtitle D—Family and Community Endeavor Schools Grant Program

Sec. 30401. Community schools youth services and supervision grant program.
Sec. 30402. Family and community endeavor schools grant program.
Sec. 30403. Authorization of appropriations.

Subtitle G—Assistance for Delinquent and At-Risk Youth

Sec. 30701. Grant authority.
Sec. 30702. Authorization of appropriations.

Subtitle H—Police Recruitment

Sec. 30801. Grant authority.
Sec. 30802. Authorization of appropriations.

Subtitle J—Local Partnership Act

Sec. 31001. Establishment of payment program.
Sec. 31002. Technical amendment.

Subtitle K—National Community Economic Partnership

Sec. 31101. Short title.

CHAPTER 1—COMMUNITY ECONOMIC PARTNERSHIP INVESTMENT FUNDS

Sec. 31111. Purpose.
Sec. 31112. Provision of assistance.
Sec. 31113. Approval of applications.
Sec. 31114. Availability of lines of credit and use.
Sec. 31115. Limitations on use of funds.
Sec. 31116. Program priority for special emphasis programs.

CHAPTER 2—EMERGING COMMUNITY DEVELOPMENT CORPORATIONS

Sec. 31121. Community development corporation improvement grants.
Sec. 31122. Emerging community development corporation revolving loan funds.

CHAPTER 3—MISCELLANEOUS PROVISIONS

Sec. 31131. Definitions.
Sec. 31132. Authorization of appropriations.
Sec. 31133. Prohibition.

Subtitle O—Urban Recreation and At-Risk Youth

Sec. 31501. Purpose of assistance.
Sec. 31502. Definitions.
Sec. 31503. Criteria for selection.
Sec. 31504. Park and recreation action recovery programs.
Sec. 31505. Miscellaneous and technical amendments.

Subtitle Q—Community-Based Justice Grants for Prosecutors

Sec. 31701. Grant authorization.
Sec. 31702. Use of funds.
Sec. 31703. Applications.
Sec. 31704. Allocation of funds; limitations on grants.
Sec. 31705. Award of grants.
Sec. 31706. Reports.
Sec. 31707. Authorization of appropriations.
Sec. 31708. Definitions.

Subtitle S—Family Unity Demonstration Project

Sec. 31901. Short title.
Sec. 31902. Purpose.

Sec. 31903. Definitions.
Sec. 31904. Authorization of appropriations.
CHAPTER 1—GRANTS TO STATES
Sec. 31911. Authority to make grants.
Sec. 31912. Eligibility to receive grants.
Sec. 31913. Report.
CHAPTER 2—FAMILY UNITY DEMONSTRATION PROJECT FOR FEDERAL PRISONERS
Sec. 31921. Authority of the Attorney General.
Sec. 31922. Requirements.
Subtitle T—Substance Abuse Treatment in Federal Prisons
Sec. 32001. Substance abuse treatment in Federal prisons.
Subtitle U—Residential Substance Abuse Treatment for State Prisoners
Sec. 32101. Residential substance abuse treatment for State prisoners.
Subtitle V—Prevention, Diagnosis, and Treatment of Tuberculosis in Correctional Institutions
Sec. 32201. Prevention, diagnosis, and treatment of tuberculosis in correctional institutions.
Subtitle X—Gang Resistance Education and Training
Sec. 32401. Gang resistance education and training projects.
TITLE IV—VIOLENCE AGAINST WOMEN
Sec. 40001. Short title.
Subtitle A—Safe Streets for Women
Sec. 40101. Short title.
CHAPTER 1—FEDERAL PENALTIES FOR SEX CRIMES
Sec. 40111. Repeat offenders.
Sec. 40112. Federal penalties.
Sec. 40113. Mandatory restitution for sex crimes.
Sec. 40114. Authorization for Federal victim's counselors.
CHAPTER 2—LAW ENFORCEMENT AND PROSECUTION GRANTS TO REDUCE VIOLENT CRIMES AGAINST WOMEN
Sec. 40121. Grants to combat violent crimes against women.
CHAPTER 3—SAFETY FOR WOMEN IN PUBLIC TRANSIT AND PUBLIC PARKS
Sec. 40131. Grants for capital improvements to prevent crime in public transportation.
Sec. 40132. Grants for capital improvements to prevent crime in national parks.
Sec. 40133. Grants for capital improvements to prevent crime in public parks.
CHAPTER 4—NEW EVIDENTIARY RULES
Sec. 40141. Sexual history in criminal and civil cases.
CHAPTER 5—ASSISTANCE TO VICTIMS OF SEXUAL ASSAULT
Sec. 40151. Education and prevention grants to reduce sexual assaults against women.
Sec. 40152. Training programs.
Sec. 40153. Confidentiality of communications between sexual assault or domestic violence victims and their counselors.
Sec. 40154. Information programs.
Sec. 40155. Education and prevention grants to reduce sexual abuse of runaway, homeless, and street youth.
Sec. 40156. Victims of child abuse programs.
Subtitle B—Safe Homes for Women
Sec. 40201. Short title.
CHAPTER 1—NATIONAL DOMESTIC VIOLENCE HOTLINE
Sec. 40211. Grant for a national domestic violence hotline.
CHAPTER 2—INTERSTATE ENFORCEMENT
Sec. 40221. Interstate enforcement.
CHAPTER 3—ARREST POLICIES IN DOMESTIC VIOLENCE CASES
Sec. 40231. Encouraging arrest policies.
CHAPTER 4—SHELTER GRANTS
Sec. 40241. Grants for battered women's shelters.
CHAPTER 5—YOUTH EDUCATION
Sec. 40251. Youth education and domestic violence.
CHAPTER 6—COMMUNITY PROGRAMS ON DOMESTIC VIOLENCE
Sec. 40261. Establishment of community programs on domestic violence.
CHAPTER 7—FAMILY VIOLENCE PREVENTION AND SERVICES ACT AMENDMENTS
Sec. 40271. Grantee reporting.
Sec. 40272. Technical amendments.
CHAPTER 8—CONFIDENTIALITY FOR ABUSED PERSONS
Sec. 40281. Confidentiality of abused person's address.
CHAPTER 9—DATA AND RESEARCH
Sec. 40291. Research agenda.
Sec. 40292. State databases.
Sec. 40293. Number and cost of injuries.
CHAPTER 10—RURAL DOMESTIC VIOLENCE AND CHILD ABUSE ENFORCEMENT
Sec. 40295. Rural domestic violence and child abuse enforcement assistance.
Subtitle C—Civil Rights for Women
Sec. 40301. Short title.
Sec. 40302. Civil rights.
Sec. 40303. Attorney's fees.
Sec. 40304. Sense of the Senate concerning protection of the privacy of rape victims.
Subtitle D—Equal Justice for Women in the Courts Act
Sec. 40401. Short title.
CHAPTER 1—EDUCATION AND TRAINING FOR JUDGES AND COURT PERSONNEL IN STATE COURTS
Sec. 40411. Grants authorized.
Sec. 40412. Training provided by grants.
Sec. 40413. Cooperation in developing programs in making grants under this title.
Sec. 40414. Authorization of appropriations.
CHAPTER 2—EDUCATION AND TRAINING FOR JUDGES AND COURT PERSONNEL IN FEDERAL COURTS
Sec. 40421. Authorizations of circuit studies; education and training grants.
Sec. 40422. Authorization of appropriations.
Subtitle E—Violence Against Women Act Improvements
Sec. 40501. Pre-trial detention in sex offense cases.
Sec. 40502. Increased penalties for sex offenses against victims below the age of 16.
Sec. 40503. Payment of cost of testing for sexually transmitted diseases.
Sec. 40504. Extension and strengthening of restitution.
Sec. 40505. Enforcement of restitution orders through suspension of Federal benefits.
Sec. 40506. National baseline study on campus sexual assault.
Sec. 40507. Report on battered women's syndrome.
Sec. 40508. Report on confidentiality of addresses for victims of domestic violence.
Sec. 40509. Report on recordkeeping relating to domestic violence.
Subtitle F—National Stalker and Domestic Violence Reduction
Sec. 40601. Authorizing access to Federal criminal information databases.
Sec. 40602. Grant program.
Sec. 40603. Authorization of appropriations.
Sec. 40604. Application requirements.
Sec. 40605. Disbursement.
Sec. 40606. Technical assistance, training, and evaluations.
Sec. 40607. Training programs for judges.
Sec. 40608. Recommendations on intrastate communication.
Sec. 40609. Inclusion in national incident-based reporting system.
Sec. 40610. Report to Congress.
Sec. 40611. Definitions.
Subtitle G—Protections for Battered Immigrant Women and Children
Sec. 40701. Alien petitioning rights for immediate relative or second preference status.
Sec. 40702. Use of credible evidence in spousal waiver applications.
Sec. 40703. Suspension of deportation.
TITLE V—DRUG COURTS
Sec. 50001. Drug courts.
Sec. 50002. Study by the General Accounting Office.
TITLE VI—DEATH PENALTY
Sec. 60001. Short title.
Sec. 60002. Constitutional procedures for the imposition of the sentence of death.
Sec. 60003. Specific offenses for which death penalty is authorized.
Sec. 60004. Applicability to Uniform Code of Military Justice.
Sec. 60005. Death penalty for murder by a Federal prisoner.
Sec. 60006. Death penalty for civil rights murders.
Sec. 60007. Death penalty for the murder of Federal law enforcement officials.
Sec. 60008. New offense for the indiscriminate use of weapons to further drug conspiracies.
Sec. 60009. Foreign murder of United States nationals.
Sec. 60010. Death penalty for rape and child molestation murders.
Sec. 60011. Death penalty for sexual exploitation of children.
Sec. 60012. Murder by escaped prisoners.
Sec. 60013. Death penalty for gun murders during Federal crimes of violence and drug trafficking crimes.
Sec. 60014. Homicides and attempted homicides involving firearms in Federal facilities.
Sec. 60015. Death penalty for the murder of State or local officials assisting Federal law enforcement officials and State correctional officers.
Sec. 60016. Protection of court officers and jurors.
Sec. 60017. Prohibition of retaliatory killings of witnesses, victims, and informants.
Sec. 60018. Death penalty for murder of Federal witnesses.
Sec. 60019. Offenses of violence against maritime navigation or fixed platforms.
Sec. 60020. Torture.
Sec. 60021. Violence at airports serving international civil aviation.
Sec. 60022. Terrorist Death Penalty Act.
Sec. 60023. Weapons of mass destruction.
Sec. 60024. Enhanced penalties for alien smuggling.
Sec. 60025. Protection of jurors and witnesses in capital cases.
Sec. 60026. Appointment of Counsel.
TITLE VII—MANDATORY LIFE IMPRISONMENT FOR PERSONS CONVICTED OF CERTAIN FELONIES
Sec. 70001. Mandatory life imprisonment for persons convicted of certain felonies.

Sec. 70002. Limited grant of authority to Bureau of Prisons.

TITLE VIII—APPLICABILITY OF MANDATORY MINIMUM PENALTIES IN CERTAIN CASES

Sec. 80001. Limitation on applicability of mandatory minimum penalties in certain cases.

TITLE IX—DRUG CONTROL

Subtitle A—Enhanced Penalties and General Provisions

Sec. 90101. Enhancement of penalties for drug trafficking in prisons.
Sec. 90102. Increased penalties for drug-dealing in "drug-free" zones.
Sec. 90103. Enhanced penalties for illegal drug use in Federal prisons and for smuggling drugs into Federal prisons.
Sec. 90104. Clarification of narcotic or other dangerous drugs under RICO.
Sec. 90105. Conforming amendments to recidivist penalty provisions of the controlled substances act and the controlled substances import and export act.
Sec. 90106. Advertising.
Sec. 90107. Violent crime and drug emergency areas.

Subtitle B—National Narcotics Leadership Act Amendments

Sec. 90201. Implementation of National Drug Control Strategy.
Sec. 90202. Report on reprogramming; office personnel restriction.
Sec. 90203. National Drug Control Strategy outcome measures.
Sec. 90204. Counter-Drug Technology Assessment Center.
Sec. 90205. Special Forfeiture Fund amendments.
Sec. 90206. Authorization of appropriations.
Sec. 90207. Adequate staffing of the Office of National Drug Control Policy.
Sec. 90208. Termination of Office of National Drug Control Policy.

TITLE X—DRUNK DRIVING PROVISIONS

Sec. 100001. Short title.
Sec. 100002. State laws applied in areas of Federal jurisdiction.
Sec. 100003. Driving while intoxicated prosecution program.

TITLE XI—FIREARMS

Subtitle A—Assault Weapons

Sec. 110101. Short title.
Sec. 110102. Restriction on manufacture, transfer, and possession of certain semiautomatic assault weapons.
Sec. 110103. Ban of large capacity ammunition feeding devices.
Sec. 110104. Study by attorney general.
Sec. 110105. Effective date.
Sec. 110106. Appendix a to section 922 of title 18.

Subtitle B—Youth Handgun Safety

Sec. 110201. Prohibition of the possession of a handgun or ammunition by, or the private transfer of a handgun or ammunition to, a juvenile.

Subtitle C—Licensure

Sec. 110301. Firearms licensure and registration to require a photograph and fingerprints.
Sec. 110302. Compliance with State and local law as a condition to license.
Sec. 110303. Action on firearms license application.
Sec. 110304. Inspection of firearms licensees' inventory and records.
Sec. 110305. Reports of theft or loss of firearms.
Sec. 110306. Responses to requests for information.
Sec. 110307. Notification of names and addresses of firearms licensees.

Subtitle D—Domestic Violence

Sec. 110401. Prohibition against disposal of firearms to, or receipt of firearms by, persons who have committed domestic abuse.

Subtitle E—Gun Crime Penalties

Sec. 110501. Enhanced penalty for use of a semiautomatic firearm during a crime of violence or a drug trafficking crime.
Sec. 110502. Enhanced penalty for second offense of using an explosive to commit a felony.
Sec. 110503. Smuggling firearms in aid of drug trafficking.
Sec. 110504. Theft of firearms and explosives.
Sec. 110505. Revocation of supervised release after imprisonment.
Sec. 110506. Revocation of probation.
Sec. 110507. Increased penalty for knowingly making false, material Statement in connection with the acquisition of a firearm from a licensed dealer.
Sec. 110508. Possession of explosives by felons and others.
Sec. 110509. Summary destruction of explosives subject to forfeiture.
Sec. 110510. Elimination of outmoded language relating to parole.
Sec. 110511. Prohibition against transactions involving stolen firearms which have moved in interstate or foreign commerce.
Sec. 110512. Using a firearm in the commission of counterfeiting or forgery.
Sec. 110513. Enhanced penalties for firearms possession by violent felons and serious drug offenders.
Sec. 110514. Receipt of firearms by nonresident.
Sec. 110515. Theft of firearms or explosives from licensee.
Sec. 110516. Disposing of explosives to prohibited persons.
Sec. 110517. Increased penalty for interstate gun trafficking.
Sec. 110518. Firearms and explosives conspiracy.
Sec. 110519. Definition of armor piercing ammunition.

TITLE XII—TERRORISM

Sec. 120001. Extension of the statute of limitation for certain terrorism offenses.
Sec. 120002. Jurisdiction over crimes against United States nationals on certain foreign ships.
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TITLE I—PUBLIC SAFETY AND POLICING

SEC. 10001. SHORT TITLE.

This title may be cited as the "Public Safety Partnership and Community Policing Act of 1994".

SEC. 10002. PURPOSES.

The purposes of this title are to—

(1) substantially increase the number of law enforcement officers interacting directly with members of the community ("cops on the beat");

(2) provide additional and more effective training to law enforcement officers to enhance their problem solving, service, and other skills needed in interacting with members of the community;

(3) encourage the development and implementation of innovative programs to permit members of the community to assist State, Indian tribal government, and local law enforcement agencies in the prevention of crime in the community; and

(4) encourage the development of new technologies to assist State, Indian tribal government, and local law enforcement agencies in reorienting the emphasis of their activities from reacting to crime to preventing crime,

by establishing a program of grants and assistance in furtherance of these objectives, including the authorization for a period of 6 years of grants for the hiring and rehiring of additional career law enforcement officers.

SEC. 10003. COMMUNITY POLICING; "COPS ON THE BEAT".

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended—

(1) by redesignating part Q as part R;

(2) by redesignating section 1701 as section 1801; and

(3) by inserting after part P the following new part:

"PART Q—PUBLIC SAFETY AND COMMUNITY POLICING; 'COPS ON THE BEAT'

"SEC. 1701. AUTHORITY TO MAKE PUBLIC SAFETY AND COMMUNITY POLICING GRANTS.

"(a) GRANT AUTHORIZATION.—The Attorney General may make grants to States, units of local government, Indian tribal governments, other public and private entities, and multi-jurisdictional or regional consortia thereof to increase police presence, to expand and improve cooperative efforts between law enforcement agencies and members of the community to address crime and disorder problems, and otherwise to enhance public safety.

"(b) REHIRING, HIRING, AND INITIAL REDEPLOYMENT GRANT PROJECTS.—

"(1) IN GENERAL.—Grants made under subsection (a) may be used for programs, projects, and other activities to—

"(A) rehire law enforcement officers who have been laid off as a result of State and local budget reductions for deployment in community-oriented policing;

"(B) hire and train new, additional career law enforcement officers for deployment in community-oriented policing across the Nation; and

"(C) procure equipment, technology, or support systems, or pay overtime, if the applicant for such a grant demonstrates to the satisfaction of the Attorney General that expenditures for such purposes would result in an increase in the number of officers deployed in community-oriented policing equal to or greater than the increase in the number of officers that would result from a grant for a like amount for the purposes specified in subparagraph (A) or (B).

"(2) GRANTS FOR EQUIPMENT, TECHNOLOGY, AND SUPPORT SYSTEMS.—Grants pursuant to paragraph (1)(C)—

"(A) may not exceed—

"(i) 20 percent of the funds available for grants pursuant to this subsection in fiscal year 1995;

"(ii) 20 percent of the funds available for grants pursuant to this subsection in fiscal year 1996; or

"(iii) 10 percent of the funds available for grants pursuant to this subsection in fiscal years 1997, 1998, 1999, and 2000; and

"(B) may not be awarded in fiscal years 1998, 1999, or 2000 unless the Attorney General has certified that grants awarded in fiscal years 1995, 1996, and 1997 pursuant to subparagraph (1)(C) have resulted in an increase in the number of officers deployed in community-oriented policing equal to or greater than the increase in the number of officers that have resulted from the grants in like amounts awarded in fiscal years 1995, 1996, and 1997 pursuant to paragraph (1) (A) and (B).

"(c) TROOPS-TO-COPS PROGRAMS.—

"(1) IN GENERAL.—Grants made under subsection (a) may be used to hire former members of the Armed Forces to serve as career law enforcement officers for deployment in community-oriented policing, particularly in communities that are adversely affected by a recent military base closing.

"(2) DEFINITION.—In this subsection, 'former member of the Armed Forces' means a member of the Armed Forces of the United States who is involuntarily separated from the Armed Forces within the meaning of section 1141 of title 10, United States Code.

"(d) ADDITIONAL GRANT PROJECTS.—Grants made under subsection (a) may include programs, projects, and other activities to—

"(1) increase the number of law enforcement officers involved in activities that are focused on interaction with members of the community on proactive crime control and prevention by redeploying officers to such activities;

"(2) provide specialized training to law enforcement officers to enhance their conflict resolution, mediation, problem solving, service, and other skills needed to work in partnership with members of the community;

"(3) increase police participation in multidisciplinary early intervention teams;

"(4) develop new technologies to assist State and local law enforcement agencies in reorienting the emphasis of their activities from reacting to crime to preventing crime;

"(5) develop and implement innovative programs to permit members of the community to assist State and local law enforcement agencies

in the prevention of crime in the community, such as a citizens' police academy, including programs designed to increase the level of access to the criminal justice system enjoyed by victims, witnesses, and ordinary citizens by establishing decentralized satellite offices (including video facilities) of principal criminal courts buildings;

"(6) establish innovative programs to reduce, and keep to a minimum, the amount of time that law enforcement officers must be away from the community while awaiting court appearances;

"(7) establish and implement innovative programs to increase and enhance proactive crime control and prevention programs involving law enforcement officers and young persons in the community;

"(8) develop and establish new administrative and managerial systems to facilitate the adoption of community-oriented policing as an organization-wide philosophy;

"(9) establish, implement, and coordinate crime prevention and control programs (involving law enforcement officers working with community members) with other Federal programs that serve the community and community members to better address the comprehensive needs of the community and its members; and

"(10) support the purchase by a law enforcement agency of no more than 1 service weapon per officer, upon hiring for deployment in community-oriented policing or, if necessary, upon existing officers' initial redeployment to community-oriented policing.

"(e) PREFERENTIAL CONSIDERATION OF APPLICATIONS FOR CERTAIN GRANTS.—In awarding grants under this part, the Attorney General may give preferential consideration, where feasible, to applications for hiring and rehiring additional career law enforcement officers that involve a non-Federal contribution exceeding the 25 percent minimum under subsection (i).

"(f) TECHNICAL ASSISTANCE.—

"(1) IN GENERAL.—The Attorney General may provide technical assistance to States, units of local government, Indian tribal governments, and to other public and private entities, in furtherance of the purposes of the Public Safety Partnership and Community Policing Act of 1994.

"(2) MODEL.—The technical assistance provided by the Attorney General may include the development of a flexible model that will define for State and local governments, and other public and private entities, definitions and strategies associated with community or problem-oriented policing and methodologies for its implementation.

"(3) TRAINING CENTERS AND FACILITIES.—The technical assistance provided by the Attorney General may include the establishment and operation of training centers or facilities, either directly or by contracting or cooperative arrangements. The functions of the centers or facilities established under this paragraph may include instruction and seminars for police executives, managers, trainers, supervisors, and such others as the Attorney General considers to be appropriate concerning community or problem-oriented policing and improvements in police-community interaction and cooperation that further the purposes of the Public Safety Partnership and Community Policing Act of 1994.

"(g) UTILIZATION OF COMPONENTS.—The Attorney General may utilize any component or components of the Department of Justice in carrying out this part.

"(h) MINIMUM AMOUNT.—Unless all applications submitted by any State and grantee within the State pursuant to subsection (a) have been funded, each qualifying State, together with grantees within the State, shall receive in each fiscal year pursuant to subsection (a) not less than 0.5 percent of the total amount appropriated in the fiscal year for grants pursuant to that subsection. In this subsection, 'qualifying State' means any State which has submitted an application for a grant, or in which an eligible entity has submitted an application for a grant, which meets the requirements prescribed by the Attorney General and the conditions set out in this part.

"(i) MATCHING FUNDS.—The portion of the costs of a program, project, or activity provided by a grant under subsection (a) may not exceed 75 percent, unless the Attorney General waives, wholly or in part, the requirement under this subsection of a non-Federal contribution to the costs of a program, project, or activity. In relation to a grant for a period exceeding 1 year for hiring or rehiring career law enforcement officers, the Federal share shall decrease from year to year for up to 5 years, looking toward the continuation of the increased hiring level using State or local sources of funding following the conclusion of Federal support, as provided in an approved plan pursuant to section 1702(c)(8).

"(j) ALLOCATION OF FUNDS.—The funds available under this part shall be allocated as provided in section 1001(a)(11)(B).

"(k) TERMINATION OF GRANTS FOR HIRING OFFICERS.—The authority under subsection (a) of this section to make grants for the hiring and rehiring of additional career law enforcement officers shall lapse at the conclusion of 6 years from the date of enactment of this part. Prior to the expiration of this grant authority, the Attorney General shall submit a report to Congress concerning the experience with and effects of such grants. The report may include any recommendations the Attorney General may have for amendments to this part and related provisions of law in light of the termination of the authority to make grants for the hiring and rehiring of additional career law enforcement officers.

"SEC. 1702. APPLICATIONS.

"(a) IN GENERAL.—No grant may be made under this part unless an application has been submitted to, and approved by, the Attorney General.

"(b) APPLICATION.—An application for a grant under this part shall be submitted in such form, and contain such information, as the Attorney General may prescribe by regulation or guidelines.

"(c) CONTENTS.—In accordance with the regulations or guidelines established by the Attorney General, each application for a grant under this part shall—

"(1) include a long-term strategy and detailed implementation plan that reflects consultation with community groups and appropriate private and public agencies and reflects consideration of the statewide strategy under section 503(a)(1);

"(2) demonstrate a specific public safety need;

"(3) explain the applicant's inability to address the need without Federal assistance;

"(4) identify related governmental and community initiatives which complement or will be coordinated with the proposal;

"(5) certify that there has been appropriate coordination with all affected agencies;

"(6) outline the initial and ongoing level of community support for implementing the proposal including financial and in-kind contributions or other tangible commitments;

"(7) specify plans for obtaining necessary support and continuing the proposed program, project, or activity following the conclusion of Federal support;

"(8) if the application is for a grant for hiring or rehiring additional career law enforcement officers, specify plans for the assumption by the applicant of a progressively larger share of the cost in the course of time, looking toward the continuation of the increased hiring level using State or local sources of funding following the conclusion of Federal support;

"(9) assess the impact, if any, of the increase in police resources on other components of the criminal justice system;

"(10) explain how the grant will be utilized to reorient the affected law enforcement agency's mission toward community-oriented policing or enhance its involvement in or commitment to community-oriented policing; and

"(11) provide assurances that the applicant will, to the extent practicable, seek, recruit, and hire members of racial and ethnic minority groups and women in order to increase their ranks within the sworn positions in the law enforcement agency.

"(d) SPECIAL PROVISIONS.—

"(1) SMALL JURISDICTIONS.—Notwithstanding any other provision of this part, in relation to applications under this part of units of local government or law enforcement agencies having jurisdiction over areas with population of less than 50,000, the Attorney General may waive 1 or more of the requirements of subsection (c) and may otherwise make special provisions to facilitate the expedited submission, processing, and approval of such applications.

"(2) SMALL GRANT AMOUNT.—Notwithstanding any other provision of this part, in relation to applications under section 1701(d) for grants of less than $1,000,000, the Attorney General may waive 1 or more of the requirements of subsection (c) and may otherwise make special provisions to facilitate the expedited submission, processing, and approval of such applications.

"SEC. 1703. RENEWAL OF GRANTS.

"(a) IN GENERAL.—Except for grants made for hiring or rehiring additional career law enforcement officers, a grant under this part may be renewed for up to 2 additional years after the first fiscal year during which a recipient receives its initial grant, if the Attorney General determines that the funds made available to the recipient were used in a manner required under an approved application and if the recipient can demonstrate significant progress in achieving the objectives of the initial application.

"(b) GRANTS FOR HIRING.—Grants made for hiring or rehiring additional career law enforcement officers may be renewed for up to 5 years, subject to the requirements of subsection (a), but notwithstanding the limitation in that subsection concerning the number of years for which grants may be renewed.

"(c) MULTIYEAR GRANTS.—A grant for a period exceeding 1 year may be renewed as provided in this section, except that the total duration of such a grant including any renewals may not exceed 3 years, or 5 years if it is a grant made for hiring or rehiring additional career law enforcement officers.

"SEC. 1704. LIMITATION ON USE OF FUNDS.

"(a) NONSUPPLANTING REQUIREMENT.—Funds made available under this part to States or units of local government shall not be used to supplant State or local funds, or, in the case of Indian tribal governments, funds supplied by the Bureau of Indian Affairs, but shall be used to increase the amount of funds that would, in the absence of Federal funds received under this part, be made available from State or local sources, or in the case of Indian tribal governments, from funds supplied by the Bureau of Indian Affairs.

"(b) NON-FEDERAL COSTS.—

"(1) IN GENERAL.—States and units of local government may use assets received through the Assets Forfeiture equitable sharing program to provide the non-Federal share of the cost of programs, projects, and activities funded under this part.

"(2) INDIAN TRIBAL GOVERNMENTS.—Funds appropriated by the Congress for the activities of any agency of an Indian tribal government or the Bureau of Indian Affairs performing law enforcement functions on any Indian lands may

be used to provide the non-Federal share of the cost of programs or projects funded under this part.

"(c) HIRING COSTS.—Funding provided under this part for hiring or rehiring a career law enforcement officer may not exceed $75,000, unless the Attorney General grants a waiver from this limitation.

"SEC. 1705. PERFORMANCE EVALUATION.

"(a) MONITORING COMPONENTS.—Each program, project, or activity funded under this part shall contain a monitoring component, developed pursuant to guidelines established by the Attorney General. The monitoring required by this subsection shall include systematic identification and collection of data about activities, accomplishments, and programs throughout the life of the program, project, or activity and presentation of such data in a usable form.

"(b) EVALUATION COMPONENTS.—Selected grant recipients shall be evaluated on the local level or as part of a national evaluation, pursuant to guidelines established by the Attorney General. Such evaluations may include assessments of individual program implementations. In selected jurisdictions that are able to support outcome evaluations, the effectiveness of funded programs, projects, and activities may be required. Outcome measures may include crime and victimization indicators, quality of life measures, community perceptions, and police perceptions of their own work.

"(c) PERIODIC REVIEW AND REPORTS.—The Attorney General may require a grant recipient to submit to the Attorney General the results of the monitoring and evaluations required under subsections (a) and (b) and such other data and information as the Attorney General deems reasonably necessary.

"SEC. 1706. REVOCATION OR SUSPENSION OF FUNDING.

"If the Attorney General determines, as a result of the reviews required by section 1705, or otherwise, that a grant recipient under this part is not in substantial compliance with the terms and requirements of an approved grant application submitted under section 1702, the Attorney General may revoke or suspend funding of that grant, in whole or in part.

"SEC. 1707. ACCESS TO DOCUMENTS.

"(a) BY THE ATTORNEY GENERAL.—The Attorney General shall have access for the purpose of audit and examination to any pertinent books, documents, papers, or records of a grant recipient under this part and to the pertinent books, documents, papers, or records of State and local governments, persons, businesses, and other entities that are involved in programs, projects, or activities for which assistance is provided under this part.

"(b) BY THE COMPTROLLER GENERAL.—Subsection (a) shall apply with respect to audits and examinations conducted by the Comptroller General of the United States or by an authorized representative of the Comptroller General.

"SEC. 1708. GENERAL REGULATORY AUTHORITY.

"The Attorney General may promulgate regulations and guidelines to carry out this part.

"SEC. 1709. DEFINITIONS.

"In this part—

" 'career law enforcement officer' means a person hired on a permanent basis who is authorized by law or by a State or local public agency to engage in or supervise the prevention, detection, or investigation of violations of criminal laws.

" 'citizens police academy' means a program by local law enforcement agencies or private non profit organizations in which citizens, especially those who participate in neighborhood watch programs, are trained in ways of facilitating communication between the community and local law enforcement in the prevention of crime.

" 'Indian tribe' means a tribe, band, pueblo, nation, or other organized group or community of Indians, including an Alaska Native village (as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711, et seq.) is amended by striking the item relating to part Q and inserting the following:

"PART Q—PUBLIC SAFETY AND COMMUNITY POLICING; 'COPS ON THE BEAT'

"Sec. 1701. Authority to make public safety and community policing grants.
"Sec. 1702. Applications.
"Sec. 1703. Renewal of grants.
"Sec. 1704. Limitation on use of funds.
"Sec. 1705. Performance evaluation.
"Sec. 1706. Revocation or suspension of funding.
"Sec. 1707. Access to documents.
"Sec. 1708. General regulatory authority.
"Sec. 1709. Definition.

"PART R—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 1801. Continuation of rules, authorities, and proceedings.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793) is amended—

(1) in paragraph (3) by striking "and O" and inserting "O, P, and Q"; and

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

"(11)(A) There are authorized to be appropriated to carry out part Q, to remain available until expended—

"(i) $1,332,000,000 for fiscal year 1995;
"(ii) $1,850,000,000 for fiscal year 1996;
"(iii) $1,950,000,000 for fiscal year 1997;
"(iv) $1,700,000,000 for fiscal year 1998;
"(v) $1,700,000,000 for fiscal year 1999; and
"(vi) $268,000,000 for fiscal year 2000.

"(B) Of funds available under part Q in any fiscal year, up to 3 percent may be used for technical assistance under section 1701(f) or for evaluations or studies carried out or commissioned by the Attorney General in furtherance of the purposes of part Q. Of the remaining funds, 50 percent shall be allocated for grants pursuant to applications submitted by units of local government or law enforcement agencies having jurisdiction over areas with populations exceeding 150,000 or by public and private entities that serve areas with populations exceeding 150,000, and 50 percent shall be allocated for grants pursuant to applications submitted by units of local government or law enforcement agencies having jurisdiction over areas with populations 150,000 or less or by public and private entities that serve areas with populations 150,000 or less. Of the funds available in relation to grants under part Q, at least 85 percent shall be applied to grants for the purposes specified in section 1701(b), and no more than 15 percent may be applied to other grants in furtherance of the purposes of part Q. In view of the extraordinary need for law enforcement assistance in Indian country, an appropriate amount of funds available under part Q shall be made available for grants to Indian tribal governments or tribal law enforcement agencies.".

TITLE II—PRISONS

Subtitle A—Violent Offender Incarceration and Truth in Sentencing Incentive Grants

SEC. 20101. GRANTS FOR CORRECTIONAL FACILITIES.

(a) GRANT AUTHORIZATION.—The Attorney General may make grants to individual States and to States organized as multi-State compacts to construct, develop, expand, modify, operate, or improve correctional facilities, including boot camp facilities and other alternative correctional facilities that can free conventional prison space for the confinement of violent offenders, to ensure that prison cell space is available for the confinement of violent offenders and to implement truth in sentencing laws for sentencing violent offenders.

(b) ELIGIBILITY.—To be eligible to receive a grant under this subtitle, a State or States organized as multi-State compacts shall submit an application to the Attorney General which includes—

(1) assurances that the State or States have implemented, or will implement, correctional policies and programs, including truth in sentencing laws that ensure that violent offenders serve a substantial portion of the sentences imposed, that are designed to provide sufficiently severe punishment for violent offenders, including violent juvenile offenders, and that the prison time served is appropriately related to the determination that the inmate is a violent offender and for a period of time deemed necessary to protect the public;

(2) assurances that the State or States have implemented policies that provide for the recognition of the rights and needs of crime victims;

(3) assurances that funds received under this section will be used to construct, develop, expand, modify, operate, or improve correctional facilities to ensure that prison cell space is available for the confinement of violent offenders;

(4) assurances that the State or States have a comprehensive correctional plan which represents an integrated approach to the management and operation of correctional facilities and programs and which includes diversion programs, community corrections programs, a prisoner screening and security classification system, appropriate professional training for corrections officers in dealing with violent offenders, prisoner rehabilitation and treatment programs, prisoner work activities (including, to the extent practicable, activities relating to the development, expansion, modification, or improvement of correctional facilities) and job skills programs, educational programs, a pre release prisoner assessment to provide risk reduction management, post-release assistance, and an assessment of recidivism rates;

(5) assurances that the State or States have involved counties and other units of local government, when appropriate, in the construction, development, expansion, modification, operation or improvement of correctional facilities designed to ensure the incarceration of violent offenders, and that the State or States will share funds received under this section with counties and other units of local government, taking into account the burden placed on these units of government when they are required to confine sentenced prisoners because of overcrowding in State prison facilities;

(6) assurances that funds received under this section will be used to supplement, not supplant, other Federal, State, and local funds;

(7) assurances that the State or States have implemented, or will implement within 18 months after the date of the enactment of this Act, policies to determine the veteran status of inmates and to ensure that incarcerated veterans receive the veterans benefits to which they are entitled;

(8) if applicable, documentation of the multi-State compact agreement that specifies the construction, development, expansion, modification, operation, or improvement of correctional facilities; and

(9) if applicable, a description of the eligibility criteria for prisoner participation in any boot camp that is to be funded.

(c) CONSIDERATION.—The Attorney General, in making such grants, shall give consideration to the special burden placed on States which incarcerate a substantial number of inmates who are in the United States illegally.

SEC. 20102. TRUTH IN SENTENCING INCENTIVE GRANTS.

(a) TRUTH IN SENTENCING GRANT PROGRAM.—Fifty percent of the total amount of funds appropriated to carry out this subtitle for each of fiscal years 1995, 1996, 1997, 1998, 1999, and 2000 shall be made available for Truth in Sentencing Incentive Grants. To be eligible to receive such a grant, a State must meet the requirements of section 20101(b) and shall demonstrate that the State—

(1) has in effect laws which require that persons convicted of violent crimes serve not less than 85 percent of the sentence imposed; or

(2) since 1993—

(A) has increased the percentage of convicted violent offenders sentenced to prison;

(B) has increased the average prison time which will be served in prison by convicted violent offenders sentenced to prison;

(C) has increased the percentage of sentence which will be served in prison by violent offenders sentenced to prison; and

(D) has in effect at the time of application laws requiring that a person who is convicted of a violent crime shall serve not less than 85 percent of the sentence imposed if—

(i) the person has been convicted on 1 or more prior occasions in a court of the United States or of a State of a violent crime or a serious drug offense; and

(ii) each violent crime or serious drug offense was committed after the defendant's conviction of the preceding violent crime or serious drug offense.

(b) ALLOCATION OF TRUTH IN SENTENCING INCENTIVE FUNDS.—

(1) FORMULA ALLOCATION.—The amount available to carry out this section for any fiscal year under subsection (a) shall be allocated to each eligible State in the ratio that the number of part 1 violent crimes reported by such State to the Federal Bureau of Investigation for 1993 bears to the number of part 1 violent crimes reported by all States to the Federal Bureau of Investigation for 1993.

(2) TRANSFER OF UNUSED FUNDS.—On September 30 of each of fiscal years 1996, 1998, 1999, and 2000, the Attorney General shall transfer to the funds to be allocated under section 20103(b)(1) any funds made available to carry out this section that are not allocated to an eligible State under paragraph (1).

SEC. 20103. VIOLENT OFFENDER INCARCERATION GRANTS.

(a) VIOLENT OFFENDER INCARCERATION GRANT PROGRAM.—Fifty percent of the total amount of funds appropriated to carry out this subtitle for each of fiscal years 1995, 1996, 1997, 1998, 1999, and 2000 shall be made available for Violent Offender Incarceration Grants. To be eligible to receive such a grant, a State or States must meet the requirements of section 20101(b).

(b) ALLOCATION OF VIOLENT OFFENDER INCARCERATION FUNDS.—

(1) FORMULA ALLOCATION.—Eighty-five percent of the sum of the amount available for Violent Offender Incarceration Grants for any fiscal year under subsection (a) and any amount transferred under section 20102(b)(2) for that fiscal year shall be allocated as follows:

(A) 0.25 percent shall be allocated to each eligible State except that the United States, Virgin Islands, American Samoa, Guam and the Northern Mariana Islands each shall be allocated 0.05 percent.

(B) The amount remaining after application of subparagraph (A) shall be allocated to each eligible State in the ratio that the number of part 1 violent crimes reported by such State to the Federal Bureau of Investigation for 1993 bears to the number of part 1 violent crimes reported by all States to the Federal Bureau of Investigation for 1993.

(2) DISCRETIONARY ALLOCATION.—Fifteen percent of the sum of the amount available for Violent Offender Incarceration Grants for any fiscal year under subsection (a) and any amount transferred under section 20103(b)(3) for that fiscal year shall be allocated at the discretion of the Attorney General to States that have demonstrated the greatest need for such grants and the ability to best utilize the funds to meet the objectives of the grant program and ensure that prison cell space is available for the confinement of violent offenders.

(3) TRANSFER OF UNUSED FORMULA FUNDS.—On September 30 of each of fiscal years 1996, 1997, 1998, 1999, and 2000, the Attorney General shall transfer to the discretionary program under paragraph (2) any funds made available for allocation under paragraph (1) that are not allocated to an eligible State under paragraph (1).

SEC. 20104. MATCHING REQUIREMENT.

The Federal share of a grant received under this subtitle may not exceed 75 percent of the costs of a proposal described in an application approved under this subtitle.

SEC. 20105. RULES AND REGULATIONS.

(a) The Attorney General shall issue rules and regulations regarding the uses of grant funds received under this subtitle not later than 90 days after the date of enactment of this Act.

(b) If data regarding part 1 violent crimes in any State for 1993 is unavailable or substantially inaccurate, the Attorney General shall utilize the best available comparable data regarding the number of violent crimes for 1993 for that State for the purposes of allocation of any funds under this subtitle.

SEC. 20106. TECHNICAL ASSISTANCE AND TRAINING.

The Attorney General may request that the Director of the National Institute of Corrections and the Director of the Federal Bureau of Prisons provide technical assistance and training to a State or States that receive a grant under this subtitle to achieve the purposes of this subtitle.

SEC. 20107. EVALUATION.

The Attorney General may request the Director of the National Institute of Corrections to assist with an evaluation of programs established with funds under this subtitle.

SEC. 20108. DEFINITIONS.

In this subtitle—

"boot camp" means a correctional program of not more than 6 months' incarceration involving—

(A) assignment for participation in the program, in conformity with State law, by prisoners other than prisoners who have been convicted at any time of a violent felony;

(B) adherence by inmates to a highly regimented schedule that involves strict discipline, physical training, and work;

(C) participation by inmates in appropriate education, job training, and substance abuse counseling or treatment; and

(D) post-incarceration aftercare services for participants that are coordinated with the program carried out during the period of imprisonment.

"part 1 violent crimes" means murder and non-negligent manslaughter, forcible rape, robbery, and aggravated assault as reported to the Federal Bureau of Investigation for purposes of the Uniform Crime Reports.

"State" or "States" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the United States, Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

SEC. 20109. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle—

(1) $175,000,000 for fiscal year 1995;

(2) $750,000,000 for fiscal year 1996;

(3) $1,000,000,000 for fiscal year 1997;

(4) $1,900,000,000 for fiscal year 1998;

(5) $2,000,000,000 for fiscal year 1999; and

(6) $2,070,000,000 for fiscal year 2000.

Subtitle B—Punishment for Young Offenders

SEC. 20201. CERTAIN PUNISHMENT FOR YOUNG OFFENDERS.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 10003(a), is amended—

(1) by redesignating part R as part S;

(2) by redesignating section 1801 as section 1901; and

(3) by inserting after part Q the following new part:

"PART R—CERTAIN PUNISHMENT FOR YOUNG OFFENDERS

"SEC. 1801. GRANT AUTHORIZATION.

"(a) IN GENERAL.—The Attorney General may make grants under this part to States, for the use by States and units of local government, for the purpose of developing alternative methods of punishment for young offenders to traditional forms of incarceration and probation.

"(b) ALTERNATIVE METHODS.—The alternative methods of punishment referred to in subsection (a) should ensure certain punishment for young offenders and promote reduced recidivism, crime prevention, and assistance to victims, particularly for young offenders who can be punished more effectively in an environment other than a traditional correctional facility, including—

"(1) alternative sanctions that create accountability and certain punishment for young offenders;

"(2) restitution programs for young offenders;

"(3) innovative projects, such as projects consisting of education and job training activities for incarcerated young offenders, modeled, to the extent practicable, after activities carried out under part B of title IV of the Job Training Partnership Act (relating to Job Corps) (29 U.S.C. 1691 et seq.) and projects that provide family counseling;

"(4) correctional options, such as community-based incarceration, weekend incarceration, and electronic monitoring of offenders;

"(5) community service programs that provide work service placement for young offenders at non-profit, private organizations and community organizations;

"(6) innovative methods that address the problems of young offenders convicted of serious substance abuse (including alcohol abuse) and gang-related offenses; and

"(7) adequate and appropriate after care programs for young offenders, such as substance abuse treatment, education programs, vocational training, job placement counseling, family counseling and other support programs upon release.

"SEC. 1802. STATE APPLICATIONS.

"(a) IN GENERAL.—

"(1) SUBMISSION OF APPLICATION.—To request a grant under this part, the chief executive of a State shall submit an application to the Attorney General in such form and containing such information as the Attorney General may reasonably require.

"(2) ASSURANCES.—An application under paragraph (1) shall include assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal

funds that would otherwise be available for activities funded under this part.

"(b) STATE OFFICE.—The office designated under section 507—

"(1) shall prepare the application as required under subsection (a); and

"(2) shall administer grant funds received under this part, including review of spending, processing, progress, financial reporting, technical assistance, grant adjustments, accounting, auditing, and fund disbursement.

"SEC. 1803. REVIEW OF STATE APPLICATIONS.

"(a) IN GENERAL.—The Attorney General shall make a grant under section 1801(a) to carry out the projects described in the application submitted by such applicant under section 1802 upon determining that—

"(1) the application is consistent with the requirements of this part; and

"(2) before the approval of the application, the Attorney General has made an affirmative finding in writing that the proposed project has been reviewed in accordance with this part.

"(b) APPROVAL.—Each application submitted under section 1802 shall be considered approved, in whole or in part, by the Attorney General not later than 45 days after first received unless the Attorney General informs the applicant of specific reasons for disapproval.

"(c) RESTRICTION.—Grant funds received under this part shall not be used for land acquisition or construction projects, other than alternative facilities described in section 1801(b).

"(d) DISAPPROVAL NOTICE AND RECONSIDERATION.—The Attorney General shall not disapprove any application without first affording the applicant reasonable notice and an opportunity for reconsideration.

"SEC. 1804. LOCAL APPLICATIONS.

"(a) IN GENERAL.—

"(1) SUBMISSION OF APPLICATION.—To request funds under this part from a State, the chief executive of a unit of local government shall submit an application to the office designated under section 1802(b).

"(2) APPROVAL.—An application under paragraph (1) shall be considered to have been approved, in whole or in part, by the State not later than 45 days after such application is first received unless the State informs the applicant in writing of specific reasons for disapproval.

"(3) DISAPPROVAL.—The State shall not disapprove any application submitted to the State without first affording the applicant reasonable notice and an opportunity for reconsideration.

"(4) EFFECT OF APPROVAL.—If an application under subsection (a) is approved, the unit of local government is eligible to receive funds under this part.

"(b) DISTRIBUTION TO UNITS OF LOCAL GOVERNMENT.—A State that receives funds under section 1801 in a fiscal year shall make such funds available to units of local government with an application that has been submitted and approved by the State within 45 days after the Attorney General has approved the application submitted by the State and has made funds available to the State. The Attorney General may waive the 45-day requirement in this section upon a finding that the State is unable to satisfy such requirement under State statutes.

"SEC. 1805. ALLOCATION AND DISTRIBUTION OF FUNDS.

"(a) STATE DISTRIBUTION.—Of the total amount appropriated under this part in any fiscal year—

"(1) 0.4 percent shall be allocated to each of the participating States; and

"(2) of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each of the participating States an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the number of young offenders of such State bears to the number of young offenders in all the participating States.

"(b) LOCAL DISTRIBUTION.—

"(1) IN GENERAL.—A State that receives funds under this part in a fiscal year shall distribute to units of local government in such State for the purposes specified under section 1801 that portion of such funds which bears the same ratio to the aggregate amount of such funds as the amount of funds expended by all units of local government for correctional programs in the preceding fiscal year bears to the aggregate amount of funds expended by the State and all units of local government in such State for correctional programs in such preceding fiscal year.

"(2) UNDISTRIBUTED FUNDS.—Any funds not distributed to units of local government under paragraph (1) shall be available for expenditure by such State for purposes specified under section 1801.

"(3) UNUSED FUNDS.— If the Attorney General determines, on the basis of information available during any fiscal year, that a portion of the funds allocated to a State for such fiscal year will not be used by such State or that a State is not eligible to receive funds under section 1801, the Attorney General shall award such funds to units of local government in such State giving priority to the units of local government that the Attorney General considers to have the greatest need.

"(c) GENERAL REQUIREMENT.—Notwithstanding subsections (a) and (b), not less than two-thirds of the funds received by a State under this part shall be distributed to units of local government unless the State applies for and receives a waiver from the Attorney General.

"(d) FEDERAL SHARE.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the projects described in the application submitted under section 1802(a) for the fiscal year for which the projects receive assistance under this part.

"(e) CONSIDERATION.—Notwithstanding subsections (a) and (b), in awarding grants under this part, the Attorney General shall consider as a factor whether a State has in effect throughout such State a law or policy that requires that a juvenile who is in possession of a firearm or other weapon on school property or convicted of a crime involving the use of a firearm or weapon on school property—

"(1) be suspended from school for a reasonable period of time; and

"(2) lose driving license privileges for a reasonable period of time.

"(f) DEFINITION.—For purposes of this part, 'juvenile' means a person 18 years of age or younger.

"SEC. 1806. EVALUATION.

"(a) IN GENERAL.—

"(1) SUBMISSION TO THE DIRECTOR.—Each State and unit of local government that receives a grant under this part shall submit to the Attorney General an evaluation not later than March 1 of each year in accordance with guidelines issued by the Attorney General. Such evaluation shall include an appraisal by representatives of the community of the programs funded by the grant.

"(2) WAIVER.—The Attorney General may waive the requirement specified in paragraph (1) if the Attorney General determines that such evaluation is not warranted in the case of the State or unit of local government involved.

"(b) DISTRIBUTION.—The Attorney General shall make available to the public on a timely basis evaluations received under subsection (a).

"(c) ADMINISTRATIVE COSTS.—A State or unit of local government may use not more than 5 percent of funds it receives under this part to develop an evaluation program under this section.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 10003(a), is amended by striking the matter relating to part R and inserting the following:

"PART R—CERTAIN PUNISHMENTS FOR YOUNG OFFENDERS

"Sec. 1801. Grant authorization.
"Sec. 1802. State applications.
"Sec. 1803. Review of State applications.
"Sec. 1804. Local applications.
"Sec. 1805. Allocation and distribution of funds.
"Sec. 1806. Evaluation.

"PART S—TRANSITION—EFFECTIVE DATE—REPEALER

"Sec. 1901. Continuation of rules, authorities, and proceedings.".

(c) DEFINITION.—Section 901(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(a)), is amended—

(1) by adding a semicolon at the end of paragraph (21);

(2) by striking "and" at the end of paragraph (22);

(3) by striking the period at the end of paragraph (23) and inserting a semicolon; and

(4) by adding after paragraph (23) the following:

"(24) the term 'young offender' means a non-violent first-time offender or a non-violent offender with a minor criminal record who is 22 years of age or younger (including juveniles).".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793), as amended by section 10003(c), is amended—

(1) in paragraph (3) by striking "and Q" and inserting "Q, or R"; and

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

"(16) There are authorized to be appropriated to carry out projects under part R—

"(A) $20,000,000 for fiscal year 1996;
"(B) $25,000,000 for fiscal year 1997;
"(C) $30,000,000 for fiscal year 1998;
"(D) $35,000,000 for fiscal year 1999; and
"(E) $40,000,000 for fiscal year 2000.".

Subtitle C—Alien Incarceration

SEC. 20301. INCARCERATION OF UNDOCUMENTED CRIMINAL ALIENS.

(a) INCARCERATION.—Section 242 of the Immigration and Nationality Act (8 U.S.C. 1252) is amended by adding at the end the following new subsection:

"(j) INCARCERATION.—

"(1) If the chief executive officer of a State (or, if appropriate, a political subdivision of the State) exercising authority with respect to the incarceration of an undocumented criminal alien submits a written request to the Attorney General, the Attorney General shall, as determined by the Attorney General—

"(A) enter into a contractual arrangement which provides for compensation to the State or a political subdivision of the State, as may be appropriate, with respect to the incarceration of the undocumented criminal alien; or

"(B) take the undocumented criminal alien into the custody of the Federal Government and incarcerate the alien.

"(2) Compensation under paragraph (1)(A) shall be the average cost of incarceration of a prisoner in the relevant State as determined by the Attorney General.

"(3) For purposes of this subsection, the term 'undocumented criminal alien' means an alien who—

"(A) has been convicted of a felony and sentenced to a term of imprisonment; and

"(B)(i) entered the United States without inspection or at any time or place other than as designated by the Attorney General;

"(ii) was the subject of exclusion or deportation proceedings at the time he or she was taken into custody by the State or a political subdivision of the State; or

"(iii) was admitted as a nonimmigrant and at the time he or she was taken into custody by the State or a political subdivision of the State has failed to maintain the nonimmigrant status in which the alien was admitted or to which it was changed under section 248, or to comply with the conditions of any such status.

"(4)(A) In carrying out paragraph (1), the Attorney General shall give priority to the Federal incarceration of undocumented criminal aliens who have committed aggravated felonies.

"(B) The Attorney General shall ensure that undocumented criminal aliens incarcerated in Federal facilities pursuant to this subsection are held in facilities which provide a level of security appropriate to the crimes for which they were convicted.

"(5) There are authorized to be appropriated such sums as may be necessary to carry out this subsection, of which the following amounts may be appropriated from the Violent Crime Reduction Trust Fund:

"(A) $130,000,000 for fiscal year 1995;

"(B) $300,000,000 for fiscal year 1996;

"(C) $330,000,000 for fiscal year 1997;

"(D) $350,000,000 for fiscal year 1998;

"(E) $350,000,000 for fiscal year 1999; and

"(F) $340,000,000 for fiscal year 2000."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect October 1, 1994.

(c) TERMINATION OF LIMITATION.—Notwithstanding section 242(j)(5) of the Immigration and Nationality Act, as added by subsection (a), the requirements of section 242(j) of the Immigration and Nationality Act, as added by subsection (a), shall not be subject to the availability of appropriations on and after October 1, 2004.

Subtitle D—Miscellaneous Provisions

SEC. 20401. PRISONER'S PLACE OF IMPRISONMENT.

Paragraph (b) of section 3621 of title 18, United States Code, is amended by inserting after subsection (5) the following: "In designating the place of imprisonment or making transfers under this subsection, there shall be no favoritism given to prisoners of high social or economic status.".

SEC. 20402. PRISON IMPACT ASSESSMENTS.

(a) IN GENERAL.—Chapter 303 of title 18, United States Code, is amended by adding at the end the following new section:

"§4047. Prison impact assessments

"(a) Any submission of legislation by the Judicial or Executive branch which could increase or decrease the number of persons incarcerated in Federal penal institutions shall be accompanied by a prison impact statement (as defined in subsection (b)).

"(b) The Attorney General shall, in consultation with the Sentencing Commission and the Administrative Office of the United States Courts, prepare and furnish prison impact assessments under subsection (c) of this section, and in response to requests from Congress for information relating to a pending measure or matter that might affect the number of defendants processed through the Federal criminal justice system. A prison impact assessment on pending legislation must be supplied within 21 days of any request. A prison impact assessment shall include—

"(1) projections of the impact on prison, probation, and post prison supervision populations;

"(2) an estimate of the fiscal impact of such population changes on Federal expenditures, including those for construction and operation of correctional facilities for the current fiscal year and 5 succeeding fiscal years;

"(3) an analysis of any other significant factor affecting the cost of the measure and its impact on the operations of components of the criminal justice system; and

"(4) a statement of the methodologies and assumptions utilized in preparing the assessment.

"(c) The Attorney General shall prepare and transmit to the Congress, by March 1 of each year, a prison impact assessment reflecting the cumulative effect of all relevant changes in the law taking effect during the preceding calendar year.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 303 is amended by adding at the end the following new item:

"4047. Prison impact assessments.".

SEC. 20403. SENTENCES TO ACCOUNT FOR COSTS TO THE GOVERNMENT OF IMPRISONMENT, RELEASE, AND PROBATION.

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

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

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

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

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

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

SEC. 20404. APPLICATION TO PRISONERS TO WHICH PRIOR LAW APPLIES.

In the case of a prisoner convicted of an offense committed prior to November 1, 1987, the reference to supervised release in section 4042(b) of title 18, United States Code, shall be deemed to be a reference to probation or parole.

SEC. 20405. CREDITING OF "GOOD TIME".

Section 3624 of title 18, United States Code, is amended—

(1) by striking "he" each place it appears and inserting "the prisoner";

(2) by striking "his" each place it appears and inserting "the prisoner's";

(3) in subsection (d) by striking "him" and inserting "the prisoner"; and

(4) in subsection (b)—

(A) in the first sentence by inserting "(other than a prisoner serving a sentence for a crime of violence)" after "A prisoner"; and

(B) by inserting after the first sentence the following: "A prisoner who is serving a term of imprisonment of more than 1 year for a crime of violence, other than a term of imprisonment for the duration of the prisoner's life, may receive credit toward the service of the prisoner's sentence, beyond the time served, of up to 54 days at the end of each year of the prisoner's term of imprisonment, beginning at the end of the first year of the term, subject to determination by the Bureau of Prisons that, during that year, the prisoner has displayed exemplary compliance with such institutional disciplinary regulations.".

SEC. 20406. TASK FORCE ON PRISON CONSTRUCTION STANDARDIZATION AND TECHNIQUES.

(a) TASK FORCE.—The Director of the National Institute of Corrections shall, subject to availability of appropriations, establish a task force composed of Federal, State, and local officials expert in prison construction, and of at least an equal number of engineers, architects, and construction experts from the private sector with expertise in prison design and construction, including the use of cost-cutting construction standardization techniques and cost-cutting new building materials and technologies.

(b) COOPERATION.—The task force shall work in close cooperation and communication with other State and local officials responsible for prison construction in their localities.

(c) PERFORMANCE REQUIREMENTS.—The task force shall work to—

(1) establish and recommend standardized construction plans and techniques for prison and prison component construction; and

(2) evaluate and recommend new construction technologies, techniques, and materials,

to reduce prison construction costs at the Federal, State, and local levels and make such construction more efficient.

(d) DISSEMINATION.—The task force shall disseminate information described in subsection (c) to State and local officials involved in prison construction, through written reports and meetings.

(e) PROMOTION AND EVALUATION.—The task force shall—

(1) work to promote the implementation of cost-saving efforts at the Federal, State, and local levels;

(2) evaluate and advise on the results and effectiveness of such cost-saving efforts as adopted, broadly disseminating information on the results; and

(3) to the extent feasible, certify the effectiveness of the cost-savings efforts.

SEC. 20407. EFFICIENCY IN LAW ENFORCEMENT AND CORRECTIONS.

(a) IN GENERAL.—In the administration of each grant program funded by appropriations authorized by this Act or by an amendment made by this Act, the Attorney General shall encourage—

(1) innovative methods for the low-cost construction of facilities to be constructed, converted, or expanded and the low-cost operation of such facilities and the reduction of administrative costs and overhead expenses; and

(2) the use of surplus Federal property.

(b) ASSESSMENT OF CONSTRUCTION COMPONENTS AND DESIGNS.—The Attorney General may make an assessment of the cost efficiency and utility of using modular, prefabricated, precast, and pre-engineered construction components and designs for housing nonviolent criminals.

SEC. 20408. AMENDMENTS TO THE DEPARTMENT OF EDUCATION ORGANIZATION ACT AND THE NATIONAL LITERACY ACT OF 1991.

(a) TECHNICAL AMENDMENT.—The matter preceding paragraph (1) of section 214(d) of the Department of Education Organization Act (20 U.S.C. 3423a(d)) is amended by striking "under subsection (a)" and inserting "under subsection (c)".

(b) ESTABLISHMENT OF A PANEL AND USE OF FUNDS.—Section 601 of the National Literacy Act of 1991 (20 U.S.C. 1211–2) is amended—

(1) by redesignating subsection (g) as subsection (i); and

(2) by inserting after subsection (f) the following new subsections:

"(g) PANEL.—The Secretary is authorized to consult with and convene a panel of experts in correctional education, including program administrators and field-based professionals in adult corrections, juvenile services, jails, and community corrections programs, to—

"(1) develop measures for evaluating the effectiveness of the programs funded under this section; and

"(2) evaluate the effectiveness of such programs.

"(h) USE OF FUNDS.—Notwithstanding any other provision of law, the Secretary may use not more than five percent of funds appropriated under subsection (i) in any fiscal year to carry out grant-related activities such as monitoring, technical assistance, and replication and dissemination.".

SEC. 20409. APPROPRIATE REMEDIES FOR PRISON OVERCROWDING.

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Subchapter C of chapter 229 of part 2 of title 18, United States Code, is amended by adding at the end the following new section:

"§3626. Appropriate remedies with respect to prison crowding

"(a) REQUIREMENT OF SHOWING WITH RESPECT TO THE PLAINTIFF IN PARTICULAR.—

"(1) HOLDING.—A Federal court shall not hold prison or jail crowding unconstitutional under the eighth amendment except to the extent that an individual plaintiff inmate proves that the crowding causes the infliction of cruel and unusual punishment of that inmate.

"(2) RELIEF.—The relief in a case described in paragraph (1) shall extend no further than necessary to remove the conditions that are causing the cruel and unusual punishment of the plaintiff inmate.

"(b) INMATE POPULATION CEILINGS.—

"(1) REQUIREMENT OF SHOWING WITH RESPECT TO PARTICULAR PRISONERS.—A Federal court shall not place a ceiling on the inmate population of any Federal, State, or local detention facility as an equitable remedial measure for conditions that violate the eighth amendment unless crowding is inflicting cruel and unusual punishment on particular identified prisoners.

"(2) RULE OF CONSTRUCTION.—Paragraph (1) shall not be construed to have any effect on Federal judicial power to issue equitable relief other than that described in paragraph (1), including the requirement of improved medical or health care and the imposition of civil contempt fines or damages, where such relief is appropriate.

"(c) PERIODIC REOPENING.—Each Federal court order or consent decree seeking to remedy an eighth amendment violation shall be reopened at the behest of a defendant for recommended modification at a minimum of 2-year intervals.".

(b) APPLICATION OF AMENDMENT.—Section 3626 of title 18, United States Code, as added by paragraph (1), shall apply to all outstanding court orders on the date of enactment of this Act. Any State or municipality shall be entitled to seek modification of any outstanding eighth amendment decree pursuant to that section.

(c) TECHNICAL AMENDMENT.—The subchapter analysis for subchapter C of chapter 229 of title 18, United States Code, is amended by adding at the end the following new item:

"3626. Appropriate remedies with respect to prison crowding.".

(d) SUNSET PROVISION.—This section and the amendments made by this section are repealed effective as of the date that is 5 years after the date of enactment of this Act.

SEC. 20410. CONGRESSIONAL APPROVAL OF ANY EXPANSION AT LORTON AND CONGRESSIONAL HEARINGS ON FUTURE NEEDS.

(a) CONGRESSIONAL APPROVAL.—Notwithstanding any other provision of law, the existing prison facilities and complex at the District of Columbia Corrections Facility at Lorton, Virginia, shall not be expanded unless such expansion has been approved by the Congress under the authority provided to Congress in section 446 of the District of Columbia Self-Government and Governmental Reorganization Act.

(b) SENATE HEARINGS.—The Senate directs the Subcommittee on the District of Columbia of the Committee on Appropriations of the Senate to conduct hearings regarding expansion of the prison complex in Lorton, Virginia, prior to any approval granted pursuant to subsection (a). The subcommittee shall permit interested parties, including appropriate officials from the County of Fairfax, Virginia, to testify at such hearings.

(c) DEFINITION.—For purposes of this section, the terms "expanded" and "expansion" mean any alteration of the physical structure of the prison complex that is made to increase the number of inmates incarcerated at the prison.

SEC. 20411. AWARDS OF PELL GRANTS TO PRISONERS PROHIBITED.

(a) IN GENERAL.—Section 401(b)(8) of the Higher Education Act of 1965 (20 U.S.C. 1070a(b)(8)) is amended to read as follows:

"(8) No basic grant shall be awarded under this subpart to any individual who is incarcerated in any Federal or State penal institution.".

(b) APPLICATION OF AMENDMENT.—The amendment made by this section shall apply with respect to periods of enrollment beginning on or after the date of enactment of this Act.

SEC. 20412. EDUCATION REQUIREMENT FOR EARLY RELEASE.

Section 3624(b) of title 18, United States Code, is amended—

(1) by inserting "(1)" after "behavior.—";

(2) by striking "Such credit toward service of sentence vests at the time that it is received. Credit that has vested may not later be withdrawn, and credit that has not been earned may not later be granted." and inserting "Credit that has not been earned may not later be granted."; and

(3) by adding at the end the following:

"(2) Credit toward a prisoner's service of sentence shall not be vested unless the prisoner has earned or is making satisfactory progress toward a high school diploma or an equivalent degree.

"(3) The Attorney General shall ensure that the Bureau of Prisons has in effect an optional General Educational Development program for inmates who have not earned a high school diploma or its equivalent.

"(4) Exemptions to the General Educational Development requirement may be made as deemed appropriate by the Director of the Federal Bureau of Prisons.".

SEC. 20413. CONVERSION OF CLOSED MILITARY INSTALLATIONS INTO FEDERAL PRISON FACILITIES.

(a) STUDY OF SUITABLE BASES.—The Secretary of Defense and the Attorney General shall jointly conduct a study of all military installations selected before the date of enactment of this Act to be closed pursuant to a base closure law for the purpose of evaluating the suitability of any of these installations, or portions of these installations, for conversion into Federal prison facilities. As part of the study, the Secretary and the Attorney General shall identify the military installations so evaluated that are most suitable for conversion into Federal prison facilities.

(b) SUITABILITY FOR CONVERSION.—In evaluating the suitability of a military installation for conversion into a Federal prison facility, the Secretary of Defense and the Attorney General shall consider the estimated cost to convert the installation into a prison facility and such other factors as the Secretary and the Attorney General consider to be appropriate.

(c) TIME FOR STUDY.—The study required by subsection (a) shall be completed not later than the date that is 180 days after the date of enactment of this Act.

(d) CONSTRUCTION OF FEDERAL PRISONS.—

(1) IN GENERAL.—In determining where to locate any new Federal prison facility, and in accordance with the Department of Justice's duty to review and identify a use for any portion of an installation closed pursuant to title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526) and the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510), the Attorney General shall—

(A) consider whether using any portion of a military installation closed or scheduled to be closed in the region pursuant to a base closure law provides a cost-effective alternative to the purchase of real property or construction of new prison facilities;

(B) consider whether such use is consistent with a reutilization and redevelopment plan; and

(C) give consideration to any installation located in a rural area the closure of which will have a substantial adverse impact on the economy of the local communities and on the ability of the communities to sustain an economic recovery from such closure.

(2) CONSENT.—With regard to paragraph (1)(B), consent must be obtained from the local re-use authority for the military installation, recognized and funded by the Secretary of Defense, before the Attorney General may proceed with plans for the design or construction of a prison at the installation.

(3) REPORT ON BASIS OF DECISION.—Before proceeding with plans for the design or construction of a Federal prison, the Attorney General shall submit to Congress a report explaining the basis of the decision on where to locate the new prison facility.

(4) REPORT ON COST-EFFECTIVENESS.—If the Attorney General decides not to utilize any portion of a closed military installation or an installation scheduled to be closed for locating a prison, the report shall include an analysis of why installations in the region, the use of which as a prison would be consistent with a reutilization and redevelopment plan, does not provide a cost-effective alternative to the purchase of real property or construction of new prison facilities.

(e) DEFINITION.—In this section, "base closure law" means—

(1) the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note); and

(2) title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

SEC. 20414. POST-CONVICTION RELEASE DRUG TESTING—FEDERAL OFFENDERS.

(a) DRUG TESTING PROGRAM.—

(1) IN GENERAL.—Subchapter A of chapter 229 of title 18, United States Code, is amended by adding at the end the following new section:

"§3608. Drug testing of Federal offenders on post-conviction release

"The Director of the Administrative Office of the United States Courts, in consultation with the Attorney General and the Secretary of Health and Human Services, shall, subject to the availability of appropriations, establish a program of drug testing of Federal offenders on post-conviction release. The program shall include such standards and guidelines as the Director may determine necessary to ensure the reliability and accuracy of the drug testing programs. In each judicial district the chief probation officer shall arrange for the drug testing of defendants on post-conviction release pursuant to a conviction for a felony or other offense described in section 3563(a)(4).".

(2) TECHNICAL AMENDMENT.—The subchapter analysis for subchapter A of chapter 229 of title 18, United States Code, is amended by adding at the end the following new item:

"3608. Drug testing of Federal offenders on post-conviction release.".

(b) CONDITIONS OF PROBATION.—Section 3563(a) of title 18, United States Code, is amended—

(1) in paragraph (2) by striking "and" after the semicolon;

(2) in paragraph (3) by striking the period and inserting "; and";

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

"(4) for a felony, a misdemeanor, or an infraction, that the defendant refrain from any unlawful use of a controlled substance and submit

to one drug test within 15 days of release on probation and at least 2 periodic drug tests thereafter (as determined by the court) for use of a controlled substance, but the condition stated in this paragraph may be ameliorated or suspended by the court for any individual defendant if the defendant's presentence report or other reliable sentencing information indicates a low risk of future substance abuse by the defendant.''; and

(4) by adding at the end the following: ''The results of a drug test administered in accordance with paragraph (4) shall be subject to confirmation only if the results are positive, the defendant is subject to possible imprisonment for such failure, and either the defendant denies the accuracy of such test or there is some other reason to question the results of the test. A defendant who tests positive may be detained pending verification of a positive drug test result. A drug test confirmation shall be a urine drug test confirmed using gas chromatography/mass spectrometry techniques or such test as the Director of the Administrative Office of the United States Courts after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy. The court shall consider whether the availability of appropriate substance abuse treatment programs, or an individual's current or past participation in such programs, warrants an exception in accordance with United States Sentencing Commission guidelines from the rule of section 3565(b), when considering any action against a defendant who fails a drug test administered in accordance with paragraph (4).''.

(c) CONDITIONS OF SUPERVISED RELEASE.—Section 3583(d) of title 18, United States Code, is amended by inserting after the first sentence the following: ''The court shall also order, as an explicit condition of supervised release, that the defendant refrain from any unlawful use of a controlled substance and submit to a drug test within 15 days of release on supervised release and at least 2 periodic drug tests thereafter (as determined by the court) for use of a controlled substance. The condition stated in the preceding sentence may be ameliorated or suspended by the court as provided in section 3563(a)(4). The results of a drug test administered in accordance with the preceding subsection shall be subject to confirmation only if the results are positive, the defendant is subject to possible imprisonment for such failure, and either the defendant denies the accuracy of such test or there is some other reason to question the results of the test. A drug test confirmation shall be a urine drug test confirmed using gas chromatography/mass spectrometry techniques or such test as the Director of the Administrative Office of the United States Courts after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy. The court shall consider whether the availability of appropriate substance abuse treatment programs, or an individual's current or past participation in such programs, warrants an exception in accordance with United States Sentencing Commission guidelines from the rule of section 3583(g) when considering any action against a defendant who fails a drug test.''.

(d) CONDITIONS OF PAROLE.—Section 4209(a) of title 18, United States Code, is amended by inserting after the first sentence the following: ''In every case, the Commission shall also impose as a condition of parole that the parolee pass a drug test prior to release and refrain from any unlawful use of a controlled substance and submit to at least 2 periodic drug tests (as determined by the Commission) for use of a controlled substance. The condition stated in the preceding sentence may be ameliorated or suspended by the Commission for any individual parolee if it determines that there is good cause for doing so. The results of a drug test administered in accordance with the provisions of the preceding sentence shall be subject to confirmation only if the results are positive, the defendant is subject to possible imprisonment for such failure, and either the defendant denies the accuracy of such test or there is some other reason to question the results of the test. A drug test confirmation shall be a urine drug test confirmed using gas chromatography/mass spectrometry techniques or such test as the Director of the Administrative Office of the United States Courts after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy. The Commission shall consider whether the availability of appropriate substance abuse treatment programs, or an individual's current or past participation in such programs, warrants an exception in accordance with United States Sentencing Commission guidelines from the rule of section 4214(f) when considering any action against a defendant who fails a drug test.''.

SEC. 20415. REPORTING OF CASH RECEIVED BY CRIMINAL COURT CLERKS.

(a) IN GENERAL.—Section 6050I of the Internal Revenue Code of 1986 (relating to returns relating to cash received in trade or business) is amended by adding at the end the following new subsection:

''(g) CASH RECEIVED BY CRIMINAL COURT CLERKS.—

''(1) IN GENERAL.—Every clerk of a Federal or State criminal court who receives more than $10,000 in cash as bail for any individual charged with a specified criminal offense shall make a return described in paragraph (2) (at such time as the Secretary may by regulations prescribe) with respect to the receipt of such bail.

''(2) RETURN.—A return is described in this paragraph if such return—

''(A) is in such form as the Secretary may prescribe, and

''(B) contains—

''(i) the name, address, and TIN of—

''(I) the individual charged with the specified criminal offense, and

''(II) each person posting the bail (other than a person licensed as a bail bondsman),

''(ii) the amount of cash received,

''(iii) the date the cash was received, and

''(iv) such other information as the Secretary may prescribe.

''(3) SPECIFIED CRIMINAL OFFENSE.—For purposes of this subsection, the term 'specified criminal offense' means—

''(A) any Federal criminal offense involving a controlled substance,

''(B) racketeering (as defined in section 1951, 1952, or 1955 of title 18, United States Code),

''(C) money laundering (as defined in section 1956 or 1957 of such title), and

''(D) any State criminal offense substantially similar to an offense described in subparagraph (A), (B), or (C).

''(4) INFORMATION TO FEDERAL PROSECUTORS.—Each clerk required to include on a return under paragraph (1) the information described in paragraph (2)(B) with respect to an individual described in paragraph (2)(B)(i)(I) shall furnish (at such time as the Secretary may by regulations prescribe) a written statement showing such information to the United States Attorney for the jurisdiction in which such individual resides and the jurisdiction in which the specified criminal offense occurred.

''(5) INFORMATION TO PAYORS OF BAIL.—Each clerk required to make a return under paragraph (1) shall furnish (at such time as the Secretary may by regulations prescribe) to each person whose name is required to be set forth in such return by reason of paragraph (2)(B)(i)(II) a written statement showing—

''(A) the name and address of the clerk's office required to make the return, and

''(B) the aggregate amount of cash described in paragraph (1) received by such clerk.''.

(b) CONFORMING AMENDMENTS.—

(1) Clause (iv) of section 6724(d)(1)(B) of the Internal Revenue Code of 1986 is amended to read as follows:

''(iv) section 6050I (a) or (g)(1) (relating to cash received in trade or business, etc.),''.

(2) Subparagraph (K) of section 6724(d)(2) of the Internal Revenue Code of 1986 is amended to read as follows:

''(K) section 6050I(e) or paragraph (4) or (5) of section 6050I(g) (relating to cash received in trade or business, etc.),''.

(3) The heading for section 6050I of the Internal Revenue Code of 1986 is amended by striking ***''BUSINESS''*** *and inserting* ***''BUSINESS, ETC.''.***

(4) The table of sections for subpart B of part III of subchapter A of chapter A of chapter 61 of the Internal Revenue Code of 1986 is amended by striking ''business'' and inserting ''business, etc.'' in the item relating to section 6050I.

(c) REGULATIONS.—The Secretary of the Treasury or the Secretary's delegate shall prescribe temporary regulations under the amendments made by this section within 90 days after the date of enactment of this Act.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the 60th day after the date on which the temporary regulations are prescribed under subsection (c).

SEC. 20416. CIVIL RIGHTS OF INSTITUTIONALIZED PERSONS.

(a) EXHAUSTION OF ADMINISTRATIVE REMEDIES.—Section 7 of the Civil Rights of Institutionalized Persons Act (42 U.S.C. 1997e) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking ''ninety days'' and inserting ''180 days''; and

(B) in paragraph (2), by inserting before the period at the end the following: ''or are otherwise fair and effective''; and

(2) in subsection (c)—

(A) in paragraph (1) by inserting before the period at the end the following: ''or are otherwise fair and effective''; and

(B) in paragraph (2) by inserting before the period at the end the following: ''or is no longer fair and effective''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of enactment of this Act.

SEC. 20417. NOTIFICATION OF RELEASE OF PRISONERS.

Section 4042 of title 18, United States Code, is amended—

(1) by striking ''The Bureau'' and inserting ''(a) IN GENERAL.—The Bureau'';

(2) by striking ''This section'' and inserting ''(c) APPLICATION OF SECTION.—This section'';

(3) in paragraph (4) of subsection (a), as designated by paragraph (1)—

(A) by striking ''Provide'' and inserting ''provide''; and

(B) by striking the period at the end and inserting ''; and'';

(4) by inserting after paragraph (4) of subsection (a), as designated by paragraph (1), the following new paragraph:

''(5) provide notice of release of prisoners in accordance with subsection (b).''; and

(5) by inserting after subsection (a), as designated by paragraph (1), the following new subsection:

''(b) NOTICE OF RELEASE OF PRISONERS.—(1) At least 5 days prior to the date on which a prisoner described in paragraph (3) is to be released on supervised release, or, in the case of a prisoner on supervised release, at least 5 days prior to the date on which the prisoner changes

residence to a new jurisdiction, written notice of the release or change of residence shall be provided to the chief law enforcement officer of the State and of the local jurisdiction in which the prisoner will reside. Notice prior to release shall be provided by the Director of the Bureau of Prisons. Notice concerning a change of residence following release shall be provided by the probation officer responsible for the supervision of the released prisoner, or in a manner specified by the Director of the Administrative Office of the United States Courts. The notice requirements under this subsection do not apply in relation to a prisoner being protected under chapter 224.

"(2) A notice under paragraph (1) shall disclose—

"(A) the prisoner's name;

"(B) the prisoner's criminal history, including a description of the offense of which the prisoner was convicted; and

"(C) any restrictions on conduct or other conditions to the release of the prisoner that are imposed by law, the sentencing court, or the Bureau of Prisons or any other Federal agency.

"(3) A prisoner is described in this paragraph if the prisoner was convicted of—

"(A) a drug trafficking crime, as that term is defined in section 924(c)(2); or

"(B) a crime of violence (as defined in section 924(c)(3)).

"(4) The notice provided under this section shall be used solely for law enforcement purposes.".

SEC. 20418. CORRECTIONAL JOB TRAINING AND PLACEMENT.

(a) PURPOSE.—It is the purpose of this section to encourage and support job training programs, and job placement programs, that provide services to incarcerated persons or ex-offenders.

(b) DEFINITIONS.—As used in this section:

(1) CORRECTIONAL INSTITUTION.—The term "correctional institution" means any prison, jail, reformatory, work farm, detention center, or halfway house, or any other similar institution designed for the confinement or rehabilitation of criminal offenders.

(2) CORRECTIONAL JOB TRAINING OR PLACEMENT PROGRAM.—The term "correctional job training or placement program" means an activity that provides job training or job placement services to incarcerated persons or ex-offenders, or that assists incarcerated persons or ex-offenders in obtaining such services.

(3) EX-OFFENDER.—The term "ex-offender" means any individual who has been sentenced to a term of probation by a Federal or State court, or who has been released from a Federal, State, or local correctional institution.

(4) INCARCERATED PERSON.—The term "incarcerated person" means any individual incarcerated in a Federal or State correctional institution who is charged with or convicted of any criminal offense.

(c) ESTABLISHMENT OF OFFICE.—

(1) IN GENERAL.—The Attorney General shall establish within the Department of Justice an Office of Correctional Job Training and Placement. The Office shall be headed by a Director, who shall be appointed by the Attorney General.

(2) TIMING.—The Attorney General shall carry out this subsection not later than 6 months after the date of enactment of this section.

(d) FUNCTIONS OF OFFICE.—The Attorney General, acting through the Director of the Office of Correctional Job Training and Placement, in consultation with the Secretary of Labor, shall—

(1) assist in coordinating the activities of the Federal Bonding Program of the Department of Labor, the activities of the Department of Labor related to the certification of eligibility for targeted jobs credits under section 51 of the Internal Revenue Code of 1986 with respect to ex-offenders, and any other correctional job training or placement program of the Department of Justice or Department of Labor;

(2) provide technical assistance to State and local employment and training agencies that—

(A) receive financial assistance under this Act; or

(B) receive financial assistance through other programs carried out by the Department of Justice or Department of Labor, for activities related to the development of employability;

(3) prepare and implement the use of special staff training materials, and methods, for developing the staff competencies needed by State and local agencies to assist incarcerated persons and ex-offenders in gaining marketable occupational skills and job placement;

(4) prepare and submit to Congress an annual report on the activities of the Office of Correctional Job Training and Placement, and the status of correctional job training or placement programs in the United States;

(5) cooperate with other Federal agencies carrying out correctional job training or placement programs to ensure coordination of such programs throughout the United States;

(6) consult with, and provide outreach to—

(A) State job training coordinating councils, administrative entities, and private industry councils, with respect to programs carried out under this Act; and

(B) other State and local officials, with respect to other employment or training programs carried out by the Department of Justice or Department of Labor;

(7) collect from States information on the training accomplishments and employment outcomes of a sample of incarcerated persons and ex-offenders who were served by employment or training programs carried out, or that receive financial assistance through programs carried out, by the Department of Justice or Department of Labor; and

(8)(A) collect from States and local governments information on the development and implementation of correctional job training or placement programs; and

(B) disseminate such information, as appropriate.

TITLE III—CRIME PREVENTION

Subtitle A—Ounce of Prevention Council

SEC. 30101. OUNCE OF PREVENTION COUNCIL.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established an Ounce of Prevention Council (referred to in this title as the "Council"), the members of which—

(A) shall include the Attorney General, the Secretary of Education, the Secretary of Health and Human Services, the Secretary of Housing and Urban Development, the Secretary of Labor, the Secretary of Agriculture, the Secretary of the Treasury, the Secretary of the Interior, and the Director of the Office of National Drug Control Policy; and

(B) may include other officials of the executive branch as directed by the President.

(2) CHAIR.—The President shall designate the Chair of the Council from among its members (referred to in this title as the "Chair").

(3) STAFF.—The Council may employ any necessary staff to carry out its functions, and may delegate any of its functions or powers to a member or members of the Council.

(b) PROGRAM COORDINATION.—For any program authorized under the Violent Crime Control and Law Enforcement Act of 1994, the Ounce of Prevention Council Chair, only at the request of the Council member with jurisdiction over that program, may coordinate that program, in whole or in part, through the Council.

(c) ADMINISTRATIVE RESPONSIBILITIES AND POWERS.—In addition to the program coordination provided in subsection (b), the Council shall be responsible for such functions as coordinated planning, development of a comprehensive crime prevention program catalogue, provision of assistance to communities and community-based organizations seeking information regarding crime prevention programs and integrated program service delivery, and development of strategies for program integration and grant simplification. The Council shall have the authority to audit the expenditure of funds received by grantees under programs administered by or coordinated through the Council. In consultation with the Council, the Chair may issue regulations and guidelines to carry out this subtitle and programs administered by or coordinated through the Council.

SEC. 30102. OUNCE OF PREVENTION GRANT PROGRAM.

(a) IN GENERAL.—The Council may make grants for—

(1) summer and after-school (including weekend and holiday) education and recreation programs;

(2) mentoring, tutoring, and other programs involving participation by adult role models (such as D.A.R.E. America);

(3) programs assisting and promoting employability and job placement; and

(4) prevention and treatment programs to reduce substance abuse, child abuse, and adolescent pregnancy, including outreach programs for at-risk families.

(b) APPLICANTS.—Applicants may be Indian tribal governments, cities, counties, or other municipalities, school boards, colleges and universities, private nonprofit entities, or consortia of eligible applicants. Applicants must show that a planning process has occurred that has involved organizations, institutions, and residents of target areas, including young people, and that there has been cooperation between neighborhood-based entities, municipality-wide bodies, and local private-sector representatives. Applicants must demonstrate the substantial involvement of neighborhood-based entities in the carrying out of the proposed activities. Proposals must demonstrate that a broad base of collaboration and coordination will occur in the implementation of the proposed activities, involving cooperation among youth-serving organizations, schools, health and social service providers, employers, law enforcement professionals, local government, and residents of target areas, including young people. Applications shall be geographically based in particular neighborhood or sections of municipalities or particular segments of rural areas, and applications shall demonstrate how programs will serve substantial proportions of children and youth resident in the target area with activities designed to have substantial impact on their lives.

(c) PRIORITY.—In making such grants, the Council shall give preference to coalitions consisting of a broad spectrum of community-based and social service organizations that have a coordinated team approach to reducing gang membership and the effects of substance abuse, and providing alternatives to at-risk youth.

(d) FEDERAL SHARE.—

(1) IN GENERAL.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the projects described in the applications submitted under subsection (b) for the fiscal year for which the projects receive assistance under this title.

(2) WAIVER.—The Council may waive the 25 percent matching requirement under paragraph (1) upon making a determination that a waiver is equitable in view of the financial circumstances affecting the ability of the applicant to meet that requirement.

(3) NON-FEDERAL SHARE.—The non-Federal share of such costs may be in cash or in kind, fairly evaluated, including plant, equipment, and services.

(4) NONSUPPLANTING REQUIREMENT.—Funds made available under this title to a governmental entity shall not be used to supplant State or local funds, or in the case of Indian tribal governments, funds supplied by the Bureau of Indian Affairs, but shall be used to increase the amount of funds that would, in the absence of Federal funds received under this title, be made available from State or local sources, or in the case of Indian tribal governments, from funds supplied by the Bureau of Indian Affairs.

(5) EVALUATION.—The Council shall conduct a thorough evaluation of the programs assisted under this title.

SEC. 30103. DEFINITION.

In this subtitle, "Indian tribe" means a tribe, band, pueblo, nation, or other organized group or community of Indians, including an Alaska Native village (as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

SEC. 30104. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle—

(1) $1,500,000 for fiscal year 1995;
(2) $14,700,000 for fiscal year 1996;
(3) $18,000,000 for fiscal year 1997;
(4) $18,000,000 for fiscal year 1998;
(5) $18,900,000 for fiscal year 1999; and
(6) $18,900,000 for fiscal year 2000.

Subtitle B—Local Crime Prevention Block Grant Program

SEC. 30201. PAYMENTS TO LOCAL GOVERNMENTS.

(a) PAYMENT AND USE.—

(1) PAYMENT.—The Attorney General, shall pay to each unit of general local government which qualifies for a payment under this subtitle an amount equal to the sum of any amounts allocated to the government under this subtitle for each payment period. The Attorney General shall pay such amount from amounts appropriated under section 30202.

(2) USE.—Amounts paid to a unit of general local government under this section shall be used by that unit for carrying out one or more of the following purposes:

(A) Education, training, research, prevention, diversion, treatment, and rehabilitation programs to prevent juvenile violence, juvenile gangs, and the use and sale of illegal drugs by juveniles.

(B) Programs to prevent crimes against the elderly based on the concepts of the Triad model.

(C) Programs that prevent young children from becoming gang involved, including the award of grants or contracts to community-based service providers that have a proven track record of providing services to children ages 5 to 18.

(D) Saturation jobs programs, offered either separately or in conjunction with the services provided for under the Youth Fair Chance Program, that provide employment opportunities leading to permanent unsubsidized employment for disadvantaged young adults 16 through 25 years of age.

(E) Midnight sports league programs that shall require each player in the league to attend employment counseling, job training, and other educational classes provided under the program, which shall be held in conjunction with league sports games at or near the site of the games.

(F) Supervised sports and recreation programs, including Olympic Youth Development Centers established in cooperation with the United States Olympic Committee, that are offered—

(i) after school and on weekends and holidays, during the school year; and

(ii) as daily (or weeklong) full-day programs (to the extent available resources permit) or as part-day programs, during the summer months.

(G) Prevention and enforcement programs to reduce—

(i) the formation or continuation of juvenile gangs; and

(ii) the use and sale of illegal drugs by juveniles.

(H) Youth anticrime councils to give intermediate and secondary school students a structured forum through which to work with community organizations, law enforcement officials, government and media representatives, and school administrators and faculty to address issues regarding youth and violence.

(I) Award of grants or contracts to the Boys and Girls Clubs of America, a national nonprofit youth organization, to establish Boys and Girls Clubs in public housing.

(J) Supervised visitation centers for children who have been removed from their parents and placed outside the home as a result of abuse or neglect or other risk of harm to them and for children whose parents are separated or divorced and the children are at risk because—

(i) there is documented sexual, physical, or emotional abuse as determined by a court of competent jurisdiction;

(ii) there is suspected or elevated risk of sexual, physical, or emotional abuse, or there have been threats of parental abduction of the child;

(iii) due to domestic violence, there is an ongoing risk of harm to a parent or child;

(iv) a parent is impaired because of substance abuse or mental illness;

(v) there are allegations that a child is at risk for any of the reasons stated in clauses (i), (ii), (iii), and (iv), pending an investigation of the allegations; or

(vi) other circumstances, as determined by a court of competent jurisdiction, point to the existence of such a risk.

(K) Family Outreach Teams which provide a youth worker, a parent worker, and a school-parent organizer to provide training in outreach, mentoring, community organizing and peer counseling and mentoring to locally recruited volunteers in a particular area.

(L) To establish corridors of safety for senior citizens by increasing the numbers, presence, and watchfulness of law enforcement officers, community groups, and business owners and employees.

(M) Teams or units involving both specially trained law enforcement professionals and child or family services professionals that on a 24-hour basis respond to or deal with violent incidents in which a child is involved as a perpetrator, witness, or victim.

(N) Dwelling units to law enforcement officers without charge or at a substantially reduced rent for the purpose of providing greater security for residents of high crime areas.

(b) TIMING OF PAYMENTS.—The Attorney General shall pay each amount allocated under this subtitle to a unit of general local government for a payment period by the later of 90 days after the date the amount is available or the first day of the payment period if the unit of general local government has provided the Attorney General with the assurances required by section 30203(d).

(c) ADJUSTMENTS.—

(1) IN GENERAL.—Subject to paragraph (2), the Attorney General shall adjust a payment under this subtitle to a unit of general local government to the extent that a prior payment to the government was more or less than the amount required to be paid.

(2) CONSIDERATIONS.—The Attorney General may increase or decrease under this subsection a payment to a unit of general local government only if the Attorney General determines the need for the increase or decrease, or the unit requests the increase or decrease, within one year after the end of the payment period for which the payment was made.

(d) RESERVATION FOR ADJUSTMENTS.—The Attorney General may reserve a percentage of not more than 2 percent of the amount under this section for a payment period for all units of general local government in a State if the Attorney General considers the reserve is necessary to ensure the availability of sufficient amounts to pay adjustments after the final allocation of amounts among the units of general local government in the State.

(e) REPAYMENT OF UNEXPENDED AMOUNTS.—

(1) REPAYMENT REQUIRED.—A unit of general local government shall repay to the Attorney General, by not later than 15 months after receipt from the Attorney General, any amount that is—

(A) paid to the unit from amounts appropriated under the authority of this section; and

(B) not expended by the unit within one year after receipt from the Attorney General.

(2) PENALTY FOR FAILURE TO REPAY.—If the amount required to be repaid is not repaid, the Attorney General shall reduce payments in future payment periods accordingly.

(3) DEPOSIT OF AMOUNTS REPAID.—Amounts received by the Attorney General as repayments under this subsection shall be deposited in a designated fund for future payments to units of general local government.

(f) NONSUPPLANTING REQUIREMENT.—Funds made available under this subtitle to units of local government shall not be used to supplant State or local funds, but will be used to increase the amount of funds that would, in the absence of funds under this subtitle, be made available from State or local sources.

SEC. 30202. AUTHORIZATION OF APPROPRIATIONS.

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

(1) $75,940,000 for fiscal year 1996;
(2) $75,940,000 for fiscal year 1997;
(3) $75,940,000 for fiscal year 1998;
(4) $75,940,000 for fiscal year 1999; and
(5) $73,240,000 for fiscal year 2000.

Such sums are to remain available until expended.

(b) ADMINISTRATIVE COSTS.—Up to 2.5 percent of the amount authorized to be appropriated under subsection (b) is authorized to be appropriated for the period fiscal year 1995 through fiscal year 2000 to be available for administrative costs by the Attorney General in furtherance of the purposes of the program. Such sums are to remain available until expended.

SEC. 30203. QUALIFICATION FOR PAYMENT.

(a) IN GENERAL.—The Attorney General shall issue regulations establishing procedures under which eligible units of general local government are required to provide notice to the Attorney General of the units' proposed use of assistance under this subtitle.

(b) GENERAL REQUIREMENTS FOR QUALIFICATION.—A unit of general local government qualifies for a payment under this subtitle for a payment period only after establishing to the satisfaction of the Attorney General that—

(1) the government will establish a trust fund in which the government will deposit all payments received under this subtitle;

(2) the government will use amounts in the trust fund (including interest) during a reasonable period;

(3) the government will expend the payments so received, in accordance with the laws and procedures that are applicable to the expenditure of revenues of the government;

(4) if at least 25 percent of the pay of individuals employed by the government in a public

employee occupation is paid out of the trust fund, individuals in the occupation any part of whose pay is paid out of the trust fund will receive pay at least equal to the prevailing rate of pay for individuals employed in similar public employee occupations by the government;

(5) the government will use accounting, audit, and fiscal procedures that conform to guidelines which shall be prescribed by the Attorney General after consultation with the Comptroller General of the United States. As applicable, amounts received under this subtitle shall be audited in compliance with the Single Audit Act of 1984;

(6) after reasonable notice to the government, the government will make available to the Attorney General and the Comptroller General of the United States, with the right to inspect, records the Attorney General reasonably requires to review compliance with this subtitle or the Comptroller General of the United States reasonably requires to review compliance and operations;

(7) the government will make reports the Attorney General reasonably requires, in addition to the annual reports required under this subtitle; and

(8) the government will spend the funds only for the purposes set forth in section 30201(a)(2).

(c) REVIEW BY GOVERNORS.—A unit of general local government shall give the chief executive officer of the State in which the government is located an opportunity for review and comment before establishing compliance with subsection (d).

(d) SANCTIONS FOR NONCOMPLIANCE.—

(1) IN GENERAL.—If the Attorney General decides that a unit of general local government has not complied substantially with subsection (b) or regulations prescribed under subsection (b), the Attorney General shall notify the government. The notice shall state that if the government does not take corrective action by the 60th day after the date the government receives the notice, the Attorney General will withhold additional payments to the government for the current payment period and later payment periods until the Attorney General is satisfied that the government—

(A) has taken the appropriate corrective action; and

(B) will comply with subsection (b) and regulations prescribed under subsection (b).

(2) NOTICE.—Before giving notice under paragraph (1), the Attorney General shall give the chief executive officer of the unit of general local government reasonable notice and an opportunity for comment.

(3) PAYMENT CONDITIONS.—The Attorney General may make a payment to a unit of general local government notified under paragraph (1) only if the Attorney General is satisfied that the government—

(A) has taken the appropriate corrective action; and

(B) will comply with subsection (b) and regulations prescribed under subsection (b).

SEC. 30204. ALLOCATION AND DISTRIBUTION OF FUNDS.

(a) STATE DISTRIBUTION.—For each payment period, the Attorney General shall allocate out of the amount appropriated for the period under the authority of section 30202—

(1) 0.25 percent to each State; and

(2) Of the total amount of funds remaining after allocation under paragraph (1), an amount that is equal to—

the ratio that the number of part 1 violent crimes reported by such State to the Federal Bureau of Investigation for 1993 bears to the number of part 1 violent crimes reported by all States to the Federal Bureau of Investigation for 1993.

(b) LOCAL DISTRIBUTION.—(1) The Attorney General shall allocate among the units of general local government in a State the amount allocated to the State under paragraphs (1) and (2) of subsection (a).

(2) The Attorney General shall allocate to each unit of general local government an amount which bears the ratio that the number of part 1 violent crimes reported by such unit to the Federal Bureau of Investigation for 1993 bears to the number of part 1 violent crimes reported by all units in the State in which the unit is located to the Federal Bureau of Investigation for 1993 multiplied by the ratio of the population living in all units in the State in which the unit is located that reported part 1 violent crimes to the Federal Bureau of Investigation for 1993 bears to the population of the State; or if such data are not available for a unit, the ratio that the population of such unit bears to the population of all units in the State in which the unit is located for which data are not available multiplied by the ratio of the population living in units in the State in which the unit is located for which data are not available bears to the population of the State.

(3) If under paragraph (2) a unit is allotted less than $5,000 for the payment period, the amount allotted shall be transferred to the Governor of the State who shall equitably distribute the allocation to all such units or consortia thereof.

(4) If there is in a State a unit of general local government that has been incorporated since the date of the collection of the data used by the Attorney General in making allocations pursuant to this section, the Attorney General shall allocate to this newly incorporated local government, out of the amount allocated to the State under this section, an amount bearing the same ratio to the amount allocated to the State as the population of the newly incorporated local government bears to the population of the State. If there is in the State a unit of general local government that has been annexed since the date of the collection of the data used by the Attorney General in making allocations pursuant to this section, the Attorney General shall pay the amount that would have been allocated to this local government to the unit of general local government that annexed it.

(c) UNAVAILABILITY OF INFORMATION.—For purposes of this section, if data regarding part 1 violent crimes in any State for 1993 is unavailable or substantially inaccurate, the Attorney General shall utilize the best available comparable data regarding the number of violent crimes for 1993 for such State for the purposes of allocation of any funds under this subtitle.

SEC. 30205. UTILIZATION OF PRIVATE SECTOR.

Funds or a portion of funds allocated under this subtitle may be utilized to contract with private, nonprofit entities or community-based organizations to carry out the uses specified under section 30201(a)(2).

SEC. 30206. PUBLIC PARTICIPATION.

A unit of general local government expending payments under this subtitle shall hold at least one public hearing on the proposed use of the payment in relation to its entire budget. At the hearing, persons shall be given an opportunity to provide written and oral views to the governmental authority responsible for enacting the budget and to ask questions about the entire budget and the relation of the payment to the entire budget. The government shall hold the hearing at a time and a place that allows and encourages public attendance and participation.

SEC. 30207. ADMINISTRATIVE PROVISIONS.

The administrative provisions of part H of the Omnibus Crime Control and Safe Streets Act of 1968, shall apply to the Attorney General for purposes of carrying out this subtitle.

SEC. 30208. DEFINITIONS.

For purposes of this subtitle:

(1) The term "unit of general local government" means—

(A) a county, township, city, or political subdivision of a county, township, or city, that is a unit of general local government as determined by the Secretary of Commerce for general statistical purposes; and

(B) the District of Columbia and the recognized governing body of an Indian tribe or Alaskan Native village that carries out substantial governmental duties and powers.

(2) The term "payment period" means each 1-year period beginning on October 1 of the years 1995 through 2000.

(3) The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands, except that American Samoa, Guam, and the Northern Mariana Islands shall be considered as one State and that, for purposes of 30204(a), 33 per centum of the amounts allocated shall be allocated to American Samoa, 50 per centum to Guam, and 17 per centum to the Northern Mariana Islands.

(4) The term "children" means persons who are not younger than 5 and not older than 18 years old.

(5) The term "part 1 violent crimes" means murder and non-negligent manslaughter, forcible rape, robbery, and aggravated assault as reported to the Federal Bureau of Investigation for purposes of the Uniform Crime Reports.

Subtitle C—Model Intensive Grant Programs

SEC. 30301. GRANT AUTHORIZATION.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Attorney General may award grants to not more than 15 chronic high intensive crime areas to develop comprehensive model crime prevention programs that—

(A) involve and utilize a broad spectrum of community resources, including nonprofit community organizations, law enforcement organizations, and appropriate State and Federal agencies, including the State educational agencies;

(B) attempt to relieve conditions that encourage crime; and

(C) provide meaningful and lasting alternatives to involvement in crime.

(2) CONSULTATION WITH THE OUNCE OF PREVENTION COUNCIL.—The Attorney General may consult with the Ounce of Prevention Council in awarding grants under paragraph (1).

(b) PRIORITY.—In awarding grants under subsection (a), the Attorney General shall give priority to proposals that—

(1) are innovative in approach to the prevention of crime in a specific area;

(2) vary in approach to ensure that comparisons of different models may be made; and

(3) coordinate crime prevention programs funded under this program with other existing Federal programs to address the overall needs of communities that benefit from grants received under this title.

SEC. 30302. USES OF FUNDS.

(a) IN GENERAL.—Funds awarded under this subtitle may be used only for purposes described in an approved application. The intent of grants under this subtitle is to fund intensively comprehensive crime prevention programs in chronic high intensive crime areas.

(b) GUIDELINES.—The Attorney General shall issue and publish in the Federal Register guidelines that describe suggested purposes for which funds under approved programs may be used.

(c) EQUITABLE DISTRIBUTION OF FUNDS.—In disbursing funds under this subtitle, the Attorney General shall ensure the distribution of awards equitably on a geographic basis, including urban and rural areas of varying population and geographic size.

SEC. 30303. PROGRAM REQUIREMENTS.

(a) DESCRIPTION.—An applicant shall include a description of the distinctive factors that contribute to chronic violent crime within the area

proposed to be served by the grant. Such factors may include lack of alternative activities and programs for youth, deterioration or lack of public facilities, inadequate public services such as public transportation, street lighting, community-based substance abuse treatment facilities, or employment services offices, and inadequate police or public safety services, equipment, or facilities.

(b) COMPREHENSIVE PLAN.—An applicant shall include a comprehensive, community-based plan to attack intensively the principal factors identified in subsection (a). Such plans shall describe the specific purposes for which funds are proposed to be used and how each purpose will address specific factors. The plan also shall specify how local nonprofit organizations, government agencies, private businesses, citizens groups, volunteer organizations, and interested citizens will cooperate in carrying out the purposes of the grant.

(c) EVALUATION.—An applicant shall include an evaluation plan by which the success of the plan will be measured, including the articulation of specific, objective indicia of performance, how the indicia will be evaluated, and a projected timetable for carrying out the evaluation.

SEC. 30304. APPLICATIONS.

To request a grant under this subtitle the chief local elected official of an area shall—

(1) prepare and submit to the Attorney General an application in such form, at such time, and in accordance with such procedures, as the Attorney General shall establish; and

(2) provide an assurance that funds received under this subtitle shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for programs funded under this subtitle.

SEC. 30305. REPORTS.

Not later than December 31, 1998, the Attorney General shall prepare and submit to the Committees on the Judiciary of the House and Senate an evaluation of the model programs developed under this subtitle and make recommendations regarding the implementation of a national crime prevention program.

SEC. 30306. DEFINITIONS.

In this subtitle—

"chief local elected official" means an official designated under regulations issued by the Attorney General. The criteria used by the Attorney General in promulgating such regulations shall ensure administrative efficiency and accountability in the expenditure of funds and execution of funded projects under this subtitle.

"chronic high intensity crime area" means an area meeting criteria adopted by the Attorney General by regulation that, at a minimum, define areas with—

(A) consistently high rates of violent crime as reported in the Federal Bureau of Investigation's "Uniform Crime Reports", and

(B) chronically high rates of poverty as determined by the Bureau of the Census.

"State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

SEC. 30307. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle—

(1) $100,000,000 for fiscal year 1996;

(2) $125,100,000 for fiscal year 1997;

(3) $125,100,000 for fiscal year 1998;

(4) $125,100,000 for fiscal year 1999; and

(5) $150,200,000 for fiscal year 2000.

Subtitle D—Family and Community Endeavor Schools Grant Program

SEC. 30401. COMMUNITY SCHOOLS YOUTH SERVICES AND SUPERVISION GRANT PROGRAM.

(a) SHORT TITLE.—This section may be cited as the "Community Schools Youth Services and Supervision Grant Program Act of 1994".

(b) DEFINITIONS.—In this section—

"child" means a person who is not younger than 5 and not older than 18 years old.

"community-based organization" means a private, locally initiated, community-based organization that—

(A) is a nonprofit organization, as defined in section 103(23) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603(23)); and

(B) is operated by a consortium of service providers, consisting of representatives of 5 or more of the following categories of persons:

(i) Residents of the community.

(ii) Business and civic leaders actively involved in providing employment and business development opportunities in the community.

(iii) Educators.

(iv) Religious organizations (which shall not provide any sectarian instruction or sectarian worship in connection with an activity funded under this title).

(v) Law enforcement agencies.

(vi) Public housing agencies.

(vii) Other public agencies.

(viii) Other interested parties.

"eligible community" means an area identified pursuant to subsection (e).

"Indian tribe" means a tribe, band, pueblo, nation, or other organized group or community of Indians, including an Alaska Native village (as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"poverty line" means the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved.

"public school" means a public elementary school, as defined in section 1201(i) of the Higher Education Act of 1965 (20 U.S.C. 1141(i)), and a public secondary school, as defined in section 1201(d) of that Act.

"Secretary" means the Secretary of Health and Human Services, in consultation and coordination with the Attorney General.

"State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, and the United States Virgin Islands.

(c) PROGRAM AUTHORITY.—

(1) IN GENERAL.—

(A) ALLOCATIONS FOR STATES AND INDIAN COUNTRY.—For any fiscal year in which the sums appropriated to carry out this section equal or exceed $20,000,000, from the sums appropriated to carry out this subsection, the Secretary shall allocate, for grants under subparagraph (B) to community-based organizations in each State, an amount bearing the same ratio to such sums as the number of children in the State who are from families with incomes below the poverty line bears to the number of children in all States who are from families with incomes below the poverty line. In view of the extraordinary need for assistance in Indian country, an appropriate amount of funds available under this subtitle shall be made available for such grants in Indian country.

(B) GRANTS TO COMMUNITY-BASED ORGANIZATIONS FROM ALLOCATIONS.—For such a fiscal year, the Secretary may award grants from the appropriate State or Indian country allocation determined under subparagraph (A) on a competitive basis to eligible community-based organizations to pay for the Federal share of assisting eligible communities to develop and carry out programs in accordance with this section.

(C) REALLOCATION.—If, at the end of such a fiscal year, the Secretary determines that funds allocated for community-based organizations in a State or Indian country under subparagraph (B) remain unobligated, the Secretary may use such funds to award grants to eligible community-based organizations in another State or Indian country to pay for such Federal share. In awarding such grants, the Secretary shall consider the need to maintain geographic diversity among the recipients of such grants. Amounts made available through such grants shall remain available until expended.

(2) OTHER FISCAL YEARS.—For any fiscal year in which the sums appropriated to carry out this section are less than $20,000,000, the Secretary may award grants on a competitive basis to eligible community-based organizations to pay for the Federal share of assisting eligible communities to develop and carry out programs in accordance with this section.

(3) ADMINISTRATIVE COSTS.—The Secretary may use not more than 3 percent of the funds appropriated to carry out this section in any fiscal year for administrative costs.

(d) PROGRAM REQUIREMENTS.—

(1) LOCATION.—A community-based organization that receives a grant under this section to assist in carrying out such a program shall ensure that the program is carried out—

(A) when appropriate, in the facilities of a public school during nonschool hours; or

(B) in another appropriate local facility in a State or Indian country, such as a college or university, a local or State park or recreation center, church, or military base, that is—

(i) in a location that is easily accessible to children in the community; and

(ii) in compliance with all applicable local ordinances.

(2) USE OF FUNDS.—Such community-based organization—

(A) shall use funds made available through the grant to provide, to children in the eligible community, services and activities that—

(i) shall include supervised sports programs, and extracurricular and academic programs, that are offered—

(I) after school and on weekends and holidays, during the school year; and

(II) as daily full-day programs (to the extent available resources permit) or as part-day programs, during the summer months;

(B) in providing such extracurricular and academic programs, shall provide programs such as curriculum-based supervised educational, work force preparation, entrepreneurship, cultural, health programs, social activities, arts and crafts programs, dance programs, tutorial and mentoring programs, and other related activities;

(C) may use—

(i) such funds for minor renovation of facilities that are in existence prior to the operation of the program and that are necessary for the operation of the program for which the organization receives the grant, purchase of sporting and recreational equipment and supplies, reasonable costs for the transportation of participants in the program, hiring of staff, provision of meals for such participants, provision of health services consisting of an initial basic physical examination, provision of first aid and nutrition guidance, family counselling, parental training, and substance abuse treatment where appropriate; and

(ii) not more than 5 percent of such funds to pay for the administrative costs of the program; and

(D) may not use such funds to provide sectarian worship or sectarian instruction.

(e) ELIGIBLE COMMUNITY IDENTIFICATION.—

(1) IDENTIFICATION.—To be eligible to receive a grant under this section, a community-based organization shall identify an eligible community to be assisted under this section.

(2) CRITERIA.—Such eligible community shall be an area that meets such criteria with respect to significant poverty and significant juvenile delinquency, and such additional criteria, as the Secretary may by regulation require.

(f) APPLICATIONS.—

(1) APPLICATION REQUIRED.—To be eligible to receive a grant under this section, a community-based organization shall submit an application to the Secretary at such time, in such manner, and accompanied by such information, as the Secretary may reasonably require, and obtain approval of such application.

(2) CONTENTS OF APPLICATION.—Each application submitted pursuant to paragraph (1) shall—

(A) describe the activities and services to be provided through the program for which the grant is sought;

(B) contain an assurance that the community-based organization will spend grant funds received under this section in a manner that the community-based organization determines will best accomplish the objectives of this section;

(C) contain a comprehensive plan for the program that is designed to achieve identifiable goals for children in the eligible community;

(D) set forth measurable goals and outcomes for the program that—

(i) will—

(I) where appropriate, make a public school the focal point of the eligible community; or

(II) make a local facility described in subsection (d)(1)(B) such a focal point; and

(ii) may include reducing the percentage of children in the eligible community that enter the juvenile justice system, increasing the graduation rates, school attendance, and academic success of children in the eligible community, and improving the skills of program participants;

(E) provide evidence of support for accomplishing such goals and outcomes from—

(i) community leaders;

(ii) businesses;

(iii) local educational agencies;

(iv) local officials;

(v) State officials;

(vi) Indian tribal government officials; and

(vii) other organizations that the community-based organization determines to be appropriate;

(F) contain an assurance that the community-based organization will use grant funds received under this section to provide children in the eligible community with activities and services that shall include supervised sports programs, and extracurricular and academic programs, in accordance with subparagraphs (A) and (B) of subsection (d)(2);

(G) contain a list of the activities and services that will be offered through the program for which the grant is sought and sponsored by private nonprofit organizations, individuals, and groups serving the eligible community, including—

(i) extracurricular and academic programs, such as programs described in subsection (d)(2)(B); and

(ii) activities that address specific needs in the community;

(H) demonstrate the manner in which the community-based organization will make use of the resources, expertise, and commitment of private entities in carrying out the program for which the grant is sought;

(I) include an estimate of the number of children in the eligible community expected to be served pursuant to the program;

(J) include a description of charitable private resources, and all other resources, that will be made available to achieve the goals of the program;

(K) contain an assurance that the community-based organization will use competitive procedures when purchasing, contracting, or otherwise providing for goods, activities, or services to carry out programs under this section;

(L) contain an assurance that the program will maintain a staff-to-participant ratio (including volunteers) that is appropriate to the activity or services provided by the program;

(M) contain an assurance that the program will maintain an average attendance rate of not less than 75 percent of the participants enrolled in the program, or will enroll additional participants in the program;

(N) contain an assurance that the community-based organization will comply with any evaluation under subsection (m), any research effort authorized under Federal law, and any investigation by the Secretary;

(O) contain an assurance that the community-based organization shall prepare and submit to the Secretary an annual report regarding any program conducted under this section;

(P) contain an assurance that the program for which the grant is sought will, to the maximum extent possible, incorporate services that are provided solely through non-Federal private or nonprofit sources; and

(Q) contain an assurance that the community-based organization will maintain separate accounting records for the program.

(3) PRIORITY.—In awarding grants to carry out programs under this section, the Secretary shall give priority to community-based organizations who submit applications that demonstrate the greatest effort in generating local support for the programs.

(g) ELIGIBILITY OF PARTICIPANTS.—

(1) IN GENERAL.—To the extent possible, each child who resides in an eligible community shall be eligible to participate in a program carried out in such community that receives assistance under this section.

(2) ELIGIBILITY.—To be eligible to participate in a program that receives assistance under this section, a child shall provide the express written approval of a parent or guardian, and shall submit an official application and agree to the terms and conditions of participation in the program.

(3) NONDISCRIMINATION.—In selecting children to participate in a program that receives assistance under this section, a community-based organization shall not discriminate on the basis of race, color, religion, sex, national origin, or disability.

(h) PEER REVIEW PANEL.—

(1) ESTABLISHMENT.—The Secretary may establish a peer review panel that shall be comprised of individuals with demonstrated experience in designing and implementing community-based programs.

(2) COMPOSITION.—A peer review panel shall include at least 1 representative from each of the following:

(A) A community-based organization.

(B) A local government.

(C) A school district.

(D) The private sector.

(E) A charitable organization.

(F) A representative of the United States Olympic Committee, at the option of the Secretary.

(3) FUNCTIONS.—A peer review panel shall conduct the initial review of all grant applications received by the Secretary under subsection (f), make recommendations to the Secretary regarding—

(A) grant funding under this section; and

(B) a design for the evaluation of programs assisted under this section.

(i) INVESTIGATIONS AND INSPECTIONS.—The Secretary may conduct such investigations and inspections as may be necessary to ensure compliance with the provisions of this section.

(j) PAYMENTS; FEDERAL SHARE; NON-FEDERAL SHARE.—

(1) PAYMENTS.—The Secretary shall, subject to the availability of appropriations, pay to each community-based organization having an application approved under subsection (f) the Federal share of the costs of developing and carrying out programs described in subsection (c).

(2) FEDERAL SHARE.—The Federal share of such costs shall be no more than—

(A) 75 percent for each of fiscal years 1995 and 1996;

(B) 70 percent for fiscal year 1997; and

(C) 60 percent for fiscal year 1998 and thereafter.

(3) NON-FEDERAL SHARE.—

(A) IN GENERAL.—The non-Federal share of such costs may be in cash or in kind, fairly evaluated, including plant, equipment, and services (including the services described in subsection (f)(2)(P)), and funds appropriated by the Congress for the activity of any agency of an Indian tribal government or the Bureau of Indian Affairs on any Indian lands may be used to provide the non-Federal share of the costs of programs or projects funded under this subtitle.

(B) SPECIAL RULE.—At least 15 percent of the non-Federal share of such costs shall be provided from private or nonprofit sources.

(k) EVALUATION.—The Secretary shall conduct a thorough evaluation of the programs assisted under this section, which shall include an assessment of—

(1) the number of children participating in each program assisted under this section;

(2) the academic achievement of such children;

(3) school attendance and graduation rates of such children; and

(4) the number of such children being processed by the juvenile justice system.

SEC. 30402. FAMILY AND COMMUNITY ENDEAVOR SCHOOLS GRANT PROGRAM.

(a) SHORT TITLE.—This section may be cited as the "Family and Community Endeavor Schools Act".

(b) PURPOSE.—It is the purpose of this section to improve the overall development of at-risk children who reside in eligible communities as defined in subsection (l)(3).

(c) PROGRAM AUTHORITY.—The Secretary may award grants on a competitive basis to eligible local entities to pay for the Federal share of assisting eligible communities to develop and carry out programs in accordance with this section. No local entity shall receive a grant of less than $250,000 in a fiscal year. Amounts made available through such grants shall remain available until expended.

(d) PROGRAM REQUIREMENTS.—

(1) IMPROVEMENT PROGRAMS.—A local entity that receives funds under this section shall develop or expand programs that are designed to improve academic and social development by instituting a collaborative structure that trains and coordinates the efforts of teachers, administrators, social workers, guidance counselors, parents, and school volunteers to provide concurrent social services for at-risk students at selected public schools in eligible communities.

(2) OPTIONAL ACTIVITIES.—A local entity that receives funds under this section may develop a variety of programs to serve the comprehensive needs of students, including—

(A) homework assistance and after-school programs, including educational, social, and athletic activities;

(B) nutrition services;

(C) mentoring programs;

(D) family counseling; and

(E) parental training programs.

(e) ELIGIBLE COMMUNITY IDENTIFICATION.—The Secretary through regulation shall define the criteria necessary to qualify as an eligible community as defined in subsection (l)(3).

(f) GRANT ELIGIBILITY.—To be eligible to receive a grant under this section, a local entity shall—

(1) identify an eligible community to be assisted;

(2) develop a community planning process that includes—

(A) parents and family members;

(B) local school officials;

(C) teachers employed at schools within the eligible community;

(D) public housing resident organization members, where applicable; and

(E) public and private nonprofit organizations that provide education, child protective services, or other human services to low-income, at-risk children and their families; and

(3) develop a concentrated strategy for implementation of the community planning process developed under paragraph (2) that targets clusters of at-risk children in the eligible community.

(g) APPLICATIONS.—

(1) APPLICATION REQUIRED.—To be eligible to receive a grant under this section, a local entity shall submit an application to the Secretary at such time, in such manner, and accompanied by such information, as the Secretary may reasonably require, and obtain approval of such application.

(2) CONTENTS OF APPLICATION.—Each application submitted under paragraph (1) shall—

(A) contain a comprehensive plan for the program that is designed to improve the academic and social development of at-risk children in schools in the eligible community;

(B) provide evidence of support for accomplishing the objectives of such plan from—

(i) community leaders;

(ii) a school district;

(iii) local officials; and

(iv) other organizations that the local entity determines to be appropriate;

(C) provide an assurance that the local entity will use grant funds received under this subsection to implement the program requirements listed in subsection (d);

(D) include an estimate of the number of children in the eligible community expected to be served under the program;

(E) provide an assurance that the local entity will comply with any evaluation requested under subsection (k), any research effort authorized under Federal law, and any investigation by the Secretary;

(F) provide an assurance that the local entity shall prepare and submit to the Secretary an annual report regarding any program conducted under this section;

(G) provide an assurance that funds made available under this section shall be used to supplement, not supplant, other Federal funds that would otherwise be available for activities funded under this section; and

(H) provide an assurance that the local entity will maintain separate accounting records for the program.

(3) PRIORITY.—In awarding grants to carry out programs under this section, the Secretary shall give priority to local entities which submit applications that demonstrate the greatest effort in generating local support for the programs.

(h) PEER REVIEW PANEL.—

(1) ESTABLISHMENT.—The Secretary shall establish a peer review panel not to exceed 8 members that shall be comprised of individuals with demonstrated experience in designing and implementing programs to improve the academic and social development of at-risk children.

(2) FUNCTIONS.—Such panel shall make recommendations to the Secretary regarding—

(A) an illustrative model that effectively achieves the program requirements indicated in subsection (d) and a process whereby local entities can request such model; and

(B) a design for the evaluation of programs assisted under this section.

(i) INVESTIGATIONS AND INSPECTIONS.—The Secretary may conduct such investigations and inspections as may be necessary to ensure compliance with the provisions of this section.

(j) FEDERAL SHARE.—

(1) PAYMENTS.—The Secretary shall, subject to the availability of appropriations, pay to each local entity having an application approved under subsection (g) the Federal share of the costs of developing and carrying out programs referred to in subsection (d).

(2) FEDERAL SHARE.—The Federal share of such costs shall be 70 percent.

(3) NON-FEDERAL SHARE.—

(A) IN GENERAL.—The non-Federal share of such costs may be in cash or in kind, fairly evaluated, including personnel, plant, equipment, and services.

(B) SPECIAL RULE.—Not less than 15 percent of the non-Federal share of such costs shall be provided from private or nonprofit sources.

(k) EVALUATION.—The Secretary shall require a thorough evaluation of the programs assisted under this section, which shall include an assessment of the academic and social achievement of children assisted with funds provided under this section.

(l) DEFINITIONS.—For purposes of this section—

(1) the term "Secretary" means to the Secretary of the Department of Education;

(2) the term "local entity" means—

(A) a local educational agency, or

(B) a community-based organization as defined in section 1471(3) of the Elementary and Secondary Education Act of 1965;

(3) the term "eligible community" means an area which meets criteria with respect to significant poverty and significant violent crime, and such additional criteria, as the Secretary may by regulation require; and

(4) the term "public school" means an elementary school (as defined in section 1471(8) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(8))) and a secondary school (as defined in section 1471(21) of that Act).

SEC. 30403. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this subtitle—

(1) $37,000,000 for fiscal year 1995;

(2) $103,500,000 for fiscal year 1996;

(3) $121,500,000 for fiscal year 1997;

(4) $153,000,000 for fiscal year 1998;

(5) $193,500,000 for fiscal year 1999; and

(6) $201,500,000 for fiscal year 2000.

(b) PROGRAMS.—Of the amounts appropriated under subsection (a) for any fiscal year—

(1) 70 percent shall be made available to carry out section 30401; and

(2) 30 percent shall be made available to carry out section 30402.

Subtitle G—Assistance for Delinquent and At-Risk Youth

SEC. 30701. GRANT AUTHORITY.

(a) GRANTS.—

(1) IN GENERAL.—In order to prevent the commission of crimes or delinquent acts by juveniles, the Attorney General may make grants to public or private nonprofit organizations to support the development and operation of projects to provide residential services to youth, aged 11 to 19, who—

(A) have dropped out of school;

(B) have come into contact with the juvenile justice system; or

(C) are at risk of dropping out of school or coming into contact with the juvenile justice system.

(2) CONSULTATION WITH THE OUNCE OF PREVENTION COUNCIL.—The Attorney General may consult with the Ounce of Prevention Council in making grants under paragraph (1).

(3) SERVICES.—Such services shall include activities designed to—

(A) increase the self-esteem of such youth;

(B) assist such youth in making healthy and responsible choices;

(C) improve the academic performance of such youth pursuant to a plan jointly developed by the applicant and the school which each such youth attends or should attend; and

(D) provide such youth with vocational and life skills.

(b) APPLICATIONS.—

(1) IN GENERAL.—A public agency or private nonprofit organization which desires a grant under this section shall submit an application at such time and in such manner as the Attorney General may prescribe.

(2) CONTENTS.—An application under paragraph (1) shall include—

(A) a description of the program developed by the applicant, including the activities to be offered;

(B) a detailed discussion of how such program will prevent youth from committing crimes or delinquent acts;

(C) evidence that such program—

(i) will be carried out in facilities which meet applicable State and local laws with regard to safety;

(ii) will include academic instruction, approved by the State, Indian tribal government, or local educational agency, which meets or exceeds State, Indian tribal government, and local standards and curricular requirements; and

(iii) will include instructors and other personnel who possess such qualifications as may be required by applicable State or local laws; and

(D) specific, measurable outcomes for youth served by the program.

(c) CONSIDERATION OF APPLICATIONS.—Not later than 60 days following the submission of applications, the Attorney General shall—

(1) approve each application and disburse the funding for each such application; or

(2) disapprove the application and inform the applicant of such disapproval and the reasons therefor.

(d) REPORTS.—A grantee under this section shall annually submit a report to the Attorney General that describes the activities and accomplishments of such program, including the degree to which the specific youth outcomes are met.

(e) DEFINITIONS.—In this subtitle—

"Indian tribe" means a tribe, band, pueblo, nation, or other organized group or community of Indians, including Alaska Native village (as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

SEC. 30702. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for grants under section 30701—

(1) $5,400,000 for fiscal year 1996;

(2) $6,300,000 for fiscal year 1997;

(3) $7,200,000 for fiscal year 1998;

(4) $8,100,000 for fiscal year 1999; and

(5) $9,000,000 for fiscal year 2000.

Subtitle H—Police Recruitment

SEC. 30801. GRANT AUTHORITY.

(a) GRANTS.—

(1) IN GENERAL.—The Attorney General may make grants to qualified community organizations to assist in meeting the costs of qualified programs which are designed to recruit and retain applicants to police departments.

(2) CONSULTATION WITH THE OUNCE OF PREVENTION COUNCIL.—The Attorney General may

consult with the Ounce of Prevention Council in making grants under paragraph (1).

(b) QUALIFIED COMMUNITY ORGANIZATIONS.—An organization is a qualified community organization which is eligible to receive a grant under subsection (a) if the organization—

(1) is a nonprofit organization; and

(2) has training and experience in—

(A) working with a police department and with teachers, counselors, and similar personnel,

(B) providing services to the community in which the organization is located,

(C) developing and managing services and techniques to recruit individuals to become members of a police department and to assist such individuals in meeting the membership requirements of police departments,

(D) developing and managing services and techniques to assist in the retention of applicants to police departments, and

(E) developing other programs that contribute to the community.

(c) QUALIFIED PROGRAMS.—A program is a qualified program for which a grant may be made under subsection (a) if the program is designed to recruit and train individuals from underrepresented neighborhoods and localities and if—

(1) the overall design of the program is to recruit and retain applicants to a police department;

(2) the program provides recruiting services which include tutorial programs to enable individuals to meet police force academic requirements and to pass entrance examinations;

(3) the program provides counseling to applicants to police departments who may encounter problems throughout the application process; and

(4) the program provides retention services to assist in retaining individuals to stay in the application process of a police department.

(d) APPLICATIONS.—To qualify for a grant under subsection (a), a qualified organization shall submit an application to the Attorney General in such form as the Attorney General may prescribe. Such application shall—

(1) include documentation from the applicant showing—

(A) the need for the grant;

(B) the intended use of grant funds;

(C) expected results from the use of grant funds; and

(D) demographic characteristics of the population to be served, including age, disability, race, ethnicity, and languages used; and

(2) contain assurances satisfactory to the Attorney General that the program for which a grant is made will meet the applicable requirements of the program guidelines prescribed by the Attorney General under subsection (i).

(e) ACTION BY THE ATTORNEY GENERAL.—Not later than 60 days after the date that an application for a grant under subsection (a) is received, the Attorney General shall consult with the police department which will be involved with the applicant and shall—

(1) approve the application and disburse the grant funds applied for; or

(2) disapprove the application and inform the applicant that the application is not approved and provide the applicant with the reasons for the disapproval.

(f) GRANT DISBURSEMENT.—The Attorney General shall disburse funds under a grant under subsection (a) in accordance with regulations of the Attorney General which shall ensure—

(1) priority is given to applications for areas and organizations with the greatest showing of need;

(2) that grant funds are equitably distributed on a geographic basis; and

(3) the needs of underserved populations are recognized and addressed.

(g) GRANT PERIOD.—A grant under subsection (a) shall be made for a period not longer than 3 years.

(h) GRANTEE REPORTING.—(1) For each year of a grant period for a grant under subsection (a), the recipient of the grant shall file a performance report with the Attorney General explaining the activities carried out with the funds received and assessing the effectiveness of such activities in meeting the purpose of the recipient's qualified program.

(2) If there was more than one recipient of a grant, each recipient shall file such report.

(3) The Attorney General shall suspend the funding of a grant, pending compliance, if the recipient of the grant does not file the report required by this subsection or uses the grant for a purpose not authorized by this section.

(i) GUIDELINES.—The Attorney General shall, by regulation, prescribe guidelines on content and results for programs receiving a grant under subsection (a). Such guidelines shall be designed to establish programs which will be effective in training individuals to enter instructional programs for police departments and shall include requirements for—

(1) individuals providing recruiting services;

(2) individuals providing tutorials and other academic assistance programs;

(3) individuals providing retention services; and

(4) the content and duration of recruitment, retention, and counseling programs and the means and devices used to publicize such programs.

SEC. 30802. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for grants under section 30801—

(1) $2,000,000 for fiscal year 1996;

(2) $4,000,000 for fiscal year 1997;

(3) $5,000,000 for fiscal year 1998;

(4) $6,000,000 for fiscal year 1999; and

(5) $7,000,000 for fiscal year 2000.

Subtitle J—Local Partnership Act

SEC. 31001. ESTABLISHMENT OF PAYMENT PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Title 31, United States Code, is amended by inserting after chapter 65 the following new chapter:

"CHAPTER 67—FEDERAL PAYMENTS

"Sec.
"6701. Payments to local governments.
"6702. Local Government Fiscal Assistance Fund.
"6703. Qualification for payment.
"6704. State area allocations; allocations and payments to territorial governments.
"6705. Local government allocations.
"6706. Income gap multiplier.
"6707. State variation of local government allocations.
"6708. Adjustments of local government allocations.
"6709. Information used in allocation formulas.
"6710. Public participation.
"6711. Prohibited discrimination.
"6712. Discrimination proceedings.
"6713. Suspension and termination of payments in discrimination proceedings.
"6714. Compliance agreements.
"6715. Enforcement by the Attorney General of prohibitions on discrimination.
"6716. Civil action by a person adversely affected.
"6717. Judicial review.
"6718. Investigations and reviews.
"6719. Reports.
"6720. Definitions, application, and administration.

"§6701. Payments to local governments

"(a) PAYMENT AND USE.—

"(1) PAYMENT.—The Secretary shall pay to each unit of general local government which qualifies for a payment under this chapter an amount equal to the sum of any amounts allocated to the government under this chapter for each payment period. The Secretary shall pay such amount out of the Local Government Fiscal Assistance Fund under section 6702.

"(2) USE.—Amounts paid to a unit of general local government under this section shall be used by that unit for carrying out one or more programs of the unit related to—

"(A) education to prevent crime;

"(B) substance abuse treatment to prevent crime; or

"(C) job programs to prevent crime.

"(3) COORDINATION.—Programs funded under this title shall be coordinated with other existing Federal programs to meet the overall needs of communities that benefit from funds received under this section.

"(b) TIMING OF PAYMENTS.—The Secretary shall pay each amount allocated under this chapter to a unit of general local government for a payment period by the later of 90 days after the date the amount is available or the first day of the payment period provided that the unit of general local government has provided the Secretary with the assurances required by section 6703(d).

"(c) ADJUSTMENTS.—

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall adjust a payment under this chapter to a unit of general local government to the extent that a prior payment to the government was more or less than the amount required to be paid.

"(2) CONSIDERATIONS.—The Secretary may increase or decrease under this subsection a payment to a unit of local government only if the Secretary determines the need for the increase or decrease, or the unit requests the increase or decrease, within one year after the end of the payment period for which the payment was made.

"(d) RESERVATION FOR ADJUSTMENTS.—The Secretary may reserve a percentage of not more than 2 percent of the amount under this section for a payment period for all units of general local government in a State if the Secretary considers the reserve is necessary to ensure the availability of sufficient amounts to pay adjustments after the final allocation of amounts among the units of general local government in the State.

"(e) REPAYMENT OF UNEXPENDED AMOUNTS.—

"(1) REPAYMENT REQUIRED.—A unit of general local government shall repay to the Secretary, by not later than 15 months after receipt from the Secretary, any amount that is—

"(A) paid to the unit from amounts appropriated under the authority of this section; and

"(B) not expended by the unit within one year after receipt from the Secretary.

"(2) PENALTY FOR FAILURE TO REPAY.—If the amount required to be repaid is not repaid, the Secretary shall reduce payments in future payment periods accordingly.

"(3) DEPOSIT OF AMOUNTS REPAID.—Amounts received by the Secretary as repayments under this subsection shall be deposited in the Local Government Fiscal Assistance Fund for future payments to units of general local government.

"(f) EXPENDITURE WITH DISADVANTAGED BUSINESS ENTERPRISES.—

"(1) GENERAL RULE.—Of amounts paid to a unit of general local government under this chapter for a payment period, not less than 10 percent of the total combined amounts obligated by the unit for contracts and subcontracts shall be expended with—

"(A) small business concerns controlled by socially and economically disadvantaged individuals and women; and

"(B) historically Black colleges and universities and colleges and universities having a student body in which more than 20 percent of the students are Hispanic Americans or Native Americans.

"(2) EXCEPTION.—Paragraph (1) shall not apply to amounts paid to a unit of general local government to the extent the unit determines that the paragraph does not apply through a process that provides for public participation.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'small business concern' has the meaning such term has under section 3 of the Small Business Act; and

"(B) the term 'socially and economically disadvantaged individuals' has the meaning such term has under section 8(d) of the Small Business Act and relevant subcontracting regulations promulgated pursuant to that section.

"(g) NONSUPPLANTING REQUIREMENT.—

"(1) IN GENERAL.—Funds made available under this chapter to units of local government shall not be used to supplant State or local funds, but will be used to increase the amount of funds that would, in the absence of funds under this chapter, be made available from State or local sources.

"(2) BASE LEVEL AMOUNT.—The total level of funding available to a unit of local government for accounts serving eligible purposes under this chapter in the fiscal year immediately preceding receipt of a grant under this chapter shall be designated the 'base level account' for the fiscal year in which grant is received. Grants under this chapter in a given fiscal year shall be reduced on a dollar for dollar basis to the extent that a unit of local government reduces its base level account in that fiscal year.

"§6702. Local Government Fiscal Assistance Fund

"(a) ADMINISTRATION OF FUND.—The Department of the Treasury has a Local Government Fiscal Assistance Fund, which consists of amounts appropriated to the Fund.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Fund—

"(1) $270,000,000 for fiscal year 1996;

"(2) $283,500,000 for fiscal year 1997;

"(3) $355,500,000 for fiscal year 1998;

"(4) $355,500,000 for fiscal year 1999; and

"(5) $355,500,000 for fiscal year 2000.

Such sums are to remain available until expended.

"(c) ADMINISTRATIVE COSTS.—Up to 2.5 percent of the amount authorized to be appropriated under subsection (b) is authorized to be appropriated for the period fiscal year 1995 through fiscal year 2000 to be available for administrative costs by the Secretary in furtherance of the purposes of the program. Such sums are to remain available until expended.

"§6703. Qualification for payment

"(a) IN GENERAL.—The Secretary shall issue regulations establishing procedures under which eligible units of general local government are required to provide notice to the Secretary of the units' proposed use of assistance under this chapter. Subject to subsection (c), the assistance provided shall be used, in amounts determined by the unit, for activities under, or for activities that are substantially similar to an activity under, 1 or more of the following programs and the notice shall identify 1 or more of the following programs for each such use:

"(1) The Drug Abuse Resistance Education Program under section 5122 of the Elementary and Secondary Education Act of 1965.

"(2) The National Youth Sports Program under section 682 of the Community Services Block Grant Act (Public Law 97–35) as amended by section 205, Public Law 103–252.

"(3) The Gang Resistance Education and Training Program under the Act entitled 'An Act 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, 1991, and for other purposes', approved November 5, 1990 (Public Law 101–509).

"(4) Programs under title II or IV of the Job Training Partnership Act (29 U.S.C. 1601 et seq.).

"(5) Programs under subtitle C of title I of the National and Community Service Act of 1990 (42 U.S.C. 12571 et seq.) as amended.

"(6) Programs under the School to Work Opportunities Act (Public Law 103–239).

"(7) Substance Abuse Treatment and Prevention programs authorized under title V or XIX of the Public Health Services Act (43 U.S.C. 201 et seq.).

"(8) Programs under the Head Start Act (42 U.S.C. 9831 et seq.).

"(9) Programs under part A or B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965.

"(10) The TRIO programs under part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.).

"(11) Programs under the National Literacy Act of 1991.

"(12) Programs under the Carl Perkins Vocational Educational and Applied Technology Education Act (20 U.S.C. 2301 et seq.).

"(13) The demonstration partnership programs including the community initiative targeted to minority youth under section 203 of the Human Services Reauthorization of 1994 (Public Law 103–232).

"(14) The runaway and homeless youth program and the transitional living program for homeless youth under title III of the Juvenile Justice and Delinquency Prevention Act (Public Law 102–586).

"(15) The family support program under subtitle F of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 1148 et seq.).

"(16) After-school activities for school aged children under the Child Care and Development Block Grant Act (42 U.S.C. 9858 et seq.).

"(17) The community-based family resource programs under section 401 of the Human Services Reauthorization Act of 1994 (Public Law 103–232).

"(18) The family violence programs under the Child Abuse Prevention and Treatment Act Amendments of 1984.

"(19) Job training programs administered by the Department of Agriculture, the Department of Defense, or the Department of Housing and Urban Development.

"(b) NOTICE TO AGENCY.—Upon receipt of notice under subsection (a) from an eligible unit of general local government, the Secretary shall notify the head of the appropriate Federal agency for each program listed in subsection (a) that is identified in the notice as a program under which an activity will be conducted with assistance under this chapter. The notification shall state that the unit has elected to use some or all of its assistance under this chapter for activities under that program. The head of a Federal agency that receives such a notification shall ensure that such use is in compliance with the laws and regulations applicable to that program, except that any requirement to provide matching funds shall not apply to that use.

"(c) ALTERNATIVE USES OF FUNDS.—

"(1) ALTERNATIVE USES AUTHORIZED.—In lieu of, or in addition to, use for an activity described in subsection (a) and notice for that use under subsection (a), an eligible unit of general local government may use assistance under this chapter, and shall provide notice of that use to the Secretary under subsection (a), for any other activity that is consistent with 1 or more of the purposes described in section 6701(a)(2).

"(2) NOTICE DEEMED TO DESCRIBE CONSISTENT USE.—Notice by a unit of general local government that it intends to use assistance under this chapter for an activity other than an activity described in subsection (a) is deemed to describe an activity that is consistent with 1 or more of the purposes described in section 6701(a)(2) unless the Secretary provides to the unit, within 30 days after receipt of that notice of intent from the unit, written notice (including an explanation) that the use is not consistent with those purposes.

"(d) GENERAL REQUIREMENTS FOR QUALIFICATION.—A unit of general local government qualifies for a payment under this chapter for a payment period only after establishing to the satisfaction of the Secretary that—

"(1) the government will establish a trust fund in which the government will deposit all payments received under this chapter;

"(2) the government will use amounts in the trust fund (including interest) during a reasonable period;

"(3) the government will expend the payments so received, in accordance with the laws and procedures that are applicable to the expenditure of revenues of the government;

"(4) if at least 25 percent of the pay of individuals employed by the government in a public employee occupation is paid out of the trust fund, individuals in the occupation any part of whose pay is paid out of the trust fund will receive pay at least equal to the prevailing rate of pay for individuals employed in similar public employee occupations by the government;

"(5) All laborers and mechanics employed by contractors or subcontractors in the performance of any contract and subcontract for the repair, renovation, alteration, or construction, including painting and decorating, of any building or work that is financed in whole or in part by a grant under this title, shall be paid wages not less than those determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (commonly known as the Davis-Bacon Act); as amended (40 U.S.C. 276a–276a–5). The Secretary of Labor shall have the authority and functions set forth in reorganization plan of No. 14 of 1950 (15 FR 3176; 64 Stat. 1267) and section 2 of the Act of June 1, 1934 (commonly known as the Copeland Anti-Kickback Act) as amended (40 U.S.C. 276c, 48 Stat. 948).

"(5) the government will use accounting, audit, and fiscal procedures that conform to guidelines which shall be prescribed by the Secretary after consultation with the Comptroller General of the United States. As applicable, amounts received under this chapter shall be audited in compliance with the Single Audit Act of 1984;

"(6) after reasonable notice to the government, the government will make available to the Secretary and the Comptroller General of the United States, with the right to inspect, records the Secretary reasonably requires to review compliance with this chapter or the Comptroller General of the United States reasonably requires to review compliance and operations under section 6718(b);

"(7) the government will make reports the Secretary reasonably requires, in addition to the annual reports required under section 6719(b); and

"(8) the government will spend the funds only for the purposes set forth in section 6701(a)(2).

"(e) REVIEW BY GOVERNORS.—A unit of general local government shall give the chief executive officer of the State in which the government is located an opportunity for review and comment before establishing compliance with subsection (d).

"(f) SANCTIONS FOR NONCOMPLIANCE.—

"(1) IN GENERAL.—If the Secretary decides that a unit of general local government has not complied substantially with subsection (d) or regulations prescribed under subsection (d), the Secretary shall notify the government. The notice shall state that if the government does not take corrective action by the 60th day after the date the government receives the notice, the Secretary will withhold additional payments to the government for the current payment period and later payment periods until the Secretary is satisfied that the government—

"(A) has taken the appropriate corrective action; and

"(B) will comply with subsection (d) and regulations prescribed under subsection (d).

"(2) NOTICE.—Before giving notice under paragraph (1), the Secretary shall give the chief executive officer of the unit of general local government reasonable notice and an opportunity for comment.

"(3) PAYMENT CONDITIONS.—The Secretary may make a payment to a unit of general local government notified under paragraph (1) only if the Secretary is satisfied that the government—

"(A) has taken the appropriate corrective action; and

"(B) will comply with subsection (d) and regulations prescribed under subsection (d).

"§6704. State area allocations; allocations and payments to territorial governments

"(a) FORMULA ALLOCATION BY STATE.—For each payment period, the Secretary shall allocate to each State out of the amount appropriated for the period under the authority of section 6702(b) (minus the amounts allocated to territorial governments under subsection (e) for the payment period) an amount bearing the same ratio to the amount appropriated (minus such amounts allocated under subsection (e)) as the amount allocated to the State under this section bears to the total amount allocated to all States under this section. The Secretary shall—

"(1) determine the amount allocated to the State under subsection (b) or (c) of this section and allocate the larger amount to the State; and

"(2) allocate the amount allocated to the State to units of general local government in the State under sections 6705 and 6706.

"(b) GENERAL FORMULA.—

"(1) IN GENERAL.—For the payment period beginning October 1, 1994, the amount allocated to a State under this subsection for a payment period is the amount bearing the same ratio to $5,300,000,000 as—

"(A) the population of the State, multiplied by the general tax effort factor of the State (determined under paragraph (2)), multiplied by the relative income factor of the State (determined under paragraph (3)), multiplied by the relative rate of the labor force unemployed in the State (determined under paragraph (4)); bears to

"(B) the sum of the products determined under subparagraph (A) of this paragraph for all States.

"(2) GENERAL TAX EFFORT FACTOR.—The general tax effort factor of a State for a payment period is—

"(A) the net amount of State and local taxes of the State collected during the year 1991 as reported by the Bureau of the Census in the publication Government Finances 1990–1991; divided by

"(B) the total income of individuals, as determined by the Secretary of Commerce for national accounts purposes for 1992 as reported in the publication Survey of Current Business (August 1993), attributed to the State for the same year.

"(3) RELATIVE INCOME FACTOR.—The relative income factor of a State is a fraction in which—

"(A) the numerator is the per capita income of the United States; and

"(B) the denominator is the per capita income of the State.

"(4) RELATIVE RATE OF LABOR FORCE.—The relative rate of the labor force unemployed in a State is a fraction in which—

"(A) the numerator is the percentage of the labor force of the State that is unemployed in the calendar year preceding the payment period (as determined by the Secretary of Labor for general statistical purposes); and

"(B) the denominator is the percentage of the labor force of the United States that is unemployed in the calendar year preceding the payment period (as determined by the Secretary of Labor for general statistical purposes).

"(c) ALTERNATIVE FORMULA.—For the payment period beginning October 1, 1994, the amount allocated to a State under this subsection for a payment period is the total amount the State would receive if—

"(1) $1,166,666,667 were allocated among the States on the basis of population by allocating to each State an amount bearing the same ratio to the total amount to be allocated under this paragraph as the population of the State bears to the population of all States;

"(2) $1,166,666,667 were allocated among the States on the basis of population inversely weighted for per capita income, by allocating to each State an amount bearing the same ratio to the total amount to be allocated under this paragraph as—

"(A) the population of the State, multiplied by a fraction in which—

"(i) the numerator is the per capita income of all States; and

"(ii) the denominator is the per capita income of the State; bears to

"(B) the sum of the products determined under subparagraph (A) for all States;

"(3) $600,000,000 were allocated among the States on the basis of income tax collections by allocating to each State an amount bearing the same ratio to the total amount to be allocated under this paragraph as the income tax amount of the State (determined under subsection (d)(1)) bears to the sum of the income tax amounts of all States;

"(4) $600,000,000 were allocated among the States on the basis of general tax effort by allocating to each State an amount bearing the same ratio to the total amount to be allocated under this paragraph as the general tax effort amount of the State (determined under subsection (d)(2)) bears to the sum of the general tax effort amounts of all States;

"(5) $600,000,000 were allocated among the States on the basis of unemployment by allocating to each State an amount bearing the same ratio to the total amount to be allocated under this paragraph as—

"(A) the labor force of the State, multiplied by a fraction in which—

"(i) the numerator is the percentage of the labor force of the State that is unemployed in the calendar year preceding the payment period (as determined by the Secretary of Labor for general statistical purposes); and

"(ii) the denominator is the percentage of the labor force of the United States that is unemployed in the calendar year preceding the payment period (as determined by the Secretary of Labor for general statistical purposes)

bears to

"(B) the sum of the products determined under subparagraph (A) for all States; and

"(6) $1,166,666,667 were allocated among the States on the basis of urbanized population by allocating to each State an amount bearing the same ratio to the total amount to be allocated under this paragraph as the urbanized population of the State bears to the urbanized population of all States. In this paragraph, the term 'urbanized population' means the population of an area consisting of a central city or cities of at least 50,000 inhabitants and the surrounding closely settled area for the city or cities considered as an urbanized area as published by the Bureau of the Census for 1990 in the publication General Population Characteristics for Urbanized Areas.

"(d) INCOME TAX AMOUNT AND TAX EFFORT AMOUNT.—

"(1) INCOME TAX AMOUNT.—The income tax amount of a State for a payment period is 15 percent of the net amount collected during the calendar year ending before the beginning of the payment period from the tax imposed on the income of individuals by the State and described as a State income tax under section 164(a)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 164(a)(3)). The income tax amount for a payment period shall be at least 1 percent but not more than 6 percent of the United States Government individual income tax liability attributed to the State for the taxable year ending during the last calendar year ending before the beginning of the payment period. The Secretary shall determine the Government income tax liability attributed to the State by using the data published by the Secretary for 1991 in the publication Statistics of Income Bulletin (Winter 1993–1994).

"(2) GENERAL TAX EFFORT AMOUNT.—The general tax effort amount of a State for a payment period is the amount determined by multiplying—

"(A) the net amount of State and local taxes of the State collected during the year 1991 as reported in the Bureau of Census in the publication Government Finances 1990–1991; and

"(B) the general tax effort factor of the State determined under subsection (b)(2).

"(e) ALLOCATION FOR PUERTO RICO, GUAM, AMERICAN SAMOA, AND THE VIRGIN ISLANDS.—

"(1) IN GENERAL.—(A) For each payment period for which funds are available for allocation under this chapter, the Secretary shall allocate to each territorial government an amount equal to the product of 1 percent of the amount of funds available for allocation multiplied by the applicable territorial percentage.

"(B) For the purposes of this paragraph, the applicable territorial percentage of a territory is equal to the quotient resulting from the division of the territorial population of such territory by the sum of the territorial population for all territories.

"(2) PAYMENTS TO LOCAL GOVERNMENTS.—The governments of the territories shall make payments to local governments within their jurisdiction from sums received under this subsection as they consider appropriate.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'territorial government' means the government of a territory;

"(B) the term 'territory' means Puerto Rico, Guam, American Samoa, and the Virgin Islands; and

"(C) the term 'territorial population' means the most recent population for each territory as determined by the Bureau of Census.

"§6705. Local government allocations

"(a) INDIAN TRIBES AND ALASKAN NATIVES VILLAGES.—If there is in a State an Indian tribe or Alaskan native village having a recognized governing body carrying out substantial governmental duties and powers, the Secretary shall allocate to the tribe or village, out of the amount allocated to the State under section 6704, an amount bearing the same ratio to the amount allocated to the State as the population of the tribe or village bears to the population of the State. The Secretary shall allocate amounts under this subsection to Indian tribes and Alaskan native villages in a State before allocating amounts to units of general local government in the State under subsection (c). For the payment period beginning October 1, 1994, the Secretary

shall use as the population of each Indian tribe or Alaskan native village the population for 1991 as reported by the Bureau of Indian Affairs in the publication Indian Service Population and Labor Force Estimates (January 1991). In addition to uses authorized under section 6701(a)(2), amounts allocated under this subsection and paid to an Indian tribe or Alaskan native village under this chapter may be used for renovating or building prisons or other correctional facilities.

"(b) NEWLY INCORPORATED LOCAL GOVERNMENTS AND ANNEXED GOVERNMENTS.—If there is in a State a unit of general local government that has been incorporated since the date of the collection of the data used by the Secretary in making allocations pursuant to sections 6704 through 6706 and 6708, the Secretary shall allocate to this newly incorporated local government, out of the amount allocated to the State under section 6704, an amount bearing the same ratio to the amount allocated to the State as the population of the newly incorporated local government bears to the population of the State. If there is in the State a unit of general local government that has been annexed since the date of the collection of the data used by the Secretary in making allocations pursuant to sections 6704 through 6706 and 6708, the Secretary shall pay the amount that would have been allocated to this local government to the unit of general local government that annexed it.

"(c) OTHER LOCAL GOVERNMENT ALLOCATIONS.—

"(1) IN GENERAL.—The Secretary shall allocate among the units of general local government in a State (other than units receiving allocations under subsection (a)) the amount allocated to the State under section 6704 (as that amount is reduced by allocations under subsection (a)). Of the amount to be allocated, the Secretary shall allocate a portion equal to ½ of such amount in accordance with section 6706(1), and shall allocate a portion equal to ½ of such amount in accordance with section 6706(2). A unit of general local government shall receive an amount equal to the sum of amounts allocated to the unit from each portion.

"(2) RATIO.—From each portion to be allocated to units of local government in a State under paragraph (1), the Secretary shall allocate to a unit an amount bearing the same ratio to the funds to be allocated as—

"(A) the population of the unit, multiplied by the general tax effort factor of the unit (determined under paragraph (3)), multiplied by the income gap of the unit (determined under paragraph (4)), bears to

"(B) the sum of the products determined under subparagraph (A) for all units in the State for which the income gap for that portion under paragraph (4) is greater than zero.

"(3) GENERAL TAX EFFORT FACTOR.—(A) Except as provided in subparagraph (C), the general tax effort factor of a unit of general local government for a payment period is—

"(i) the adjusted taxes of the unit; divided by

"(ii) the total income attributed to the unit.

"(B) If the amount determined under subparagraphs (A) (i) and (ii) for a unit of general local government is less than zero, the general tax effort factor of the unit is deemed to be zero.

"(C)(i) Except as otherwise provided in this subparagraph, for the payment period beginning October 1, 1994, the adjusted taxes of a unit of general local government are the taxes imposed by the unit for public purposes (except employee and employer assessments and contributions to finance retirement and social insurance systems and other special assessments for capital outlay), as determined by the Bureau of the Census for the 1987 Census of Governments and adjusted as follows:

"(I) Adjusted taxes equals total taxes times a fraction in which the numerator is the sum of unrestricted revenues and revenues dedicated for spending on education minus total education spending and the denominator is total unrestricted revenues.

"(II) Total taxes is the sum of property tax; general sales tax; alcoholic beverage tax; amusement tax; insurance premium tax; motor fuels tax; parimutuels tax; public utilities tax; tobacco tax; other selective sales tax; alcoholic beverage licenses, amusement licenses; corporation licenses, hunting and fishing licenses; motor vehicle licenses; motor vehicle operator licenses; public utility licenses; occupation and business licenses, not elsewhere classified; other licenses, individual income tax; corporation net income tax; death and gift tax; documentary and stock transfer tax; severance tax; and taxes not elsewhere classified.

"(III) Unrestricted revenues is the sum of total taxes and intergovernmental revenue from Federal Government, general revenue sharing; intergovernmental revenue from Federal Government, other general support; intergovernmental revenue from Federal Government, other; intergovernmental revenue from State government, other general support; intergovernmental revenue from State government, other; intergovernmental revenue from local governments, other general support; intergovernmental revenue from local governments, other; miscellaneous general revenue, property sale-housing and community development; miscellaneous general revenue, property sale-other property; miscellaneous general revenue, interest earnings on investments; miscellaneous general revenue, fines and forfeits; miscellaneous general revenue, rents; miscellaneous general revenues, royalties; miscellaneous general revenue, donations from private sources; miscellaneous general revenue, net lottery revenue (after prizes and administrative expenses); miscellaneous general revenue, other miscellaneous general revenue; and all other general charges, not elsewhere classified.

"(IV) Revenues dedicated for spending on education is the sum of elementary and secondary education, school lunch; elementary and secondary education, tuition; elementary and secondary education, other; higher education, auxiliary enterprises; higher education, other; other education, not elsewhere classified; intergovernmental revenue from Federal Government, education; intergovernmental revenue from State government, education; intergovernmental revenue from local governments, interschool system revenue; intergovernmental revenue from local governments, education; interest earnings, higher education; interest earnings, elementary and secondary education; miscellaneous revenues, higher education; and miscellaneous revenues, elementary and secondary education.

"(V) Total education spending is the sum of elementary and secondary education, current operations; elementary and secondary education, construction; elementary and secondary education, other capital outlays; elementary and secondary education, to State governments; elementary and secondary education, to local governments, not elsewhere classified; elementary and secondary education, to counties; elementary and secondary education, to municipalities; elementary and secondary education, to townships; elementary and secondary education, to school districts; elementary and secondary education, to special districts; higher education-auxiliary enterprises, current operations; higher education-auxiliary enterprises, construction; higher education, auxiliary enterprises, other capital outlays; other higher education, current operations; other higher education, construction; other higher education, other capital outlays; other higher education, to State government; other higher education, to local governments, not elsewhere classified; other higher education, to counties; other higher education, to municipalities; other higher education, to townships; other higher education, to school districts; other higher education, to special districts; education assistance and subsidies; education, not elsewhere classified, current operations; education, not elsewhere classified, construction education, not elsewhere classified, other capital outlays; education, not elsewhere classified, to State government; education, not elsewhere classified, to local governments, not elsewhere classified; education, not elsewhere classified, to counties; education, not elsewhere classified, to municipalities; education, not elsewhere classified, to townships; education, not elsewhere classified, to school districts; education, not elsewhere classified, to special districts; and education, not elsewhere classified, to Federal Government.

"(VI) If the amount of adjusted taxes is less than zero, the amount of adjusted tax shall be deemed to be zero.

"(VII) If the amount of adjusted taxes exceeds the amount of total taxes, the amount of adjusted taxes is deemed to equal the amount of total taxes.

"(ii) The Secretary shall, for purposes of clause (i), include that part of sales taxes transferred to a unit of general local government that are imposed by a county government in the geographic area of which is located the unit of general local government as taxes imposed by the unit for public purposes if—

"(I) the county government transfers any part of the revenue from the taxes to the unit of general local government without specifying the purpose for which the unit of general local government may expend the revenue; and

"(II) the chief executive officer of the State notifies the Secretary that the taxes satisfy the requirements of this clause.

"(iii) The adjusted taxes of a unit of general local government shall not exceed the maximum allowable adjusted taxes for that unit.

"(iv) The maximum allowable adjusted taxes for a unit of general local government is the allowable adjusted taxes of the unit minus the excess adjusted taxes of the unit.

"(v) The allowable adjusted taxes of a unit of general government is the greater of—

"(I) the amount equal to 2.5, multiplied by the per capita adjusted taxes of all units of general local government of the same type in the State, multiplied by the population of the unit; or

"(II) the amount equal to the population of the unit, multiplied by the sum of the adjusted taxes of all units of municipal local government in the State, divided by the sum of the populations of all the units of municipal local government in the State.

"(vi) The excess adjusted taxes of a unit of general local government is the amount equal to—

"(I) the adjusted taxes of the unit, minus

"(II) 1.5 multiplied by the allowable adjusted taxes of the unit;

except that if this amount is less than zero then the excess adjusted taxes of the unit is deemed to be zero.

"(vii) For purposes of this subparagraph—

"(I) the term 'per capita adjusted taxes of all units of general local government of the same type' means the sum of the adjusted taxes of all units of general local government of the same type divided by the sum of the populations of all units of general local government of the same type; and

"(II) the term 'units of general local government of the same type' means all townships if the unit of general local government is a township, all municipalities if the unit of general local government is a municipality, all counties if the unit of general local government is a

county, or all unified city/county governments if the unit of general local government is a unified city/county government.

"(4) INCOME GAP.—(A) Except as provided in subparagraph (B), the income gap of a unit of general local government is—

"(i) the number which applies under section 6706, multiplied by the per capita income of the State in which the unit is located; minus

"(ii) the per capita income of the geographic area of the unit.

"(B) If the amount determined under subparagraph (A) for a unit of general local government is less than zero, then the relative income factor of the unit is deemed to be zero.

"(d) SMALL GOVERNMENT ALLOCATIONS.—If the Secretary decides that information available for a unit of general local government with a population below a number (of not more than 500) prescribed by the Secretary is inadequate, the Secretary may allocate to the unit, in lieu of any allocation under subsection (b) for a payment period, an amount bearing the same ratio to the total amount to be allocated under subsection (b) for the period for all units of general local government in the State as the population of the unit bears to the population of all units in the State.

"§6706. Income gap multiplier

"For purposes of determining the income gap of a unit of general local government under section 6705(b)(4)(A), the number which applies is—

"(1) 1.6, with respect to ½ of any amount allocated under section 6704 to the State in which the unit is located; and

"(2) 1.2, with respect to the remainder of such amount.

"§6707. State variation of local government allocations

"(a) STATE FORMULA.—A State government may provide by law for the allocation of amounts among units of general local government in the State on the basis of population multiplied by the general tax effort factors or income gaps of the units of general local government determined under sections 6705 (a) and (b) or a combination of those factors. A State government providing for a variation of an allocation formula provided under sections 6705 (a) and (b) shall notify the Secretary of the variation by the 30th day before the beginning of the first payment period in which the variation applies. A variation shall—

"(1) provide for allocating the total amount allocated under sections 6705 (a) and (b); and

"(2) apply uniformly in the State.

"(b) CERTIFICATION.—A variation by a State government under this section may apply only if the Secretary certifies that the variation complies with this section. The Secretary may certify a variation only if the Secretary is notified of the variation at least 30 days before the first payment period in which the variation applies.

"§6708. Adjustments of local government allocations

"(a) MAXIMUM AMOUNT.—The amount allocated to a unit of general local government for a payment period may not exceed the adjusted taxes imposed by the unit of general local government as determined under section 6705(b)(3). Amounts in excess of adjusted taxes shall be paid to the Governor of the State in which the unit of local government is located.

"(b) DE MINIMIS ALLOCATIONS TO UNITS OF GENERAL LOCAL GOVERNMENT.—If the amount allocated to a unit of general local government (except an Indian tribe or an Alaskan native village) for a payment period would be less than $5,000 but for this subsection or is waived by the governing authority of the unit of general local government, the Secretary shall pay the amount to the Governor of the State in which the unit is located.

"(c) USE OF PAYMENTS TO STATES.—The Governor of a State shall use all amounts paid to the Governor under subsections (a) and (b) for programs described in section 6701(a)(2) in areas of the State where are located the units of general local government with respect to which amounts are paid under subsection (b).

"(d) DE MINIMIS ALLOCATIONS TO INDIAN TRIBES AND ALASKAN NATIVE VILLAGES.—

"(1) AGGREGATION OF DE MINIMIS ALLOCATIONS.—If the amount allocated to an Indian tribe or an Alaskan native village for a payment period would be less than $5,000 but for this subsection or is waived by the chief elected official of the tribe or village, the amount—

"(A) shall not be paid to the tribe or village (except under paragraph (2)); and

"(B) shall be aggregated with other such amounts and available for use by the Attorney General under paragraph (2).

"(2) USE OF AGGREGATED AMOUNTS.—Amounts aggregated under paragraph (1) for a payment period shall be available for use by the Attorney General to make grants in the payment period on a competitive basis to Indian Tribes and Alaskan native village for—

"(A) programs described in section 6701(a)(2); or

"(B) renovating or building prisons or other correctional facilities.

"§6709. Information used in allocation formulas

"(a) POPULATION DATA FOR PAYMENT PERIOD BEGINNING OCTOBER 1, 1994.—For the payment period beginning October 1, 1994, the Secretary, in making allocations pursuant to sections 6704 through 6706 and 6708, shall use for the population of the States the population for 1992 as reported by the Bureau of the Census in the publication Current Population Reports, Series P–25, No. 1045 (July 1992) and for the population of units of general local government the Secretary shall use the population for 1990 as reported by the Bureau of the Census in the publication Summary Social, Economic, and Housing Characteristics.

"(b) DATA FOR PAYMENT PERIODS BEGINNING AFTER SEPTEMBER 30, 1995.—For any payment period beginning after September 30, 1995, the Secretary, in making allocations pursuant to sections 6704 through 6706 and 6708, shall use information more recent than the information used for the payment period beginning October 1, 1994, provided the Secretary notifies the Committee on Government Operations of the House of Representatives at least 90 days prior to the beginning of the payment period that the Secretary has determined that the more recent information is more reliable than the information used for the payment period beginning October 1, 1994.

"§6710. Public participation

"(a) HEARINGS.—

"(1) IN GENERAL.—A unit of general local government expending payments under this chapter shall hold at least one public hearing on the proposed use of the payment in relation to its entire budget. At the hearing, persons shall be given an opportunity to provide written and oral views to the governmental authority responsible for enacting the budget and to ask questions about the entire budget and the relation of the payment to the entire budget. The government shall hold the hearing at a time and a place that allows and encourages public attendance and participation.

"(2) SENIOR CITIZENS.—A unit of general local government holding a hearing required under this subsection or by the budget process of the government shall try to provide senior citizens and senior citizen organizations with an opportunity to present views at the hearing before the government makes a final decision on the use of the payment.

"(b) DISCLOSURE OF INFORMATION.—

"(1) IN GENERAL.—By the 10th day before a hearing required under subsection (a)(1) is held, a unit of general local government shall—

"(A) make available for inspection by the public at the principal office of the government a statement of the proposed use of the payment and a summary of the proposed budget of the government; and

"(B) publish in at least one newspaper of general circulation the proposed use of the payment with the summary of the proposed budget and a notice of the time and place of the hearing.

"(2) AVAILABILITY.—By the 30th day after adoption of the budget under State or local law, the government shall—

"(A) make available for inspection by the public at the principal office of the government a summary of the adopted budget, including the proposed use of the payment; and

"(B) publish in at least one newspaper of general circulation a notice that the information referred to in subparagraph (A) is available for inspection.

"(c) WAIVERS OF REQUIREMENTS.—A requirement—

"(1) under subsection (a)(1) may be waived if the budget process required under the applicable State or local law or charter provisions—

"(A) ensures the opportunity for public attendance and participation contemplated by subsection (a); and

"(B) includes a hearing on the proposed use of a payment received under this chapter in relation to the entire budget of the government; and

"(2) under subsection (b)(1)(B) and paragraph (2)(B) may be waived if the cost of publishing the information would be unreasonably burdensome in relation to the amount allocated to the government from amounts available for payment under this chapter, or if publication is otherwise impracticable.

"(d) EXCEPTION TO 10-DAY LIMITATION.—If the Secretary is satisfied that a unit of general local government will provide adequate notice of the proposed use of a payment received under this chapter, the 10-day period under subsection (b)(1) may be changed to the extent necessary to comply with applicable State or local law.

"§6711. Prohibited discrimination

"(a) GENERAL PROHIBITION.—No person in the United States shall be excluded from participating in, be denied the benefits of, or be subject to discrimination under, a program or activity of a unit of general local government because of race, color, national origin, or sex if the government receives a payment under this chapter.

"(b) ADDITIONAL PROHIBITIONS.—The following prohibitions and exemptions also apply to a program or activity of a unit of general local government if the government receives a payment under this chapter:

"(1) A prohibition against discrimination because of age under the Age Discrimination Act of 1975.

"(2) A prohibition against discrimination against an otherwise qualified handicapped individual under section 504 of the Rehabilitation Act of 1973.

"(3) A prohibition against discrimination because of religion, or an exemption from that prohibition, under the Civil Rights Act of 1964 or title VIII of the Act of April 11, 1968 (popularly known as the Civil Rights Act of 1968).

"(c) LIMITATIONS ON APPLICABILITY OF PROHIBITIONS.—Subsections (a) and (b) do not apply if the government shows, by clear and convincing evidence, that a payment received under this chapter is not used to pay for any part of the program or activity with respect to which the allegation of discrimination is made.

"(d) INVESTIGATION AGREEMENTS.—The Secretary shall try to make agreements with heads

of agencies of the United States Government and State agencies to investigate noncompliance with this section. An agreement shall—

"(1) describe the cooperative efforts to be taken (including sharing civil rights enforcement personnel and resources) to obtain compliance with this section; and

"(2) provide for notifying immediately the Secretary of actions brought by the United States Government or State agencies against a unit of general local government alleging a violation of a civil rights law or a regulation prescribed under a civil rights law.

"§6712. Discrimination proceedings

"(a) NOTICE OF NONCOMPLIANCE.—By the 10th day after the Secretary makes a finding of discrimination or receives a holding of discrimination about a unit of general local government, the Secretary shall submit a notice of noncompliance to the government. The notice shall state the basis of the finding or holding.

"(b) INFORMAL PRESENTATION OF EVIDENCE.—A unit of general local government may present evidence informally to the Secretary within 30 days after the government receives a notice of noncompliance from the Secretary. Except as provided in subsection (e), the government may present evidence on whether—

"(1) a person in the United States has been excluded or denied benefits of, or discriminated against under, the program or activity of the government, in violation of section 6711(a);

"(2) the program or activity of the government violated a prohibition described in section 6711(b); and

"(3) any part of that program or activity has been paid for with a payment received under this chapter.

"(c) TEMPORARY SUSPENSION OF PAYMENTS.—By the end of the 30-day period under subsection (b), the Secretary shall decide whether the unit of general local government has not complied with section 6711 (a) or (b), unless the government has entered into a compliance agreement under section 6714. If the Secretary decides that the government has not complied, the Secretary shall notify the government of the decision and shall suspend payments to the government under this chapter unless, within 10 days after the government receives notice of the decision, the government—

"(1) enters into a compliance agreement under section 6714; or

"(2) requests a proceeding under subsection (d)(1).

"(d) ADMINISTRATIVE REVIEW OF SUSPENSIONS.—

"(1) PROCEEDING.—A proceeding requested under subsection (c)(2) shall begin by the 30th day after the Secretary receives a request for the proceeding. The proceeding shall be before an administrative law judge appointed under section 3105 of title 5, United States Code. By the 30th day after the beginning of the proceeding, the judge shall issue a preliminary decision based on the record at the time on whether the unit of general local government is likely to prevail in showing compliance with section 6711 (a) or (b).

"(2) DECISION.—If the administrative law judge decides at the end of a proceeding under paragraph (1) that the unit of general local government has—

"(A) not complied with section 6711 (a) or (b), the judge may order payments to the government under this chapter terminated; or

"(B) complied with section 6711 (a) or (b), a suspension under section 6713(a)(1)(A) shall be discontinued promptly.

"(3) LIKELIHOOD OF PREVAILING.—An administrative law judge may not issue a preliminary decision that the government is not likely to prevail if the judge has issued a decision described in paragraph (2)(A).

"(e) BASIS FOR REVIEW.—In a proceeding under subsections (b) through (d) on a program or activity of a unit of general local government about which a holding of discrimination has been made, the Secretary or administrative law judge may consider only whether a payment under this chapter was used to pay for any part of the program or activity. The holding of discrimination is conclusive. If the holding is reversed by an appellate court, the Secretary or judge shall end the proceeding.

"§6713. Suspension and termination of payments in discrimination proceedings

"(a) IMPOSITION AND CONTINUATION OF SUSPENSIONS.—

"(1) IN GENERAL.—The Secretary shall suspend payment under this chapter to a unit of general local government—

"(A) if an administrative law judge appointed under section 3105 of title 5, United States Code, issues a preliminary decision in a proceeding under section 6712(d)(1) that the government is not likely to prevail in showing compliance with section 6711 (a) and (b);

"(B) if the administrative law judge decides at the end of the proceeding that the government has not complied with section 6711 (a) or (b), unless the government makes a compliance agreement under section 6714 by the 30th day after the decision; or

"(C) if required under section 6712(c).

"(2) EFFECTIVENESS.—A suspension already ordered under paragraph (1)(A) continues in effect if the administrative law judge makes a decision under paragraph (1)(B).

"(b) LIFTING OF SUSPENSIONS AND TERMINATIONS.—If a holding of discrimination is reversed by an appellate court, a suspension or termination of payments in a proceeding based on the holding shall be discontinued.

"(c) RESUMPTION OF PAYMENTS UPON ATTAINING COMPLIANCE.—The Secretary may resume payment to a unit of general local government of payments suspended by the Secretary only—

"(1) as of the time of, and under the conditions stated in—

"(A) the approval by the Secretary of a compliance agreement under section 6714(a)(1); or

"(B) a compliance agreement entered into by the Secretary under section 6714(a)(2);

"(2) if the government complies completely with an order of a United States court, a State court, or administrative law judge that covers all matters raised in a notice of noncompliance submitted by the Secretary under section 6712(a);

"(3) if a United States court, a State court, or an administrative law judge decides (including a judge in a proceeding under section 6712(d)(1)), that the government has complied with sections 6711 (a) and (b); or

"(4) if a suspension is discontinued under subsection (b).

"(d) PAYMENT OF DAMAGES AS COMPLIANCE.—For purposes of subsection (c)(2), compliance by a government may consist of the payment of restitution to a person injured because the government did not comply with section 6711 (a) or (b).

"(e) RESUMPTION OF PAYMENTS UPON REVERSAL BY COURT.—The Secretary may resume payment to a unit of general local government of payments terminated under section 6712(d)(2)(A) only if the decision resulting in the termination is reversed by an appellate court.

"§6714. Compliance agreements

"(a) TYPES OF COMPLIANCE AGREEMENTS.—A compliance agreement is an agreement—

"(1) approved by the Secretary, between the governmental authority responsible for prosecuting a claim or complaint that is the basis of a holding of discrimination and the chief executive officer of the unit of general local government that has not complied with section 6711 (a) or (b); or

"(2) between the Secretary and the chief executive officer.

"(b) CONTENTS OF AGREEMENTS.—A compliance agreement—

"(1) shall state the conditions the unit of general local government has agreed to comply with that would satisfy the obligations of the government under sections 6711 (a) and (b);

"(2) shall cover each matter that has been found not to comply, or would not comply, with section 6711 (a) or (b); and

"(3) may be a series of agreements that dispose of those matters.

"(c) AVAILABILITY OF AGREEMENTS TO PARTIES.—The Secretary shall submit a copy of a compliance agreement to each person who filed a complaint referred to in section 6716(b), or, if an agreement under subsection (a)(1), each person who filed a complaint with a governmental authority, about a failure to comply with section 6711 (a) or (b). The Secretary shall submit the copy by the 15th day after an agreement is made. However, if the Secretary approves an agreement under subsection (a)(1) after the agreement is made, the Secretary may submit the copy by the 15th day after approval of the agreement.

"§6715. Enforcement by the Attorney General of prohibitions on discrimination

"The Attorney General may bring a civil action in an appropriate district court of the United States against a unit of general local government that the Attorney General has reason to believe has engaged or is engaging in a pattern or practice in violation of section 6711 (a) or (b). The court may grant—

"(1) a temporary restraining order;

"(2) an injunction; or

"(3) an appropriate order to ensure enjoyment of rights under section 6711 (a) or (b), including an order suspending, terminating, or requiring repayment of, payments under this chapter or placing additional payments under this chapter in escrow pending the outcome of the action.

"§6716. Civil action by a person adversely affected

"(a) AUTHORITY FOR PRIVATE SUITS IN FEDERAL OR STATE COURT.—If a unit of general local government, or an officer or employee of a unit of general local government acting in an official capacity, engages in a practice prohibited by this chapter, a person adversely affected by the practice may bring a civil action in an appropriate district court of the United States or a State court of general jurisdiction. Before bringing an action under this section, the person must exhaust administrative remedies under subsection (b).

"(b) ADMINISTRATIVE REMEDIES REQUIRED TO BE EXHAUSTED.—A person adversely affected shall file an administrative complaint with the Secretary or the head of another agency of the United States Government or the State agency with which the Secretary has an agreement under section 6711(d). Administrative remedies are deemed to be exhausted by the person after the 90th day after the complaint was filed if the Secretary, the head of the Government agency, or the State agency—

"(1) issues a decision that the government has not failed to comply with this chapter; or

"(2) does not issue a decision on the complaint.

"(c) AUTHORITY OF COURT.—In an action under this section, the court—

"(1) may grant—

"(A) a temporary restraining order;

"(B) an injunction; or

"(C) another order, including suspension, termination, or repayment of, payments under this chapter or placement of additional payments under this chapter in escrow pending the outcome of the action; and

"(2) to enforce compliance with section 6711 (a) or (b), may allow a prevailing party (except the United States Government) a reasonable attorney's fee.

"(d) INTERVENTION BY ATTORNEY GENERAL.—In an action under this section to enforce compliance with section 6711 (a) or (b), the Attorney General may intervene in the action if the Attorney General certifies that the action is of general public importance. The United States Government is entitled to the same relief as if the Government had brought the action and is liable for the same fees and costs as a private person.

"§6717. Judicial review

"(a) APPEALS IN FEDERAL COURT OF APPEALS.—A unit of general local government which receives notice from the Secretary about withholding payments under section 6703(f), suspending payments under section 6713(a)(1)(B), or terminating payments under section 6712(d)(2)(A), may apply for review of the action of the Secretary by filing a petition for review with the court of appeals of the United States for the circuit in which the government is located. The petition shall be filed by the 60th day after the date the notice is received. The clerk of the court shall immediately send a copy of the petition to the Secretary.

"(b) FILING OF RECORD OF ADMINISTRATIVE PROCEEDING.—The Secretary shall file with the court a record of the proceeding on which the Secretary based the action. The court may consider only objections to the action of the Secretary that were presented before the Secretary.

"(c) COURT ACTION.—The court may affirm, change, or set aside any part of the action of the Secretary. The findings of fact by the Secretary are conclusive if supported by substantial evidence in the record. If a finding is not supported by substantial evidence in the record, the court may remand the case to the Secretary to take additional evidence. Upon such a remand, the Secretary may make new or modified findings and shall certify additional proceedings to the court.

"(d) REVIEW ONLY BY SUPREME COURT.—A judgment of a court under this section may be reviewed only by the Supreme Court under section 1254 of title 28, United States Code.

"§6718. Investigations and reviews

"(a) INVESTIGATIONS BY SECRETARY.—

"(1) IN GENERAL.—The Secretary shall within a reasonable time limit—

"(A) carry out an investigation and make a finding after receiving a complaint referred to in section 6716(b), a determination by a State or local administrative agency, or other information about a possible violation of this chapter;

"(B) carry out audits and reviews (including investigations of allegations) about possible violations of this chapter; and

"(C) advise a complainant of the status of an audit, investigation, or review of an allegation by the complainant of a violation of section 6711 (a) or (b) or other provision of this chapter.

"(2) TIME LIMIT.—The maximum time limit under paragraph (1)(A) is 120 days.

"(b) REVIEWS BY COMPTROLLER GENERAL.—The Comptroller General of the United States shall carry out reviews of the activities of the Secretary, State governments, and units of general local government necessary for the Congress to evaluate compliance and operations under this chapter. These reviews shall include a comparison of the waste and inefficiency of local governments using funds under this chapter compared to waste and inefficiency with other comparable Federal programs.

"§6719. Reports

"(a) REPORTS BY SECRETARY TO CONGRESS.—Before June 2 of each year prior to 2002, the Secretary personally shall report to the Congress on—

"(1) the status and operation of the Local Government Fiscal Assistance Fund during the prior fiscal year; and

"(2) the administration of this chapter, including a complete and detailed analysis of—

"(A) actions taken to comply with sections 6711 through 6715, including a description of the kind and extent of noncompliance and the status of pending complaints;

"(B) the extent to which units of general local government receiving payments under this chapter have complied with the requirements of this chapter;

"(C) the way in which payments under this chapter have been distributed in the jurisdictions receiving payments; and

"(D) significant problems in carrying out this chapter and recommendations for legislation to remedy the problems.

"(b) REPORTS BY UNITS OF GENERAL LOCAL GOVERNMENT TO SECRETARY.—

"(1) IN GENERAL.—At the end of each fiscal year, each unit of general local government which received a payment under this chapter for the fiscal year shall submit a report to the Secretary. The report shall be submitted in the form and at a time prescribed by the Secretary and shall be available to the public for inspection. The report shall state—

"(A) the amounts and purposes for which the payment has been appropriated, expended, or obligated in the fiscal year;

"(B) the relationship of the payment to the relevant functional items in the budget of the government; and

"(C) the differences between the actual and proposed use of the payment.

"(2) AVAILABILITY OF REPORT.—The Secretary shall provide a copy of a report submitted under paragraph (1) by a unit of general local government to the chief executive officer of the State in which the government is located. The Secretary shall provide the report in the manner and form prescribed by the Secretary.

"§6720. Definitions, application, and administration

"(a) DEFINITIONS.—In this chapter—

"(1) 'unit of general local government' means—

"(A) a county, township, city, or political subdivision of a county, township, or city, that is a unit of general local government as determined by the Secretary of Commerce for general statistical purposes; and

"(B) the District of Columbia and the recognized governing body of an Indian tribe or Alaskan Native village that carries out substantial governmental duties and powers;

"(2) 'payment period' means each 1-year period beginning on October 1 of the years 1994 through 2000;

"(3) 'State and local taxes' means taxes imposed by a State government or unit of general local government or other political subdivision of a State government for public purposes (except employee and employer assessments and contributions to finance retirement and social insurance systems and other special assessments for capital outlay) as determined by the Secretary of Commerce for general statistical purposes;

"(4) 'State' means any of the several States and the District of Columbia;

"(5) 'income' means the total money income received from all sources as determined by the Secretary of Commerce for general statistical purposes, which for units of general local government is reported by the Bureau of the Census for 1990 in the publication Summary Social, Economic, and Housing Characteristics;

"(6) 'per capita income' means—

"(A) in the case of the United States, the income of the United States divided by the population of the United States;

"(B) in the case of a State, the income of that State, divided by the population of that State; and

"(C) in the case of a unit of general local government, the income of that unit of general local government divided by the population of the unit of general local government;

"(7) 'finding of discrimination' means a decision by the Secretary about a complaint described in section 6716(b), a decision by a State or local administrative agency, or other information (under regulations prescribed by the Secretary) that it is more likely than not that a unit of general local government has not complied with section 6711 (a) or (b);

"(8) 'holding of discrimination' means a holding by a United States court, a State court, or an administrative law judge appointed under section 3105 of title 5, United States Code, that a unit of general local government expending amounts received under this chapter has—

"(A) excluded a person in the United States from participating in, denied the person the benefits of, or subjected the person to discrimination under, a program or activity because of race, color, national origin, or sex; or

"(B) violated a prohibition against discrimination described in section 6711(b); and

"(9) 'Secretary' means the Secretary of Housing and Urban Development.

"(b) DELEGATION OF ADMINISTRATION.—The Secretary may enter into agreements with other executive branch departments and agencies to delegate to that department or agency all or part of the Secretary's responsibility for administering this chapter.

"(c) TREATMENT OF SUBSUMED AREAS.—If the entire geographic area of a unit of general local government is located in a larger entity, the unit of general local government is deemed to be located in the larger entity. If only part of the geographic area of a unit is located in a larger entity, each part is deemed to be located in the larger entity and to be a separate unit of general local government in determining allocations under this chapter. Except as provided in regulations prescribed by the Secretary, the Secretary shall make all data computations based on the ratio of the estimated population of the part to the population of the entire unit of general local government.

"(d) BOUNDARY AND OTHER CHANGES.—If a boundary line change, a State statutory or constitutional change, annexation, a governmental reorganization, or other circumstance results in the application of sections 6704 through 6708 in a way that does not carry out the purposes of sections 6701 through 6708, the Secretary shall apply sections 6701 through 6708 under regulations of the Secretary in a way that is consistent with those purposes.".

(b) ISSUANCE OF REGULATIONS.—Within 90 days of the date of enactment of this Act the Secretary shall issue regulations, which may be interim regulations, to implement subsection (a), modifying the regulations for carrying into effect the Revenue Sharing Act that were in effect as of July 1, 1987, and that were published in 31 C.F.R. part 51. The Secretary need not hold a public hearing before issuing these regulations.

(c) DEFICIT NEUTRALITY.—Any appropriation to carry out the amendment made by this subtitle to title 31, United States Code, for fiscal year 1995 or 1996 shall be offset by cuts elsewhere in appropriations for that fiscal year.

SEC. 31002. TECHNICAL AMENDMENT.

The table of chapters at the beginning of subtitle V of title 31, United States Code, is amended by adding after the item relating to chapter 65 the following:

"67. Federal payments ..... 6701".

Subtitle K—National Community Economic Partnership

SEC. 31101. SHORT TITLE.

This subtitle may be cited as the "National Community Economic Partnership Act of 1994".

CHAPTER 1—COMMUNITY ECONOMIC PARTNERSHIP INVESTMENT FUNDS

SEC. 31111. PURPOSE.

It is the purpose of this chapter to increase private investment in distressed local communities and to build and expand the capacity of local institutions to better serve the economic needs of local residents through the provision of financial and technical assistance to community development corporations.

SEC. 31112. PROVISION OF ASSISTANCE.

(a) AUTHORITY.—The Secretary of Health and Human Services (referred to in this subtitle as the "Secretary") may, in accordance with this chapter, provide nonrefundable lines of credit to community development corporations for the establishment, maintenance or expansion of revolving loan funds to be utilized to finance projects intended to provide business and employment opportunities for low-income, unemployed, or underemployed individuals and to improve the quality of life in urban and rural areas.

(b) REVOLVING LOAN FUNDS.—

(1) COMPETITIVE ASSESSMENT OF APPLICATIONS.—In providing assistance under subsection (a), the Secretary shall establish and implement a competitive process for the solicitation and consideration of applications from eligible entities for lines of credit for the capitalization of revolving funds.

(2) ELIGIBLE ENTITIES.—To be eligible to receive a line of credit under this chapter an applicant shall—

(A) be a community development corporation;

(B) prepare and submit an application to the Secretary that shall include a strategic investment plan that identifies and describes the economic characteristics of the target area to be served, the types of business to be assisted and the impact of such assistance on low-income, underemployed, and unemployed individuals in the target area;

(C) demonstrate previous experience in the development of low-income housing or community or business development projects in a low-income community and provide a record of achievement with respect to such projects; and

(D) have secured one or more commitments from local sources for contributions (either in cash or in kind, letters of credit or letters of commitment) in an amount that is at least equal to the amount requested in the application submitted under subparagraph (B).

(3) EXCEPTION.—Notwithstanding the provisions of paragraph (2)(D), the Secretary may reduce local contributions to not less than 25 percent of the amount of the line of credit requested by the community development corporation if the Secretary determines such to be appropriate in accordance with section 31116.

SEC. 31113. APPROVAL OF APPLICATIONS.

(a) IN GENERAL.—In evaluating applications submitted under section 31112(b)(2)(B), the Secretary shall ensure that—

(1) the residents of the target area to be served (as identified under the strategic development plan) would have an income that is less than the median income for the area (as determined by the Secretary);

(2) the applicant community development corporation possesses the technical and managerial capability necessary to administer a revolving loan fund and has past experience in the development and management of housing, community and economic development programs;

(3) the applicant community development corporation has provided sufficient evidence of the existence of good working relationships with—

(A) local businesses and financial institutions, as well as with the community the corporation proposes to serve; and

(B) local and regional job training programs;

(4) the applicant community development corporation will target job opportunities that arise from revolving loan fund investments under this chapter so that 75 percent of the jobs retained or created under such investments are provided to—

(A) individuals with—

(i) incomes that do not exceed the Federal poverty line; or

(ii) incomes that do not exceed 80 percent of the median income of the area;

(B) individuals who are unemployed or underemployed;

(C) individuals who are participating or have participated in job training programs authorized under the Job Training Partnership Act (29 U.S.C. 1501 et seq.) or the Family Support Act of 1988 (Public Law 100–485);

(D) individuals whose jobs may be retained as a result of the provision of financing available under this chapter; or

(E) individuals who have historically been underrepresented in the local economy; and

(5) a representative cross section of applicants are approved, including large and small community development corporations, urban and rural community development corporations and community development corporations representing diverse populations.

(b) PRIORITY.—In determining which application to approve under this chapter the Secretary shall give priority to those applicants proposing to serve a target area—

(1) with a median income that does not exceed 80 percent of the median for the area (as determined by the Secretary); and

(2) with a high rate of unemployment, as determined by the Secretary or in which the population loss is at least 7 percent from April 1, 1980, to April 1, 1990, as reported by the Bureau of the Census.

SEC. 31114. AVAILABILITY OF LINES OF CREDIT AND USE.

(a) APPROVAL OF APPLICATION.—The Secretary shall provide a community development corporation that has an application approved under section 31113 with a line of credit in an amount determined appropriate by the Secretary, subject to the limitations contained in subsection (b).

(b) LIMITATIONS ON AVAILABILITY OF AMOUNTS.—

(1) MAXIMUM AMOUNT.—The Secretary shall not provide in excess of $2,000,000 in lines of credit under this chapter to a single applicant.

(2) PERIOD OF AVAILABILITY.—A line of credit provided under this chapter shall remain available over a period of time established by the Secretary, but in no event shall any such period of time be in excess of 3 years from the date on which such line of credit is made available.

(3) EXCEPTION.—Notwithstanding paragraphs (1) and (2), if a recipient of a line of credit under this chapter has made full and productive use of such line of credit, can demonstrate the need and demand for additional assistance, and can meet the requirements of section 31112(b)(2), the amount of such line of credit may be increased by not more than $1,500,000.

(c) AMOUNTS DRAWN FROM LINE OF CREDIT.—Amounts drawn from each line of credit under this chapter shall be used solely for the purposes described in section 31111 and shall only be drawn down as needed to provide loans, investments, or to defray administrative costs related to the establishment of a revolving loan fund.

(d) USE OF REVOLVING LOAN FUNDS.—Revolving loan funds established with lines of credit provided under this chapter may be used to provide technical assistance to private business enterprises and to provide financial assistance in the form of loans, loan guarantees, interest reduction assistance, equity shares, and other such forms of assistance to business enterprises in target areas and who are in compliance with section 31113(a)(4).

SEC. 31115. LIMITATIONS ON USE OF FUNDS.

(a) MATCHING REQUIREMENT.—Not to exceed 50 percent of the total amount to be invested by an entity under this chapter may be derived from funds made available from a line of credit under this chapter.

(b) TECHNICAL ASSISTANCE AND ADMINISTRATION.—Not to exceed 10 percent of the amounts available from a line of credit under this chapter shall be used for the provision of training or technical assistance and for the planning, development, and management of economic development projects. Community development corporations shall be encouraged by the Secretary to seek technical assistance from other community development corporations, with expertise in the planning, development and management of economic development projects. The Secretary shall assist in the identification and facilitation of such technical assistance.

(c) LOCAL AND PRIVATE SECTOR CONTRIBUTIONS.—To receive funds available under a line of credit provided under this chapter, an entity, using procedures established by the Secretary, shall demonstrate to the community development corporation that such entity agrees to provide local and private sector contributions in accordance with section 31112(b)(2)(D), will participate with such community development corporation in a loan, guarantee or investment program for a designated business enterprise, and that the total financial commitment to be provided by such entity is at least equal to the amount to be drawn from the line of credit.

(d) USE OF PROCEEDS FROM INVESTMENTS.—Proceeds derived from investments made using funds made available under this chapter may be used only for the purposes described in section 31111 and shall be reinvested in the community in which they were generated.

SEC. 31116. PROGRAM PRIORITY FOR SPECIAL EMPHASIS PROGRAMS.

(a) IN GENERAL.—The Secretary shall give priority in providing lines of credit under this chapter to community development corporations that propose to undertake economic development activities in distressed communities that target women, Native Americans, at risk youth, farmworkers, population-losing communities, very low-income communities, single mothers, veterans, and refugees; or that expand employee ownership of private enterprises and small businesses, and to programs providing loans of not more than $35,000 to very small business enterprises.

(b) RESERVATION OF FUNDS.—Not less than 5 percent of the amounts made available under section 31112(a)(2)(A) may be reserved to carry out the activities described in subsection (a).

CHAPTER 2—EMERGING COMMUNITY DEVELOPMENT CORPORATIONS

SEC. 31121. COMMUNITY DEVELOPMENT CORPORATION IMPROVEMENT GRANTS.

(a) PURPOSE.—It is the purpose of this section to provide assistance to community development corporations to upgrade the management and operating capacity of such corporations and to enhance the resources available to enable such corporations to increase their community economic development activities.

(b) SKILL ENHANCEMENT GRANTS.—

(1) IN GENERAL.—The Secretary shall award grants to community development corporations to enable such corporations to attain or enhance the business management and development skills of the individuals that manage such corporations to enable such corporations to seek the public and private resources necessary to develop community economic development projects.

(2) USE OF FUNDS.—A recipient of a grant under paragraph (1) may use amounts received under such grant—

(A) to acquire training and technical assistance from agencies or institutions that have extensive experience in the development and management of low-income community economic development projects; or

(B) to acquire such assistance from other highly successful community development corporations.

(c) OPERATING GRANTS.—

(1) IN GENERAL.—The Secretary shall award grants to community development corporations to enable such corporations to support an administrative capacity for the planning, development, and management of low-income community economic development projects.

(2) USE OF FUNDS.—A recipient of a grant under paragraph (1) may use amounts received under such grant—

(A) to conduct evaluations of the feasibility of potential low-income community economic development projects that address identified needs in the low-income community and that conform to those projects and activities permitted under subtitle A;

(B) to develop a business plan related to such a potential project; or

(C) to mobilize resources to be contributed to a planned low-income community economic development project or strategy.

(d) APPLICATIONS.—A community development corporation that desires to receive a grant under this section shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(e) AMOUNT AVAILABLE FOR A COMMUNITY DEVELOPMENT CORPORATION.—Amounts provided under this section to a community development corporation shall not exceed $75,000 per year. Such corporations may apply for grants under this section for up to 3 consecutive years, except that such corporations shall be required to submit a new application for each grant for which such corporation desires to receive and compete on the basis of such applications in the selection process.

SEC. 31122. EMERGING COMMUNITY DEVELOPMENT CORPORATION REVOLVING LOAN FUNDS.

(a) AUTHORITY.—The Secretary may award grants to emerging community development corporations to enable such corporations to establish, maintain or expand revolving loan funds, to make or guarantee loans, or to make capital investments in new or expanding local businesses.

(b) ELIGIBILITY.—To be eligible to receive a grant under subsection (a), an entity shall—

(1) be a community development corporation;

(2) have completed not less than one nor more than two community economic development projects or related projects that improve or provide job and employment opportunities to low-income individuals;

(3) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a strategic investment plan that identifies and describes the economic characteristics of the target area to be served, the types of business to be assisted using amounts received under the grant and the impact of such assistance on low-income individuals; and

(4) have secured one or more commitments from local sources for contributions (either in cash or in kind, letters of credit, or letters of commitment) in an amount that is equal to at least 10 percent of the amounts requested in the application submitted under paragraph (2).

(c) USE OF THE REVOLVING LOAN FUND.—

(1) IN GENERAL.—A revolving loan fund established or maintained with amounts received under this section may be utilized to provide financial and technical assistance, loans, loan guarantees or investments to private business enterprises to—

(A) finance projects intended to provide business and employment opportunities for low-income individuals and to improve the quality of life in urban and rural areas; and

(B) build and expand the capacity of emerging community development corporations and serve the economic needs of local residents.

(2) TECHNICAL ASSISTANCE.—The Secretary shall encourage emerging community development corporations that receive grants under this section to seek technical assistance from established community development corporations, with expertise in the planning, development and management of economic development projects and shall facilitate the receipt of such assistance.

(3) LIMITATION.—Not to exceed 10 percent of the amounts received under this section by a grantee shall be used for training, technical assistance and administrative purposes.

(d) USE OF PROCEEDS FROM INVESTMENTS.—Proceeds derived from investments made with amounts provided under this section may be utilized only for the purposes described in this subtitle and shall be reinvested in the community in which they were generated.

(e) AMOUNTS AVAILABLE.—Amounts provided under this section to a community development corporation shall not exceed $500,000 per year.

CHAPTER 3—MISCELLANEOUS PROVISIONS

SEC. 31131. DEFINITIONS.

As used in this subtitle:

(1) COMMUNITY DEVELOPMENT CORPORATION.—The term "community development corporation" means a private, nonprofit corporation whose board of directors is comprised of business, civic and community leaders, and whose principal purpose includes the provision of low-income housing or community economic development projects that primarily benefit low-income individuals and communities.

(2) LOCAL AND PRIVATE SECTOR CONTRIBUTION.—The term "local and private sector contribution" means the funds available at the local level (by private financial institutions, State and local governments) or by any private philanthropic organization and private, nonprofit organizations that will be committed and used solely for the purpose of financing private business enterprises in conjunction with amounts provided under this subtitle.

(3) POPULATION-LOSING COMMUNITY.—The term "population-losing community" means any county in which the net population loss is at least 7 percent from April 1, 1980 to April 1, 1990, as reported by the Bureau of the Census.

(4) PRIVATE BUSINESS ENTERPRISE.—The term "private business enterprise" means any business enterprise that is engaged in the manufacture of a product, provision of a service, construction or development of a facility, or that is involved in some other commercial, manufacturing or industrial activity, and that agrees to target job opportunities stemming from investments authorized under this subtitle to certain individuals.

(5) TARGET AREA.—The term "target area" means any area defined in an application for assistance under this subtitle that has a population whose income does not exceed the median for the area within which the target area is located.

(6) VERY LOW-INCOME COMMUNITY.—The term "very low-income community" means a community in which the median income of the residents of such community does not exceed 50 percent of the median income of the area.

SEC. 31132. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out chapters 1 and 2—

(1) $45,000,000 for fiscal year 1996;

(2) $72,000,000 for fiscal year 1997;

(3) $76,500,000 for fiscal year 1998; and

(4) $76,500,000 for fiscal year 1999.

(b) EARMARKS.—Of the aggregate amount appropriated under subsection (a) for each fiscal year—

(1) 60 percent shall be available to carry out chapter 1; and

(2) 40 percent shall be available to carry out chapter 2.

(c) AMOUNTS.—Amounts appropriated under subsection (a) shall remain available for expenditure without fiscal year limitation.

SEC. 31133. PROHIBITION.

None of the funds authorized under this subtitle shall be used to finance the construction of housing.

Subtitle O—Urban Recreation and At-Risk Youth

SEC. 31501. PURPOSE OF ASSISTANCE.

Section 1003 of the Urban Park and Recreation Recovery Act of 1978 is amended by adding the following at the end: "It is further the purpose of this title to improve recreation facilities and expand recreation services in urban areas with a high incidence of crime and to help deter crime through the expansion of recreation opportunities for at-risk youth. It is the further purpose of this section to increase the security of urban parks and to promote collaboration between local agencies involved in parks and recreation, law enforcement, youth social services, and juvenile justice system.".

SEC. 31502. DEFINITIONS.

Section 1004 of the Urban Park and Recreation Recovery Act of 1978 is amended by inserting the following new subsection after subsection (c) and by redesignating subsections (d) through (j) as (e) through (k), respectively:

"(d) 'at-risk youth recreation grants' means—

"(1) rehabilitation grants,

"(2) innovation grants, or

"(3) matching grants for continuing program support for programs of demonstrated value or success in providing constructive alternatives to youth at risk for engaging in criminal behavior, including grants for operating, or coordinating recreation programs and services

in neighborhoods and communities with a high prevalence of crime, particularly violent crime or crime committed by youthful offenders; in addition to the purposes specified in subsection (b), rehabilitation grants referred to in paragraph (1) of this subsection may be used for the provision of lighting, emergency phones or other capital improvements which will improve the security of urban parks;".

SEC. 31503. CRITERIA FOR SELECTION.

Section 1005 of the Urban Park and Recreation Recovery Act of 1978 is amended by striking "and" at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting "; and" and by adding the following at the end:

"(8) in the case of at-risk youth recreation grants, the Secretary shall give a priority to each of the following criteria:

"(A) Programs which are targeted to youth who are at the greatest risk of becoming involved in violence and crime.

"(B) Programs which teach important values and life skills, including teamwork, respect, leadership, and self-esteem.

"(C) Programs which offer tutoring, remedial education, mentoring, and counseling in addition to recreation opportunities.

"(D) Programs which offer services during late night or other nonschool hours.

"(E) Programs which demonstrate collaboration between local park and recreation, juvenile justice, law enforcement, and youth social service agencies and nongovernmental entities, including the private sector and community and nonprofit organizations.

"(F) Programs which leverage public or private recreation investments in the form of services, materials, or cash.

"(G) Programs which show the greatest potential of being continued with non-Federal funds or which can serve as models for other communities.".

SEC. 31504. PARK AND RECREATION ACTION RECOVERY PROGRAMS.

Section 1007(b) of the Urban Park and Recreation Recovery Act of 1978 is amended by adding the following at the end: "In order to be eligible to receive 'at-risk youth recreation grants' a local government shall amend its 5-year action program to incorporate the goal of reducing crime and juvenile delinquency and to provide a description of the implementation strategies to achieve this goal. The plan shall also address how the local government is coordinating its recreation programs with crime prevention efforts of law enforcement, juvenile corrections, and youth social service agencies.".

SEC. 31505. MISCELLANEOUS AND TECHNICAL AMENDMENTS.

(a) PROGRAM SUPPORT.—Section 1013 of the Urban Park and Recreation Recovery Act of 1978 is amended by inserting "(a)IN GENERAL.—" after "1013" and by adding the following new subsection at the end:

"(b) PROGRAM SUPPORT.—Not more than 25 percent of the amounts made available under this title to any local government may be used for program support.".

(b) EXTENSION.—Section 1003 of the Urban Park and Recreation Recovery Act of 1978 is amended by striking "for a period of five years" and by striking "short-term".

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

(1) $2,700,000 for fiscal year 1996;
(2) $450,000 for fiscal year 1997;
(3) $450,000 for fiscal year 1998;
(4) $450,000 for fiscal year 1999; and
(5) $450,000 for fiscal year 2000.

Subtitle Q—Community-Based Justice Grants for Prosecutors

SEC. 31701. GRANT AUTHORIZATION.

(a) IN GENERAL.—The Attorney General may make grants to State, Indian tribal, or local prosecutors for the purpose of supporting the creation or expansion of community-based justice programs.

(b) CONSULTATION.—The Attorney General may consult with the Ounce of Prevention Council in making grants under subsection (a).

SEC. 31702. USE OF FUNDS.

Grants made by the Attorney General under this section shall be used—

(1) to fund programs that require the cooperation and coordination of prosecutors, school officials, police, probation officers, youth and social service professionals, and community members in the effort to reduce the incidence of, and increase the successful identification and speed of prosecution of, young violent offenders;

(2) to fund programs in which prosecutors focus on the offender, not simply the specific offense, and impose individualized sanctions, designed to deter that offender from further antisocial conduct, and impose increasingly serious sanctions on a young offender who continues to commit offenses;

(3) to fund programs that coordinate criminal justice resources with educational, social service, and community resources to develop and deliver violence prevention programs, including mediation and other conflict resolution methods, treatment, counselling, educational, and recreational programs that create alternatives to criminal activity; and

(4) in rural States (as defined in section 1501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796bb(B)), to fund cooperative efforts between State and local prosecutors, victim advocacy and assistance groups, social and community service providers, and law enforcement agencies to investigate and prosecute child abuse cases, treat youthful victims of child abuse, and work in cooperation with the community to develop education and prevention strategies directed toward the issues with which such entities are concerned.

SEC. 31703. APPLICATIONS.

(a) ELIGIBILITY.—In order to be eligible to receive a grant under this part for any fiscal year, a State, Indian tribal, or local prosecutor, in conjunction with the chief executive officer of the jurisdiction in which the program will be placed, shall submit an application to the Attorney General in such form and containing such information as the Attorney General may reasonably require.

(b) REQUIREMENTS.—Each applicant shall include—

(1) a request for funds for the purposes described in section 31702;

(2) a description of the communities to be served by the grant, including the nature of the youth crime, youth violence, and child abuse problems within such communities;

(3) assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this section; and

(4) statistical information in such form and containing such information that the Attorney General may require.

(c) COMPREHENSIVE PLAN.—Each applicant shall include a comprehensive plan that shall contain—

(1) a description of the youth violence or child abuse crime problem;

(2) an action plan outlining how the applicant will achieve the purposes as described in section 31702;

(3) a description of the resources available in the community to implement the plan together with a description of the gaps in the plan that cannot be filled with existing resources; and

(4) a description of how the requested grant will be used to fill gaps.

SEC. 31704. ALLOCATION OF FUNDS; LIMITATIONS ON GRANTS.

(a) ADMINISTRATIVE COST LIMITATION.—The Attorney General shall use not more than 5 percent of the funds available under this program for the purposes of administration and technical assistance.

(b) RENEWAL OF GRANTS.—A grant under this part may be renewed for up to 2 additional years after the first fiscal year during which the recipient receives its initial grant under this part, subject to the availability of funds, if—

(1) the Attorney General determines that the funds made available to the recipient during the previous years were used in a manner required under the approved application; and

(2) the Attorney General determines that an additional grant is necessary to implement the community prosecution program described in the comprehensive plan required by section 31703.

SEC. 31705. AWARD OF GRANTS.

The Attorney General shall consider the following facts in awarding grants:

(1) Demonstrated need and evidence of the ability to provide the services described in the plan required under section 31703.

(2) The Attorney General shall attempt, to the extent practicable, to achieve an equitable geographic distribution of grant awards.

SEC. 31706. REPORTS.

(a) REPORT TO ATTORNEY GENERAL.—State and local prosecutors that receive funds under this subtitle shall submit to the Attorney General a report not later than March 1 of each year that describes progress achieved in carrying out the plan described under section 31703(c).

(b) REPORT TO CONGRESS.—The Attorney General shall submit to the Congress a report by October 1 of each year in which grants are made available under this subtitle which shall contain a detailed statement regarding grant awards, activities of grant recipients, a compilation of statistical information submitted by applicants, and an evaluation of programs established under this subtitle.

SEC. 31707. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle—

(1) $7,000,000 for fiscal year 1996;
(2) $10,000,000 for fiscal year 1997;
(3) $10,000,000 for fiscal year 1998;
(4) $11,000,000 for fiscal year 1999; and
(5) $12,000,000 for fiscal year 2000.

SEC. 31708. DEFINITIONS.

In this subtitle—

"Indian tribe" means a tribe, band, pueblo, nation, or other organized group or community of Indians, including an Alaska Native village (as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, and the United States Virgin Islands.

"Young violent offenders" means individuals, ages 7 through 22, who have committed crimes of violence, weapons offenses, drug distribution, hate crimes and civil rights violations, and offenses against personal property of another.

Subtitle S—Family Unity Demonstration Project

SEC. 31901. SHORT TITLE.

This subtitle may be cited as the "Family Unity Demonstration Project Act".

SEC. 31902. PURPOSE.

The purpose of this subtitle is to evaluate the effectiveness of certain demonstration projects in helping to—

(1) alleviate the harm to children and primary caretaker parents caused by separation due to the incarceration of the parents;

(2) reduce recidivism rates of prisoners by encouraging strong and supportive family relationships; and

(3) explore the cost effectiveness of community correctional facilities.

SEC. 31903. DEFINITIONS.

In this subtitle—

"child" means a person who is less than 7 years of age.

"community correctional facility" means a residential facility that—

(A) is used only for eligible offenders and their children under 7 years of age;

(B) is not within the confines of a jail or prison;

(C) houses no more than 50 prisoners in addition to their children; and

(D) provides to inmates and their children—

(i) a safe, stable, environment for children;

(ii) pediatric and adult medical care consistent with medical standards for correctional facilities;

(iii) programs to improve the stability of the parent-child relationship, including educating parents regarding—

(I) child development; and

(II) household management;

(iv) alcoholism and drug addiction treatment for prisoners; and

(v) programs and support services to help inmates—

(I) to improve and maintain mental and physical health, including access to counseling;

(II) to obtain adequate housing upon release from State incarceration;

(III) to obtain suitable education, employment, or training for employment; and

(IV) to obtain suitable child care.

"eligible offender" means a primary caretaker parent who—

(A) has been sentenced to a term of imprisonment of not more than 7 years or is awaiting sentencing for a conviction punishable by such a term of imprisonment; and

(B) has not engaged in conduct that—

(i) knowingly resulted in death or serious bodily injury;

(ii) is a felony for a crime of violence against a person; or

(iii) constitutes child neglect or mental, physical, or sexual abuse of a child.

"primary caretaker parent" means—

(A) a parent who has consistently assumed responsibility for the housing, health, and safety of a child prior to incarceration; or

(B) a woman who has given birth to a child after or while awaiting her sentencing hearing and who expresses a willingness to assume responsibility for the housing, health, and safety of that child,

a parent who, in the best interest of a child, has arranged for the temporary care of the child in the home of a relative or other responsible adult shall not for that reason be excluded from the category "primary caretaker".

"State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

SEC. 31904. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—There are authorized to be appropriated to carry out this subtitle—

(1) $3,600,000 for fiscal year 1996;

(2) $3,600,000 for fiscal year 1997;

(3) $3,600,000 for fiscal year 1998;

(4) $3,600,000 for fiscal year 1999; and

(5) $5,400,000 for fiscal year 2000.

(b) AVAILABILITY OF APPROPRIATIONS.—Of the amount appropriated under subsection (a) for any fiscal year—

(1) 90 percent shall be available to carry out chapter 1; and

(2) 10 percent shall be available to carry out chapter 2.

CHAPTER 1—GRANTS TO STATES

SEC. 31911. AUTHORITY TO MAKE GRANTS.

(a) GENERAL AUTHORITY.—The Attorney General may make grants, on a competitive basis, to States to carry out in accordance with this subtitle family unity demonstration projects that enable eligible offenders to live in community correctional facilities with their children.

(b) PREFERENCES.—For the purpose of making grants under subsection (a), the Attorney General shall give preference to a State that includes in the application required by section 31912 assurances that if the State receives a grant—

(1) both the State corrections agency and the State health and human services agency will participate substantially in, and cooperate closely in all aspects of, the development and operation of the family unity demonstration project for which such a grant is requested;

(2) boards made up of community members, including residents, local businesses, corrections officials, former prisoners, child development professionals, educators, and maternal and child health professionals will be established to advise the State regarding the operation of such project;

(3) the State has in effect a policy that provides for the placement of all prisoners, whenever possible, in correctional facilities for which they qualify that are located closest to their respective family homes;

(4) unless the Attorney General determines that a longer timeline is appropriate in a particular case, the State will implement the project not later than 180 days after receiving a grant under subsection (a) and will expend all of the grant during a 1-year period;

(5) the State has the capacity to continue implementing a community correctional facility beyond the funding period to ensure the continuity of the work;

(6) unless the Attorney General determines that a different process for selecting participants in a project is desirable, the State will—

(A) give written notice to a prisoner, not later than 30 days after the State first receives a grant under subsection (a) or 30 days after the prisoner is sentenced to a term of imprisonment of not more than 7 years (whichever is later), of the proposed or current operation of the project;

(B) accept at any time at which the project is in operation an application by a prisoner to participate in the project if, at the time of application, the remainder of the prisoner's sentence exceeds 180 days;

(C) review applications by prisoners in the sequence in which the State receives such applications; and

(D) not more than 50 days after reviewing such applications approve or disapprove the application; and

(7) for the purposes of selecting eligible offenders to participate in such project, the State has authorized State courts to sentence an eligible offender directly to a community correctional facility, provided that the court gives assurances that the offender would have otherwise served a term of imprisonment.

(c) SELECTION OF GRANTEES.—The Attorney General shall make grants under subsection (a) on a competitive basis, based on such criteria as the Attorney General shall issue by rule and taking into account the preferences described in subsection (b).

SEC. 31912. ELIGIBILITY TO RECEIVE GRANTS.

To be eligible to receive a grant under section 31911, a State shall submit to the Attorney General an application at such time, in such form, and containing such information as the Attorney General reasonably may require by rule.

SEC. 31913. REPORT.

(a) IN GENERAL.—A State that receives a grant under this title shall, not later than 90 days after the 1-year period in which the grant is required to be expended, submit a report to the Attorney General regarding the family unity demonstration project for which the grant was expended.

(b) CONTENTS.—A report under subsection (a) shall—

(1) state the number of prisoners who submitted applications to participate in the project and the number of prisoners who were placed in community correctional facilities;

(2) state, with respect to prisoners placed in the project, the number of prisoners who are returned to that jurisdiction and custody and the reasons for such return;

(3) describe the nature and scope of educational and training activities provided to prisoners participating in the project;

(4) state the number, and describe the scope of, contracts made with public and nonprofit private community-based organizations to carry out such project; and

(5) evaluate the effectiveness of the project in accomplishing the purposes described in section 31902.

CHAPTER 2—FAMILY UNITY DEMONSTRATION PROJECT FOR FEDERAL PRISONERS

SEC. 31921. AUTHORITY OF THE ATTORNEY GENERAL.

(a) IN GENERAL.—With the funds available to carry out this subtitle for the benefit of Federal prisoners, the Attorney General, acting through the Director of the Bureau of Prisons, shall select eligible prisoners to live in community correctional facilities with their children.

(b) GENERAL CONTRACTING AUTHORITY.—In implementing this title, the Attorney General may enter into contracts with appropriate public or private agencies to provide housing, sustenance, services, and supervision of inmates eligible for placement in community correctional facilities under this title.

(c) USE OF STATE FACILITIES.—At the discretion of the Attorney General, Federal participants may be placed in State projects as defined in chapter 1. For such participants, the Attorney General shall, with funds available under section 31904(b)(2), reimburse the State for all project costs related to the Federal participant's placement, including administrative costs.

SEC. 31922. REQUIREMENTS.

For the purpose of placing Federal participants in a family unity demonstration project under section 31921, the Attorney General shall consult with the Secretary of Health and Human Services regarding the development and operation of the project.

Subtitle T—Substance Abuse Treatment in Federal Prisons

SEC. 32001. SUBSTANCE ABUSE TREATMENT IN FEDERAL PRISONS.

Section 3621 of title 18, United States Code, is amended—

(1) in the last sentence of subsection (b), by striking ", to the extent practicable,"; and

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

"(e) SUBSTANCE ABUSE TREATMENT.—

"(1) PHASE-IN.—In order to carry out the requirement of the last sentence of subsection (b) of this section, that every prisoner with a substance abuse problem have the opportunity to participate in appropriate substance abuse treatment, the Bureau of Prisons shall, subject to the availability of appropriations, provide residential substance abuse treatment (and make arrangements for appropriate aftercare)—

"(A) for not less than 50 percent of eligible prisoners by the end of fiscal year 1995, with priority for such treatment accorded based on an eligible prisoner's proximity to release date;

"(B) for not less than 75 percent of eligible prisoners by the end of fiscal year 1996, with priority for such treatment accorded based on an eligible prisoner's proximity to release date; and

"(C) for all eligible prisoners by the end of fiscal year 1997 and thereafter, with priority for such treatment accorded based on an eligible prisoner's proximity to release date.

"(2) INCENTIVE FOR PRISONERS' SUCCESSFUL COMPLETION OF TREATMENT PROGRAM.—

"(A) GENERALLY.—Any prisoner who, in the judgment of the Director of the Bureau of Prisons, has successfully completed a program of residential substance abuse treatment provided under paragraph (1) of this subsection, shall remain in the custody of the Bureau under such conditions as the Bureau deems appropriate. If the conditions of confinement are different from those the prisoner would have experienced absent the successful completion of the treatment, the Bureau shall periodically test the prisoner for substance abuse and discontinue such conditions on determining that substance abuse has recurred.

"(B) PERIOD OF CUSTODY.—The period a prisoner convicted of a nonviolent offense remains

in custody after successfully completing a treatment program may be reduced by the Bureau of Prisons, but such reduction may not be more than one year from the term the prisoner must otherwise serve.

"(3) REPORT.—The Bureau of Prisons shall transmit to the Committees on the Judiciary of the Senate and the House of Representatives on January 1, 1995, and on January 1 of each year thereafter, a report. Such report shall contain—

"(A) a detailed quantitative and qualitative description of each substance abuse treatment program, residential or not, operated by the Bureau;

"(B) a full explanation of how eligibility for such programs is determined, with complete information on what proportion of prisoners with substance abuse problems are eligible; and

"(C) a complete statement of to what extent the Bureau has achieved compliance with the requirements of this title.

"(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection—

"(A) $13,500,000 for fiscal year 1996;

"(B) $18,900,000 for fiscal year 1997;

"(C) $25,200,000 for fiscal year 1998;

"(D) $27,000,000 for fiscal year 1999; and

"(E) $27,900,000 for fiscal year 2000.

"(5) DEFINITIONS.—As used in this subsection—

"(A) the term 'residential substance abuse treatment' means a course of individual and group activities, lasting between 6 and 12 months, in residential treatment facilities set apart from the general prison population—

"(i) directed at the substance abuse problems of the prisoner; and

"(ii) intended to develop the prisoner's cognitive, behavioral, social, vocational, and other skills so as to solve the prisoner's substance abuse and related problems;

"(B) the term 'eligible prisoner' means a prisoner who is—

"(i) determined by the Bureau of Prisons to have a substance abuse problem; and

"(ii) willing to participate in a residential substance abuse treatment program; and

"(C) the term 'aftercare' means placement, case management and monitoring of the participant in a community-based substance abuse treatment program when the participant leaves the custody of the Bureau of Prisons.

"(6) COORDINATION OF FEDERAL ASSISTANCE.—The Bureau of Prisons shall consult with the Department of Health and Human Services concerning substance abuse treatment and related services and the incorporation of applicable components of existing comprehensive approaches including relapse prevention and aftercare services.".

Subtitle U—Residential Substance Abuse Treatment for State Prisoners

SEC. 32101. RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR STATE PRISONERS.

(a) RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR PRISONERS.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 20201(a), is amended—

(1) by redesignating part S as part T;

(2) by redesignating section 1901 as section 2001; and

(3) by inserting after part R the following new part:

"PART S—RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR STATE PRISONERS

"SEC. 1901. GRANT AUTHORIZATION.

"(a) The Attorney General may make grants under this part to States, for use by States and units of local government for the purpose of developing and implementing residential substance abuse treatment programs within State correctional facilities, as well as within local correctional and detention facilities in which inmates are incarcerated for a period of time sufficient to permit substance abuse treatment.

"(b) CONSULTATION.—The Attorney General shall consult with the Secretary of Health and Human Services to ensure that projects of substance abuse treatment and related services for State prisoners incorporate applicable components of existing comprehensive approaches including relapse prevention and after care services.

"SEC. 1902. STATE APPLICATIONS.

"(a) IN GENERAL.—(1) To request a grant under this part the chief executive of a State shall submit an application to the Attorney General in such form and containing such information as the Attorney General may reasonably require.

"(2) Such application shall include assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

"(3) Such application shall coordinate the design and implementation of treatment programs between State correctional representatives and the State Alcohol and Drug Abuse agency (and, if appropriate, between representatives of local correctional agencies and representatives of either the State alcohol and drug abuse agency or any appropriate local alcohol and drug abuse agency).

"(b) SUBSTANCE ABUSE TESTING REQUIREMENT.—To be eligible to receive funds under this part, a State must agree to implement or continue to require urinalysis or other proven reliable forms of testing of individuals in correctional residential substance abuse treatment programs. Such testing shall include individuals released from residential substance abuse treatment programs who remain in the custody of the State.

"(c) ELIGIBILITY FOR PREFERENCE WITH AFTER CARE COMPONENT.—

"(1) To be eligible for a preference under this part, a State must ensure that individuals who participate in the substance abuse treatment program established or implemented with assistance provided under this part will be provided with aftercare services.

"(2) State aftercare services must involve the coordination of the correctional facility treatment program with other human service and rehabilitation programs, such as educational and job training programs, parole supervision programs, half-way house programs, and participation in self-help and peer group programs, that may aid in the rehabilitation of individuals in the substance abuse treatment program.

"(3) To qualify as an aftercare program, the head of the substance abuse treatment program, in conjunction with State and local authorities and organizations involved in substance abuse treatment, shall assist in placement of substance abuse treatment program participants with appropriate community substance abuse treatment facilities when such individuals leave the correctional facility at the end of a sentence or on parole.

"(d) COORDINATION OF FEDERAL ASSISTANCE.—Each application submitted for a grant under this section shall include a description of how the funds made available under this section will be coordinated with Federal assistance for substance abuse treatment and aftercare services currently provided by the Department of Health and Human Services' Substance Abuse and Mental Health Services Administration.

"(e) STATE OFFICE.—The Office designated under section 507—

"(1) shall prepare the application as required under this section; and

"(2) shall administer grant funds received under this part, including review of spending, processing, progress, financial reporting, technical assistance, grant adjustments, accounting, auditing, and fund disbursement.

"SEC. 1903. REVIEW OF STATE APPLICATIONS.

"(a) IN GENERAL.—The Attorney General shall make a grant under section 1901 to carry out the projects described in the application submitted under section 1902 upon determining that—

"(1) the application is consistent with the requirements of this part; and

"(2) before the approval of the application the Attorney General has made an affirmative finding in writing that the proposed project has been reviewed in accordance with this part.

"(b) APPROVAL.—Each application submitted under section 1902 shall be considered approved, in whole or in part, by the Attorney General not later than 90 days after first received unless the Attorney General informs the applicant of specific reasons for disapproval.

"(c) RESTRICTION.—Grant funds received under this part shall not be used for land acquisition or construction projects.

"(d) DISAPPROVAL NOTICE AND RECONSIDERATION.—The Attorney General shall not disapprove any application without first affording the applicant reasonable notice and an opportunity for reconsideration.

"SEC. 1904. ALLOCATION AND DISTRIBUTION OF FUNDS.

"(a) ALLOCATION.—Of the total amount appropriated under this part in any fiscal year—

"(1) 0.4 percent shall be allocated to each of the participating States; and

"(2) of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each of the participating States an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the State prison population of such State bears to the total prison population of all the participating States.

"(b) FEDERAL SHARE.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the projects described in the application submitted under section 1902 for the fiscal year for which the projects receive assistance under this part.

"SEC. 1905. EVALUATION.

"Each State that receives a grant under this part shall submit to the Attorney General an evaluation not later than March 1 of each year in such form and containing such information as the Attorney General may reasonably require.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 20201(b), is amended by inserting after the matter relating to part R the following new part:

"PART S—RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR STATE PRISONERS

"Sec. 1901. Grant authorization.
"Sec. 1902. State applications.
"Sec. 1903. Review of State applications.
"Sec. 1904. Allocation and distribution of funds.
"Sec. 1905. Evaluation.

"PART T—TRANSITION-EFFECTIVE DATE-REPEALER

"Sec. 2001. Confirmation of rules, authorities, and proceedings.".

(c) DEFINITIONS.—Section 901(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(a)), as amended by section 20201(c), is amended—

(1) by striking "and" at the end of paragraph (23);

(2) by striking the period at the end of paragraph (24) and inserting "; and"; and

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

"(25) the term 'residential substance abuse treatment program' means a course of individual and group activities, lasting between 6 and 12 months, in residential treatment facilities set apart from the general prison population—

"(A) directed at the substance abuse problems of the prisoner; and

"(B) intended to develop the prisoner's cognitive, behavioral, social, vocational, and other skills so as to solve the prisoner's substance abuse and related problems.".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793), as amended by section 20201(d), is amended—

(1) in paragraph (3) by striking "and R" and inserting "R, or S"; and

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

"(17) There are authorized to be appropriated to carry out the projects under part S—

"(A) $27,000,000 for fiscal year 1996;

"(B) $36,000,000 for fiscal year 1997;

"(C) $63,000,000 for fiscal year 1998;

"(D) $72,000,000 for fiscal year 1999; and

"(E) $72,000,000 for fiscal year 2000.".

Subtitle V—Prevention, Diagnosis, and Treatment of Tuberculosis in Correctional Institutions

SEC. 32201. PREVENTION, DIAGNOSIS, AND TREATMENT OF TUBERCULOSIS IN CORRECTIONAL INSTITUTIONS.

(a) GUIDELINES.—The Attorney General, in consultation with the Secretary of Health and Human Services and the Director of the National Institute of Corrections, shall develop and disseminate to appropriate entities, including State, Indian tribal, and local correctional institutions and the Immigration and Naturalization Service, guidelines for the prevention, diagnosis, treatment, and followup care of tuberculosis among inmates of correctional institutions and persons held in holding facilities operated by or under contract with the Immigration and Naturalization Service.

(b) COMPLIANCE.—The Attorney General shall ensure that prisons in the Federal prison system and holding facilities operated by or under contract with the Immigration and Naturalization Service comply with the guidelines described in subsection (a).

(c) GRANTS.—

(1) IN GENERAL.—The Attorney General shall make grants to State, Indian tribal, and local correction authorities and public health authorities to assist in establishing and operating programs for the prevention, diagnosis, treatment, and followup care of tuberculosis among inmates of correctional institutions.

(2) FEDERAL SHARE.—The Federal share of funding of a program funded with a grant under paragraph (1) shall not exceed 50 percent.

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

(A) $700,000 for fiscal year 1996;

(B) $1,000,000 for fiscal year 1997;

(C) $1,000,000 for fiscal year 1998;

(D) $1,100,000 for fiscal year 1999; and

(E) $1,200,000 for fiscal year 2000.

(d) DEFINITIONS.—In this section—

"Indian tribe" means a tribe, band, pueblo, nation, or other organized group or community of Indians, including an Alaska Native village (as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, and the United States Virgin Islands.

Subtitle X—Gang Resistance Education and Training

SEC. 32401. GANG RESISTANCE EDUCATION AND TRAINING PROJECTS.

(a) ESTABLISHMENT OF PROJECTS.—

(1) IN GENERAL.—The Secretary of the Treasury shall establish not less than 50 Gang Resistance Education and Training (GREAT) projects, to be located in communities across the country, in addition to the number of projects currently funded.

(2) SELECTION OF COMMUNITIES.—Communities identified for such GREAT projects shall be selected by the Secretary of the Treasury on the basis of gang-related activity in that particular community.

(3) AMOUNT OF ASSISTANCE PER PROJECT; ALLOCATION.—The Secretary of the Treasury shall make available not less than $800,000 per project, subject to the availability of appropriations, and such funds shall be allocated—

(A) 50 percent to the affected State and local law enforcement and prevention organizations participating in such projects; and

(B) 50 percent to the Bureau of Alcohol, Tobacco and Firearms for salaries, expenses, and associated administrative costs for operating and overseeing such projects.

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

(1) $9,000,000 for fiscal year 1995;

(2) $7,200,000 for fiscal year 1996;

(3) $7,200,000 for fiscal year 1997;

(4) $7,200,000 for fiscal year 1998;

(5) $7,200,000 for fiscal year 1999; and

(6) $7,200,000 for fiscal year 2000.

TITLE IV—VIOLENCE AGAINST WOMEN

SEC. 40001. SHORT TITLE.

This title may be cited as the "Violence Against Women Act of 1994".

Subtitle A—Safe Streets for Women

SEC. 40101. SHORT TITLE.

This subtitle may be cited as the "Safe Streets for Women Act of 1994".

CHAPTER 1—FEDERAL PENALTIES FOR SEX CRIMES

SEC. 40111. REPEAT OFFENDERS.

(a) IN GENERAL.—Chapter 109A of title 18, United States Code, is amended by adding at the end the following new section:

"§2247. Repeat offenders

"Any person who violates a provision of this chapter, after one or more prior convictions for an offense punishable under this chapter, or after one or more prior convictions under the laws of any State relating to aggravated sexual abuse, sexual abuse, or abusive sexual contact have become final, is punishable by a term of imprisonment up to twice that otherwise authorized.".

(b) AMENDMENT OF SENTENCING GUIDELINES.—The Sentencing Commission shall implement the amendment made by subsection (a) by promulgating amendments, if appropriate, in the sentencing guidelines applicable to chapter 109A offenses.

(c) CHAPTER ANALYSIS.—The chapter analysis for chapter 109A of title 18, United States Code, is amended by adding at the end the following new item:

"2247. Repeat offenders.".

SEC. 40112. FEDERAL PENALTIES.

(a) AMENDMENT OF SENTENCING GUIDELINES.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall review and amend, where necessary, its sentencing guidelines on aggravated sexual abuse under section 2241 of title 18, United States Code, or sexual abuse under section 2242 of title 18, United States Code, as follows:

(1) The Commission shall review and promulgate amendments to the guidelines, if appropriate, to enhance penalties if more than 1 offender is involved in the offense.

(2) The Commission shall review and promulgate amendments to the guidelines, if appropriate, to reduce unwarranted disparities between the sentences for sex offenders who are known to the victim and sentences for sex offenders who are not known to the victim.

(3) The Commission shall review and promulgate amendments to the guidelines to enhance penalties, if appropriate, to render Federal penalties on Federal territory commensurate with penalties for similar offenses in the States.

(4) The Commission shall review and promulgate amendments to the guidelines, if appropriate, to account for the general problem of recidivism in cases of sex offenses, the severity of the offense, and its devastating effects on survivors.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the United States Sentencing Commission shall review and submit to Congress a report containing an analysis of Federal rape sentencing, accompanied by comment from independent experts in the field, describing—

(1) comparative Federal sentences for cases in which the rape victim is known to the defendant and cases in which the rape victim is not known to the defendant;

(2) comparative Federal sentences for cases on Federal territory and sentences in surrounding States; and

(3) an analysis of the effect of rape sentences on populations residing primarily on Federal territory relative to the impact of other Federal offenses in which the existence of Federal jurisdiction depends upon the offense's being committed on Federal territory.

SEC. 40113. MANDATORY RESTITUTION FOR SEX CRIMES.

(a) SEXUAL ABUSE.—

(1) IN GENERAL.—Chapter 109A of title 18, United States Code, is amended by adding at the end the following new section:

"§2248. Mandatory restitution

"(a) IN GENERAL.—Notwithstanding section 3663, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—

"(1) DIRECTIONS.—The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court, pursuant to paragraph (3); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) ENFORCEMENT BY VICTIM.—An order of restitution also may be enforced by a victim named in the order to receive the restitution in the same manner as a judgment in a civil action.

"(3) DEFINITION.—For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation;

"(C) necessary transportation, temporary housing, and child care expenses;

"(D) lost income;

"(E) attorneys' fees, plus any costs incurred in obtaining a civil protection order; and

"(F) any other losses suffered by the victim as a proximate result of the offense.

"(4) ORDER MANDATORY.—(A) The issuance of a restitution order under this section is mandatory.

"(B) A court may not decline to issue an order under this section because of—

"(i) the economic circumstances of the defendant; or

"(ii) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

"(C)(i) Notwithstanding subparagraph (A), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid.

"(ii) For purposes of this subparagraph, the term 'economic circumstances' includes—

"(I) the financial resources and other assets of the defendant;

"(II) projected earnings, earning capacity, and other income of the defendant; and

"(III) any financial obligations of the defendant, including obligations to dependents.

"(D) Subparagraph (A) does not apply if—

"(i) the court finds on the record that the economic circumstances of the defendant do not allow for the payment of any amount of a restitution order, and do not allow for the payment of any or some portion of the amount of a restitution order in the foreseeable future (under any reasonable schedule of payments); and

"(ii) the court enters in its order the amount of the victim's losses, and provides a nominal restitution award.

"(5) MORE THAN 1 OFFENDER.—When the court finds that more than 1 offender has contributed to the loss of a victim, the court may make each offender liable for payment of the full amount of restitution or may apportion liability among the offenders to reflect the level of contribution and economic circumstances of each offender.

"(6) MORE THAN 1 VICTIM.—When the court finds that more than 1 victim has sustained a loss requiring restitution by an offender, the court shall order full restitution of each victim but may provide for different payment schedules to reflect the economic circumstances of each victim.

"(7) PAYMENT SCHEDULE.—An order under this section may direct the defendant to make a single lump-sum payment or partial payments at specified intervals.

"(8) SETOFF.—Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(9) EFFECT ON OTHER SOURCES OF COMPENSATION.—The issuance of a restitution order shall not affect the entitlement of a victim to receive compensation with respect to a loss from insurance or any other source until the payments actually received by the victim under the restitution order fully compensate the victim for the loss.

"(10) CONDITION OF PROBATION OR SUPERVISED RELEASE.—Compliance with a restitution order issued under this section shall be a condition of any probation or supervised release of a defendant. If an offender fails to comply with a restitution order, the court may, after a hearing, revoke probation or a term of supervised release, modify the terms or conditions of probation or a term of supervised release, or hold the defendant in contempt pursuant to section 3583(e). In determining whether to revoke probation or a term of supervised release, modify the terms or conditions of probation or supervised release or hold a defendant serving a term of supervised release in contempt, the court shall consider the defendant's employment status, earning ability and financial resources, the willfulness of the defendant's failure to comply, and any other circumstances that may have a bearing on the defendant's ability to comply.

"(c) PROOF OF CLAIM.—

"(1) AFFIDAVIT.—Within 60 days after conviction and, in any event, not later than 10 days prior to sentencing, the United States Attorney (or the United States Attorney's delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or the United States Attorney's delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or the United States Attorney's delegee) shall advise the victim that the victim may file a separate affidavit and shall provide the victim with an affidavit form which may be used to do so.

"(2) OBJECTION.—If, after the defendant has been notified of the affidavit, no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to paragraph (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or the United States Attorney's delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) ADDITIONAL DOCUMENTATION AND TESTIMONY.—If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. The privacy of any records filed, or testimony heard, pursuant to this section shall be maintained to the greatest extent possible, and such records may be filed or testimony heard in camera.

"(4) FINAL DETERMINATION OF LOSSES.—If the victim's losses are not ascertainable by the date that is 10 days prior to sentencing as provided in paragraph (1), the United States Attorney (or the United States Attorney's delegee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) MODIFICATION OF ORDER.—A victim or the offender may petition the court at any time to modify a restitution order as appropriate in view of a change in the economic circumstances of the offender.

"(e) REFERENCE TO MAGISTRATE OR SPECIAL MASTER.—The court may refer any issue arising in connection with a proposed order of restitution to a magistrate or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.

"(f) DEFINITION.—For purposes of this section, the term 'victim' means the individual harmed as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court, but in no event shall the defendant be named as such representative or guardian.".

(2) TECHNICAL AMENDMENT.—The chapter analysis for chapter 109A of title 18, United States Code, is amended by adding at the end the following new item:

"2248. Mandatory restitution.".

(b) SEXUAL EXPLOITATION AND OTHER ABUSE OF CHILDREN.—

(1) IN GENERAL.—Chapter 110 of title 18, United States Code, is amended by adding at the end the following new section:

"§2259. Mandatory restitution

"(a) IN GENERAL.—Notwithstanding section 3663, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—

"(1) DIRECTIONS.—The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court, pursuant to paragraph (3); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) ENFORCEMENT BY VICTIM.—An order of restitution may also be enforced by a victim named in the order to receive the restitution in the same manner as a judgment in a civil action.

"(3) DEFINITION.—For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation;

"(C) necessary transportation, temporary housing, and child care expenses;

"(D) lost income;

"(E) attorneys' fees, as well as other costs incurred; and

"(F) any other losses suffered by the victim as a proximate result of the offense.

"(4) ORDER MANDATORY.—(A) The issuance of a restitution order under this section is mandatory.

"(B) A court may not decline to issue an order under this section because of—

"(i) the economic circumstances of the defendant; or

"(ii) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

"(C)(i) Notwithstanding subparagraph (A), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid.

"(ii) For purposes of this subparagraph, the term 'economic circumstances' includes—

"(I) the financial resources and other assets of the defendant;

"(II) projected earnings, earning capacity, and other income of the defendant; and

"(III) any financial obligations of the defendant, including obligations to dependents.

"(D) Subparagraph (A) does not apply if—

"(i) the court finds on the record that the economic circumstances of the defendant do not allow for the payment of any amount of a restitution order, and do not allow for the payment of any or some portion of the amount of a restitution order in the foreseeable future (under any reasonable schedule of payments); and

"(ii) the court enters in its order the amount of the victim's losses, and provides a nominal restitution award.

"(5) MORE THAN 1 OFFENDER.—When the court finds that more than 1 offender has contributed to the loss of a victim, the court may make each offender liable for payment of the full amount of restitution or may apportion liability among the

offenders to reflect the level of contribution and economic circumstances of each offender.

"(6) MORE THAN 1 VICTIM.—When the court finds that more than 1 victim has sustained a loss requiring restitution by an offender, the court shall order full restitution of each victim but may provide for different payment schedules to reflect the economic circumstances of each victim.

"(7) PAYMENT SCHEDULE.—An order under this section may direct the defendant to make a single lump-sum payment or partial payments at specified intervals.

"(8) SETOFF.—Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(9) EFFECT ON OTHER SOURCES OF COMPENSATION.—The issuance of a restitution order shall not affect the entitlement of a victim to receive compensation with respect to a loss from insurance or any other source until the payments actually received by the victim under the restitution order fully compensate the victim for the loss.

"(10) CONDITION OF PROBATION OR SUPERVISED RELEASE.—Compliance with a restitution order issued under this section shall be a condition of any probation or supervised release of a defendant. If an offender fails to comply with a restitution order, the court may, after a hearing, revoke probation or a term of supervised release, modify the terms or conditions of probation or a term of supervised release, or hold the defendant in contempt pursuant to section 3583(e). In determining whether to revoke probation or a term of supervised release, modify the terms or conditions of probation or supervised release or hold a defendant serving a term of supervised release in contempt, the court shall consider the defendant's employment status, earning ability and financial resources, the willfulness of the defendant's failure to comply, and any other circumstances that may have a bearing on the defendant's ability to comply.

"(c) PROOF OF CLAIM.—

"(1) AFFIDAVIT.—Within 60 days after conviction and, in any event, not later than 10 days prior to sentencing, the United States Attorney (or the United States Attorney's delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or the United States Attorney's delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or the United States Attorney's delegee) shall advise the victim that the victim may file a separate affidavit and shall provide the victim with an affidavit form which may be used to do so.

"(2) OBJECTION.—If, after the defendant has been notified of the affidavit, no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to paragraph (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or the United States Attorney's delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) ADDITIONAL DOCUMENTATION AND TESTIMONY.—If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. The privacy of any records filed, or testimony heard, pursuant to this section shall be maintained to the greatest extent possible, and such records may be filed or testimony heard in camera.

"(4) FINAL DETERMINATION OF LOSSES.—If the victim's losses are not ascertainable by the date that is 10 days prior to sentencing as provided in paragraph (1), the United States Attorney (or the United States Attorney's delegee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) MODIFICATION OF ORDER.—A victim or the offender may petition the court at any time to modify a restitution order as appropriate in view of a change in the economic circumstances of the offender.

"(e) REFERENCE TO MAGISTRATE OR SPECIAL MASTER.—The court may refer any issue arising in connection with a proposed order of restitution to a magistrate or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.

"(f) DEFINITION.—For purposes of this section, the term 'victim' means the individual harmed as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court, but in no event shall the defendant be named as such representative or guardian.".

(2) TECHNICAL AMENDMENT.—The chapter analysis for chapter 110 of title 18, United States Code, is amended by adding at the end the following new item:

"2259. Mandatory restitution.".

SEC. 40114. AUTHORIZATION FOR FEDERAL VICTIM'S COUNSELORS.

There are authorized to be appropriated for the United States Attorneys for the purpose of appointing Victim/Witness Counselors for the prosecution of sex crimes and domestic violence crimes where applicable (such as the District of Columbia)—

(1) $500,000 for fiscal year 1996;

(2) $500,000 for fiscal year 1997; and

(3) $500,000 for fiscal year 1998.

CHAPTER 2—LAW ENFORCEMENT AND PROSECUTION GRANTS TO REDUCE VIOLENT CRIMES AGAINST WOMEN

SEC. 40121. GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 32101(a), is amended—

(1) by redesignating part T as part U;

(2) by redesignating section 2001 as section 2101; and

(3) by inserting after part S the following new part:

"PART T—GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN

"SEC. 2001. PURPOSE OF THE PROGRAM AND GRANTS.

"(a) GENERAL PROGRAM PURPOSE.—The purpose of this part is to assist States, Indian tribal governments, and units of local government to develop and strengthen effective law enforcement and prosecution strategies to combat violent crimes against women, and to develop and strengthen victim services in cases involving violent crimes against women.

"(b) PURPOSES FOR WHICH GRANTS MAY BE USED.—Grants under this part shall provide personnel, training, technical assistance, data collection and other equipment for the more widespread apprehension, prosecution, and adjudication of persons committing violent crimes against women, and specifically, for the purposes of—

"(1) training law enforcement officers and prosecutors to more effectively identify and respond to violent crimes against women, including the crimes of sexual assault and domestic violence;

"(2) developing, training, or expanding units of law enforcement officers and prosecutors specifically targeting violent crimes against women, including the crimes of sexual assault and domestic violence;

"(3) developing and implementing more effective police and prosecution policies, protocols, orders, and services specifically devoted to preventing, identifying, and responding to violent crimes against women, including the crimes of sexual assault and domestic violence;

"(4) developing, installing, or expanding data collection and communication systems, including computerized systems, linking police, prosecutors, and courts or for the purpose of identifying and tracking arrests, protection orders, violations of protection orders, prosecutions, and convictions for violent crimes against women, including the crimes of sexual assault and domestic violence;

"(5) developing, enlarging, or strengthening victim services programs, including sexual assault and domestic violence programs, developing or improving delivery of victim services to racial, cultural, ethnic, and language minorities, providing specialized domestic violence court advocates in courts where a significant number of protection orders are granted, and increasing reporting and reducing attrition rates for cases involving violent crimes against women, including crimes of sexual assault and domestic violence;

"(6) developing, enlarging, or strengthening programs addressing stalking; and

"(7) developing, enlarging, or strengthening programs addressing the needs and circumstances of Indian tribes in dealing with violent crimes against women, including the crimes of sexual assault and domestic violence.

"SEC. 2002. STATE GRANTS.

"(a) GENERAL GRANTS.—The Attorney General may make grants to States, for use by States, units of local government, nonprofit nongovernmental victim services programs, and Indian tribal governments for the purposes described in section 2001(b).

"(b) AMOUNTS.—Of the amounts appropriated for the purposes of this part—

"(1) 4 percent shall be available for grants to Indian tribal governments;

"(2) $500,000 shall be available for grants to applicants in each State; and

"(3) the remaining funds shall be available for grants to applicants in each State in an amount that bears the same ratio to the amount of remaining funds as the population of the State bears to the population of all of the States that results from a distribution among the States on the basis of each State's population in relation to the population of all States (not including populations of Indian tribes).

"(c) QUALIFICATION.—Upon satisfying the terms of subsection (d), any State shall be qualified for funds provided under this part upon certification that—

"(1) the funds shall be used for any of the purposes described in section 2001(b);

"(2) grantees and subgrantees shall develop a plan for implementation and shall consult and coordinate with nonprofit, nongovernmental victim services programs, including sexual assault and domestic violence victim services programs;

"(3) at least 25 percent of the amount granted shall be allocated, without duplication, to each of the following 3 areas: prosecution, law enforcement, and victim services; and

"(4) any Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this subtitle.

"(d) APPLICATION REQUIREMENTS.—The application requirements provided in section 513 shall apply to grants made under this part. In addition, each application shall include the certifications of qualification required by subsection (c), including documentation from nonprofit, nongovernmental victim services programs, describing their participation in developing the plan required by subsection (c)(2). An application shall include—

"(1) documentation from the prosecution, law enforcement, and victim services programs to be assisted, demonstrating—

"(A) need for the grant funds;

"(B) intended use of the grant funds;

"(C) expected results from the use of grant funds; and

"(D) demographic characteristics of the populations to be served, including age, marital status, disability, race, ethnicity and language background;

"(2) proof of compliance with the requirements for the payment of forensic medical exams provided in section 2005; and

"(3) proof of compliance with the requirements for paying filing and service fees for domestic violence cases provided in section 2006.

"(e) DISBURSEMENT.—

"(1) IN GENERAL.—Not later than 60 days after the receipt of an application under this part, the Attorney General shall—

"(A) disburse the appropriate sums provided for under this part; or

"(B) inform the applicant why the application does not conform to the terms of section 513 or to the requirements of this section.

"(2) REGULATIONS.—In disbursing monies under this part, the Attorney General shall issue regulations to ensure that States will—

"(A) give priority to areas of varying geographic size with the greatest showing of need based on the availability of existing domestic violence and sexual assault programs in the population and geographic area to be served in relation to the availability of such programs in other such populations and geographic areas;

"(B) determine the amount of subgrants based on the population and geographic area to be served;

"(C) equitably distribute monies on a geographic basis including nonurban and rural areas of various geographic sizes; and

"(D) recognize and address the needs of underserved populations.

"(f) FEDERAL SHARE.—The Federal share of a grant made under this subtitle may not exceed 75 percent of the total costs of the projects described in the application submitted.

"(g) INDIAN TRIBES.—Funds appropriated by the Congress for the activities of any agency of an Indian tribal government or of the Bureau of Indian Affairs performing law enforcement functions on any Indian lands may be used to provide the non-Federal share of the cost of programs or projects funded under this part.

"(h) GRANTEE REPORTING.—

"(1) IN GENERAL.—Upon completion of the grant period under this part, a State or Indian tribal grantee shall file a performance report with the Attorney General explaining the activities carried out, which report shall include an assessment of the effectiveness of those activities in achieving the purposes of this part.

"(2) CERTIFICATION BY GRANTEE AND SUBGRANTEES.—A section of the performance report shall be completed by each grantee and subgrantee that performed the direct services contemplated in the application, certifying performance of direct services under the grant.

"(3) SUSPENSION OF FUNDING.—The Attorney General shall suspend funding for an approved application if—

"(A) an applicant fails to submit an annual performance report;

"(B) funds are expended for purposes other than those described in this part; or

"(C) a report under paragraph (1) or accompanying assessments demonstrate to the Attorney General that the program is ineffective or financially unsound.

"SEC. 2003. DEFINITIONS.

"In this part—

"(1) the term 'domestic violence' includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other adult person against a victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction receiving grant monies;

"(2) the term 'Indian country' has the meaning stated in section 1151 of title 18, United States Code;

"(3) the term 'Indian tribe' means a tribe, band, pueblo, nation, or other organized group or community of Indians, including any Alaska Native village or regional or village corporation (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians;

"(4) the term 'law enforcement' means a public agency charged with policing functions, including any of its component bureaus (such as governmental victim services programs);

"(5) the term 'prosecution' means any public agency charged with direct responsibility for prosecuting criminal offenders, including such agency's component bureaus (such as governmental victim services programs);

"(6) the term 'sexual assault' means any conduct proscribed by chapter 109A of title 18, United States Code, whether or not the conduct occurs in the special maritime and territorial jurisdiction of the United States or in a Federal prison and includes both assaults committed by offenders who are strangers to the victim and assaults committed by offenders who are known or related by blood or marriage to the victim;

"(7) the term 'underserved populations' includes populations underserved because of geographic location (such as rural isolation), underserved racial or ethnic populations, and populations underserved because of special needs, such as language barriers or physical disabilities; and

"(8) the term 'victim services' means a nonprofit, nongovernmental organization that assists domestic violence or sexual assault victims, including rape crisis centers, battered women's shelters, and other sexual assault or domestic violence programs, including nonprofit, nongovernmental organizations assisting domestic violence or sexual assault victims through the legal process.

"SEC. 2004. GENERAL TERMS AND CONDITIONS.

"(a) NONMONETARY ASSISTANCE.—In addition to the assistance provided under this part, the Attorney General may request any Federal agency to use its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State, tribal, and local assistance efforts.

"(b) REPORTING.—Not later than 180 days after the end of each fiscal year for which grants are made under this part, the Attorney General shall submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report that includes, for each State and for each grantee Indian tribe—

"(1) the number of grants made and funds distributed under this part;

"(2) a summary of the purposes for which those grants were provided and an evaluation of their progress;

"(3) a statistical summary of persons served, detailing the nature of victimization, and providing data on age, sex, relationship of victim to offender, geographic distribution, race, ethnicity, language, and disability; and

"(4) an evaluation of the effectiveness of programs funded under this part.

"(c) REGULATIONS OR GUIDELINES.—Not later than 120 days after the date of enactment of this part, the Attorney General shall publish proposed regulations or guidelines implementing this part. Not later than 180 days after the date of enactment, the Attorney General shall publish final regulations or guidelines implementing this part.

"SEC. 2005. RAPE EXAM PAYMENTS.

"(a) RESTRICTION OF FUNDS.—

"(1) IN GENERAL.—A State, Indian tribal government, or unit of local government, shall not be entitled to funds under this part unless the State, Indian tribal government, unit of local government, or another governmental entity incurs the full out-of-pocket cost of forensic medical exams described in subsection (b) for victims of sexual assault.

"(2) REDISTRIBUTION.—Funds withheld from a State or unit of local government under paragraph (1) shall be distributed to other States or units of local government pro rata. Funds withheld from an Indian tribal government under paragraph (1) shall be distributed to other Indian tribal governments pro rata.

"(b) MEDICAL COSTS.—A State, Indian tribal government, or unit of local government shall be deemed to incur the full out-of-pocket cost of forensic medical exams for victims of sexual assault if any government entity—

"(1) provides such exams to victims free of charge to the victim;

"(2) arranges for victims to obtain such exams free of charge to the victims; or

"(3) reimburses victims for the cost of such exams if—

"(A) the reimbursement covers the full cost of such exams, without any deductible requirement or limit on the amount of a reimbursement;

"(B) the reimbursing governmental entity permits victims to apply for reimbursement for not less than one year from the date of the exam;

"(C) the reimbursing governmental entity provides reimbursement not later than 90 days after written notification of the victim's expense; and

"(D) the State, Indian tribal government, unit of local government, or reimbursing governmental entity provides information at the time of the exam to all victims, including victims with limited or no English proficiency, regarding how to obtain reimbursement.

"SEC. 2006. FILING COSTS FOR CRIMINAL CHARGES.

"(a) IN GENERAL.—A State, Indian tribal government, or unit of local government, shall not be entitled to funds under this part unless the State, Indian tribal government, or unit of local government—

"(1) certifies that its laws, policies, and practices do not require, in connection with the prosecution of any misdemeanor or felony domestic violence offense, that the abused bear the

costs associated with the filing of criminal charges against the domestic violence offender, or the costs associated with the issuance or service of a warrant, protection order, or witness subpoena; or

"(2) gives the Attorney General assurances that its laws, policies and practices will be in compliance with the requirements of paragraph (1) within the later of—

"(A) the period ending on the date on which the next session of the State legislature ends; or

"(B) 2 years.

"(b) REDISTRIBUTION.—Funds withheld from a State, unit of local government, or Indian tribal government under subsection (a) shall be distributed to other States, units of local government, and Indian tribal government, respectively, pro rata.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 32101(b), is amended by striking the matter relating to part T and inserting the following:

"PART T—GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN

"Sec. 2001. Purpose of the program and grants.
"Sec. 2002. State grants.
"Sec. 2003. General definitions.
"Sec. 2004. General terms and conditions.
"Sec. 2005. Rape exam payments.
"Sec. 2006. Filing costs for criminal charges.

"PART U—TRANSITION—EFFECTIVE DATE—REPEALER

"Sec. 2101. Continuation of rules, authorities, and proceedings.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793), as amended by section 32101(d), is amended—

(1) in paragraph (3) by striking "and S" and inserting "S, and T"; and

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

"(18) There are authorized to be appropriated to carry out part T—

"(A) $26,000,000 for fiscal year 1995;
"(B) $130,000,000 for fiscal year 1996;
"(C) $145,000,000 for fiscal year 1997;
"(D) $160,000,000 for fiscal year 1998;
"(E) $165,000,000 for fiscal year 1999; and
"(F) $174,000,000 for fiscal year 2000.".

CHAPTER 3—SAFETY FOR WOMEN IN PUBLIC TRANSIT AND PUBLIC PARKS

SEC. 40131. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION.

(a) GENERAL PURPOSE.—There is authorized to be appropriated not to exceed $10,000,000, for the Secretary of Transportation (referred to in this section as the "Secretary") to make capital grants for the prevention of crime and to increase security in existing and future public transportation systems. None of the provisions of this Act may be construed to prohibit the financing of projects under this section where law enforcement responsibilities are vested in a local public body other than the grant applicant.

(b) GRANTS FOR LIGHTING, CAMERA SURVEILLANCE, AND SECURITY PHONES.—

(1) From the sums authorized for expenditure under this section for crime prevention, the Secretary is authorized to make grants and loans to States and local public bodies or agencies for the purpose of increasing the safety of public transportation by—

(A) increasing lighting within or adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages;

(B) increasing camera surveillance of areas within and adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages;

(C) providing emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages; or

(D) any other project intended to increase the security and safety of existing or planned public transportation systems.

(2) From the sums authorized under this section, at least 75 percent shall be expended on projects of the type described in subsection (b)(1)(A) and (B).

(c) REPORTING.—All grants under this section are contingent upon the filing of a report with the Secretary and the Department of Justice, Office of Victims of Crime, showing crime rates in or adjacent to public transportation before, and for a 1-year period after, the capital improvement. Statistics shall be compiled on the basis of the type of crime, sex, race, ethnicity, language, and relationship of victim to the offender.

(d) INCREASED FEDERAL SHARE.—Notwithstanding any other provision of law, the Federal share under this section for each capital improvement project that enhances the safety and security of public transportation systems and that is not required by law (including any other provision of this Act) shall be 90 percent of the net project cost of the project.

(e) SPECIAL GRANTS FOR PROJECTS TO STUDY INCREASING SECURITY FOR WOMEN.—From the sums authorized under this section, the Secretary shall provide grants and loans for the purpose of studying ways to reduce violent crimes against women in public transit through better design or operation of public transit systems.

(f) GENERAL REQUIREMENTS.—All grants or loans provided under this section shall be subject to the same terms, conditions, requirements, and provisions applicable to grants and loans as specified in section 5321 of title 49, United States Code.

SEC. 40132. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN NATIONAL PARKS.

Public Law 91-383 (16 U.S.C. 1a-1 et seq.) is amended by adding at the end the following new section:

"SEC. 13. NATIONAL PARK SYSTEM CRIME PREVENTION ASSISTANCE.

"(a) AVAILABILITY OF FUNDS.—There are authorized to be appropriated out of the Violent Crime Reduction Trust Fund, not to exceed $10,000,000 for the Secretary of the Interior to take all necessary actions to seek to reduce the incidence of violent crime in the National Park System.

"(b) RECOMMENDATIONS FOR IMPROVEMENT.—The Secretary shall direct the chief official responsible for law enforcement within the National Park Service to—

"(1) compile a list of areas within the National Park System with the highest rates of violent crime;

"(2) make recommendations concerning capital improvements, and other measures, needed within the National Park System to reduce the rates of violent crime, including the rate of sexual assault; and

"(3) publish the information required by paragraphs (1) and (2) in the Federal Register.

"(c) DISTRIBUTION OF FUNDS.—Based on the recommendations and list issued pursuant to subsection (b), the Secretary shall distribute the funds authorized by subsection (a) throughout the National Park System. Priority shall be given to those areas with the highest rates of sexual assault.

"(d) USE OF FUNDS.—Funds provided under this section may be used—

"(1) to increase lighting within or adjacent to National Park System units;

"(2) to provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to National Park System units;

"(3) to increase security or law enforcement personnel within or adjacent to National Park System units; or

"(4) for any other project intended to increase the security and safety of National Park System units.".

SEC. 40133. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN PUBLIC PARKS.

Section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-8) is amended by adding at the end the following new subsection:

"(h) CAPITAL IMPROVEMENT AND OTHER PROJECTS TO REDUCE CRIME.—

"(1) AVAILABILITY OF FUNDS.—In addition to assistance for planning projects, and in addition to the projects identified in subsection (e), and from amounts appropriated out of the Violent Crime Reduction Trust Fund, the Secretary may provide financial assistance to the States, not to exceed $15,000,000, for projects or combinations thereof for the purpose of making capital improvements and other measures to increase safety in urban parks and recreation areas, including funds to—

"(A) increase lighting within or adjacent to public parks and recreation areas;

"(B) provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public parks and recreation areas;

"(C) increase security personnel within or adjacent to public parks and recreation areas; and

"(D) fund any other project intended to increase the security and safety of public parks and recreation areas.

"(2) ELIGIBILITY.—In addition to the requirements for project approval imposed by this section, eligibility for assistance under this subsection shall be dependent upon a showing of need. In providing funds under this subsection, the Secretary shall give priority to projects proposed for urban parks and recreation areas with the highest rates of crime and, in particular, to urban parks and recreation areas with the highest rates of sexual assault.

"(3) FEDERAL SHARE.—Notwithstanding subsection (c), the Secretary may provide 70 percent improvement grants for projects undertaken by any State for the purposes described in this subsection, and the remaining share of the cost shall be borne by the State.".

CHAPTER 4—NEW EVIDENTIARY RULES

SEC. 40141. SEXUAL HISTORY IN CRIMINAL AND CIVIL CASES.

(a) MODIFICATION OF PROPOSED AMENDMENT.—The proposed amendments to the Federal Rules of Evidence that are embraced by an order entered by the Supreme Court of the United States on April 29, 1994, shall take effect on December 1, 1994, as otherwise provided by law, but with the amendment made by subsection (b).

(b) RULE.—Rule 412 of the Federal Rules of Evidence is amended to read as follows:

"Rule 412. Sex Offense Cases; Relevance of Alleged Victim's Past Sexual Behavior or Alleged Sexual Predisposition

"(a) EVIDENCE GENERALLY INADMISSIBLE.—The following evidence is not admissible in any civil or criminal proceeding involving alleged sexual misconduct except as provided in subdivisions (b) and (c):

"(1) Evidence offered to prove that any alleged victim engaged in other sexual behavior.

"(2) Evidence offered to prove any alleged victim's sexual predisposition.

"(b) EXCEPTIONS.—

"(1) In a criminal case, the following evidence is admissible, if otherwise admissible under these rules:

"(A) evidence of specific instances of sexual behavior by the alleged victim offered to prove that a person other than the accused was the source of semen, injury or other physical evidence;

"(B) evidence of specific instances of sexual behavior by the alleged victim with respect to the person accused of the sexual misconduct offered by the accused to prove consent or by the prosecution; and

"(C) evidence the exclusion of which would violate the constitutional rights of the defendant.

"(2) In a civil case, evidence offered to prove the sexual behavior or sexual predisposition of any alleged victim is admissible if it is otherwise admissible under these rules and its probative value substantially outweighs the danger of harm to any victim and of unfair prejudice to any party. Evidence of an alleged victim's reputation is admissible only if it has been placed in controversy by the alleged victim.

"(c) PROCEDURE TO DETERMINE ADMISSIBILITY.—

"(1) A party intending to offer evidence under subdivision (b) must—

"(A) file a written motion at least 14 days before trial specifically describing the evidence and stating the purpose for which it is offered unless the court, for good cause requires a different time for filing or permits filing during trial; and

"(B) serve the motion on all parties and notify the alleged victim or, when appropriate, the alleged victim's guardian or representative.

"(2) Before admitting evidence under this rule the court must conduct a hearing in camera and afford the victim and parties a right to attend and be heard. The motion, related papers, and the record of the hearing must be sealed and remain under seal unless the court orders otherwise.".

(c) TECHNICAL AMENDMENT.—The table of contents for the Federal Rules of Evidence is amended by amending the item relating to rule 412 to read as follows:

"412. Sex Offense Cases; Relevance of Alleged Victim's Past Sexual Behavior or Alleged Sexual Predisposition:

"(a) Evidence generally inadmissible.

"(b) Exceptions.

"(c) Procedure to determine admissibility.".

CHAPTER 5—ASSISTANCE TO VICTIMS OF SEXUAL ASSAULT

SEC. 40151. EDUCATION AND PREVENTION GRANTS TO REDUCE SEXUAL ASSAULTS AGAINST WOMEN.

Part A of title XIX of the Public Health and Human Services Act (42 U.S.C. 300w et seq.) is amended by adding at the end the following new section:

"SEC. 1910A. USE OF ALLOTMENTS FOR RAPE PREVENTION EDUCATION.

"(a) PERMITTED USE.—Notwithstanding section 1904(a)(1), amounts transferred by the State for use under this part may be used for rape prevention and education programs conducted by rape crisis centers or similar nongovernmental nonprofit entities for—

"(1) educational seminars;

"(2) the operation of hotlines;

"(3) training programs for professionals;

"(4) the preparation of informational materials; and

"(5) other efforts to increase awareness of the facts about, or to help prevent, sexual assault, including efforts to increase awareness in underserved racial, ethnic, and language minority communities.

"(b) TARGETING OF EDUCATION PROGRAMS.—States providing grant monies must ensure that at least 25 percent of the monies are devoted to education programs targeted for middle school, junior high school, and high school students.

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

"(1) $35,000,000 for fiscal year 1996;

"(2) $35,000,000 for fiscal year 1997;

"(3) $45,000,000 for fiscal year 1998;

"(4) $45,000,000 for fiscal year 1999; and

"(5) $45,000,000 for fiscal year 2000.

"(d) LIMITATION.—Funds authorized under this section may only be used for providing rape prevention and education programs.

"(e) DEFINITION.—For purposes of this section, the term 'rape prevention and education' includes education and prevention efforts directed at offenses committed by offenders who are not known to the victim as well as offenders who are known to the victim.

"(f) TERMS.—The Secretary shall make allotments to each State on the basis of the population of the State, and subject to the conditions provided in this section and sections 1904 through 1909.".

SEC. 40152. TRAINING PROGRAMS.

(a) IN GENERAL.—The Attorney General, after consultation with victim advocates and individuals who have expertise in treating sex offenders, shall establish criteria and develop training programs to assist probation and parole officers and other personnel who work with released sex offenders in the areas of—

(1) case management;

(2) supervision; and

(3) relapse prevention.

(b) TRAINING PROGRAMS.—The Attorney General shall ensure, to the extent practicable, that training programs developed under subsection (a) are available in geographically diverse locations throughout the country.

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

(1) $1,000,000 for fiscal year 1996; and

(2) $1,000,000 for fiscal year 1997.

SEC. 40153. CONFIDENTIALITY OF COMMUNICATIONS BETWEEN SEXUAL ASSAULT OR DOMESTIC VIOLENCE VICTIMS AND THEIR COUNSELORS.

(a) STUDY AND DEVELOPMENT OF MODEL LEGISLATION.—The Attorney General shall—

(1) study and evaluate the manner in which the States have taken measures to protect the confidentiality of communications between sexual assault or domestic violence victims and their therapists or trained counselors;

(2) develop model legislation that will provide the maximum protection possible for the confidentiality of such communications, within any applicable constitutional limits, taking into account the following factors:

(A) the danger that counseling programs for victims of sexual assault and domestic violence will be unable to achieve their goal of helping victims recover from the trauma associated with these crimes if there is no assurance that the records of the counseling sessions will be kept confidential;

(B) consideration of the appropriateness of an absolute privilege for communications between victims of sexual assault or domestic violence and their therapists or trained counselors, in light of the likelihood that such an absolute privilege will provide the maximum guarantee of confidentiality but also in light of the possibility that such an absolute privilege may be held to violate the rights of criminal defendants under the Federal or State constitutions by denying them the opportunity to obtain exculpatory evidence and present it at trial; and

(C) consideration of what limitations on the disclosure of confidential communications between victims of these crimes and their counselors, short of an absolute privilege, are most likely to ensure that the counseling programs will not be undermined, and specifically whether no such disclosure should be allowed unless, at a minimum, there has been a particularized showing by a criminal defendant of a compelling need for records of such communications, and adequate procedural safeguards are in place to prevent unnecessary or damaging disclosures; and

(3) prepare and disseminate to State authorities the findings made and model legislation developed as a result of the study and evaluation.

(b) REPORT AND RECOMMENDATIONS.—Not later than the date that is 1 year after the date of enactment of this Act, the Attorney General shall report to the Congress—

(1) the findings of the study and the model legislation required by this section; and

(2) recommendations based on the findings on the need for and appropriateness of further action by the Federal Government.

(c) REVIEW OF FEDERAL EVIDENTIARY RULES.—The Judicial Conference of the United States shall evaluate and report to Congress its views on whether the Federal Rules of Evidence should be amended, and if so, how they should be amended, to guarantee that the confidentiality of communications between sexual assault victims and their therapists or trained counselors will be adequately protected in Federal court proceedings.

SEC. 40154. INFORMATION PROGRAMS.

The Attorney General shall compile information regarding sex offender treatment programs and ensure that information regarding community treatment programs in the community into which a convicted sex offender is released is made available to each person serving a sentence of imprisonment in a Federal penal or correctional institution for a commission of an offense under chapter 109A of title 18, United States Code, or for the commission of a similar offense, including halfway houses and psychiatric institutions.

SEC. 40155. EDUCATION AND PREVENTION GRANTS TO REDUCE SEXUAL ABUSE OF RUNAWAY, HOMELESS, AND STREET YOUTH.

Part A of the Runaway and Homeless Youth Act (42 U.S.C. 5711 et seq.) is amended—

(1) by redesignating sections 316 and 317 as sections 317 and 318, respectively; and

(2) by inserting after section 315 the following new section:

"GRANTS FOR PREVENTION OF SEXUAL ABUSE AND EXPLOITATION

"SEC. 316. (a) IN GENERAL.—The Secretary shall make grants under this section to private, nonprofit agencies for street-based outreach and education, including treatment, counseling, provision of information, and referral for runaway, homeless, and street youth who have been subjected to or are at risk of being subjected to sexual abuse.

"(b) PRIORITY.—In selecting among applicants for grants under subsection (a), the Secretary shall give priority to agencies that have experience in providing services to runaway, homeless, and street youth.

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

"(1) $7,000,000 for fiscal year 1996;

"(2) $8,000,000 for fiscal year 1997; and

"(3) $15,000,000 for fiscal year 1998.

"(d) DEFINITIONS.—For the purposes of this section—

"(1) the term 'street-based outreach and education' includes education and prevention efforts directed at offenses committed by offenders who are not known to the victim as well as offenders who are known to the victim; and

"(2) the term 'street youth' means a juvenile who spends a significant amount of time on the street or in other areas of exposure to encounters that may lead to sexual abuse.".

SEC. 40156. VICTIMS OF CHILD ABUSE PROGRAMS.

(a) COURT-APPOINTED SPECIAL ADVOCATE PROGRAM.—

(1) REAUTHORIZATION.—Section 218(a) of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13014(a)) is amended to read as follows:

"(a) AUTHORIZATION.—There are authorized to be appropriated to carry out this subtitle—

"(1) $6,000,000 for fiscal year 1996;

"(2) $6,000,000 for fiscal year 1997;

"(3) $7,000,000 for fiscal year 1998;

"(4) $9,000,000 for fiscal year 1999; and

"(5) $10,000,000 for fiscal year 2000.".

(2) TECHNICAL AMENDMENT.—Section 216 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13012) is amended by striking "this chapter" and inserting "this subtitle".

(b) CHILD ABUSE TRAINING PROGRAMS FOR JUDICIAL PERSONNEL AND PRACTITIONERS.—

(1) REAUTHORIZATION.—Section 224(a) of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13024(a)) is amended to read as follows:

"(a) AUTHORIZATION.—There are authorized to be appropriated to carry out this subtitle—

"(1) $750,000 for fiscal year 1996;

"(2) $1,000,000 for fiscal year 1997;

"(3) $2,000,000 for fiscal year 1998;

"(4) $2,000,000 for fiscal year 1999; and

"(5) $2,300,000 for fiscal year 2000.".

(2) TECHNICAL AMENDMENT.—Section 221(b) of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13021(b)) is amended by striking "this chapter" and inserting "this subtitle".

(c) GRANTS FOR TELEVISED TESTIMONY.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) by amending section 1001(a)(7) (42 U.S.C. 3793(a)(7)) to read as follows:

"(7) There are authorized to be appropriated to carry out part N—

"(A) $250,000 for fiscal year 1996;

"(B) $1,000,000 for fiscal year 1997;

"(C) $1,000,000 for fiscal year 1998;

"(D) $1,000,000 for fiscal year 1999; and

"(E) $1,000,000 for fiscal year 2000.";

(2) in section 1402 (42 U.S.C. 3796aa-1) by striking "to States, for the use of States and units of local government in the States";

(3) in section 1403 (42 U.S.C. 3796aa-2)—

(A) by inserting "or unit of local government" after "of a State";

(B) by inserting "and" after paragraph (1);

(C) in paragraph (2) by striking the semicolon at the end and inserting a period; and

(D) by striking paragraphs (3) and (4);

(4) in section 1404 (42 U.S.C. 3796aa-3)—

(A) in subsection (a)—

(i) by striking "The Bureau" and all that follows through "determining that" and inserting "An applicant is eligible to receive a grant under this part if—";

(ii) in paragraph (1) by striking "there is in effect in such State" and inserting "the applicant certifies and the Director determines that there is in effect in the State";

(iii) in paragraph (2) by striking "such State law shall meet" and inserting "the applicant certifies and the Director determines that State law meets";

(iv) by inserting "and" after subparagraph (E);

(v) in paragraph (3)—

(I) by inserting "the Director determines that" before "the application"; and

(II) by striking "; and" and inserting a period;

(vi) by striking paragraph (4);

(vii) by striking "Each application" and inserting the following:

"(b) Each application"; and

(viii) by striking "the Bureau" each place it appears and inserting "the Director"; and

(B) by redesignating subsection (b) as subsection (c) and by striking "The Bureau" and inserting "The Director";

(5) by striking section 1405 (42 U.S.C. 3796aa-4);

(6) in section 1406 (42 U.S.C. 3796aa-5)—

(A) in subsection (a)—

(i) by striking "State which" and inserting "State or unit of local government that";

(ii) by striking "title" and inserting "part"; and

(iii) in paragraph (1) by striking "State"; and

(B) in subsection (b)(1) by striking "such State" and inserting "the State and units of local government in the State";

(7) in section 1407 (42 U.S.C. 3796aa-6)—

(A) in subsection (c)—

(i) by striking "Each State" and all that follows through "effective audit" and inserting "Grant recipients (or private organizations with which grant recipients have contracted to provide equipment or training using grant funds) shall keep such records as the Director may require by rule to facilitate such an audit."; and

(ii) in paragraph (2) by striking "States which receive grants, and of units of local government which receive any part of a grant made under this part" and inserting "grant recipients (or private organizations with which grant recipients have contracted to provide equipment or training using grant funds)"; and

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

"(d) UTILIZATION OF PRIVATE SECTOR.—Nothing in this part shall prohibit the utilization of any grant funds to contract with a private organization to provide equipment or training for the televising of testimony as contemplated by the application submitted by an applicant.";

(8) by striking section 1408 (42 U.S.C. 3796aa-7); and

(9) in the table of contents—

(A) in the item relating to section 1405 by striking "Allocation and distribution of funds under formula grants" and inserting "(Repealed)"; and

(B) in the item relating to section 1408 by striking "State office" and inserting "(Repealed)".

Subtitle B—Safe Homes for Women

SEC. 40201. SHORT TITLE.

This title may be cited as the "Safe Homes for Women Act of 1994".

CHAPTER 1—NATIONAL DOMESTIC VIOLENCE HOTLINE

SEC. 40211. GRANT FOR A NATIONAL DOMESTIC VIOLENCE HOTLINE.

The Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.) is amended by adding at the end the following new section:

"SEC. 316. NATIONAL DOMESTIC VIOLENCE HOTLINE GRANT.

"(a) IN GENERAL.—The Secretary may award a grant to a private, nonprofit entity to provide for the operation of a national, toll-free telephone hotline to provide information and assistance to victims of domestic violence.

"(b) DURATION.—A grant under this section may extend over a period of not more than 5 years.

"(c) ANNUAL APPROVAL.—The provision of payments under a grant under this section shall be subject to annual approval by the Secretary and subject to the availability of appropriations for each fiscal year to make the payments.

"(d) ACTIVITIES.—Funds received by an entity under this section shall be used to establish and operate a national, toll-free telephone hotline to provide information and assistance to victims of domestic violence. In establishing and operating the hotline, a private, nonprofit entity shall—

"(1) contract with a carrier for the use of a toll-free telephone line;

"(2) employ, train, and supervise personnel to answer incoming calls and provide counseling and referral services to callers on a 24-hour-a-day basis;

"(3) assemble and maintain a current database of information relating to services for victims of domestic violence to which callers may be referred throughout the United States, including information on the availability of shelters that serve battered women; and

"(4) publicize the hotline to potential users throughout the United States.

"(e) APPLICATION.—A grant may not be made under this section unless an application for such grant has been approved by the Secretary. To be approved by the Secretary under this subsection an application shall—

"(1) contain such agreements, assurances, and information, be in such form and be submitted in such manner as the Secretary shall prescribe through notice in the Federal Register;

"(2) include a complete description of the applicant's plan for the operation of a national domestic violence hotline, including descriptions of—

"(A) the training program for hotline personnel;

"(B) the hiring criteria for hotline personnel;

"(C) the methods for the creation, maintenance and updating of a resource database;

"(D) a plan for publicizing the availability of the hotline;

"(E) a plan for providing service to non-English speaking callers, including hotline personnel who speak Spanish; and

"(F) a plan for facilitating access to the hotline by persons with hearing impairments;

"(3) demonstrate that the applicant has nationally recognized expertise in the area of domestic violence and a record of high quality service to victims of domestic violence, including a demonstration of support from advocacy groups, such as domestic violence State coalitions or recognized national domestic violence groups;

"(4) demonstrates that the applicant has a commitment to diversity, and to the provision of services to ethnic, racial, and non-English speaking minorities, in addition to older individuals and individuals with disabilities; and

"(5) contain such other information as the Secretary may require.

"(f) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section—

"(A) $1,000,000 for fiscal year 1995;

"(B) $400,000 for fiscal year 1996;

"(C) $400,000 for fiscal year 1997;

"(D) $400,000 for fiscal year 1998;

"(E) $400,000 for fiscal year 1999; and

"(F) $400,000 for fiscal year 2000.

"(2) AVAILABILITY.—Funds authorized to be appropriated under paragraph (1) shall remain available until expended.".

CHAPTER 2—INTERSTATE ENFORCEMENT

SEC. 40221. INTERSTATE ENFORCEMENT.

(a) IN GENERAL.—Part 1 of title 18, United States Code, is amended by inserting after chapter 110 the following new chapter:

"CHAPTER 110A—DOMESTIC VIOLENCE

"Sec. 2261. Interstate domestic violence.
"Sec. 2262. Interstate violation of protection order.
"Sec. 2263. Pretrial release of defendant.
"Sec. 2264. Restitution.
"Sec. 2265. Full faith and credit given to protection orders.
"Sec. 2266. Definitions.

"§2261. Interstate domestic violence

"(a) OFFENSES.—

"(1) CROSSING A STATE LINE.—A person who travels across a State line or enters or leaves Indian country with the intent to injure, harass, or intimidate that person's spouse or intimate partner, and who, in the course of or as a result of such travel, intentionally commits a crime of violence and thereby causes bodily injury to

such spouse or intimate partner, shall be punished as provided in subsection (b).

"(2) CAUSING THE CROSSING OF A STATE LINE.—A person who causes a spouse or intimate partner to cross a State line or to enter or leave Indian country by force, coercion, duress, or fraud and, in the course or as a result of that conduct, intentionally commits a crime of violence and thereby causes bodily injury to the person's spouse or intimate partner, shall be punished as provided in subsection (b).

"(b) PENALTIES.—A person who violates this section shall be fined under this title, imprisoned—

"(1) for life or any term of years, if death of the offender's spouse or intimate partner results;

"(2) for not more than 20 years if permanent disfigurement or life threatening bodily injury to the offender's spouse or intimate partner results;

"(3) for not more than 10 years, if serious bodily injury to the offender's spouse or intimate partner results or if the offender uses a dangerous weapon during the offense;

"(4) as provided for the applicable conduct under chapter 109A if the offense would constitute an offense under chapter 109A (without regard to whether the offense was committed in the special maritime and territorial jurisdiction of the United States or in a Federal prison); and

"(5) for not more than 5 years, in any other case,

or both fined and imprisoned.

"§2262. Interstate violation of protection order

"(a) OFFENSES.—

"(1) CROSSING A STATE LINE.—A person who travels across a State line or enters or leaves Indian country with the intent to engage in conduct that—

"(A)(i) violates the portion of a protection order that involves protection against credible threats of violence, repeated harassment, or bodily injury to the person or persons for whom the protection order was issued; or

"(ii) would violate subparagraph (A) if the conduct occurred in the jurisdiction in which the order was issued; and

"(B) subsequently engages in such conduct, shall be punished as provided in subsection (b).

"(2) CAUSING THE CROSSING OF A STATE LINE.—A person who causes a spouse or intimate partner to cross a State line or to enter or leave Indian country by force, coercion, duress, or fraud, and, in the course or as a result of that conduct, intentionally commits an act that injures the person's spouse or intimate partner in violation of a valid protection order issued by a State shall be punished as provided in subsection (b).

"(b) PENALTIES.—A person who violates this section shall be fined under this title, imprisoned—

"(1) for life or any term of years, if death of the offender's spouse or intimate partner results;

"(2) for not more than 20 years if permanent disfigurement or life threatening bodily injury to the offender's spouse or intimate partner results;

"(3) for not more than 10 years, if serious bodily injury to the offender's spouse or intimate partner results or if the offender uses a dangerous weapon during the offense;

"(4) as provided for the applicable conduct under chapter 109A if the offense would constitute an offense under chapter 109A (without regard to whether the offense was committed in the special maritime and territorial jurisdiction of the United States or in a Federal prison); and

"(5) for not more than 5 years, in any other case,

or both fined and imprisoned.

"§2263. Pretrial release of defendant

"In any proceeding pursuant to section 3142 for the purpose of determining whether a defendant charged under this chapter shall be released pending trial, or for the purpose of determining conditions of such release, the alleged victim shall be given an opportunity to be heard regarding the danger posed by the defendant.

"§2264. Restitution

"(a) IN GENERAL.—Notwithstanding section 3663, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—

"(1) DIRECTIONS.—The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court, pursuant to paragraph (3); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) ENFORCEMENT BY VICTIM.—An order of restitution also may be enforced by a victim named in the order to receive the restitution in the same manner as a judgment in a civil action.

"(3) DEFINITION.—For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation;

"(C) necessary transportation, temporary housing, and child care expenses;

"(D) lost income;

"(E) attorneys' fees, plus any costs incurred in obtaining a civil protection order; and

"(F) any other losses suffered by the victim as a proximate result of the offense.

"(4) ORDER MANDATORY.—(A) The issuance of a restitution order under this section is mandatory.

"(B) A court may not decline to issue an order under this section because of—

"(i) the economic circumstances of the defendant; or

"(ii) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

"(C)(i) Notwithstanding subparagraph (A), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid.

"(ii) For purposes of this subparagraph, the term 'economic circumstances' includes—

"(I) the financial resources and other assets of the defendant;

"(II) projected earnings, earning capacity, and other income of the defendant; and

"(III) any financial obligations of the defendant, including obligations to dependents.

"(D) Subparagraph (A) does not apply if—

"(i) the court finds on the record that the economic circumstances of the defendant do not allow for the payment of any amount of a restitution order, and do not allow for the payment of any or some portion of the amount of a restitution order in the foreseeable future (under any reasonable schedule of payments); and

"(ii) the court enters in its order the amount of the victim's losses, and provides a nominal restitution award.

"(5) MORE THAN 1 OFFENDER.—When the court finds that more than 1 offender has contributed to the loss of a victim, the court may make each offender liable for payment of the full amount of restitution or may apportion liability among the offenders to reflect the level of contribution and economic circumstances of each offender.

"(6) MORE THAN 1 VICTIM.—When the court finds that more than 1 victim has sustained a loss requiring restitution by an offender, the court shall order full restitution of each victim but may provide for different payment schedules to reflect the economic circumstances of each victim.

"(7) PAYMENT SCHEDULE.—An order under this section may direct the defendant to make a single lump-sum payment or partial payments at specified intervals.

"(8) SETOFF.—Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(9) EFFECT ON OTHER SOURCES OF COMPENSATION.—The issuance of a restitution order shall not affect the entitlement of a victim to receive compensation with respect to a loss from insurance or any other source until the payments actually received by the victim under the restitution order fully compensate the victim for the loss.

"(10) CONDITION OF PROBATION OR SUPERVISED RELEASE.—Compliance with a restitution order issued under this section shall be a condition of any probation or supervised release of a defendant. If an offender fails to comply with a restitution order, the court may, after a hearing, revoke probation or a term of supervised release, modify the terms or conditions of probation or a term of supervised release, or hold the defendant in contempt pursuant to section 3583(e). In determining whether to revoke probation or a term of supervised release, modify the terms or conditions of probation or supervised release or hold a defendant serving a term of supervised release in contempt, the court shall consider the defendant's employment status, earning ability and financial resources, the willfulness of the defendant's failure to comply, and any other circumstances that may have a bearing on the defendant's ability to comply.

"(c) AFFIDAVIT.—Within 60 days after conviction and, in any event, not later than 10 days before sentencing, the United States Attorney (or such Attorney's delegate), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or the delegate) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or the delegate) shall advise the victim that the victim may file a separate affidavit and assist the victim in the preparation of the affidavit.

"(d) OBJECTION.—If, after the defendant has been notified of the affidavit, no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to subsection (a) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or the United States Attorney's delegate) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(e) ADDITIONAL DOCUMENTATION AND TESTIMONY.—If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. The privacy of any records filed, or testimony heard, pursuant to this section, shall be maintained to the greatest extent possible, and such records may be filed or testimony heard in camera.

"(f) FINAL DETERMINATION OF LOSSES.—If the victim's losses are not ascertainable 10 days before sentencing as provided in subsection (c), the United States Attorney (or the United States

Attorney's delegate) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 90 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(g) RESTITUTION IN ADDITION TO PUNISHMENT.—An award of restitution to the victim of an offense under this chapter is not a substitute for imposition of punishment under this chapter.

"§2265. Full faith and credit given to protection orders

"(a) FULL FAITH AND CREDIT.—Any protection order issued that is consistent with subsection (b) of this section by the court of one State or Indian tribe (the issuing State or Indian tribe) shall be accorded full faith and credit by the court of another State or Indian tribe (the enforcing State or Indian tribe) and enforced as if it were the order of the enforcing State or tribe.

"(b) PROTECTION ORDER.—A protection order issued by a State or tribal court is consistent with this subsection if—

"(1) such court has jurisdiction over the parties and matter under the law of such State or Indian tribe; and

"(2) reasonable notice and opportunity to be heard is given to the person against whom the order is sought sufficient to protect that person's right to due process. In the case of ex parte orders, notice and opportunity to be heard must be provided within the time required by State or tribal law, and in any event within a reasonable time after the order is issued, sufficient to protect the respondent's due process rights.

"(c) CROSS OR COUNTER PETITION.—A protection order issued by a State or tribal court against one who has petitioned, filed a complaint, or otherwise filed a written pleading for protection against abuse by a spouse or intimate partner is not entitled to full faith and credit if—

"(1) no cross or counter petition, complaint, or other written pleading was filed seeking such a protection order; or

"(2) a cross or counter petition has been filed and the court did not make specific findings that each party was entitled to such an order.

"§2266. Definitions

"In this chapter—

"'bodily injury' means any act, except one done in self-defense, that results in physical injury or sexual abuse.

"'Indian country' has the meaning stated in section 1151.

"'protection order' includes any injunction or other order issued for the purpose of preventing violent or threatening acts or harassment against, or contact or communication with or physical proximity to, another person, including temporary and final orders issued by civil and criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil order was issued in response to a complaint, petition or motion filed by or on behalf of a person seeking protection.

"'spouse or intimate partner' includes—

"(A) a spouse, a former spouse, a person who shares a child in common with the abuser, and a person who cohabits or has cohabited with the abuser as a spouse; and

"(B) any other person similarly situated to a spouse who is protected by the domestic or family violence laws of the State in which the injury occurred or where the victim resides.

"'State' includes a State of the United States, the District of Columbia, a commonwealth, territory, or possession of the United States.

"'travel across State lines' does not include travel across State lines by an individual who is a member of an Indian tribe when such individual remains at all times in the territory of the Indian tribe of which the individual is a member.".

(b) TECHNICAL AMENDMENT.—The part analysis for part I of title 18, United States Code, is amended by inserting after the item for chapter 110 the following new item:

"110A. Domestic violence ..... 2261.".

CHAPTER 3—ARREST POLICIES IN DOMESTIC VIOLENCE CASES

SEC. 40231. ENCOURAGING ARREST POLICIES.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 40121(a), is amended—

(1) by redesignating part U as part V;

(2) by redesignating section 2101 as section 2201; and

(3) by inserting after part T the following new part:

"PART U—GRANTS TO ENCOURAGE ARREST POLICIES

"SEC. 2101. GRANTS.

"(a) PURPOSE.—The purpose of this part is to encourage States, Indian tribal governments, and units of local government to treat domestic violence as a serious violation of criminal law.

"(b) GRANT AUTHORITY.—The Attorney General may make grants to eligible States, Indian tribal governments, or units of local government for the following purposes:

"(1) To implement mandatory arrest or proarrest programs and policies in police departments, including mandatory arrest programs and policies for protection order violations.

"(2) To develop policies and training in police departments to improve tracking of cases involving domestic violence.

"(3) To centralize and coordinate police enforcement, prosecution, or judicial responsibility for domestic violence cases in groups or units of police officers, prosecutors, or judges.

"(4) To coordinate computer tracking systems to ensure communication between police, prosecutors, and both criminal and family courts.

"(5) To strengthen legal advocacy service programs for victims of domestic violence.

"(6) To educate judges in criminal and other courts about domestic violence and to improve judicial handling of such cases.

"(c) ELIGIBILITY.—Eligible grantees are States, Indian tribal governments, or units of local government that—

"(1) certify that their laws or official policies—

"(A) encourage or mandate arrests of domestic violence offenders based on probable cause that an offense has been committed; and

"(B) encourage or mandate arrest of domestic violence offenders who violate the terms of a valid and outstanding protection order;

"(2) demonstrate that their laws, policies, or practices and their training programs discourage dual arrests of offender and victim;

"(3) certify that their laws, policies, or practices prohibit issuance of mutual restraining orders of protection except in cases where both spouses file a claim and the court makes detailed findings of fact indicating that both spouses acted primarily as aggressors and that neither spouse acted primarily in self-defense; and

"(4) certify that their laws, policies, or practices do not require, in connection with the prosecution of any misdemeanor or felony domestic violence offense, that the abused bear the costs associated with the filing of criminal charges or the service of such charges on an abuser, or that the abused bear the costs associated with the issuance or service of a warrant, protection order, or witness subpoena.

"SEC. 2102. APPLICATIONS.

"(a) APPLICATION.—An eligible grantee shall submit an application to the Attorney General that—

"(1) contains a certification by the chief executive officer of the State, Indian tribal government, or local government entity that the conditions of section 2101(c) are met or will be met within the later of—

"(A) the period ending on the date on which the next session of the State or Indian tribal legislature ends; or

"(B) 2 years of the date of enactment of this part;

"(2) describes plans to further the purposes stated in section 2101(a);

"(3) identifies the agency or office or groups of agencies or offices responsible for carrying out the program; and

"(4) includes documentation from nonprofit, private sexual assault and domestic violence programs demonstrating their participation in developing the application, and identifying such programs in which such groups will be consulted for development and implementation.

"(b) PRIORITY.—In awarding grants under this part, the Attorney General shall give priority to applicants that—

"(1) do not currently provide for centralized handling of cases involving domestic violence by police, prosecutors, and courts; and

"(2) demonstrate a commitment to strong enforcement of laws, and prosecution of cases, involving domestic violence.

"SEC. 2103. REPORTS.

"Each grantee receiving funds under this part shall submit a report to the Attorney General evaluating the effectiveness of projects developed with funds provided under this part and containing such additional information as the Attorney General may prescribe.

"SEC. 2104. REGULATIONS OR GUIDELINES.

"Not later than 120 days after the date of enactment of this part, the Attorney General shall publish proposed regulations or guidelines implementing this part. Not later than 180 days after the date of enactment of this part, the Attorney General shall publish final regulations or guidelines implementing this part.

"SEC. 2105. DEFINITIONS.

"For purposes of this part—

"(1) the term 'domestic violence' includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other adult person against a victim who is protected from that person's acts under the domestic or family violence laws of the eligible State, Indian tribal government, or unit of local government that receives a grant under this part; and

"(2) the term 'protection order' includes any injunction issued for the purpose of preventing violent or threatening acts of domestic violence, including temporary and final orders issued by civil or criminal courts (other than support or child custody orders or provisions) whether obtained by filing an independent action or as a pendente lite order in another proceeding.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et

seq.), as amended by section 40121(b), is amended by striking the matter relating to part U and inserting the following:

"PART U—GRANTS TO ENCOURAGE ARREST POLICIES

"Sec. 2101. Grants.
"Sec. 2102. Applications.
"Sec. 2103. Reports.
"Sec. 2104. Regulations or guidelines.
"Sec. 2105. Definitions.

"PART V—TRANSITION—EFFECTIVE DATE—REPEALER

"Sec. 2201. Continuation of rules, authorities, and proceedings.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793), as amended by section 40121(c), is amended—

(1) in paragraph (3) by striking "and T" and inserting "T, and U"; and

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

"(19) There are authorized to be appropriated to carry out part U—

"(A) $28,000,000 for fiscal year 1996;
"(B) $33,000,000 for fiscal year 1997; and
"(C) $59,000,000 for fiscal year 1998.

(d) ADMINISTRATIVE PROVISIONS.—

(1) REGULATIONS.—Section 801(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3782(b)), is amended by striking "and O" and inserting "O, and U".

(2) DENIAL OF APPLICATION.—Section 802(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3783(b)) is amended in the first sentence by striking "or O" and inserting "O, or U".

CHAPTER 4—SHELTER GRANTS

SEC. 40241. GRANTS FOR BATTERED WOMEN'S SHELTERS.

Section 310(a) of the Family Violence Prevention and Services Act (42 U.S.C. 10409(a)) is amended to read as follows:

"(a) IN GENERAL.—There are authorized to be appropriated to carry out this title—

"(1) $50,000,000 for fiscal year 1996;
"(2) $60,000,000 for fiscal year 1997;
"(3) $70,000,000 for fiscal year 1998;
"(4) $72,500,000 for fiscal year 1999; and
"(5) $72,500,000 for fiscal year 2000.".

CHAPTER 5—YOUTH EDUCATION

SEC. 40251. YOUTH EDUCATION AND DOMESTIC VIOLENCE.

The Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.), as amended by section 40211, is amended by adding at the end the following new section:

"SEC. 317. YOUTH EDUCATION AND DOMESTIC VIOLENCE.

"(a) GENERAL PURPOSE.—For purposes of this section, the Secretary may, in consultation with the Secretary of Education, select, implement and evaluate 4 model programs for education of young people about domestic violence and violence among intimate partners.

"(b) NATURE OF PROGRAM.—The Secretary shall select, implement and evaluate separate model programs for 4 different audiences: primary schools, middle schools, secondary schools, and institutions of higher education. The model programs shall be selected, implemented, and evaluated in consultation with educational experts, legal and psychological experts on battering, and victim advocate organizations such as battered women's shelters, State coalitions and resource centers.

"(c) REVIEW AND DISSEMINATION.—Not later than 2 years after the date of enactment of this section, the Secretary shall transmit the design and evaluation of the model programs, along with a plan and cost estimate for nationwide distribution, to the relevant committees of Congress for review.

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

$400,000 for fiscal year 1996.

CHAPTER 6—COMMUNITY PROGRAMS ON DOMESTIC VIOLENCE

SEC. 40261. ESTABLISHMENT OF COMMUNITY PROGRAMS ON DOMESTIC VIOLENCE.

The Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.), as amended by section 40251, is amended by adding at the end the following new section:

"SEC. 318. DEMONSTRATION GRANTS FOR COMMUNITY INITIATIVES.

"(a) IN GENERAL.—The Secretary shall provide grants to nonprofit private organizations to establish projects in local communities involving many sectors of each community to coordinate intervention and prevention of domestic violence.

"(b) ELIGIBILITY.—To be eligible for a grant under this section, an entity—

"(1) shall be a nonprofit organization organized for the purpose of coordinating community projects for the intervention in and prevention of domestic violence; and

"(2) shall include representatives of pertinent sectors of the local community, which may include—

"(A) health care providers;
"(B) the education community;
"(C) the religious community;
"(D) the justice system;
"(E) domestic violence program advocates;
"(F) human service entities such as State child services divisions;
"(G) business and civic leaders; and
"(H) other pertinent sectors.

"(c) APPLICATIONS.—An organization that desires to receive a grant under this section shall submit to the Secretary an application, in such form and in such manner as the Secretary shall prescribe through notice in the Federal Register, that—

"(1) demonstrates that the applicant will serve a community leadership function, bringing together opinion leaders from each sector of the community to develop a coordinated community consensus opposing domestic violence;

"(2) demonstrates a community action component to improve and expand current intervention and prevention strategies through increased communication and coordination among all affected sectors;

"(3) includes a complete description of the applicant's plan for the establishment and operation of the community project, including a description of—

"(A) the method for identification and selection of an administrative committee made up of persons knowledgeable in domestic violence to oversee the project, hire staff, assure compliance with the project outline, and secure annual evaluation of the project;

"(B) the method for identification and selection of project staff and a project evaluator;

"(C) the method for identification and selection of a project council consisting of representatives of the community sectors listed in subsection (b)(2);

"(D) the method for identification and selection of a steering committee consisting of representatives of the various community sectors who will chair subcommittees of the project council focusing on each of the sectors; and

"(E) a plan for developing outreach and public education campaigns regarding domestic violence; and

"(4) contains such other information, agreements, and assurances as the Secretary may require.

"(d) TERM.—A grant provided under this section may extend over a period of not more than 3 fiscal years.

"(e) CONDITIONS ON PAYMENT.—Payments under a grant under this section shall be subject to—

"(1) annual approval by the Secretary; and
"(2) availability of appropriations.

"(f) GEOGRAPHICAL DISPERSION.—The Secretary shall award grants under this section to organizations in communities geographically dispersed throughout the country.

"(g) USE OF GRANT MONIES.—

"(1) IN GENERAL.—A grant made under subsection (a) shall be used to establish and operate a community project to coordinate intervention and prevention of domestic violence.

"(2) REQUIREMENTS.—In establishing and operating a project, a nonprofit private organization shall—

"(A) establish protocols to improve and expand domestic violence intervention and prevention strategies among all affected sectors;

"(B) develop action plans to direct responses within each community sector that are in conjunction with development in all other sectors; and

"(C) provide for periodic evaluation of the project with a written report and analysis to assist application of this concept in other communities.

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

"(1) $4,000,000 for fiscal year 1996; and
"(2) $6,000,000 for fiscal year 1997.

"(i) REGULATIONS.—Not later than 60 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section. Not later than 120 days after the date of enactment, the Secretary shall publish final regulations implementing this section.".

CHAPTER 7—FAMILY VIOLENCE PREVENTION AND SERVICES ACT AMENDMENTS

SEC. 40271. GRANTEE REPORTING.

(a) SUBMISSION OF APPLICATION.—Section 303(a)(2)(C) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(a)(2)(C)) is amended by inserting "and a plan to address the needs of underserved populations, including populations underserved because of ethnic, racial, cultural, language diversity or geographic isolation" after "such State".

(b) APPROVAL OF APPLICATION.—Section 303(a) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(a)) is amended by adding at the end the following new paragraph:

"(4) Upon completion of the activities funded by a grant under this subpart, the State grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this subpart. A section of this performance report shall be completed by each grantee or subgrantee that performed the direct services contemplated in the application certifying performance of direct services under the grant. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report or if the funds are expended for purposes other than those set forth under this subpart, after following the procedures set forth in paragraph (3). Federal funds may be used only to supplement, not supplant, State funds.".

SEC. 40272. TECHNICAL AMENDMENTS.

(a) DEFINITIONS.—Section 309(5)(B) of the Family Violence Prevention and Services Act (42 U.S.C. 10408(5)(B)) is amended by inserting "or other supportive services" before "by peers individually or in groups,".

(b) SPECIAL ISSUE RESOURCE CENTERS.—

(1) GRANTS.—Section 308(a)(2) of the Family Violence Prevention and Services Act (42 U.S.C. 10407(a)(2)) is amended by striking "six" and inserting "seven".

(2) FUNCTIONS.—Section 308(c) of the Family Violence Prevention and Services Act (42 U.S.C. 10407(c)) is amended—

(A) by striking the period at the end of paragraph (6) and inserting ", including the issuance and enforcement of protection orders."; and

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

"(7) Providing technical assistance and training to State domestic violence coalitions.".

(c) STATE DOMESTIC VIOLENCE COALITIONS.—Section 311(a) of the Family Violence Prevention and Services Act (42 U.S.C. 10410(a)) is amended—

(1) by redesignating paragraphs (1), (2), (3), and (4) as paragraphs (2), (3), (4), and (5);

(2) by inserting before paragraph (2), as redesignated by paragraph (1), the following new paragraph:

"(1) working with local domestic violence programs and providers of direct services to encourage appropriate responses to domestic violence within the State, including—

"(A) training and technical assistance for local programs and professionals working with victims of domestic violence;

"(B) planning and conducting State needs assessments and planning for comprehensive services;

"(C) serving as an information clearinghouse and resource center for the State; and

"(D) collaborating with other governmental systems which affect battered women;";

(3) in paragraph (2)(K), as redesignated by paragraph (1), by striking "and court officials and other professionals" and inserting ", judges, court officers and other criminal justice professionals,";

(4) in paragraph (3), as redesignated by paragraph (1)—

(A) by inserting ", criminal court judges," after "family law judges," each place it appears;

(B) in subparagraph (F), by inserting "custody" after "temporary"; and

(C) in subparagraph (H), by striking "supervised visitations that do not endanger victims and their children," and inserting "supervised visitations or denial of visitation to protect against danger to victims or their children"; and

(5) in paragraph (4), as redesignated by paragraph (1), by inserting ", including information aimed at underserved racial, ethnic or language-minority populations" before the semicolon.

CHAPTER 8—CONFIDENTIALITY FOR ABUSED PERSONS

SEC. 40281. CONFIDENTIALITY OF ABUSED PERSON'S ADDRESS.

(a) REGULATIONS.—Not later than 90 days after the date of enactment of this Act, the United States Postal Service shall promulgate regulations to secure the confidentiality of domestic violence shelters and abused persons' addresses.

(b) REQUIREMENTS.—The regulations under subsection (a) shall require—

(1) in the case of an individual, the presentation to an appropriate postal official of a valid, outstanding protection order; and

(2) in the case of a domestic violence shelter, the presentation to an appropriate postal authority of proof from a State domestic violence coalition that meets the requirements of section 311 of the Family Violence Prevention and Services Act (42 U.S.C. 10410)) verifying that the organization is a domestic violence shelter.

(c) DISCLOSURE FOR CERTAIN PURPOSES.—The regulations under subsection (a) shall not prohibit the disclosure of addresses to State or Federal agencies for legitimate law enforcement or other governmental purposes.

(d) EXISTING COMPILATIONS.—Compilations of addresses existing at the time at which order is presented to an appropriate postal official shall be excluded from the scope of the regulations under subsection (a).

CHAPTER 9—DATA AND RESEARCH

SEC. 40291. RESEARCH AGENDA.

(a) REQUEST FOR CONTRACT.—The Attorney General shall request the National Academy of Sciences, through its National Research Council, to enter into a contract to develop a research agenda to increase the understanding and control of violence against women, including rape and domestic violence. In furtherance of the contract, the National Academy shall convene a panel of nationally recognized experts on violence against women, in the fields of law, medicine, criminal justice, and direct services to victims and experts on domestic violence in diverse, ethnic, social, and language minority communities and the social sciences. In setting the agenda, the Academy shall focus primarily on preventive, educative, social, and legal strategies, including addressing the needs of underserved populations.

(b) DECLINATION OF REQUEST.—If the National Academy of Sciences declines to conduct the study and develop a research agenda, it shall recommend a nonprofit private entity that is qualified to conduct such a study. In that case, the Attorney General shall carry out subsection (a) through the nonprofit private entity recommended by the Academy. In either case, whether the study is conducted by the National Academy of Sciences or by the nonprofit group it recommends, the funds for the contract shall be made available from sums appropriated for the conduct of research by the National Institute of Justice.

(c) REPORT.—The Attorney General shall ensure that no later than 1 year after the date of enactment of this Act, the study required under subsection (a) is completed and a report describing the findings made is submitted to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives.

SEC. 40292. STATE DATABASES.

(a) IN GENERAL.—The Attorney General shall study and report to the States and to Congress on how the States may collect centralized databases on the incidence of sexual and domestic violence offenses within a State.

(b) CONSULTATION.—In conducting its study, the Attorney General shall consult persons expert in the collection of criminal justice data, State statistical administrators, law enforcement personnel, and nonprofit nongovernmental agencies that provide direct services to victims of domestic violence. The final report shall set forth the views of the persons consulted on the recommendations.

(c) REPORT.—The Attorney General shall ensure that no later than 1 year after the date of enactment of this Act, the study required under subsection (a) is completed and a report describing the findings made is submitted to the Committees on the Judiciary of the Senate and the House of Representatives.

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

$200,000 for fiscal year 1996.

SEC. 40293. NUMBER AND COST OF INJURIES.

(a) STUDY.—The Secretary of Health and Human Services, acting through the Centers for Disease Control Injury Control Division, shall conduct a study to obtain a national projection of the incidence of injuries resulting from domestic violence, the cost of injuries to health care facilities, and recommend health care strategies for reducing the incidence and cost of such injuries.

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

$100,000 for fiscal year 1996.

CHAPTER 10—RURAL DOMESTIC VIOLENCE AND CHILD ABUSE ENFORCEMENT

SEC. 40295. RURAL DOMESTIC VIOLENCE AND CHILD ABUSE ENFORCEMENT ASSISTANCE.

(a) GRANTS.—The Attorney General may make grants to States, Indian tribal governments, and local governments of rural States, and to other public or private entities of rural States—

(1) to implement, expand, and establish cooperative efforts and projects between law enforcement officers, prosecutors, victim advocacy groups, and other related parties to investigate and prosecute incidents of domestic violence and child abuse;

(2) to provide treatment and counseling to victims of domestic violence and child abuse; and

(3) to work in cooperation with the community to develop education and prevention strategies directed toward such issues.

(b) DEFINITIONS.—In this section—

"Indian tribe" means a tribe, band, pueblo, nation, or other organized group or community of Indians, including an Alaska Native village (as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"rural State" has the meaning stated in section 1501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796bb(B)).

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section—

(A) $7,000,000 for fiscal year 1996;

(B) $8,000,000 for fiscal year 1997; and

(C) $15,000,000 for fiscal year 1998.

(2) ADDITIONAL FUNDING.—In addition to funds received under a grant under subsection (a), a law enforcement agency may use funds received under a grant under section 103 to accomplish the objectives of this section.

Subtitle C—Civil Rights for Women

SEC. 40301. SHORT TITLE.

This subtitle may be cited as the "Civil Rights Remedies for Gender-Motivated Violence Act".

SEC. 40302. CIVIL RIGHTS.

(a) PURPOSE.—Pursuant to the affirmative power of Congress to enact this subtitle under section 5 of the Fourteenth Amendment to the Constitution, as well as under section 8 of Article I of the Constitution, it is the purpose of this subtitle to protect the civil rights of victims of gender motivated violence and to promote public safety, health, and activities affecting interstate commerce by establishing a Federal civil rights cause of action for victims of crimes of violence motivated by gender.

(b) RIGHT TO BE FREE FROM CRIMES OF VIOLENCE.—All persons within the United States shall have the right to be free from crimes of violence motivated by gender (as defined in subsection (d)).

(c) CAUSE OF ACTION.—A person (including a person who acts under color of any statute, ordinance, regulation, custom, or usage of any State) who commits a crime of violence motivated by gender and thus deprives another of the right declared in subsection (b) shall be liable to the party injured, in an action for the recovery of compensatory and punitive damages, injunctive and declaratory relief, and such other relief as a court may deem appropriate.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "crime of violence motivated by gender" means a crime of violence committed because of gender or on the basis of gender, and due, at least in part, to an animus based on the victim's gender; and

(2) the term "crime of violence" means—

(A) an act or series of acts that would constitute a felony against the person or that would constitute a felony against property if the conduct presents a serious risk of physical injury to another, and that would come within the meaning of State or Federal offenses described in section 16 of title 18, United States Code, whether or not those acts have actually resulted in criminal charges, prosecution, or conviction and whether or not those acts were committed in the special maritime, territorial, or prison jurisdiction of the United States; and

(B) includes an act or series of acts that would constitute a felony described in subparagraph (A) but for the relationship between the person who takes such action and the individual against whom such action is taken.

(e) LIMITATION AND PROCEDURES.—

(1) LIMITATION.—Nothing in this section entitles a person to a cause of action under subsection (c) for random acts of violence unrelated to gender or for acts that cannot be demonstrated, by a preponderance of the evidence, to be motivated by gender (within the meaning of subsection (d)).

(2) NO PRIOR CRIMINAL ACTION.—Nothing in this section requires a prior criminal complaint, prosecution, or conviction to establish the elements of a cause of action under subsection (c).

(3) CONCURRENT JURISDICTION.—The Federal and State courts shall have concurrent jurisdiction over actions brought pursuant to this subtitle.

(4) SUPPLEMENTAL JURISDICTION.—Neither section 1367 of title 28, United States Code, nor subsection (c) of this section shall be construed, by reason of a claim arising under such subsection, to confer on the courts of the United States jurisdiction over any State law claim seeking the establishment of a divorce, alimony, equitable distribution of marital property, or child custody decree.

(5) LIMITATION ON REMOVAL.—Section 1445 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(d) A civil action in any State court arising under section 40302 of the Violence Against Women Act of 1994 may not be removed to any district court of the United States.".

SEC. 40303. ATTORNEY'S FEES.

Section 722 of the Revised Statutes (42 U.S.C. 1988) is amended in the last sentence—

(1) by striking "or" after "Public Law 92-318,"; and

(2) by inserting ", or section 40302 of the Violence Against Women Act of 1994," after "1964".

SEC. 40304. SENSE OF THE SENATE CONCERNING PROTECTION OF THE PRIVACY OF RAPE VICTIMS.

It is the sense of the Senate that news media, law enforcement officers, and other persons should exercise restraint and respect a rape victim's privacy by not disclosing the victim's identity to the general public or facilitating such disclosure without the consent of the victim.

Subtitle D—Equal Justice for Women in the Courts Act

SEC. 40401. SHORT TITLE.

This subtitle may be cited as the "Equal Justice for Women in the Courts Act of 1994".

CHAPTER 1—EDUCATION AND TRAINING FOR JUDGES AND COURT PERSONNEL IN STATE COURTS

SEC. 40411. GRANTS AUTHORIZED.

The State Justice Institute may award grants for the purpose of developing, testing, presenting, and disseminating model programs to be used by States (as defined in section 202 of the State Justice Institute Act of 1984 (42 U.S.C. 10701)) in training judges and court personnel in the laws of the States and by Indian tribes in training tribal judges and court personnel in the laws of the tribes on rape, sexual assault, domestic violence, and other crimes of violence motivated by the victim's gender.

SEC. 40412. TRAINING PROVIDED BY GRANTS.

Training provided pursuant to grants made under this subtitle may include current information, existing studies, or current data on—

(1) the nature and incidence of rape and sexual assault by strangers and nonstrangers, marital rape, and incest;

(2) the underreporting of rape, sexual assault, and child sexual abuse;

(3) the physical, psychological, and economic impact of rape and sexual assault on the victim, the costs to society, and the implications for sentencing;

(4) the psychology of sex offenders, their high rate of recidivism, and the implications for sentencing;

(5) the historical evolution of laws and attitudes on rape and sexual assault;

(6) sex stereotyping of female and male victims of rape and sexual assault, racial stereotyping of rape victims and defendants, and the impact of such stereotypes on credibility of witnesses, sentencing, and other aspects of the administration of justice;

(7) application of rape shield laws and other limits on introduction of evidence that may subject victims to improper sex stereotyping and harassment in both rape and nonrape cases, including the need for sua sponte judicial intervention in inappropriate cross-examination;

(8) the use of expert witness testimony on rape trauma syndrome, child sexual abuse accommodation syndrome, post-traumatic stress syndrome, and similar issues;

(9) the legitimate reasons why victims of rape, sexual assault, and incest may refuse to testify against a defendant;

(10) the nature and incidence of domestic violence;

(11) the physical, psychological, and economic impact of domestic violence on the victim, the costs to society, and the implications for court procedures and sentencing;

(12) the psychology and self-presentation of batterers and victims and the implications for court proceedings and credibility of witnesses;

(13) sex stereotyping of female and male victims of domestic violence, myths about presence or absence of domestic violence in certain racial, ethnic, religious, or socioeconomic groups, and their impact on the administration of justice;

(14) historical evolution of laws and attitudes on domestic violence;

(15) proper and improper interpretations of the defenses of self-defense and provocation, and the use of expert witness testimony on battered woman syndrome;

(16) the likelihood of retaliation, recidivism, and escalation of violence by batterers, and the potential impact of incarceration and other meaningful sanctions for acts of domestic violence including violations of orders of protection;

(17) economic, psychological, social and institutional reasons for victims' inability to leave the batterer, to report domestic violence or to follow through on complaints, including the influence of lack of support from police, judges, and court personnel, and the legitimate reasons why victims of domestic violence may refuse to testify against a defendant;

(18) the need for orders of protection, and the implications of mutual orders of protection, dual arrest policies, and mediation in domestic violence cases; and

(19) recognition of and response to gender-motivated crimes of violence other than rape, sexual assault and domestic violence, such as mass or serial murder motivated by the gender of the victims.

SEC. 40413. COOPERATION IN DEVELOPING PROGRAMS IN MAKING GRANTS UNDER THIS TITLE.

The State Justice Institute shall ensure that model programs carried out pursuant to grants made under this subtitle are developed with the participation of law enforcement officials, public and private nonprofit victim advocates, legal experts, prosecutors, defense attorneys, and recognized experts on gender bias in the courts.

SEC. 40414. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this chapter—

$600,000 for fiscal year 1996.

(b) MODEL PROGRAMS.—Of amounts appropriated under this section, the State Justice Institute shall expend not less than 40 percent on model programs regarding domestic violence and not less than 40 percent on model programs regarding rape and sexual assault.

CHAPTER 2—EDUCATION AND TRAINING FOR JUDGES AND COURT PERSONNEL IN FEDERAL COURTS

SEC. 40421. AUTHORIZATIONS OF CIRCUIT STUDIES; EDUCATION AND TRAINING GRANTS.

(a) STUDIES.—In order to gain a better understanding of the nature and the extent of gender bias in the Federal courts, the circuit judicial councils are encouraged to conduct studies of the instances, if any, of gender bias in their respective circuits and to implement recommended reforms.

(b) MATTERS FOR EXAMINATION.—The studies under subsection (a) may include an examination of the effects of gender on—

(1) the treatment of litigants, witnesses, attorneys, jurors, and judges in the courts, including before magistrate and bankruptcy judges;

(2) the interpretation and application of the law, both civil and criminal;

(3) treatment of defendants in criminal cases;

(4) treatment of victims of violent crimes in judicial proceedings;

(5) sentencing;

(6) sentencing alternatives and the nature of supervision of probation and parole;

(7) appointments to committees of the Judicial Conference and the courts;

(8) case management and court sponsored alternative dispute resolution programs;

(9) the selection, retention, promotion, and treatment of employees;

(10) appointment of arbitrators, experts, and special masters;

(11) the admissibility of the victim's past sexual history in civil and criminal cases; and

(12) the aspects of the topics listed in section 40412 that pertain to issues within the jurisdiction of the Federal courts.

(c) CLEARINGHOUSE.—The Administrative Office of the United States Courts shall act as a clearinghouse to disseminate any reports and materials issued by the gender bias task forces under subsection (a) and to respond to requests for such reports and materials. The gender bias task forces shall provide the Administrative Office of the Courts of the United States with their reports and related material.

(d) MODEL PROGRAMS.—The Federal Judicial Center, in carrying out section 620(b)(3) of title 28, United States Code, may—

(1) include in the educational programs it presents and prepares, including the training programs for newly appointed judges, information on issues related to gender bias in the courts including such areas as are listed in subsection (a) along with such other topics as the Federal Judicial Center deems appropriate;

(2) prepare materials necessary to implement this subsection; and

(3) take into consideration the findings and recommendations of the studies conducted pursuant to subsection (a), and to consult with individuals and groups with relevant expertise in gender bias issues as it prepares or revises such materials.

SEC. 40422. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated—

(1) to the Salaries and Expenses Account of the Courts of Appeals, District Courts, and other Judicial Services to carry out section 40421(a)—

$500,000 for fiscal year 1996;

(2) to the Federal Judicial Center to carry out section 40421(d)—

$100,000 for fiscal year 1996; and

(3) to the Administrative Office of the United States Courts to carry out section 40421(c)—

$100,000 for fiscal year 1996.

Subtitle E—Violence Against Women Act Improvements

SEC. 40501. PRE-TRIAL DETENTION IN SEX OFFENSE CASES.

Section 3156(a)(4) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting "; or"; and

(3) by adding after subparagraph (B) the following new subparagraph:

"(C) any felony under chapter 109A or chapter 110.".

SEC. 40502. INCREASED PENALTIES FOR SEX OFFENSES AGAINST VICTIMS BELOW THE AGE OF 16.

Section 2245(2) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (B);

(2) by striking "; and" at the end of subparagraph (C) and inserting "; or"; and

(3) by inserting after subparagraph (C) the following new subparagraph:

"(D) the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;".

SEC. 40503. PAYMENT OF COST OF TESTING FOR SEXUALLY TRANSMITTED DISEASES.

(a) FOR VICTIMS IN SEX OFFENSE CASES.—Section 503(c)(7) of the Victims' Rights and Restitution Act of 1990 (42 U.S.C. 10607(c)(7)) is amended by adding at the end the following: "The Attorney General shall provide for the payment of the cost of up to 2 anonymous and confidential tests of the victim for sexually transmitted diseases, including HIV, gonorrhea, herpes, chlamydia, and syphilis, during the 12 months following sexual assaults that pose a risk of transmission, and the cost of a counseling session by a medically trained professional on the accuracy of such tests and the risk of transmission of sexually transmitted diseases to the victim as the result of the assault. A victim may waive anonymity and confidentiality of any tests paid for under this section.".

(b) LIMITED TESTING OF DEFENDANTS.—

(1) COURT ORDER.—The victim of an offense of the type referred to in subsection (a) may obtain an order in the district court of the United States for the district in which charges are brought against the defendant charged with the offense, after notice to the defendant and an opportunity to be heard, requiring that the defendant be tested for the presence of the etiologic agent for acquired immune deficiency syndrome, and that the results of the test be communicated to the victim and the defendant. Any test result of the defendant given to the victim or the defendant must be accompanied by appropriate counseling.

(2) SHOWING REQUIRED.—To obtain an order under paragraph (1), the victim must demonstrate that—

(A) the defendant has been charged with the offense in a State or Federal court, and if the defendant has been arrested without a warrant, a probable cause determination has been made;

(B) the test for the etiologic agent for acquired immune deficiency syndrome is requested by the victim after appropriate counseling; and

(C) the test would provide information necessary for the health of the victim of the alleged offense and the court determines that the alleged conduct of the defendant created a risk of transmission, as determined by the Centers for Disease Control, of the etiologic agent for acquired immune deficiency syndrome to the victim.

(3) FOLLOW-UP TESTING.—The court may order follow-up tests and counseling under paragraph (b)(1) if the initial test was negative. Such follow-up tests and counseling shall be performed at the request of the victim on dates that occur six months and twelve months following the initial test.

(4) TERMINATION OF TESTING REQUIREMENTS.—An order for follow-up testing under paragraph (3) shall be terminated if the person obtains an acquittal on, or dismissal of, all charges of the type referred to in subsection (a).

(5) CONFIDENTIALITY OF TEST.—The results of any test ordered under this subsection shall be disclosed only to the victim or, where the court deems appropriate, to the parent or legal guardian of the victim, and to the person tested. The victim may disclose the test results only to any medical professional, counselor, family member or sexual partner(s) the victim may have had since the attack. Any such individual to whom the test results are disclosed by the victim shall maintain the confidentiality of such information.

(6) DISCLOSURE OF TEST RESULTS.—The court shall issue an order to prohibit the disclosure by the victim of the results of any test performed under this subsection to anyone other than those mentioned in paragraph (5). The contents of the court proceedings and test results pursuant to this section shall be sealed. The results of such test performed on the defendant under this section shall not be used as evidence in any criminal trial.

(7) CONTEMPT FOR DISCLOSURE.—Any person who discloses the results of a test in violation of this subsection may be held in contempt of court.

(c) PENALTIES FOR INTENTIONAL TRANSMISSION OF HIV.—Not later than 6 months after the date of enactment of this Act, the United States Sentencing Commission shall conduct a study and prepare and submit to the committees on the Judiciary of the Senate and the House of Representatives a report concerning recommendations for the revision of sentencing guidelines that relate to offenses in which an HIV infected individual engages in sexual activity if the individual knows that he or she is infected with HIV and intends, through such sexual activity, to expose another to HIV.

SEC. 40504. EXTENSION AND STRENGTHENING OF RESTITUTION.

Section 3663(b) of title 18, United States Code, is amended—

(1) in paragraph (2) by inserting "including an offense under chapter 109A or chapter 110" after "an offense resulting in bodily injury to a victim";

(2) by striking "and" at the end of paragraph (3);

(3) by redesignating paragraph (4) as paragraph (5); and

(4) by inserting after paragraph (3) the following new paragraph:

"(4) in any case, reimburse the victim for lost income and necessary child care, transportation, and other expenses related to participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense; and".

SEC. 40505. ENFORCEMENT OF RESTITUTION ORDERS THROUGH SUSPENSION OF FEDERAL BENEFITS.

Section 3663 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(i)(1) A Federal agency shall immediately suspend all Federal benefits provided by the agency to the defendant, and shall terminate the defendant's eligibility for Federal benefits administered by that agency, upon receipt of a certified copy of a written judicial finding that the defendant is delinquent in making restitution in accordance with any schedule of payments or any requirement of immediate payment imposed under this section.

"(2) Any written finding of delinquency described in paragraph (1) shall be made by a court, after a hearing, upon motion of the victim named in the order to receive the restitution or upon motion of the United States.

"(3) A defendant found to be delinquent may subsequently seek a written finding from the court that the defendant has rectified the delinquency or that the defendant has made and will make good faith efforts to rectify the delinquency. The defendant's eligibility for Federal benefits shall be reinstated upon receipt by the agency of a certified copy of such a finding.

"(4) In this subsection, "Federal benefit" means a grant, contract, loan, professional license, or commercial license provided by an agency of the United States.".

SEC. 40506. NATIONAL BASELINE STUDY ON CAMPUS SEXUAL ASSAULT.

(a) STUDY.—The Attorney General, in consultation with the Secretary of Education, shall provide for a national baseline study to examine the scope of the problem of campus sexual assaults and the effectiveness of institutional and legal policies in addressing such crimes and protecting victims. The Attorney General may utilize the Bureau of Justice Statistics, the National Institute of Justice, and the Office for Victims of Crime in carrying out this section.

(b) REPORT.—Based on the study required by subsection (a) and data collected under the Student Right-To-Know and Campus Security Act (20 U.S.C. 1001 note; Public Law 101-542) and amendments made by that Act, the Attorney General shall prepare a report including an analysis of—

(1) the number of reported allegations and estimated number of unreported allegations of campus sexual assaults, and to whom the allegations are reported (including authorities of the educational institution, sexual assault victim service entities, and local criminal authorities);

(2) the number of campus sexual assault allegations reported to authorities of educational institutions which are reported to criminal authorities;

(3) the number of campus sexual assault allegations that result in criminal prosecution in comparison with the number of non-campus sexual assault allegations that result in criminal prosecution;

(4) Federal and State laws or regulations pertaining specifically to campus sexual assaults;

(5) the adequacy of policies and practices of educational institutions in addressing campus sexual assaults and protecting victims, including consideration of—

(A) the security measures in effect at educational institutions, such as utilization of campus police and security guards, control over access to grounds and buildings, supervision of student activities and student living arrangements, control over the consumption of alcohol

by students, lighting, and the availability of escort services;

(B) the articulation and communication to students of the institution's policies concerning sexual assaults;

(C) policies and practices that may prevent or discourage the reporting of campus sexual assaults to local criminal authorities, or that may otherwise obstruct justice or interfere with the prosecution of perpetrators of campus sexual assaults;

(D) the nature and availability of victim services for victims of campus sexual assaults;

(E) the ability of educational institutions' disciplinary processes to address allegations of sexual assault adequately and fairly;

(F) measures that are taken to ensure that victims are free of unwanted contact with alleged assailants, and disciplinary sanctions that are imposed when a sexual assault is determined to have occurred; and

(G) the grounds on which educational institutions are subject to lawsuits based on campus sexual assaults, the resolution of these cases, and measures that can be taken to avoid the likelihood of lawsuits and civil liability;

(6) in conjunction with the report produced by the Department of Education in coordination with institutions of education under the Student Right-To-Know and Campus Security Act (20 U.S.C. 1001 note; Public Law 101-542) and amendments made by that Act, an assessment of the policies and practices of educational institutions that are of greatest effectiveness in addressing campus sexual assaults and protecting victims, including policies and practices relating to the particular issues described in paragraph (5); and

(7) any recommendations the Attorney General may have for reforms to address campus sexual assaults and protect victims more effectively, and any other matters that the Attorney General deems relevant to the subject of the study and report required by this section.

(c) SUBMISSION OF REPORT.—The report required by subsection (b) shall be submitted to the Congress no later than September 1, 1996.

(d) DEFINITION.—For purposes of this section, "campus sexual assaults" includes sexual assaults occurring at institutions of postsecondary education and sexual assaults committed against or by students or employees of such institutions.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the study required by this section—$200,000 for fiscal year 1996.

SEC. 40507. REPORT ON BATTERED WOMEN'S SYNDROME.

(a) REPORT.—Not less than 1 year after the date of enactment of this Act, the Attorney General and the Secretary of Health and Human Services shall transmit to the House Committee on Energy and Commerce, the Senate Committee on Labor and Human Resources, and the Committees on the Judiciary of the Senate and the House of Representatives a report on the medical and psychological basis of "battered women's syndrome" and on the extent to which evidence of the syndrome has been considered in criminal trials.

(b) COMPONENTS.—The report under subsection (a) shall include—

(1) medical and psychological testimony on the validity of battered women's syndrome as a psychological condition;

(2) a compilation of State, tribal, and Federal court cases in which evidence of battered women's syndrome was offered in criminal trials; and

(3) an assessment by State, tribal, and Federal judges, prosecutors, and defense attorneys of the effects that evidence of battered women's syndrome may have in criminal trials.

SEC. 40508. REPORT ON CONFIDENTIALITY OF ADDRESSES FOR VICTIMS OF DOMESTIC VIOLENCE.

(a) REPORT.—The Attorney General shall conduct a study of the means by which abusive spouses may obtain information concerning the addresses or locations of estranged or former spouses, notwithstanding the desire of the victims to have such information withheld to avoid further exposure to abuse. Based on the study, the Attorney General shall transmit a report to Congress including—

(1) the findings of the study concerning the means by which information concerning the addresses or locations of abused spouses may be obtained by abusers; and

(2) analysis of the feasibility of creating effective means of protecting the confidentiality of information concerning the addresses and locations of abused spouses to protect such persons from exposure to further abuse while preserving access to such information for legitimate purposes.

(b) USE OF COMPONENTS.—The Attorney General may use the National Institute of Justice and the Office for Victims of Crime in carrying out this section.

SEC. 40509. REPORT ON RECORDKEEPING RELATING TO DOMESTIC VIOLENCE.

Not later than 1 year after the date of enactment of this Act, the Attorney General shall complete a study of, and shall submit to Congress a report and recommendations on, problems of recordkeeping of criminal complaints involving domestic violence. The study and report shall examine—

(1) the efforts that have been made by the Department of Justice, including the Federal Bureau of Investigation, to collect statistics on domestic violence; and

(2) the feasibility of requiring that the relationship between an offender and victim be reported in Federal records of crimes of aggravated assault, rape, and other violent crimes.

Subtitle F—National Stalker and Domestic Violence Reduction

SEC. 40601. AUTHORIZING ACCESS TO FEDERAL CRIMINAL INFORMATION DATABASES.

(a) ACCESS AND ENTRY.—Section 534 of title 28, United States Code, is amended by adding at the end the following:

"(e)(1) Information from national crime information databases consisting of identification records, criminal history records, protection orders, and wanted person records may be disseminated to civil or criminal courts for use in domestic violence or stalking cases. Nothing in this subsection shall be construed to permit access to such records for any other purpose.

"(2) Federal and State criminal justice agencies authorized to enter information into criminal information databases may include—

"(A) arrests, convictions, and arrest warrants for stalking or domestic violence or for violations of protection orders for the protection of parties from stalking or domestic violence; and

"(B) protection orders for the protection of persons from stalking or domestic violence, provided such orders are subject to periodic verification.

"(3) As used in this subsection—

"(A) the term 'national crime information databases' means the National Crime Information Center and its incorporated criminal history databases, including the Interstate Identification Index; and

"(B) the term 'protection order' includes an injunction or any other order issued for the purpose of preventing violent or threatening acts or harassment against, or contact or communication with or physical proximity to, another person, including temporary and final orders issued by civil or criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil order was issued in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection.".

(b) RULEMAKING.—The Attorney General may make rules to carry out the subsection added to section 534 of title 28, United States Code, by subsection (a), after consultation with the officials charged with managing the National Crime Information Center and the Criminal Justice Information Services Advisory Policy Board.

SEC. 40602. GRANT PROGRAM.

(a) IN GENERAL.—The Attorney General is authorized to provide grants to States and units of local government to improve processes for entering data regarding stalking and domestic violence into local, State, and national crime information databases.

(b) ELIGIBILITY.—To be eligible to receive a grant under subsection (a), a State or unit of local government shall certify that it has or intends to establish a program that enters into the National Crime Information Center records of—

(1) warrants for the arrest of persons violating protection orders intended to protect victims from stalking or domestic violence;

(2) arrests or convictions of persons violating protection or domestic violence; and

(3) protection orders for the protection of persons from stalking or domestic violence.

SEC. 40603. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle—

(1) $1,500,000 for fiscal year 1996;

(2) $1,750,000 for fiscal year 1997; and

(3) $2,750,000 for fiscal year 1998.

SEC. 40604. APPLICATION REQUIREMENTS.

An application for a grant under this subtitle shall be submitted in such form and manner, and contain such information, as the Attorney General may prescribe. In addition, applications shall include documentation showing—

(1) the need for grant funds and that State or local funding, as the case may be, does not already cover these operations;

(2) intended use of the grant funds, including a plan of action to increase record input; and

(3) an estimate of expected results from the use of the grant funds.

SEC. 40605. DISBURSEMENT.

Not later than 90 days after the receipt of an application under this subtitle, the Attorney General shall either provide grant funds or shall inform the applicant why grant funds are not being provided.

SEC. 40606. TECHNICAL ASSISTANCE, TRAINING, AND EVALUATIONS.

The Attorney General may provide technical assistance and training in furtherance of the purposes of this subtitle, and may provide for the evaluation of programs that receive funds under this subtitle, in addition to any evaluation requirements that the Attorney General may prescribe for grantees. The technical assistance, training, and evaluations authorized by this section may be carried out directly by the Attorney General, or through contracts or other arrangements with other entities.

SEC. 40607. TRAINING PROGRAMS FOR JUDGES.

The State Justice Institute, after consultation with nationally recognized nonprofit organizations with expertise in stalking and domestic violence cases, shall conduct training programs for State (as defined in section 202 of the State Justice Institute Authorization Act of 1984 (42 U.S.C. 10701)) and Indian tribal judges to ensure that a judge issuing an order in a stalking or domestic violence case has all available criminal history and other information, whether from State or Federal sources.

SEC. 40608. RECOMMENDATIONS ON INTRASTATE COMMUNICATION.

The State Justice Institute, after consultation with nationally recognized nonprofit associations with expertise in data sharing among criminal justice agencies and familiarity with the issues raised in stalking and domestic violence cases, shall recommend proposals regarding how State courts may increase intrastate communication between civil and criminal courts.

SEC. 40609. INCLUSION IN NATIONAL INCIDENT-BASED REPORTING SYSTEM.

Not later than 2 years after the date of enactment of this Act, the Attorney General, in accordance with the States, shall compile data regarding domestic violence and intimidation (including stalking) as part of the National Incident-Based Reporting System (NIBRS).

SEC. 40610. REPORT TO CONGRESS.

The Attorney General shall submit to the Congress an annual report, beginning one year after the date of the enactment of this Act, that provides information concerning the incidence of stalking and domestic violence, and evaluates the effectiveness of State antistalking efforts and legislation.

SEC. 40611. DEFINITIONS.

As used in this subtitle—

(1) the term "national crime information databases" refers to the National Crime Information Center and its incorporated criminal history databases, including the Interstate Identification Index; and

(2) the term "protection order" includes an injunction or any other order issued for the purpose of preventing violent or threatening acts or harassment against, or contact or communication with or physical proximity to, another person, including temporary and final orders issued by civil or criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil order was issued in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection.

Subtitle G—Protections for Battered Immigrant Women and Children

SEC. 40701. ALIEN PETITIONING RIGHTS FOR IMMEDIATE RELATIVE OR SECOND PREFERENCE STATUS.

(a) IN GENERAL.—Section 204(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)) is amended—

(1) in subparagraph (A)—

(A) by inserting "(i)" after "(A)",

(B) by redesignating the second sentence as clause (ii), and

(C) by adding at the end the following new clauses:

"(iii) An alien who is the spouse of a citizen of the United States, who is a person of good moral character, who is eligible to be classified as an immediate relative under section 201(b)(2)(A)(i), and who has resided in the United States with the alien's spouse may file a petition with the Attorney General under this subparagraph for classification of the alien (and any child of the alien if such a child has not been classified under clause (iv)) under such section if the alien demonstrates to the Attorney General that—

"(I) the alien is residing in the United States, the marriage between the alien and the spouse was entered into in good faith by the alien, and during the marriage the alien or a child of the alien has been battered by or has been the subject of extreme cruelty perpetrated by the alien's spouse; and

"(II) the alien is a person whose deportation, in the opinion of the Attorney General, would result in extreme hardship to the alien or a child of the alien.

"(iv) An alien who is the child of a citizen of the United States, who is a person of good moral character, who is eligible to be classified as an immediate relative under section 201(b)(2)(A)(i), and who has resided in the United States with the citizen parent may file a petition with the Attorney General under this subparagraph for classification of the alien under such section if the alien demonstrates to the Attorney General that—

"(I) the alien is residing in the United States and during the period of residence with the citizen parent the alien has been battered by or has been the subject of extreme cruelty perpetrated by the alien's citizen parent; and

"(II) the alien is a person whose deportation, in the opinion of the Attorney General, would result in extreme hardship to the alien.";

(2) in subparagraph (B)—

(A) by inserting "(i)" after "(B)"; and

(B) by adding at the end the following new clauses:

"(ii) An alien who is the spouse of an alien lawfully admitted for permanent residence, who is a person of good moral character, who is eligible for classification under section 203(a)(2)(A), and who has resided in the United States with the alien's legal permanent resident spouse may file a petition with the Attorney General under this subparagraph for classification of the alien (and any child of the alien if such a child has not been classified under clause (iii)) under such section if the alien demonstrates to the Attorney General that the conditions described in subclauses (I) and (II) of subparagraph (A)(iii) are met with respect to the alien.

"(iii) An alien who is the child of an alien lawfully admitted for permanent residence, who is a person of good moral character, who is eligible for classification under section 203(a)(2)(A), and who has resided in the United States with the alien's permanent resident alien parent may file a petition with the Attorney General under this subparagraph for classification of the alien under such section if the alien demonstrates to the Attorney General that—

"(I) the alien is residing in the United States and during the period of residence with the permanent resident parent the alien has been battered by or has been the subject of extreme cruelty perpetrated by the alien's permanent resident parent; and

"(II) the alien is a person whose deportation, in the opinion of the Attorney General, would result in extreme hardship to the alien."; and

(3) by adding at the end the following new subparagraph:

"(H) In acting on petitions filed under clause (iii) or (iv) of subparagraph (A) or clause (ii) or (iii) of subparagraph (B), the Attorney General shall consider any credible evidence relevant to the petition. The determination of what evidence is credible and the weight to be given that evidence shall be within the sole discretion of the Attorney General.".

(b) CONFORMING AMENDMENTS.—(1) Section 204(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(2)) is amended—

(A) in subparagraph (A) by striking "filed by an alien who," and inserting "for the classification of the spouse of an alien if the alien,"; and

(B) in subparagraph (B) by striking "by an alien whose prior marriage" and inserting "for the classification of the spouse of an alien if the prior marriage of the alien".

(2) Section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)) is amended by striking "204(a)(1)(A)" and inserting "204(a)(1)(A)(ii)".

(c) SURVIVAL RIGHTS TO PETITION.—Section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) is amended by adding at the end the following new subsection:

"(h) The legal termination of a marriage may not be the sole basis for revocation under section 205 of a petition filed under subsection (a)(1)(A)(iii) or a petition filed under subsection (a)(1)(B)(ii) pursuant to conditions described in subsection (a)(1)(A)(iii)(I).".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect January 1, 1995.

SEC. 40702. USE OF CREDIBLE EVIDENCE IN SPOUSAL WAIVER APPLICATIONS.

(a) IN GENERAL.—Section 216(c)(4) of the Immigration and Nationality Act (8 U.S.C. 1186a(c)(4)) is amended by inserting after the second sentence the following: "In acting on applications under this paragraph, the Attorney General shall consider any credible evidence relevant to the application. The determination of what evidence is credible and the weight to be given that evidence shall be within the sole discretion of the Attorney General.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of enactment of this Act and shall apply to applications made before, on, or after such date.

SEC. 40703. SUSPENSION OF DEPORTATION.

(a) BATTERED SPOUSE OR CHILD.—Section 244(a) of the Immigration and Nationality Act (8 U.S.C. 1254(a)) is amended—

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

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

(3) by inserting after paragraph (2) the following:

"(3) is deportable under any law of the United States except section 241(a)(1)(G) and the provisions specified in paragraph (2); has been physically present in the United States for a continuous period of not less than 3 years immediately preceding the date of such application; has been battered or subjected to extreme cruelty in the United States by a spouse or parent who is a United States citizen or lawful permanent resident (or is the parent of a child of a United States citizen or lawful permanent resident and the child has been battered or subjected to extreme cruelty in the United States by such citizen or permanent resident parent); and proves that during all of such time in the United States the alien was and is a person of good moral character; and is a person whose deportation would, in the opinion of the Attorney General, result in extreme hardship to the alien or the alien's parent or child.".

(b) CONSIDERATION OF EVIDENCE.—Section 244 of the Immigration and Nationality Act (8 U.S.C. 1254) is amended by adding at the end the following new subsection:

"(g) In acting on applications under subsection (a)(3), the Attorney General shall consider any credible evidence relevant to the application. The determination of what evidence is credible and the weight to be given that evidence shall be within the sole discretion of the Attorney General.".

TITLE V—DRUG COURTS

SEC. 50001. DRUG COURTS.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 40231(a), is amended—

(1) by redesignating part V as part W;

(2) by redesignating section 2201 as section 2301; and

(3) by inserting after part U the following new part:

"PART V—DRUG COURTS

"SEC. 2201. GRANT AUTHORITY.

"The Attorney General may make grants to States, State courts, local courts, units of local government, and Indian tribal governments, acting directly or through agreements with other public or private entities, for programs that involve—

"(1) continuing judicial supervision over offenders with substance abuse problems who are not violent offenders; and

"(2) the integrated administration of other sanctions and services, which shall include—

"(A) mandatory periodic testing for the use of controlled substances or other addictive substances during any period of supervised release or probation for each participant;

"(B) substance abuse treatment for each participant;

"(C) diversion, probation, or other supervised release involving the possibility of prosecution, confinement, or incarceration based on noncompliance with program requirements or failure to show satisfactory progress; and

"(D) programmatic, offender management, and aftercare services such as relapse prevention, health care, education, vocational training, job placement, housing placement, and child care or other family support services for each participant who requires such services.

"SEC. 2202. PROHIBITION OF PARTICIPATION BY VIOLENT OFFENDERS.

"The Attorney General shall—

"(1) issue regulations and guidelines to ensure that the programs authorized in this part do not permit participation by violent offenders; and

"(2) immediately suspend funding for any grant under this part, pending compliance, if the Attorney General finds that violent offenders are participating in any program funded under this part.

"SEC. 2203. DEFINITION.

"In this part, 'violent offender' means a person who—

"(1) is charged with or convicted of an offense, during the course of which offense or conduct—

"(A) the person carried, possessed, or used a firearm or dangerous weapon;

"(B) there occurred the death of or serious bodily injury to any person; or

"(C) there occurred the use of force against the person of another,

without regard to whether any of the circumstances described in subparagraph (A), (B), or (C) is an element of the offense or conduct of which or for which the person is charged or convicted; or

"(2) has one or more prior convictions for a felony crime of violence involving the use or attempted use of force against a person with the intent to cause death or serious bodily harm.

"SEC. 2204. ADMINISTRATION.

"(a) CONSULTATION.—The Attorney General shall consult with the Secretary of Health and Human Services and any other appropriate officials in carrying out this part.

"(b) USE OF COMPONENTS.—The Attorney General may utilize any component or components of the Department of Justice in carrying out this part.

"(c) REGULATORY AUTHORITY.—The Attorney General may issue regulations and guidelines necessary to carry out this part.

"(d) APPLICATIONS.—In addition to any other requirements that may be specified by the Attorney General, an application for a grant under this part shall—

"(1) include a long-term strategy and detailed implementation plan;

"(2) explain the applicant's inability to fund the program adequately without Federal assistance;

"(3) certify that the Federal support provided will be used to supplement, and not supplant, State, Indian tribal, and local sources of funding that would otherwise be available;

"(4) identify related governmental or community initiatives which complement or will be coordinated with the proposal;

"(5) certify that there has been appropriate consultation with all affected agencies and that there will be appropriate coordination with all affected agencies in the implementation of the program;

"(6) certify that participating offenders will be supervised by one or more designated judges with responsibility for the drug court program;

"(7) specify plans for obtaining necessary support and continuing the proposed program following the conclusion of Federal support; and

"(8) describe the methodology that will be used in evaluating the program.

"SEC. 2205. APPLICATIONS.

"To request funds under this part, the chief executive or the chief justice of a State or the chief executive or chief judge of a unit of local government or Indian tribal government shall submit an application to the Attorney General in such form and containing such information as the Attorney General may reasonably require.

"SEC. 2206. FEDERAL SHARE.

"The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the program described in the application submitted under section 2205 for the fiscal year for which the program receives assistance under this part, unless the Attorney General waives, wholly or in part, the requirement of a matching contribution under this section. In-kind contributions may constitute a portion of the non-Federal share of a grant.

"SEC. 2207. GEOGRAPHIC DISTRIBUTION.

"The Attorney General shall ensure that, to the extent practicable, an equitable geographic distribution of grant awards is made.

"SEC. 2208. REPORT.

"A State, Indian tribal government, or unit of local government that receives funds under this part during a fiscal year shall submit to the Attorney General a report in March of the following year regarding the effectiveness of this part.

"SEC. 2209. TECHNICAL ASSISTANCE, TRAINING, AND EVALUATION.

"(a) TECHNICAL ASSISTANCE AND TRAINING.—The Attorney General may provide technical assistance and training in furtherance of the purposes of this part.

"(b) EVALUATIONS.—In addition to any evaluation requirements that may be prescribed for grantees, the Attorney General may carry out or make arrangements for evaluations of programs that receive support under this part.

"(c) ADMINISTRATION.—The technical assistance, training, and evaluations authorized by this section may be carried out directly by the Attorney General, in collaboration with the Secretary of Health and Human Services, or through grants, contracts, or other cooperative arrangements with other entities.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 40231(b), is amended by striking the matter relating to part V and inserting the following:

"PART V—DRUG COURTS

"Sec. 2201. Grant authority.
"Sec. 2202. Prohibition of participation by violent offenders.
"Sec. 2203. Definition.
"Sec. 2204. Administration.
"Sec. 2205. Applications.
"Sec. 2206. Federal share.
"Sec. 2207. Geographic distribution.
"Sec. 2208. Report.
"Sec. 2209. Technical assistance, training, and evaluation.

"PART W—TRANSITION-EFFECTIVE DATE-REPEALER

"Sec. 2301. Continuation of rules, authorities, and proceedings.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793), as amended by section 40231(c), is amended—

(1) in paragraph (3) by striking "and U" and inserting "U, and V"; and

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

"(20) There are authorized to be appropriated to carry out part V—

"(1) $100,000,000 for fiscal year 1995;
"(2) $150,000,000 for fiscal year 1996;
"(3) $150,000,000 for fiscal year 1997;
"(4) $200,000,000 for fiscal year 1998;
"(5) $200,000,000 for fiscal year 1999; and
"(6) $200,000,000 for fiscal year 2000.".

SEC. 50002. STUDY BY THE GENERAL ACCOUNTING OFFICE.

(a) IN GENERAL.—The Comptroller General of the United States shall study and assess the effectiveness and impact of grants authorized by part V of title I of the Omnibus Crime Control and Safe Streets Act of 1968 as added by section 50001(a) and report to Congress the results of the study on or before January 1, 1997.

(b) DOCUMENTS AND INFORMATION.—The Attorney General and grant recipients shall provide the Comptroller General with all relevant documents and information that the Comptroller General deems necessary to conduct the study under subsection (a), including the identities and criminal records of program participants.

(c) CRITERIA.—In assessing the effectiveness of the grants made under programs authorized by part V of the Omnibus Crime Control and Safe Streets Act of 1968, the Comptroller General shall consider, among other things—

(1) recidivism rates of program participants;

(2) completion rates among program participants;

(3) drug use by program participants; and

(4) the costs of the program to the criminal justice system.

TITLE VI—DEATH PENALTY

SEC. 60001. SHORT TITLE.

This title may be cited as the "Federal Death Penalty Act of 1994".

SEC. 60002. CONSTITUTIONAL PROCEDURES FOR THE IMPOSITION OF THE SENTENCE OF DEATH.

(a) IN GENERAL.—Part II of title 18, United States Code, is amended by inserting after chapter 227 the following new chapter:

"CHAPTER 228—DEATH SENTENCE

"Sec.
"3591. Sentence of death.
"3592. Mitigating and aggravating factors to be considered in determining whether a sentence of death is justified.
"3593. Special hearing to determine whether a sentence of death is justified.
"3594. Imposition of a sentence of death.
"3595. Review of a sentence of death.
"3596. Implementation of a sentence of death.
"3597. Use of State facilities.
"3598. Special provisions for Indian country.

"§3591. Sentence of death

"(a) A defendant who has been found guilty of—

"(1) an offense described in section 794 or section 2381; or

"(2) any other offense for which a sentence of death is provided, if the defendant, as determined beyond a reasonable doubt at the hearing under section 3593—

"(A) intentionally killed the victim;

"(B) intentionally inflicted serious bodily injury that resulted in the death of the victim;

"(C) intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and the victim died as a direct result of the act; or

"(D) intentionally and specifically engaged in an act of violence, knowing that the act created a grave risk of death to a person, other than one

of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and the victim died as a direct result of the act,

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified, except that no person may be sentenced to death who was less than 18 years of age at the time of the offense.

"(b) A defendant who has been found guilty of—

"(1) an offense referred to in section 408(c)(1) of the Controlled Substances Act (21 U.S.C. 848(c)(1)), committed as part of a continuing criminal enterprise offense under the conditions described in subsection (b) of that section which involved not less than twice the quantity of controlled substance described in subsection (b)(2)(A) or twice the gross receipts described in subsection (b)(2)(B); or

"(2) an offense referred to in section 408(c)(1) of the Controlled Substances Act (21 U.S.C. 848(c)(1)), committed as part of a continuing criminal enterprise offense under that section, where the defendant is a principal administrator, organizer, or leader of such an enterprise, and the defendant, in order to obstruct the investigation or prosecution of the enterprise or an offense involved in the enterprise, attempts to kill or knowingly directs, advises, authorizes, or assists another to attempt to kill any public officer, juror, witness, or members of the family or household of such a person,

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified, except that no person may be sentenced to death who was less than 18 years of age at the time of the offense.

"§3592. Mitigating and aggravating factors to be considered in determining whether a sentence of death is justified

"(a) MITIGATING FACTORS.—In determining whether a sentence of death is to be imposed on a defendant, the finder of fact shall consider any mitigating factor, including the following:

"(1) IMPAIRED CAPACITY.—The defendant's capacity to appreciate the wrongfulness of the defendant's conduct or to conform conduct to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge.

"(2) DURESS.—The defendant was under unusual and substantial duress, regardless of whether the duress was of such a degree as to constitute a defense to the charge.

"(3) MINOR PARTICIPATION.—The defendant is punishable as a principal in the offense, which was committed by another, but the defendant's participation was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

"(4) EQUALLY CULPABLE DEFENDANTS.—Another defendant or defendants, equally culpable in the crime, will not be punished by death.

"(5) NO PRIOR CRIMINAL RECORD.—The defendant did not have a significant prior history of other criminal conduct.

"(6) DISTURBANCE.—The defendant committed the offense under severe mental or emotional disturbance.

"(7) VICTIM'S CONSENT.—The victim consented to the criminal conduct that resulted in the victim's death.

"(8) OTHER FACTORS.—Other factors in the defendant's background, record, or character or any other circumstance of the offense that mitigate against imposition of the death sentence.

"(b) AGGRAVATING FACTORS FOR ESPIONAGE AND TREASON.—In determining whether a sentence of death is justified for an offense described in section 3591(a)(1), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors for which notice has been given and determine which, if any, exist:

"(1) PRIOR ESPIONAGE OR TREASON OFFENSE.—The defendant has previously been convicted of another offense involving espionage or treason for which a sentence of either life imprisonment or death was authorized by law.

"(2) GRAVE RISK TO NATIONAL SECURITY.—In the commission of the offense the defendant knowingly created a grave risk of substantial danger to the national security.

"(3) GRAVE RISK OF DEATH.—In the commission of the offense the defendant knowingly created a grave risk of death to another person.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor for which notice has been given exists.

"(c) AGGRAVATING FACTORS FOR HOMICIDE.—In determining whether a sentence of death is justified for an offense described in section 3591(a)(2), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors for which notice has been given and determine which, if any, exist:

"(1) DEATH DURING COMMISSION OF ANOTHER CRIME.—The death, or injury resulting in death, occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under section 32 (destruction of aircraft or aircraft facilities), section 33 (destruction of motor vehicles or motor vehicle facilities), section 36 (violence at international airports), section 351 (violence against Members of Congress, Cabinet officers, or Supreme Court Justices), an offense under section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property by explosives), section 1118 (prisoners serving life term), section 1201 (kidnaping), section 844(i) (destruction of property affecting interstate commerce by explosives), section 1116 (killing or attempted killing of diplomats), section 1203 (hostage taking), section 1992 (wrecking trains), section 2280 (maritime violence), section 2281 (maritime platform violence), section 2332 (terrorist acts abroad against United States nationals), section 2339 (use of weapons of mass destruction), or section 2381 (treason) of this title, or section 46502 of title 49, United States Code (aircraft piracy).

"(2) PREVIOUS CONVICTION OF VIOLENT FELONY INVOLVING FIREARM.—For any offense, other than an offense for which a sentence of death is sought on the basis of section 924(c), the defendant has previously been convicted of a Federal or State offense punishable by a term of imprisonment of more than 1 year, involving the use or attempted or threatened use of a firearm (as defined in section 921) against another person.

"(3) PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute.

"(4) PREVIOUS CONVICTION OF OTHER SERIOUS OFFENSES.—The defendant has previously been convicted of 2 or more Federal or State offenses, punishable by a term of imprisonment of more than 1 year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(5) GRAVE RISK OF DEATH TO ADDITIONAL PERSONS.—The defendant, in the commission of the offense, or in escaping apprehension for the violation of the offense, knowingly created a grave risk of death to 1 or more persons in addition to the victim of the offense.

"(6) HEINOUS, CRUEL, OR DEPRAVED MANNER OF COMMITTING OFFENSE.—The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim.

"(7) PROCUREMENT OF OFFENSE BY PAYMENT.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(8) PECUNIARY GAIN.—The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value.

"(9) SUBSTANTIAL PLANNING AND PREMEDITATION.—The defendant committed the offense after substantial planning and premeditation to cause the death of a person or commit an act of terrorism.

"(10) CONVICTION FOR TWO FELONY DRUG OFFENSES.—The defendant has previously been convicted of 2 or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the distribution of a controlled substance.

"(11) VULNERABILITY OF VICTIM.—The victim was particularly vulnerable due to old age, youth, or infirmity.

"(12) CONVICTION FOR SERIOUS FEDERAL DRUG OFFENSES.—The defendant had previously been convicted of violating title II or III of the Controlled Substances Act for which a sentence of 5 or more years may be imposed or had previously been convicted of engaging in a continuing criminal enterprise.

"(13) CONTINUING CRIMINAL ENTERPRISE INVOLVING DRUG SALES TO MINORS.—The defendant committed the offense in the course of engaging in a continuing criminal enterprise in violation of section 408(c) of the Controlled Substances Act (21 U.S.C. 848(c)), and that violation involved the distribution of drugs to persons under the age of 21 in violation of section 418 of that Act (21 U.S.C. 859).

"(14) HIGH PUBLIC OFFICIALS.—The defendant committed the offense against—

"(A) the President of the United States, the President-elect, the Vice President, the Vice President-elect, the Vice President-designate, or, if there is no Vice President, the officer next in order of succession to the office of the President of the United States, or any person who is acting as President under the Constitution and laws of the United States;

"(B) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(C) a foreign official listed in section 1116(b)(3)(A), if the official is in the United States on official business; or

"(D) a Federal public servant who is a judge, a law enforcement officer, or an employee of a United States penal or correctional institution—

"(i) while he or she is engaged in the performance of his or her official duties;

"(ii) because of the performance of his or her official duties; or

"(iii) because of his or her status as a public servant.

For purposes of this subparagraph, a 'law enforcement officer' is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, or prosecution or adjudication of an offense, and includes those engaged in corrections, parole, or probation functions.

"(15) PRIOR CONVICTION OF SEXUAL ASSAULT OR CHILD MOLESTATION.—In the case of an offense under chapter 109A (sexual abuse) or chapter 110 (sexual abuse of children), the defendant has previously been convicted of a

crime of sexual assault or crime of child molestation.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor for which notice has been given exists.

"(d) AGGRAVATING FACTORS FOR DRUG OFFENSE DEATH PENALTY.—In determining whether a sentence of death is justified for an offense described in section 3591(b), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors for which notice has been given and determine which, if any, exist:

"(1) PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or death was authorized by statute.

"(2) PREVIOUS CONVICTION OF OTHER SERIOUS OFFENSES.—The defendant has previously been convicted of two or more Federal or State offenses, each punishable by a term of imprisonment of more than one year, committed on different occasions, involving the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) or the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(3) PREVIOUS SERIOUS DRUG FELONY CONVICTION.—The defendant has previously been convicted of another Federal or State offense involving the manufacture, distribution, importation, or possession of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) for which a sentence of five or more years of imprisonment was authorized by statute.

"(4) USE OF FIREARM.—In committing the offense, or in furtherance of a continuing criminal enterprise of which the offense was a part, the defendant used a firearm or knowingly directed, advised, authorized, or assisted another to use a firearm to threaten, intimidate, assault, or injure a person.

"(5) DISTRIBUTION TO PERSONS UNDER 21.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 418 of the Controlled Substances Act (21 U.S.C. 859) which was committed directly by the defendant.

"(6) DISTRIBUTION NEAR SCHOOLS.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 419 of the Controlled Substances Act (21 U.S.C. 860) which was committed directly by the defendant.

"(7) USING MINORS IN TRAFFICKING.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 420 of the Controlled Substances Act (21 U.S.C. 861) which was committed directly by the defendant.

"(8) LETHAL ADULTERANT.—The offense involved the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), mixed with a potentially lethal adulterant, and the defendant was aware of the presence of the adulterant.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor for which notice has been given exists.

"§3593. Special hearing to determine whether a sentence of death is justified

"(a) NOTICE BY THE GOVERNMENT.—If, in a case involving an offense described in section 3591, the attorney for the government believes that the circumstances of the offense are such that a sentence of death is justified under this chapter, the attorney shall, a reasonable time before the trial or before acceptance by the court of a plea of guilty, sign and file with the court, and serve on the defendant, a notice—

"(1) stating that the government believes that the circumstances of the offense are such that, if the defendant is convicted, a sentence of death is justified under this chapter and that the government will seek the sentence of death; and

"(2) setting forth the aggravating factor or factors that the government, if the defendant is convicted, proposes to prove as justifying a sentence of death.

The factors for which notice is provided under this subsection may include factors concerning the effect of the offense on the victim and the victim's family, and may include oral testimony, a victim impact statement that identifies the victim of the offense and the extent and scope of the injury and loss suffered by the victim and the victim's family, and any other relevant information. The court may permit the attorney for the government to amend the notice upon a showing of good cause.

"(b) HEARING BEFORE A COURT OR JURY.—If the attorney for the government has filed a notice as required under subsection (a) and the defendant is found guilty of or pleads guilty to an offense described in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under this section is necessary; or

"(3) before the court alone, upon the motion of the defendant and with the approval of the attorney for the government.

A jury impaneled pursuant to paragraph (2) shall consist of 12 members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—Notwithstanding rule 32(c) of the Federal Rules of Criminal Procedure, when a defendant is found guilty or pleads guilty to an offense under section 3591, no presentence report shall be prepared. At the sentencing hearing, information may be presented as to any matter relevant to the sentence, including any mitigating or aggravating factor permitted or required to be considered under section 3592. Information presented may include the trial transcript and exhibits if the hearing is held before a jury or judge not present during the trial, or at the trial judge's discretion. The defendant may present any information relevant to a mitigating factor. The government may present any information relevant to an aggravating factor for which notice has been provided under subsection (a). Information is admissible regardless of its admissibility under the rules governing admission of evidence at criminal trials except that information may be excluded if its probative value is outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The government and the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in the case of imposing a sentence of death. The government shall open the argument. The defendant shall be permitted to reply. The government shall then be permitted to reply in rebuttal. The burden of establishing the existence of any aggravating factor is on the government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the information.

"(d) RETURN OF SPECIAL FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factor or factors set forth in section 3592 found to exist and any other aggravating factor for which notice has been provided under subsection (a) found to exist. A finding with respect to a mitigating factor may be made by 1 or more members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such factor established for purposes of this section regardless of the number of jurors who concur that the factor has been established. A finding with respect to any aggravating factor must be unanimous. If no aggravating factor set forth in section 3592 is found to exist, the court shall impose a sentence other than death authorized by law.

"(e) RETURN OF A FINDING CONCERNING A SENTENCE OF DEATH.—If, in the case of—

"(1) an offense described in section 3591(a)(1), an aggravating factor required to be considered under section 3592(b) is found to exist;

"(2) an offense described in section 3591(a)(2), an aggravating factor required to be considered under section 3592(c) is found to exist; or

"(3) an offense described in section 3591(b), an aggravating factor required to be considered under section 3592(d) is found to exist,

the jury, or if there is no jury, the court, shall consider whether all the aggravating factor or factors found to exist sufficiently outweigh all the mitigating factor or factors found to exist to justify a sentence of death, or, in the absence of a mitigating factor, whether the aggravating factor or factors alone are sufficient to justify a sentence of death. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall recommend whether the defendant should be sentenced to death, to life imprisonment without possibility of release or some other lesser sentence.

"(f) SPECIAL PRECAUTION TO ENSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, prior to the return of a finding under subsection (e), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not consider the race, color, religious beliefs, national origin, or sex of the defendant or of any victim and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or of any victim may be. The jury, upon return of a finding under subsection (e), shall also return to the court a certificate, signed by each juror, that consideration of the race, color, religious beliefs, national origin, or sex of the defendant or any victim was not involved in reaching his or her individual decision and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or any victim may be.

"§3594. Imposition of a sentence of death

"Upon a recommendation under section 3593(e) that the defendant should be sentenced

to death or life imprisonment without possibility of release, the court shall sentence the defendant accordingly. Otherwise, the court shall impose any lesser sentence that is authorized by law. Notwithstanding any other law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without possibility of release.

"§3595. Review of a sentence of death

"(a) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal must be filed within the time specified for the filing of a notice of appeal. An appeal under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) REVIEW.—The court of appeals shall review the entire record in the case, including—

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d).

"(c) DECISION AND DISPOSITION.—

"(1) The court of appeals shall address all substantive and procedural issues raised on the appeal of a sentence of death, and shall consider whether the sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary factor and whether the evidence supports the special finding of the existence of an aggravating factor required to be considered under section 3592.

"(2) Whenever the court of appeals finds that—

"(A) the sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary factor;

"(B) the admissible evidence and information adduced does not support the special finding of the existence of the required aggravating factor; or

"(C) the proceedings involved any other legal error requiring reversal of the sentence that was properly preserved for appeal under the rules of criminal procedure,

the court shall remand the case for reconsideration under section 3593 or imposition of a sentence other than death. The court of appeals shall not reverse or vacate a sentence of death on account of any error which can be harmless, including any erroneous special finding of an aggravating factor, where the Government establishes beyond a reasonable doubt that the error was harmless.

"(3) The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"§3596. Implementation of a sentence of death

"(a) IN GENERAL.—A person who has been sentenced to death pursuant to this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of the State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does provide for the implementation of a sentence of death, and the sentence shall be implemented in the latter State in the manner prescribed by such law.

"(b) PREGNANT WOMAN.—A sentence of death shall not be carried out upon a woman while she is pregnant.

"(c) MENTAL CAPACITY.—A sentence of death shall not be carried out upon a person who is mentally retarded. A sentence of death shall not be carried out upon a person who, as a result of mental disability, lacks the mental capacity to understand the death penalty and why it was imposed on that person.

"§3597. Use of State facilities

"(a) IN GENERAL.—A United States marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such an official employs for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

"(b) EXCUSE OF AN EMPLOYEE ON MORAL OR RELIGIOUS GROUNDS.—No employee of any State department of corrections, the United States Department of Justice, the Federal Bureau of Prisons, or the United States Marshals Service, and no employee providing services to that department, bureau, or service under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any prosecution or execution under this section if such participation is contrary to the moral or religious convictions of the employee. In this subsection, 'participation in executions' includes personal preparation of the condemned individual and the apparatus used for execution and supervision of the activities of other personnel in carrying out such activities.

"§3598. Special provisions for Indian country

"Notwithstanding sections 1152 and 1153, no person subject to the criminal jurisdiction of an Indian tribal government shall be subject to a capital sentence under this chapter for any offense the Federal jurisdiction for which is predicated solely on Indian country (as defined in section 1151 of this title) and which has occurred within the boundaries of Indian country, unless the governing body of the tribe has elected that this chapter have effect over land and persons subject to its criminal jurisdiction.".

(b) TECHNICAL AMENDMENT.—The part analysis for part II of title 18, United States Code, is amended by inserting after the item relating to chapter 227 the following new item:

"228. Death sentence ..... 3591".

SEC. 60003. SPECIFIC OFFENSES FOR WHICH DEATH PENALTY IS AUTHORIZED.

(a) CONFORMING CHANGES IN TITLE 18.—Title 18, United States Code, is amended as follows:

(1) AIRCRAFT AND MOTOR VEHICLES.—Section 34 of title 18, United States Code, is amended by striking the comma after "imprisonment for life", inserting a period, and striking the remainder of the section.

(2) ESPIONAGE.—Section 794(a) of title 18, United States Code, is amended by striking the period at the end of the section and inserting ", except that the sentence of death shall not be imposed unless the jury or, if there is no jury, the court, further finds that the offense resulted in the identification by a foreign power (as defined in section 101(a) of the Foreign Intelligence Surveillance Act of 1978) of an individual acting as an agent of the United States and consequently in the death of that individual, or directly concerned nuclear weaponry, military spacecraft or satellites, early warning systems, or other means of defense or retaliation against large-scale attack; war plans; communications intelligence or cryptographic information; or any other major weapons system or major element of defense strategy.".

(3) EXPLOSIVE MATERIALS.—(A) Section 844(d) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(B) Section 844(f) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(C) Section 844(i) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(4) MURDER.—The second undesignated paragraph of section 1111(b) of title 18, United States Code, is amended to read as follows:

"Whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life;".

(5) KILLING OF FOREIGN OFFICIAL.—Section 1116(a) of title 18, United States Code, is amended by striking "any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life, and".

(6) KIDNAPPING.—Section 1201(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(7) NONMAILABLE INJURIOUS ARTICLES.—The last paragraph of section 1716 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the paragraph.

(8) WRECKING TRAINS.—The second to the last undesignated paragraph of section 1992 of title 18, United States Code, is amended by striking the comma after "imprisonment for life", inserting a period, and striking the remainder of the section.

(9) BANK ROBBERY.—Section 2113(e) of title 18, United States Code, is amended by striking "or punished by death if the verdict of the jury shall so direct" and inserting "or if death results shall be punished by death or life imprisonment".

(10) HOSTAGE TAKING.—Section 1203(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(11) MURDER FOR HIRE.—Section 1958 of title 18, United States Code, is amended by striking "and if death results, shall be subject to imprisonment for any term of years or for life, or shall be fined not more than $50,000, or both" and inserting "and if death results, shall be punished by death or life imprisonment, or shall be fined not more than $250,000, or both".

(12) RACKETEERING.—Section 1959(a)(1) of title 18, United States Code, is amended to read as follows:

"(1) for murder, by death or life imprisonment, or a fine of not more than $250,000, or both; and for kidnapping, by imprisonment for any term of years or for life, or a fine of not more than $250,000, or both;".

(13) GENOCIDE.—Section 1091(b)(1) of title 18, United States Code, is amended by striking "a fine of not more than $1,000,000 or imprisonment for life," and inserting ", where death results, by death or imprisonment for life and a fine of not more than $1,000,000, or both;".

(14) CARJACKING.—Section 2119(3) of title 18, United States Code, is amended by striking the period after "both" and inserting ", or sentenced to death."; and by striking ", possessing a firearm as defined in section 921 of this title," and inserting ", with the intent to cause death or serious bodily harm".

(b) CONFORMING AMENDMENT TO FEDERAL AVIATION ACT OF 1954.—Chapter 465 of title 49, United States Code, is amended—

(1) in the chapter analysis by striking "Death penalty sentencing procedure for aircraft piracy" and inserting "Repealed"; and

(2) by striking section 46503.

SEC. 60004. APPLICABILITY TO UNIFORM CODE OF MILITARY JUSTICE.

Chapter 228 of title 18, United States Code, as added by this title, shall not apply to prosecutions under the Uniform Code of Military Justice (10 U.S.C. 801).

SEC. 60005. DEATH PENALTY FOR MURDER BY A FEDERAL PRISONER.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end the following new section:

"§1118. Murder by a Federal prisoner

"(a) OFFENSE.—A person who, while confined in a Federal correctional institution under a sentence for a term of life imprisonment, commits the murder of another shall be punished by death or by life imprisonment.

"(b) DEFINITIONS.—In this section—

"'Federal correctional institution' means any Federal prison, Federal correctional facility, Federal community program center, or Federal halfway house.

"'murder' means a first degree or second degree murder (as defined in section 1111).

"'term of life imprisonment' means a sentence for the term of natural life, a sentence commuted to natural life, an indeterminate term of a minimum of at least fifteen years and a maximum of life, or an unexecuted sentence of death.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end the following new item:

"1118. Murder by a Federal prisoner.".

SEC. 60006. DEATH PENALTY FOR CIVIL RIGHTS MURDERS.

(a) CONSPIRACY AGAINST RIGHTS.—Section 241 of title 18, United States Code, is amended by striking the period at the end of the last sentence and inserting ", or may be sentenced to death.".

(b) DEPRIVATION OF RIGHTS UNDER COLOR OF LAW.—Section 242 of title 18, United States Code, is amended by striking the period at the end of the last sentence and inserting ", or may be sentenced to death.".

(c) FEDERALLY PROTECTED ACTIVITIES.—Section 245(b) of title 18, United States Code, is amended in the matter following paragraph (5) by inserting ", or may be sentenced to death" after "or for life".

(d) DAMAGE TO RELIGIOUS PROPERTY; OBSTRUCTION OF THE FREE EXERCISE OF RELIGIOUS RIGHTS.—Section 247(c)(1) of title 18, United States Code, is amended by inserting ", or may be sentenced to death" after "or both".

SEC. 60007. DEATH PENALTY FOR THE MURDER OF FEDERAL LAW ENFORCEMENT OFFICIALS.

Section 1114 of title 18, United States Code, is amended by striking "punished as provided under sections 1111 and 1112 of this title," and inserting "punished, in the case of murder, as provided under section 1111, or, in the case of manslaughter, as provided under section 1112.".

SEC. 60008. NEW OFFENSE FOR THE INDISCRIMINATE USE OF WEAPONS TO FURTHER DRUG CONSPIRACIES.

(a) SHORT TITLE.—This section may be cited as the "Drive-By Shooting Prevention Act of 1994".

(b) IN GENERAL.—Chapter 2 of title 18, United States Code, is amended by adding at the end the following new section:

"§36. Drive-by shooting

"(a) DEFINITION.—In this section, 'major drug offense' means—

"(1) a continuing criminal enterprise punishable under section 403(c) of the Controlled Substances Act (21 U.S.C. 848(c));

"(2) a conspiracy to distribute controlled substances punishable under section 406 of the Controlled Substances Act (21 U.S.C. 846) section 1013 of the Controlled Substances Import and Export Control Act (21 U.S.C. 963); or

"(3) an offense involving major quantities of drugs and punishable under section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) or section 1010(b)(1) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)).

"(b) OFFENSE AND PENALTIES.—(1) A person who, in furtherance or to escape detection of a major drug offense and with the intent to intimidate, harass, injure, or maim, fires a weapon into a group of two or more persons and who, in the course of such conduct, causes grave risk to any human life shall be punished by a term of no more than 25 years, by fine under this title, or both.

"(2) A person who, in furtherance or to escape detection of a major drug offense and with the intent to intimidate, harass, injure, or maim, fires a weapon into a group of 2 or more persons and who, in the course of such conduct, kills any person shall, if the killing—

"(A) is a first degree murder (as defined in section 1111(a)), be punished by death or imprisonment for any term of years or for life, fined under this title, or both; or

"(B) is a murder other than a first degree murder (as defined in section 1111(a)), be fined under this title, imprisoned for any term of years or for life, or both.".

(c) TECHNICAL AMENDMENT.—The chapter analysis for chapter 2 of title 18, United States Code, is amended by adding at the end the following new item:

"36. Drive-by shooting.".

SEC. 60009. FOREIGN MURDER OF UNITED STATES NATIONALS.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, as amended by section 60005(a), is amended by adding at the end the following new section:

"§1119. Foreign murder of United States nationals

"(a) DEFINITION.—In this section, 'national of the United States' has the meaning stated in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

"(b) OFFENSE.—A person who, being a national of the United States, kills or attempts to kill a national of the United States while such national is outside the United States but within the jurisdiction of another country shall be punished as provided under sections 1111, 1112, and 1113.

"(c) LIMITATIONS ON PROSECUTION.—(1) No prosecution may be instituted against any person under this section except upon the written approval of the Attorney General, the Deputy Attorney General, or an Assistant Attorney General, which function of approving prosecutions may not be delegated. No prosecution shall be approved if prosecution has been previously undertaken by a foreign country for the same conduct.

"(2) No prosecution shall be approved under this section unless the Attorney General, in consultation with the Secretary of State, determines that the conduct took place in a country in which the person is no longer present, and the country lacks the ability to lawfully secure the person's return. A determination by the Attorney General under this paragraph is not subject to judicial review.".

(b) TECHNICAL AMENDMENTS.—(1) Section 1117 of title 18, United States Code, is amended by striking "or 1116" and inserting "1116, or 1119".

(2) The chapter analysis for chapter 51 of title 18, United States Code, as amended by section 60005(a), is amended by adding at the end the following new item:

"1119. Foreign murder of United States nationals.".

SEC. 60010. DEATH PENALTY FOR RAPE AND CHILD MOLESTATION MURDERS.

(a) OFFENSE.—Chapter 109A of title 18, United States Code, is amended—

(1) by redesignating section 2245 as section 2246; and

(2) by inserting after section 2244 the following new section:

"§2245. Sexual abuse resulting in death

"A person who, in the course of an offense under this chapter, engages in conduct that results in the death of a person, shall be punished by death or imprisoned for any term of years or for life.".

(b) TECHNICAL AMENDMENTS.—The chapter analysis for chapter 109A of title 18, United States Code, is amended by striking the item for section 2245 and inserting the following:

"2245. Sexual abuse resulting in death.

"2246. Definitions for chapter.".

SEC. 60011. DEATH PENALTY FOR SEXUAL EXPLOITATION OF CHILDREN.

Section 2251(d) of title 18, United States Code, is amended by adding at the end the following: "Whoever, in the course of an offense under this section, engages in conduct that results in the death of a person, shall be punished by death or imprisoned for any term of years or for life.".

SEC. 60012. MURDER BY ESCAPED PRISONERS.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, as amended by section 60009(a), is amended by adding at the end the following new section:

"§1120. Murder by escaped prisoners

"(a) DEFINITION.—In this section, 'Federal prison' and 'term of life imprisonment' have the meanings stated in section 1118.

"(b) OFFENSE AND PENALTY.—A person, having escaped from a Federal prison where the person was confined under a sentence for a term of life imprisonment, kills another shall be punished as provided in sections 1111 and 1112.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 51 of title 18, United States Code, as amended by section 60009(b)(2), is amended by adding at the end the following new item:

"1120. Murder by escaped prisoners.".

SEC. 60013. DEATH PENALTY FOR GUN MURDERS DURING FEDERAL CRIMES OF VIOLENCE AND DRUG TRAFFICKING CRIMES.

Section 924 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(i) A person who, in the course of a violation of subsection (c), causes the death of a person through the use of a firearm, shall—

"(1) if the killing is a murder (as defined in section 1111), be punished by death or by imprisonment for any term of years or for life; and

"(2) if the killing is manslaughter (as defined in section 1112), be punished as provided in that section.".

SEC. 60014. HOMICIDES AND ATTEMPTED HOMICIDES INVOLVING FIREARMS IN FEDERAL FACILITIES.

Section 930 of title 18, United States Code, is amended—

(1) by redesignating subsections (c), (d), (e), and (f) as subsections (d), (e), (f), and (g), respectively;

(2) in subsection (a) by striking "(c)" and inserting "(d)"; and

(3) by inserting after subsection (b) the following new subsection:

"(c) A person who kills or attempts to kill any person in the course of a violation of subsection (a) or (b), or in the course of an attack on a Federal facility involving the use of a firearm or other dangerous weapon, shall be punished as provided in sections 1111, 1112, and 1113.".

SEC. 60015. DEATH PENALTY FOR THE MURDER OF STATE OR LOCAL OFFICIALS ASSISTING FEDERAL LAW ENFORCEMENT OFFICIALS AND STATE CORRECTIONAL OFFICERS.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, as amended by section 60012(a),

is amended by adding at the end the following new section:

"§ 1121. Killing persons aiding Federal investigations or State correctional officers

"(a) Whoever intentionally kills—

"(1) a State or local official, law enforcement officer, or other officer or employee while working with Federal law enforcement officials in furtherance of a Federal criminal investigation—

"(A) while the victim is engaged in the performance of official duties;

"(B) because of the performance of the victim's official duties; or

"(C) because of the victim's status as a public servant; or

"(2) any person assisting a Federal criminal investigation, while that assistance is being rendered and because of it,

shall be sentenced according to the terms of section 1111, including by sentence of death or by imprisonment for life.

"(b)(1) Whoever, in a circumstance described in paragraph (3) of this subsection, while incarcerated, intentionally kills any State correctional officer engaged in, or on account of the performance of such officer's official duties, shall be sentenced to a term of imprisonment which shall not be less than 20 years, and may be sentenced to life imprisonment or death.

"(2) As used in this section, the term, 'State correctional officer' includes any officer or employee of any prison, jail, or other detention facility, operated by, or under contract to, either a State or local governmental agency, whose job responsibilities include providing for the custody of incarcerated individuals.

"(3) The circumstance referred to in paragraph (1) is that—

"(A) the correctional officer is engaged in transporting the incarcerated person interstate; or

"(B) the incarcerated person is incarcerated pursuant to a conviction for an offense against the United States.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 51 of title 18, United States Code, as amended by section 60012(b), is amended by adding at the end the following new item:

"1121. Killing persons aiding Federal investigations or State correctional officers.".

SEC. 60016. PROTECTION OF COURT OFFICERS AND JURORS.

Section 1503 of title 18, United States Code, is amended—

(1) by inserting "(a)" before "Whoever";

(2) by striking "fined not more than $5,000 or imprisoned not more than five years, or both." and inserting "punished as provided in subsection (b).";

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

"(b) The punishment for an offense under this section is—

"(1) in the case of a killing, the punishment provided in sections 1111 and 1112;

"(2) in the case of an attempted killing, or a case in which the offense was committed against a petit juror and in which a class A or B felony was charged, imprisonment for not more than 20 years, a fine under this title, or both; and

"(3) in any other case, imprisonment for not more than 10 years, a fine under this title, or both."; and

(4) in subsection (a), as designated by paragraph (1), by striking "commissioner" each place it appears and inserting "magistrate judge".

SEC. 60017. PROHIBITION OF RETALIATORY KILLINGS OF WITNESSES, VICTIMS, AND INFORMANTS.

Section 1513 of title 18, United States Code, is amended—

(1) by redesignating subsections (a) and (b) as subsections (b) and (c), respectively; and

(2) by inserting after the section heading the following new subsection:

"(a)(1) Whoever kills or attempts to kill another person with intent to retaliate against any person for—

"(A) the attendance of a witness or party at an official proceeding, or any testimony given or any record, document, or other object produced by a witness in an official proceeding; or

"(B) providing to a law enforcement officer any information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, parole, or release pending judicial proceedings,

shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under this subsection is—

"(A) in the case of a killing, the punishment provided in sections 1111 and 1112; and

"(B) in the case of an attempt, imprisonment for not more than 20 years.".

SEC. 60018. DEATH PENALTY FOR MURDER OF FEDERAL WITNESSES.

Section 1512(a)(2)(A) of title 18, United States Code, is amended to read as follows:

"(A) in the case of murder (as defined in section 1111), the death penalty or imprisonment for life, and in the case of any other killing, the punishment provided in section 1112;".

SEC. 60019. OFFENSES OF VIOLENCE AGAINST MARITIME NAVIGATION OR FIXED PLATFORMS.

(a) IN GENERAL.—Chapter 111 of title 18, United States Code, is amended by adding at the end the following new sections:

"§2280. Violence against maritime navigation

"(a) OFFENSES.—

"(1) IN GENERAL.—A person who unlawfully and intentionally—

"(A) seizes or exercises control over a ship by force or threat thereof or any other form of intimidation;

"(B) performs an act of violence against a person on board a ship if that act is likely to endanger the safe navigation of that ship;

"(C) destroys a ship or causes damage to a ship or to its cargo which is likely to endanger the safe navigation of that ship;

"(D) places or causes to be placed on a ship, by any means whatsoever, a device or substance which is likely to destroy that ship, or cause damage to that ship or its cargo which endangers or is likely to endanger the safe navigation of that ship;

"(E) destroys or seriously damages maritime navigational facilities or seriously interferes with their operation, if such act is likely to endanger the safe navigation of a ship;

"(F) communicates information, knowing the information to be false and under circumstances in which such information may reasonably be believed, thereby endangering the safe navigation of a ship;

"(G) injures or kills any person in connection with the commission or the attempted commission of any of the offenses set forth in subparagraphs (A) through (F); or

"(H) attempts to do any act prohibited under subparagraphs (A) through (G),

shall be fined under this title, imprisoned not more than 20 years, or both; and if the death of any person results from conduct prohibited by this paragraph, shall be punished by death or imprisoned for any term of years or for life.

"(2) THREAT TO NAVIGATION.—A person who threatens to do any act prohibited under paragraph (1) (B), (C) or (E), with apparent determination and will to carry the threat into execution, if the threatened act is likely to endanger the safe navigation of the ship in question, shall be fined under this title, imprisoned not more than 5 years, or both.

"(b) JURISDICTION.—There is jurisdiction over the activity prohibited in subsection (a)—

"(1) in the case of a covered ship, if—

"(A) such activity is committed—

"(i) against or on board a ship flying the flag of the United States at the time the prohibited activity is committed;

"(ii) in the United States and the activity is not prohibited as a crime by the State in which the activity takes place; or

"(iii) the activity takes place on a ship flying the flag of a foreign country or outside the United States, by a national of the United States or by a stateless person whose habitual residence is in the United States;

"(B) during the commission of such activity, a national of the United States is seized, threatened, injured or killed; or

"(C) the offender is later found in the United States after such activity is committed;

"(2) in the case of a ship navigating or scheduled to navigate solely within the territorial sea or internal waters of a country other than the United States, if the offender is later found in the United States after such activity is committed; and

"(3) in the case of any vessel, if such activity is committed in an attempt to compel the United States to do or abstain from doing any act.

"(c) BAR TO PROSECUTION.—It is a bar to Federal prosecution under subsection (a) for conduct that occurred within the United States that the conduct involved was during or in relation to a labor dispute, and such conduct is prohibited as a felony under the law of the State in which it was committed. For purposes of this section, the term 'labor dispute' has the meaning set forth in section 2(c) of the Norris-LaGuardia Act, as amended (29 U.S.C. 113(c)).

"(d) DELIVERY OF SUSPECTED OFFENDER.—The master of a covered ship flying the flag of the United States who has reasonable grounds to believe that there is on board that ship any person who has committed an offense under Article 3 of the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation may deliver such person to the authorities of a State Party to that Convention. Before delivering such person to the authorities of another country, the master shall notify in an appropriate manner the Attorney General of the United States of the alleged offense and await instructions from the Attorney General as to what action to take. When delivering the person to a country which is a State Party to the Convention, the master shall, whenever practicable, and if possible before entering the territorial sea of such country, notify the authorities of such country of the master's intention to deliver such person and the reasons therefor. If the master delivers such person, the master shall furnish to the authorities of such country the evidence in the master's possession that pertains to the alleged offense.

"(e) DEFINITIONS.—In this section—

"'covered ship' means a ship that is navigating or is scheduled to navigate into, through or from waters beyond the outer limit of the territorial sea of a single country or a lateral limit of that country's territorial sea with an adjacent country.

"'national of the United States' has the meaning stated in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

"'territorial sea of the United States' means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law.

"'ship' means a vessel of any type whatsoever not permanently attached to the sea-bed, including dynamically supported craft, submersibles or any other floating craft, but does not include a warship, a ship owned or operated by a government when being used as a

naval auxiliary or for customs or police purposes, or a ship which has been withdrawn from navigation or laid up.

"'United States', when used in a geographical sense, includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands and all territories and possessions of the United States.

"§2281. Violence against maritime fixed platforms

"(a) OFFENSES.—

"(1) IN GENERAL.—A person who unlawfully and intentionally—

"(A) seizes or exercises control over a fixed platform by force or threat thereof or any other form of intimidation;

"(B) performs an act of violence against a person on board a fixed platform if that act is likely to endanger its safety;

"(C) destroys a fixed platform or causes damage to it which is likely to endanger its safety;

"(D) places or causes to be placed on a fixed platform, by any means whatsoever, a device or substance which is likely to destroy that fixed platform or likely to endanger its safety;

"(E) injures or kills any person in connection with the commission or the attempted commission of any of the offenses set forth in subparagraphs (A) through (D); or

"(F) attempts to do anything prohibited under subparagraphs (A) through (E),

shall be fined under this title, imprisoned not more than 20 years, or both; and if death results to any person from conduct prohibited by this paragraph, shall be punished by death or imprisoned for any term of years or for life.

"(2) THREAT TO SAFETY.—A person who threatens to do anything prohibited under paragraph (1) (B) or (C), with apparent determination and will to carry the threat into execution, if the threatened act is likely to endanger the safety of the fixed platform, shall be fined under this title, imprisoned not more than 5 years, or both.

"(b) JURISDICTION.—There is jurisdiction over the activity prohibited in subsection (a) if—

"(1) such activity is committed against or on board a fixed platform—

"(A) that is located on the continental shelf of the United States;

"(B) that is located on the continental shelf of another country, by a national of the United States or by a stateless person whose habitual residence is in the United States; or

"(C) in an attempt to compel the United States to do or abstain from doing any act;

"(2) during the commission of such activity against or on board a fixed platform located on a continental shelf, a national of the United States is seized, threatened, injured or killed; or

"(3) such activity is committed against or on board a fixed platform located outside the United States and beyond the continental shelf of the United States and the offender is later found in the United States.

"(c) BAR TO PROSECUTION.—It is a bar to Federal prosecution under subsection (a) for conduct that occurred within the United States that the conduct involved was during or in relation to a labor dispute, and such conduct is prohibited as a felony under the law of the State in which it was committed. For purposes of this section, the term 'labor dispute' has the meaning set forth in section 2(c) of the Norris-LaGuardia Act, as amended (29 U.S.C. 113(c)).

"(d) DEFINITIONS.—In this section—

"'continental shelf' means the sea-bed and subsoil of the submarine areas that extend beyond a country's territorial sea to the limits provided by customary international law as reflected in Article 76 of the 1982 Convention on the Law of the Sea.

"'fixed platform' means an artificial island, installation or structure permanently attached to the sea-bed for the purpose of exploration or exploitation of resources or for other economic purposes.

"'national of the United States' has the meaning stated in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

"'territorial sea of the United States' means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law.

"'United States', when used in a geographical sense, includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands and all territories and possessions of the United States.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 111 of title 18, United States Code, is amended by adding at the end the following new items:

"2280. Violence against maritime navigation.

"2281. Violence against maritime fixed platforms.".

(c) EFFECTIVE DATES.—This section and the amendments made by this section shall take effect on the later of—

(1) the date of the enactment of this Act; or

(2)(A) in the case of section 2280 of title 18, United States Code, the date the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation has come into force and the United States has become a party to that Convention; and

(B) in the case of section 2281 of title 18, United States Code, the date the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf has come into force and the United States has become a party to that Protocol.

SEC. 60020. TORTURE.

Section 2340A(a) of title 18, United States Code, is amended by inserting "punished by death or" before "imprisoned for any term of years or for life.".

SEC. 60021. VIOLENCE AT AIRPORTS SERVING INTERNATIONAL CIVIL AVIATION.

(a) OFFENSE.—Chapter 2 of title 18, United States Code, as amended by section 60008(b), is amended by adding at the end the following new section:

"§37. Violence at international airports

"(a) OFFENSE.—A person who unlawfully and intentionally, using any device, substance, or weapon—

"(1) performs an act of violence against a person at an airport serving international civil aviation that causes or is likely to cause serious bodily injury (as defined in section 1365 of this title) or death; or

"(2) destroys or seriously damages the facilities of an airport serving international civil aviation or a civil aircraft not in service located thereon or disrupts the services of the airport,

if such an act endangers or is likely to endanger safety at that airport, or attempts to do such an act, shall be fined under this title, imprisoned not more than 20 years, or both; and if the death of any person results from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) JURISDICTION.—There is jurisdiction 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 the United States and the offender is later found in the United States.

"(c) It is a bar to Federal persecution under subsection (a) for conduct that occurred within the United States that the conduct involved was during or in relation to a labor dispute, and such conduct is prohibited as a felony under the law of the State in which it was committed. For purposes of this section, the term 'labor dispute' has the meaning set forth in section 2(c) of the Norris-LaGuardia Act, as amended (29 U.S.C. 113(c)).

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 2 of title 18, United States Code, as amended by section 60008(c), is amended by adding at the end the following new item:

"37. Violence at international airports.".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the later of—

(1) the date of enactment of this Act; or

(2) the date on which the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, done at Montreal on 23 September 1971, has come into force and the United States has become a party to the Protocol.

SEC. 60022. TERRORIST DEATH PENALTY ACT.

Section 2332(a)(1) of title 18, United States Code is amended to read as follows:

"(1) if the killing is murder (as defined in section 1111(a)), be fined under this title, punished by death or imprisonment for any term of years or for life, or both;".

SEC. 60023. WEAPONS OF MASS DESTRUCTION.

(a) OFFENSE.—Chapter 113A of title 18, United States Code, is amended by inserting after section 2332 the following new section:

"§2332a. Use of weapons of mass destruction

"(a) OFFENSE.—A person who uses, or attempts or conspires to use, a weapon of mass destruction—

"(1) against a national of the United States while such national is outside of the United States;

"(2) against any person within the United States; or

"(3) against any property that is owned, leased or used by the United States or by any department or agency of the United States, whether the property is within or outside of the United States,

shall be imprisoned for any term of years or for life, and if death results, shall be punished by death or imprisoned for any term of years or for life.

"(b) DEFINITIONS.—For purposes of this section—

"(1) the term 'national of the United States' has the meaning given in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); and

"(2) the term 'weapon of mass destruction' means—

"(A) any destructive device as defined in section 921 of this title;

"(B) poison gas;

"(C) any weapon involving a disease organism; or

"(D) any weapon that is designed to release radiation or radioactivity at a level dangerous to human life.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 113A of title 18, United States Code, is amended by inserting after the item relating to section 2332 the following:

"2332a. Use of weapons of mass destruction.".

SEC. 60024. ENHANCED PENALTIES FOR ALIEN SMUGGLING.

Section 274(a) of the Immigration and Nationality Act (8 U.S.C. 1324(a)) is amended—

(1) in paragraph (1)—

(A) by striking "(1) Any person" and inserting "(1)(A) Any person";

(B) by striking "(A) knowing" and inserting "(i) knowing";

(C) by striking "(B) knowing" and inserting "(ii) knowing";

(D) by striking "(C) knowing" and inserting "(iii) knowing";

(E) by striking "(D) encourages" and inserting "(iv) encourages";

(F) by striking "shall be fined in accordance with title 18, or imprisoned not more than five years, or both, for each alien in respect to whom any violation of this paragraph occurs" and inserting "shall be punished as provided in subparagraph (B)"; and

(G) by adding at the end the following new subparagraph:

"(B) A person who violates subparagraph (A) shall, for each alien in respect to whom such a violation occurs—

"(i) in the case of a violation of subparagraph (A)(i), be fined under title 18, United States Code, imprisoned not more than 10 years, or both;

"(ii) in the case of a violation of subparagraph (A) (ii), (iii), or (iv), be fined under title 18, United States Code, imprisoned not more than 5 years, or both;

"(iii) in the case of a violation of subparagraph (A) (i), (ii), (iii), or (iv) during and in relation to which the person causes serious bodily injury (as defined in section 1365 of title 18, United States Code) to, or places in jeopardy the life of, any person, be fined under title 18, United States Code, imprisoned not more than 20 years, or both; and

"(iv) in the case of a violation of subparagraph (A) (i), (ii), (iii), or (iv) resulting in the death of any person, be punished by death or imprisoned for any term of years or for life, fined under title 18, United States Code, or both."; and

(2) in paragraph (2) by striking "or imprisoned not more than five years, or both" and inserting "or in the case of a violation of subparagraph (B)(ii), imprisoned not more than 10 years, or both; or in the case of a violation of subparagraph (B)(i) or (B)(iii), imprisoned not more than 5 years, or both.".

SEC. 60025. PROTECTION OF JURORS AND WITNESSES IN CAPITAL CASES.

Section 3432 of title 18, United States Code, is amended by inserting before the period the following: ", except that such list of the veniremen and witnesses need not be furnished if the court finds by a preponderance of the evidence that providing the list may jeopardize the life or safety of any person".

SEC. 60026. APPOINTMENT OF COUNSEL.

Section 3005 of title 18, United States Code, is amended by striking "learned in the law" and all that follows through "He shall" and inserting "; and the court before which the defendant is to be tried, or a judge thereof, shall promptly, upon the defendant's request, assign 2 such counsel, of whom at least 1 shall be learned in the law applicable to capital cases, and who shall have free access to the accused at all reasonable hours. In assigning counsel under this section, the court shall consider the recommendation of the Federal Public Defender organization, or, if no such organization exists in the district, of the Administrative Office of the United States Courts. The defendant shall".

TITLE VII—MANDATORY LIFE IMPRISONMENT FOR PERSONS CONVICTED OF CERTAIN FELONIES

SEC. 70001. MANDATORY LIFE IMPRISONMENT FOR PERSONS CONVICTED OF CERTAIN FELONIES.

Section 3559 of title 18, United States Code, is amended—

(1) in subsection (b), by striking "An" and inserting "Except as provided in subsection (c), an" in lieu thereof; and

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

"(c) IMPRISONMENT OF CERTAIN VIOLENT FELONS.—

"(1) MANDATORY LIFE IMPRISONMENT.—Notwithstanding any other provision of law, a person who is convicted in a court of the United States of a serious violent felony shall be sentenced to life imprisonment if—

"(A) the person has been convicted (and those convictions have become final) on separate prior occasions in a court of the United States or of a State of—

"(i) 2 or more serious violent felonies; or

"(ii) one or more serious violent felonies and one or more serious drug offenses; and

"(B) each serious violent felony or serious drug offense used as a basis for sentencing under this subsection, other than the first, was committed after the defendant's conviction of the preceding serious violent felony or serious drug offense.

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'assault with intent to commit rape' means an offense that has as its elements engaging in physical contact with another person or using or brandishing a weapon against another person with intent to commit aggravated sexual abuse or sexual abuse (as described in sections 2241 and 2242);

"(B) the term 'arson' means an offense that has as its elements maliciously damaging or destroying any building, inhabited structure, vehicle, vessel, or real property by means of fire or an explosive;

"(C) the term 'extortion' means an offense that has as its elements the extraction of anything of value from another person by threatening or placing that person in fear of injury to any person or kidnapping of any person;

"(D) the term 'firearms use' means an offense that has as its elements those described in section 924(c) or 929(a), if the firearm was brandished, discharged, or otherwise used as a weapon and the crime of violence or drug trafficking crime during and relation to which the firearm was used was subject to prosecution in a court of the United States or a court of a State, or both;

"(E) the term 'kidnapping' means an offense that has as its elements the abduction, restraining, confining, or carrying away of another person by force or threat of force;

"(F) the term 'serious violent felony' means—

"(i) a Federal or State offense, by whatever designation and wherever committed, consisting of murder (as described in section 1111); manslaughter other than involuntary manslaughter (as described in section 1112); assault with intent to commit murder (as described in section 113(a)); assault with intent to commit rape; aggravated sexual abuse and sexual abuse (as described in sections 2241 and 2242); abusive sexual contact (as described in sections 2244 (a)(1) and (a)(2)); kidnapping; aircraft piracy (as described in section 46502 of Title 49); robbery (as described in section 2111, 2113, or 2118); carjacking (as described in section 2119); extortion; arson; firearms use; or attempt, conspiracy, or solicitation to commit any of the above offenses; and

"(ii) any other offense punishable by a maximum term of imprisonment of 10 years or more that has as an element the use, attempted use, or threatened use of physical force against the person of another or that, by its nature, involves a substantial risk that physical force against the person of another may be used in the course of committing the offense;

"(G) the term 'State' means a State of the United States, the District of Columbia, and a commonwealth, territory, or possession of the United States; and

"(H) the term 'serious drug offense' means—

"(i) an offense that is punishable under section 401(b)(1)(A) or 408 of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A), 848) or section 1010(b)(1)(A) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)(A)); or

"(ii) an offense under State law that, had the offense been prosecuted in a court of the United States, would have been punishable under section 401(b)(1)(A) or 408 of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A), 848) or section 1010(b)(1)(A) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)(A)).

"(3) NONQUALIFYING FELONIES.—

"(A) ROBBERY IN CERTAIN CASES.—Robbery, an attempt, conspiracy, or solicitation to commit robbery; or an offense described in paragraph (2)(F)(ii) shall not serve as a basis for sentencing under this subsection if the defendant establishes by clear and convincing evidence that—

"(i) no firearm or other dangerous weapon was used in the offense and no threat of use of a firearm or other dangerous weapon was involved in the offense; and

"(ii) the offense did not result in death or serious bodily injury (as defined in section 1365) to any person.

"(B) ARSON IN CERTAIN CASES.—Arson shall not serve as a basis for sentencing under this subsection if the defendant establishes by clear and convincing evidence that—

"(i) the offense posed no threat to human life; and

"(ii) the defendant reasonably believed the offense posed no threat to human life.

"(4) INFORMATION FILED BY UNITED STATES ATTORNEY.—The provisions of section 411(a) of the Controlled Substances Act (21 U.S.C. 851(a)) shall apply to the imposition of sentence under this subsection.

"(5) RULE OF CONSTRUCTION.—This subsection shall not be construed to preclude imposition of the death penalty.

"(6) SPECIAL PROVISION FOR INDIAN COUNTRY.—No person subject to the criminal jurisdiction of an Indian tribal government shall be subject to this subsection for any offense for which Federal jurisdiction is solely predicated on Indian country (as defined in section 1151) and which occurs within the boundaries of such Indian country unless the governing body of the tribe has elected that this subsection have effect over land and persons subject to the criminal jurisdiction of the tribe.

"(7) RESENTENCING UPON OVERTURNING OF PRIOR CONVICTION.—If the conviction for a serious violent felony or serious drug offense that was a basis for sentencing under this subsection is found, pursuant to any appropriate State or Federal procedure, to be unconstitutional or is vitiated on the explicit basis of innocence, or if the convicted person is pardoned on the explicit basis of innocence, the person serving a sentence imposed under this subsection shall be resentenced to any sentence that was available at the time of the original sentencing.".

SEC. 70002. LIMITED GRANT OF AUTHORITY TO BUREAU OF PRISONS.

Section 3582(c)(1)(A) of title 18, United States Code, is amended—

(1) so that the margin of the matter starting with "extraordinary" and ending with "reduction" the first place it appears is indented an additional two ems;

(2) by inserting a one-em dash after "that" the second place it appears;

(3) by inserting a semicolon after "reduction" the first place it appears;

(4) by indenting the first line of the matter referred to in paragraph (1) and designating that matter as clause (i); and

(5) by inserting after such matter the following:

"(ii) the defendant is at least 70 years of age, has served at least 30 years in prison, pursuant to a sentence imposed under section 3559(c), for the offense or offenses for which the defendant is currently imprisoned, and a determination

has been made by the Director of the Bureau of Prisons that the defendant is not a danger to the safety of any other person or the community, as provided under section 3142(g);".

TITLE VIII—APPLICABILITY OF MANDATORY MINIMUM PENALTIES IN CERTAIN CASES

SEC. 80001. LIMITATION ON APPLICABILITY OF MANDATORY MINIMUM PENALTIES IN CERTAIN CASES.

(a) IN GENERAL.—Section 3553 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(f) LIMITATION ON APPLICABILITY OF STATUTORY MINIMUMS IN CERTAIN CASES.—Notwithstanding any other provision of law, in the case of an offense under section 401, 404, or 406 of the Controlled Substances Act (21 U.S.C. 841, 844, 846) or section 1010 or 1013 of the Controlled Substances Import and Export Act (21 U.S.C. 961, 963), the court shall impose a sentence pursuant to guidelines promulgated by the United States Sentencing Commission under section 994 of title 28 without regard to any statutory minimum sentence, if the court finds at sentencing, after the Government has been afforded the opportunity to make a recommendation, that—

"(1) the defendant does not have more than 1 criminal history point, as determined under the sentencing guidelines;

"(2) the defendant did not use violence or credible threats of violence or possess a firearm or other dangerous weapon (or induce another participant to do so) in connection with the offense;

"(3) the offense did not result in death or serious bodily injury to any person;

"(4) the defendant was not an organizer, leader, manager, or supervisor of others in the offense, as determined under the sentencing guidelines and was not engaged in a continuing criminal enterprise, as defined in 21 U.S.C. 848; and

"(5) not later than the time of the sentencing hearing, the defendant has truthfully provided to the Government all information and evidence the defendant has concerning the offense or offenses that were part of the same course of conduct or of a common scheme or plan, but the fact that the defendant has no relevant or useful other information to provide or that the Government is already aware of the information shall not preclude a determination by the court that the defendant has complied with this requirement.

(b) SENTENCING COMMISSION AUTHORITY.—

(1) IN GENERAL.—(A) The United States Sentencing Commission (referred to in this subsection as the "Commission"), under section 994(a)(1) and (p) of title 28—

(i) shall promulgate guidelines, or amendments to guidelines, to carry out the purposes of this section and the amendment made by this section; and

(ii) may promulgate policy statements, or amendments to policy statements, to assist in the application of this section and that amendment.

(B) In the case of a defendant for whom the statutorily required minimum sentence is 5 years, such guidelines and amendments to guidelines issued under subparagraph (A) shall call for a guideline range in which the lowest term of imprisonment is at least 24 months.

(2) PROCEDURES.—If the Commission determines that it is necessary to do so in order that the amendments made under paragraph (1) may take effect on the effective date of the amendment made by subsection (a), the Commission may promulgate the amendments made under paragraph (1) in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987, as though the authority under that section had not expired.

(c) EFFECTIVE DATE AND APPLICATION.—The amendment made by subsection (a) shall apply to all sentences imposed on or after the 10th day beginning after the date of enactment of this Act.

TITLE IX—DRUG CONTROL

Subtitle A—Enhanced Penalties and General Provisions

SEC. 90101. ENHANCEMENT OF PENALTIES FOR DRUG TRAFFICKING IN PRISONS.

Section 1791 of title 18, United States Code, is amended—

(1) in subsection (c), by inserting before "Any" the following new sentence: "Any punishment imposed under subsection (b) for a violation of this section involving a controlled substance shall be consecutive to any other sentence imposed by any court for an offense involving such a controlled substance.";

(2) in subsection (d)(1)(A), by inserting after "a firearm or destructive device" the following: "or a controlled substance in schedule I or II, other than marijuana or a controlled substance referred to in subparagraph (C) of this subsection";

(3) in subsection (d)(1)(B), by inserting before "ammunition," the following: "marijuana or a controlled substance in schedule III, other than a controlled substance referred to in subparagraph (C) of this subsection,";

(4) in subsection (d)(1)(C), by inserting "methamphetamine, its salts, isomers, and salts of its isomers," after "a narcotic drug,";

(5) in subsection (d)(1)(D), by inserting "(A), (B), or" before "(C)"; and

(6) in subsection (b), by striking "(c)" each place it appears and inserting "(d)".

SEC. 90102. INCREASED PENALTIES FOR DRUG-DEALING IN "DRUG-FREE" ZONES.

Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall amend its sentencing guidelines to provide an appropriate enhancement for a defendant convicted of violating section 419 of the Controlled Substances Act (21 U.S.C. 860).

SEC. 90103. ENHANCED PENALTIES FOR ILLEGAL DRUG USE IN FEDERAL PRISONS AND FOR SMUGGLING DRUGS INTO FEDERAL PRISONS.

(a) DECLARATION OF POLICY.—It is the policy of the Federal Government that the use or distribution of illegal drugs in the Nation's Federal prisons will not be tolerated and that such crimes shall be prosecuted to the fullest extent of the law.

(b) SENTENCING GUIDELINES.—Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall amend its sentencing guidelines to appropriately enhance the penalty for a person convicted of an offense—

(1) under section 404 of the Controlled Substances Act involving simple possession of a controlled substance within a Federal prison or other Federal detention facility; or

(2) under section 401(b) of the Controlled Substances Act involving the smuggling of a controlled substance into a Federal prison or other Federal detention facility or the distribution or intended distribution of a controlled substance within a Federal prison or other Federal detention facility.

(c) NO PROBATION.—Notwithstanding any other law, the court shall not sentence a person convicted of an offense described in subsection (b) to probation.

SEC. 90104. CLARIFICATION OF NARCOTIC OR OTHER DANGEROUS DRUGS UNDER RICO.

Section 1961(1) of title 18, United States Code, is amended by striking "narcotic or other dangerous drugs" each place it appears and inserting "a controlled substance or listed chemical (as defined in section 102 of the Controlled Substances Act)".

SEC. 90105. CONFORMING AMENDMENTS TO RECIDIVIST PENALTY PROVISIONS OF THE CONTROLLED SUBSTANCES ACT AND THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.

(a) Sections 401(b)(1) (B), (C), and (D) of the Controlled Substances Act (21 U.S.C. 841(b)(1) (B), (C), and (D)) and sections 1010(b) (1), (2), and (3) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b) (1), (2), and (3)) are each amended in the sentence or sentences beginning "If any person commits" by striking "one or more prior convictions" through "have become final" and inserting "a prior conviction for a felony drug offense has become final".

(b) Section 1012(b) of the Controlled Substances Import and Export Act (21 U.S.C. 962(b)) is amended by striking "one or more prior convictions of him for a felony under any provision of this title or title II or other law of a State, the United States, or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant drugs, have become final" and inserting "one or more prior convictions of such person for a felony drug offense have become final".

(c) Section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) is amended by striking the sentence beginning "For purposes of this subparagraph, the term 'felony drug offense' means".

(d) Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended by adding at the end the following new paragraph:

"(43) The term 'felony drug offense' means an offense that is punishable by imprisonment for more than one year under any law of the United States or of a State or foreign country that prohibits or restricts conduct relating to narcotic drugs, marihuana, or depressant or stimulant substances.".

SEC. 90106. ADVERTISING.

Section 403 of the Controlled Substances Act (21 U.S.C. 843) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) It shall be unlawful for any person to place in any newspaper, magazine, handbill, or other publications, any written advertisement knowing that it has the purpose of seeking or offering illegally to receive, buy, or distribute a Schedule I controlled substance. As used in this section the term 'advertisement' includes, in addition to its ordinary meaning, such advertisements as those for a catalog of Schedule I controlled substances and any similar written advertisement that has the purpose of seeking or offering illegally to receive, buy, or distribute a Schedule I controlled substance. The term 'advertisement' does not include material which merely advocates the use of a similar material, which advocates a position or practice, and does not attempt to propose or facilitate an actual transaction in a Schedule I controlled substance.".

SEC. 90107. VIOLENT CRIME AND DRUG EMERGENCY AREAS.

(a) DEFINITIONS.—In this section—

"major violent crime or drug-related emergency" means an occasion or instance in which violent crime, drug smuggling, drug trafficking, or drug abuse violence reaches such levels, as determined by the President, that Federal assistance is needed to supplement State and local efforts and capabilities to save lives, and to protect property and public health and safety.

"State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

(b) DECLARATION OF VIOLENT CRIME AND DRUG EMERGENCY AREAS.—If a major violent crime or drug-related emergency exists throughout a State or a part of a State, the President may declare the State or part of a State to be a violent crime or drug emergency area and may take appropriate actions authorized by this section.

(c) PROCEDURE.—

(1) IN GENERAL.—A request for a declaration designating an area to be a violent crime or drug emergency area shall be made, in writing, by the chief executive officer of a State or local government, respectively (or in the case of the District of Columbia, the mayor), and shall be forwarded to the Attorney General in such form as the Attorney General may by regulation require. One or more cities, counties, States, or the District of Columbia may submit a joint request for designation as a major violent crime or drug emergency area under this subsection.

(2) FINDING.—A request made under paragraph (1) shall be based on a written finding that the major violent crime or drug-related emergency is of such severity and magnitude that Federal assistance is necessary to ensure an effective response to save lives and to protect property and public health and safety.

(d) IRRELEVANCY OF POPULATION DENSITY.—The President shall not limit declarations made under this section to highly populated centers of violent crime or drug trafficking, drug smuggling, or drug use, but shall also consider applications from governments of less populated areas where the magnitude and severity of such activities is beyond the capability of the State or local government to respond.

(e) REQUIREMENTS.—As part of a request for a declaration under this section, and as a prerequisite to Federal violent crime or drug emergency assistance under this section, the chief executive officer of a State or local government shall—

(1) take appropriate action under State or local law and furnish information on the nature and amount of State and local resources that have been or will be committed to alleviating the major violent crime- or drug-related emergency;

(2) submit a detailed plan outlining that government's short- and long-term plans to respond to the violent crime or drug emergency, specifying the types and levels of Federal assistance requested and including explicit goals (including quantitative goals) and timetables; and

(3) specify how Federal assistance provided under this section is intended to achieve those goals.

(f) REVIEW PERIOD.—The Attorney General shall review a request submitted pursuant to this section, and the President shall decide whether to declare a violent crime or drug emergency area, within 30 days after receiving the request.

(g) FEDERAL ASSISTANCE.—The President may—

(1) direct any Federal agency, with or without reimbursement, to utilize its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, financial assistance, and managerial, technical, and advisory services) in support of State and local assistance efforts; and

(2) provide technical and advisory assistance, including communications support and law enforcement-related intelligence information.

(h) DURATION OF FEDERAL ASSISTANCE.—

(1) IN GENERAL.—Federal assistance under this section shall not be provided to a violent crime or drug emergency area for more than 1 year.

(2) EXTENSION.—The chief executive officer of a jurisdiction may apply to the President for an extension of assistance beyond 1 year. The President may extend the provision of Federal assistance for not more than an additional 180 days.

(i) REGULATIONS.—Not later than 120 days after the date of enactment of this Act, the Attorney General shall issue regulations to implement this section.

(j) NO EFFECT ON EXISTING AUTHORITY.—Nothing in this section shall diminish or detract from existing authority possessed by the President or Attorney General.

Subtitle B—National Narcotics Leadership Act Amendments

SEC. 90201. IMPLEMENTATION OF NATIONAL DRUG CONTROL STRATEGY.

(a) PROGRAM BUDGET.—Section 1003(c) of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1502(c)) is amended—

(1) by redesignating paragraphs (5), (6), and (7), as paragraphs (6), (7), and (8), respectively; and

(2) by inserting after paragraph (4) the following new paragraph:

"(5) The Director shall request the head of a department or agency to include in the department's or agency's budget submission to the Office of Management and Budget funding requests for specific initiatives that are consistent with the President's priorities for the National Drug Control Strategy and certifications made pursuant to paragraph (3), and the head of the department or agency shall comply with such a request.".

(b) BUDGET RECOMMENDATION.—Section 1003(b) of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1502(b)) is amended—

(1) by striking "and" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting "; and"; and

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

"(8) provide, by July 1 of each year, budget recommendations to the heads of departments and agencies with responsibilities under the National Drug Control Program, which recommendations shall apply to the second following fiscal year and address funding priorities developed in the annual National Drug Control Strategy.".

(c) CONTROL OF DRUG-RELATED RESOURCES.—Section 1003 of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1502) is amended—

(1) in subsection (d)—

(A) by amending paragraph (2) to read as follows:

"(2) request the head of a department or agency or program to place department, agency, or program personnel who are engaged in drug control activities on temporary detail to another department or agency in order to implement the National Drug Control Strategy, and the head of the department or agency shall comply with such a request;

(B) by striking "and" at the end of paragraph (6);

(C) by striking the period at the end of paragraph (7) and inserting a semicolon; and

(D) by adding after paragraph (7) the following new paragraphs:

"(8) except to the extent that the Director's authority under this paragraph is limited in an annual appropriations Act, transfer funds appropriated to a National Drug Control Program agency account to a different National Drug Control Program agency account in an amount that does not exceed 2 percent of the amount appropriated to either account, upon advance approval of the Committees on Appropriations of each House of Congress; and

"(9) in order to ensure compliance with the National Drug Control Program, issue to the head of a National Drug Control Program agency a funds control notice described in subsection (f).'"; and

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

"(f) FUNDS CONTROL NOTICES.—(1) A funds control notice may direct that all or part of an amount appropriated to the National Drug Control Program agency account be obligated by—

"(A) months, fiscal year quarters, or other time periods; and

"(B) activities, functions, projects, or object classes.

"(2) An officer or employee of a National Drug Control Program agency shall not make or authorize an expenditure or obligation contrary to a funds control notice issued by the Director.

"(3) In the case of a violation of paragraph (2) by an officer or employee of a National Drug Control Program agency, the head of the agency, upon the request of and in consultation with the Director, may subject the officer or employee to appropriate administrative discipline, including, when circumstances warrant, suspension from duty without pay or removal from office.".

(d) CERTIFICATION OF ADEQUACY OF BUDGET REQUEST.—Section 1003(c)(3)(B) of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1502(c)(3)(B)) is amended—

(1) by inserting "in whole or in part" after "adequacy of such request"; and

(2) by striking the semicolon at the end and inserting "and, with respect to a request that is not certified as adequate to implement the objectives of the National Drug Control Strategy, include in the certification an initiative or funding level that would make the request adequate;".

SEC. 90202. OFFICE PERSONNEL RESTRICTION.

Section 1003 of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1502) is amended by adding at the end the following new subsection:

"(f) PROHIBITION ON POLITICAL CAMPAIGNING.—A Federal officer in the Office of National Drug Control Policy who is appointed by the President, by and with the advice and consent of the Senate, may not participate in Federal election campaign activities, except that such an official is not prohibited by this subsection from making contributions to individual candidates.".

SEC. 90203. NATIONAL DRUG CONTROL STRATEGY OUTCOME MEASURES.

Section 1005(a) of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1504(a)) is amended—

(1) in paragraph (2)(A) by inserting "and the consequences of drug abuse" after "drug abuse"; and

(2) by amending paragraph (4) to read as follows:

"(4) The Director shall include with each National Drug Control Strategy an evaluation of the effectiveness of Federal drug control during the preceding year. The evaluation shall include an assessment of Federal drug control efforts, including—

"(A) assessment of the reduction of drug use, including estimates of drug prevalence and frequency of use as measured by national, State, and local surveys of illicit drug use and by other special studies of—

"(i) high-risk populations, including school dropouts, the homeless and transient, arrestees, parolees, and probationers, and juvenile delinquents; and

"(ii) drug use in the workplace and the productivity lost by such use;

"(B) assessment of the reduction of drug availability, as measured by—

"(i) the quantities of cocaine, heroin, and marijuana available for consumption in the United States;

"(ii) the amount of cocaine and heroin entering the United States;

"(iii) the number of hectares of poppy and coca cultivated and destroyed;

"(iv) the number of metric tons of heroin and cocaine seized;

"(v) the number of cocaine processing labs destroyed;

"(vi) changes in the price and purity of heroin and cocaine;

"(vii) the amount and type of controlled substances diverted from legitimate retail and wholesale sources; and

"(viii) the effectiveness of Federal technology programs at improving drug detection capabilities at United States ports of entry;

"(C) assessment of the reduction of the consequences of drug use and availability, which shall include estimation of—

"(i) burdens drug users placed on hospital emergency rooms in the United States, such as the quantity of drug-related services provided;

"(ii) the annual national health care costs of drug use, including costs associated with people becoming infected with the human immunodeficiency virus and other communicable diseases as a result of drug use;

"(iii) the extent of drug-related crime and criminal activity; and

"(iv) the contribution of drugs to the underground economy, as measured by the retail value of drugs sold in the United States; and

"(D) determination of the status of drug treatment in the United States, by assessing—

"(i) public and private treatment capacity within each State, including information on the number of treatment slots available in relation to the number actually used, including data on intravenous drug users and pregnant women;

"(ii) the extent, within each State, to which treatment is available, on demand, to intravenous drug users and pregnant women;

"(iii) the number of drug users the Director estimates could benefit from treatment; and

"(iv) the success of drug treatment programs, including an assessment of the effectiveness of the mechanisms in place federally, and within each State, to determine the relative quality of substance abuse treatment programs, the qualifications of treatment personnel, and the mechanism by which patients are admitted to the most appropriate and cost effective treatment setting.

"(5) The Director shall include with the National Drug Control Strategy required to be submitted not later than February 1, 1995, and with every second such strategy submitted thereafter—

"(A) an assessment of the quality of current drug use measurement instruments and techniques to measure supply reduction and demand reduction activities;

"(B) an assessment of the adequacy of the coverage of existing national drug use measurement instruments and techniques to measure the casual drug user population and groups at-risk for drug use;

"(C) an assessment of the actions the Director shall take to correct any deficiencies and limitations identified pursuant to subparagraphs (A) and (B); and

"(D) identification of the specific factors that restrict the availability of treatment services to those seeking it and proposed administrative or legislative remedies to make treatment available to those individuals.

"(6) Federal agencies responsible for the collection or estimation of drug-related information required by the Director shall cooperate with the Director, to the fullest extent possible, to enable the Director to satisfy the requirements of sections 4 and 5.

"(7) With each National Drug Control Strategy, the Director shall report to the President and the Congress on the Director's assessment of drug use and availability in the United States, including an estimate of the effectiveness of interdiction, treatment, prevention, law enforcement, and international programs under the National Drug Control Strategy in effect in the preceding year in reducing drug use and availability.".

SEC. 90204. COUNTER-DRUG TECHNOLOGY ASSESSMENT CENTER.

(a) DRUG ABUSE ADDICTION AND REHABILITATION CENTER.—Section 1003A of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1502a(c)(1)) is amended—

(1) by redesignating subparagraphs (B), (C), and (D) as subparagraphs (C), (D), and (E), respectively; and

(2) by inserting after subparagraph (A) the following:

"(B) in consultation with the National Institute on Drug Abuse, and through interagency agreements or grants, examine addiction and rehabilitation research and the application of technology to expanding the effectiveness or availability of drug treatment;".

(b) ASSISTANCE FROM THE ADVANCED RESEARCH PROJECT AGENCY.—Section 1003A of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1502a) is amended by adding at the end the following:

"(f) ASSISTANCE AND SUPPORT TO OFFICE OF NATIONAL DRUG CONTROL POLICY.—The Director of the Advanced Research Project Agency shall, to the fullest extent possible, render assistance and support to the Office of National Drug Control Policy and its Director.".

(c) REPEAL AND REDESIGNATION.—The National Narcotics Leadership Act of 1988 is amended by—

(1) repealing section 1008 (21 U.S.C. 1505), as in effect on the date of the enactment of this Act;

(2) redesignating section 1003A, as amended by subsection (b) of this section, as section 1008; and

(3) moving such section, as redesignated, so as to follow section 1007.

SEC. 90205. SPECIAL FORFEITURE FUND AMENDMENTS.

(a) DEPOSITS INTO SPECIAL FORFEITURE FUND.—Section 6073 of the Asset Forfeiture Amendments Act of 1988 (21 U.S.C. 1509) is amended to read as follows:

"(b) DEPOSITS.—There shall be deposited into the Fund the amounts specified by section 524(c)(9) of title 28, United States Code, and section 9307(g) of title 31, United States Code, and any earnings on the investments authorized by subsection (d).".

(b) TRANSFERS FROM DEPARTMENT OF JUSTICE ASSETS FORFEITURE FUND.—Section 524(c)(9) of title 28, United States Code, is amended by amending subparagraphs (B), (C), and (D) to read as follows:

"(B) Subject to subparagraphs (C) and (D), at the end of each of fiscal years 1994, 1995, 1996, and 1997, the Attorney General shall transfer from the Fund not more than $100,000,000 to the Special Forfeiture Fund established by section 6073 of the Anti-Drug Abuse Act of 1988.

"(C) Transfers under subparagraph (B) may be made only from the excess unobligated balance and may not exceed one-half of the excess unobligated balance for any year. In addition, transfers under subparagraph (B) may be made only to the extent that the sum of the transfers in a fiscal year and one-half of the unobligated balance at the beginning of that fiscal year for the Special Forfeiture Fund does not exceed $100,000,000.

"(D) For the purpose of determining amounts available for distribution at year end for any fiscal year, 'excess unobligated balance' means the unobligated balance of the Fund generated by that fiscal year's operations, less any amounts that are required to be retained in the Fund to ensure the availability of amounts in the subsequent fiscal year for purposes authorized under paragraph (1).".

(c) TRANSFERS FROM DEPARTMENT OF THE TREASURY FORFEITURE FUND.— Section 9703(g) of title 31, United States Code, is amended—

(1) in paragraph (3)—

(A) by amending subparagraph (A) to read as follows:

"(A) Subject to subparagraphs (B) and (C), at the end of each of fiscal years 1994, 1995, 1996, and 1997, the Secretary shall transfer from the Fund not more than $100,000,000 to the Special Forfeiture Fund established by section 6073 of the Anti-Drug Abuse Act of 1988."; and

(B) in subparagraph (B) by adding the following at the end: "Further, transfers under subparagraph (A) may not exceed one-half of the excess unobligated balance for a year. In addition, transfers under subparagraph (A) may be made only to the extent that the sum of the transfers in a fiscal year and one-half of the unobligated balance at the beginning of that fiscal year for the Special Forfeiture Fund does not exceed $100,000,000."; and

(2) in subparagraph (4)(A)—

(A) in clause (i) by striking "(i)"; and

(B) by striking clause (ii).

(d) SURPLUS FUNDS.—Section 6073 of the Asset Forfeiture Amendments Act of 1988 (21 U.S.C. 1509) is amended—

(1) by redesignating subsections (c), (d), (e), and (f), as subsections (d), (e), (f), and (g), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) SUPER SURPLUS.—(1) Any unobligated balance up to $20,000,000 remaining in the Fund on September 30 of a fiscal year shall be available to the Director, subject to paragraph (2), to transfer to, and for obligation and expenditure in connection with drug control activities of, any Federal agency or State or local entity with responsibilities under the National Drug Control Strategy.

"(2) A transfer may be made under paragraph (1) only with the advance written approval of the Committees on Appropriations of each House of Congress.".

SEC. 90206. AUTHORIZATION OF APPROPRIATIONS.

Section 1011 of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1508) is amended by striking "4" and inserting "8".

SEC. 90207. ADEQUATE STAFFING OF THE OFFICE OF NATIONAL DRUG CONTROL POLICY.

Section 1008(d)(1) of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1502(d)(1)) is amended by striking "such" and inserting "up to 75 and such additional".

SEC. 90208. TERMINATION OF OFFICE OF NATIONAL DRUG CONTROL POLICY.

(a) REAUTHORIZATION.—Section 1009 of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1506) is amended by striking "the date which is 5 years after the date of the enactment of this subtitle" and inserting "September 30, 1997".

(b) CONTINUED EFFECTIVENESS.—The National Narcotics Leadership Act of 1988 (21 U.S.C. 1501 et seq.) shall be considered not to have been repealed by operation of section 1009 of that Act, but shall remain in effect as if the amendment made by subsection (a) had been included in that Act on the date of its enactment.

TITLE X—DRUNK DRIVING PROVISIONS

SEC. 100001. SHORT TITLE.

This title may be cited as the "Drunk Driving Child Protection Act of 1994".

SEC. 100002. STATE LAWS APPLIED IN AREAS OF FEDERAL JURISDICTION.

Section 13(b) of title 18, United States Code, is amended—

(1) by striking "For purposes" and inserting "(1) Subject to paragraph (2) and for purposes"; and

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

"(2)(A) In addition to any term of imprisonment provided for operating a motor vehicle under the influence of a drug or alcohol imposed under the law of a State, territory, possession, or district, the punishment for such an offense under this section shall include an additional term of imprisonment of not more than 1 year, or if serious bodily injury of a minor is caused, not more than 5 years, or if death of a minor is caused, not more than 10 years, and an additional fine of not more than $1,000, or both, if—

"(i) a minor (other than the offender) was present in the motor vehicle when the offense was committed; and

"(ii) the law of the State, territory, possession, or district in which the offense occurred does not provide an additional term of imprisonment under the circumstances described in clause (i).

"(B) For the purposes of subparagraph (A), the term 'minor' means a person less than 18 years of age.".

SEC. 100003. DRIVING WHILE INTOXICATED PROSECUTION PROGRAM.

Section 501(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751) is amended—

(1) by striking "and" at the end of paragraph (20);

(2) by striking the period at the end of paragraph (21) and inserting "; and"; and

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

"(22) programs for the prosecution of driving while intoxicated charges and the enforcement of other laws relating to alcohol use and the operation of motor vehicles.".

TITLE XI—FIREARMS

Subtitle A—Assault Weapons

SEC. 110101. SHORT TITLE.

This subtitle may be cited as the "Public Safety and Recreational Firearms Use Protection Act".

SEC. 110102. RESTRICTION ON MANUFACTURE, TRANSFER, AND POSSESSION OF CERTAIN SEMIAUTOMATIC ASSAULT WEAPONS.

(a) RESTRICTION.—Section 922 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(v)(1) It shall be unlawful for a person to manufacture, transfer, or possess a semiautomatic assault weapon.

"(2) Paragraph (1) shall not apply to the possession or transfer of any semiautomatic assault weapon otherwise lawfully possessed under Federal law on the date of the enactment of this subsection.

"(3) Paragraph (1) shall not apply to—

"(A) any of the firearms, or replicas or duplicates of the firearms, specified in Appendix A to this section, as such firearms were manufactured on October 1, 1993;

"(B) any firearm that—

"(i) is manually operated by bolt, pump, lever, or slide action;

"(ii) has been rendered permanently inoperable; or

"(iii) is an antique firearm;

"(C) any semiautomatic rifle that cannot accept a detachable magazine that holds more than 5 rounds of ammunition; or

"(D) any semiautomatic shotgun that cannot hold more than 5 rounds of ammunition in a fixed or detachable magazine.

The fact that a firearm is not listed in Appendix A shall not be construed to mean that paragraph (1) applies to such firearm. No firearm exempted by this subsection may be deleted from Appendix A so long as this subsection is in effect.

"(4) Paragraph (1) shall not apply to—

"(A) the manufacture for, transfer to, or possession by the United States or a department or agency of the United States or a State or a department, agency, or political subdivision of a State, or a transfer to or possession by a law enforcement officer employed by such an entity for purposes of law enforcement (whether on or off duty);

"(B) the transfer to a licensee under title I of the Atomic Energy Act of 1954 for purposes of establishing and maintaining an on-site physical protection system and security organization required by Federal law, or possession by an employee or contractor of such licensee on-site for such purposes or off-site for purposes of licensee-authorized training or transportation of nuclear materials;

"(C) the possession, by an individual who is retired from service with a law enforcement agency and is not otherwise prohibited from receiving a firearm, of a semiautomatic assault weapon transferred to the individual by the agency upon such retirement; or

"(D) the manufacture, transfer, or possession of a semiautomatic assault weapon by a licensed manufacturer or licensed importer for the purposes of testing or experimentation authorized by the Secretary.".

(b) DEFINITION OF SEMIAUTOMATIC ASSAULT WEAPON.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(30) The term 'semiautomatic assault weapon' means—

"(A) any of the firearms, or copies or duplicates of the firearms in any caliber, known as—

"(i) Norinco, Mitchell, and Poly Technologies Avtomat Kalashnikovs (all models);

"(ii) Action Arms Israeli Military Industries UZI and Galil;

"(iii) Beretta Ar70 (SC–70);

"(iv) Colt AR–15;

"(v) Fabrique National FN/FAL, FN/LAR, and FNC;

"(vi) SWD M–10, M–11, M–11/9, and M–12;

"(vii) Steyr AUG;

"(viii) INTRATEC TEC–9, TEC–DC9 and TEC–22; and

"(ix) revolving cylinder shotguns, such as (or similar to) the Street Sweeper and Striker 12;

"(B) a semiautomatic rifle that has an ability to accept a detachable magazine and has at least 2 of—

"(i) a folding or telescoping stock;

"(ii) a pistol grip that protrudes conspicuously beneath the action of the weapon;

"(iii) a bayonet mount;

"(iv) a flash suppressor or threaded barrel designed to accommodate a flash suppressor; and

"(v) a grenade launcher;

"(C) a semiautomatic pistol that has an ability to accept a detachable magazine and has at least 2 of—

"(i) an ammunition magazine that attaches to the pistol outside of the pistol grip;

"(ii) a threaded barrel capable of accepting a barrel extender, flash suppressor, forward handgrip, or silencer;

"(iii) a shroud that is attached to, or partially or completely encircles, the barrel and that permits the shooter to hold the firearm with the nontrigger hand without being burned;

"(iv) a manufactured weight of 50 ounces or more when the pistol is unloaded; and

"(v) a semiautomatic version of an automatic firearm; and

"(D) a semiautomatic shotgun that has at least 2 of—

"(i) a folding or telescoping stock;

"(ii) a pistol grip that protrudes conspicuously beneath the action of the weapon;

"(iii) a fixed magazine capacity in excess of 5 rounds; and

"(iv) an ability to accept a detachable magazine.".

(c) PENALTIES.—

(1) VIOLATION OF SECTION 922(v).—Section 924(a)(1)(B) of such title is amended by striking "or (q) of section 922" and inserting "(r), or (v) of section 922".

(2) USE OR POSSESSION DURING CRIME OF VIOLENCE OR DRUG TRAFFICKING CRIME.—Section 924(c)(1) of such title is amended in the first sentence by inserting ", or semiautomatic assault weapon," after "short-barreled shotgun,".

(d) IDENTIFICATION MARKINGS FOR SEMIAUTOMATIC ASSAULT WEAPONS.—Section 923(i) of such title is amended by adding at the end the following: "The serial number of any semiautomatic assault weapon manufactured after the date of the enactment of this sentence shall clearly show the date on which the weapon was manufactured.".

SEC. 110103. BAN OF LARGE CAPACITY AMMUNITION FEEDING DEVICES.

(a) PROHIBITION.—Section 922 of title 18, United States Code, as amended by section 110102(a), is amended by adding at the end the following new subsection:

"(w)(1) Except as provided in paragraph (2), it shall be unlawful for a person to transfer or possess a large capacity ammunition feeding device.

"(2) Paragraph (1) shall not apply to the possession or transfer of any large capacity ammunition feeding device otherwise lawfully possessed on or before the date of the enactment of this subsection.

"(3) This subsection shall not apply to—

"(A) the manufacture for, transfer to, or possession by the United States or a department or agency of the United States or a State or a department, agency, or political subdivision of a State, or a transfer to or possession by a law enforcement officer employed by such an entity for purposes of law enforcement (whether on or off duty);

"(B) the transfer to a licensee under title I of the Atomic Energy Act of 1954 for purposes of establishing and maintaining an on-site physical protection system and security organization required by Federal law, or possession by an employee or contractor of such licensee on-site for such purposes or off-site for purposes of licensee-authorized training or transportation of nuclear materials;

"(C) the possession, by an individual who is retired from service with a law enforcement agency and is not otherwise prohibited from receiving ammunition, of a large capacity ammunition feeding device transferred to the individual by the agency upon such retirement; or

"(D) the manufacture, transfer, or possession of any large capacity ammunition feeding device by a licensed manufacturer or licensed importer for the purposes of testing or experimentation authorized by the Secretary.

"(4) If a person charged with violating paragraph (1) asserts that paragraph (1) does not apply to such person because of paragraph (2) or (3), the Government shall have the burden of proof to show that such paragraph (1) applies to such person. The lack of a serial number as described in section 923(i) of title 18, United States Code, shall be a presumption that the large capacity ammunition feeding device is not subject to the prohibition of possession in paragraph (1).".

(b) DEFINITION OF LARGE CAPACITY AMMUNITION FEEDING DEVICE.—Section 921(a) of title 18, United States Code, as amended by section 110102(b), is amended by adding at the end the following new paragraph:

"(31) The term 'large capacity ammunition feeding device'—

"(A) means a magazine, belt, drum, feed strip, or similar device manufactured after the date of enactment of the Violent Crime Control and

Law Enforcement Act of 1994 that has a capacity of, or that can be readily restored or converted to accept, more than 10 rounds of ammunition; but

"(B) does not include an attached tubular device designed to accept, and capable of operating only with, .22 caliber rimfire ammunition.".

(c) PENALTY.—Section 924(a)(1)(B) of title 18, United States Code, as amended by section 110102(c)(1), is amended by striking "or (v)" and inserting "(v), or (w)".

(d) IDENTIFICATION MARKINGS FOR LARGE CAPACITY AMMUNITION FEEDING DEVICES.—Section 923(i) of title 18, United States Code, as amended by section 110102(d) of this Act, is amended by adding at the end the following: "A large capacity ammunition feeding device manufactured after the date of the enactment of this sentence shall be identified by a serial number that clearly shows that the device was manufactured or imported after the effective date of this subsection, and such other identification as the Secretary may by regulation prescribe.".

SEC. 110104. STUDY BY ATTORNEY GENERAL.

(a) STUDY.—The Attorney General shall investigate and study the effect of this subtitle and the amendments made by this subtitle, and in particular shall determine their impact, if any, on violent and drug trafficking crime. The study shall be conducted over a period of 18 months, commencing 12 months after the date of enactment of this Act.

(b) REPORT.—Not later than 30 months after the date of enactment of this Act, the Attorney General shall prepare and submit to the Congress a report setting forth in detail the findings and determinations made in the study under subsection (a).

SEC. 110105. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle—

(1) shall take effect on the date of the enactment of this Act; and

(2) are repealed effective as of the date that is 10 years after that date.

SEC. 110106. APPENDIX A TO SECTION 922 OF TITLE 18.

Section 922 of title 18, United States Code, is amended by adding at the end the following appendix:

"APPENDIX A

Centerfire Rifles—Autoloaders

Browning BAR Mark II Safari Semi-Auto Rifle
Browning BAR Mark II Safari Magnum Rifle
Browning High-Power Rifle
Heckler & Koch Model 300 Rifle
Iver Johnson M-1 Carbine
Iver Johnson 50th Anniversary M-1 Carbine
Marlin Model 9 Camp Carbine
Marlin Model 45 Carbine
Remington Nylon 66 Auto-Loading Rifle
Remington Model 7400 Auto Rifle
Remington Model 7400 Rifle
Remington Model 7400 Special Purpose Auto Rifle
Ruger Mini-14 Autoloading Rifle (w/o folding stock)
Ruger Mini Thirty Rifle

Centerfire Rifles—Lever & Slide

Browning Model 81 BLR Lever-Action Rifle
Browning Model 81 Long Action BLR
Browning Model 1886 Lever-Action Carbine
Browning Model 1886 High Grade Carbine
Cimarron 1860 Henry Replica
Cimarron 1866 Winchester Replicas
Cimarron 1873 Short Rifle
Cimarron 1873 Sporting Rifle
Cimarron 1873 30" Express Rifle
Dixie Engraved 1873 Rifle
E.M.F. 1866 Yellowboy Lever Actions
E.M.F. 1860 Henry Rifle
E.M.F. Model 73 Lever-Action Rifle
Marlin Model 336CS Lever-Action Carbine
Marlin Model 30AS Lever-Action Carbine
Marlin Model 444SS Lever-Action Sporter
Marlin Model 1894S Lever-Action Carbine
Marlin Model 1894CS Carbine
Marlin Model 1894CL Classic
Marlin Model 1895SS Lever-Action Rifle
Mitchell 1858 Henry Replica
Mitchell 1866 Winchester Replica
Mitchell 1873 Winchester Replica
Navy Arms Military Henry Rifle
Navy Arms Henry Trapper
Navy Arms Iron Frame Henry
Navy Arms Henry Carbine
Navy Arms 1866 Yellowboy Rifle
Navy Arms 1873 Winchester-Style Rifle
Navy Arms 1873 Sporting Rifle
Remington 7600 Slide Action
Remington Model 7600 Special Purpose Slide Action
Rossi M92 SRC Saddle-Ring Carbine
Rossi M92 SRS Short Carbine
Savage 99C Lever-Action Rifle
Uberti Henry Rifle
Uberti 1866 Sporting Rilfe
Uberti 1873 Sporting Rifle
Winchester Model 94 Side Eject Lever-Action Rifle
Winchester Model 94 Trapper Side Eject
Winchester Model 94 Big Bore Side Eject
Winchester Model 94 Ranger Side Eject Lever-Action Rifle
Winchester Model 94 Wrangler Side Eject

Centerfire Rifles—Bolt Action

Alpine Bolt-Action Rifle
A-Square Caesar Bolt-Action Rifle
A-Square Hannibal Bolt-Action Rifle
Anschutz 1700D Classic Rifles
Anschutz 1700D Custom Rifles
Anschutz 1700D Bavarian Bolt-Action Rifle
Anschutz 1733D Mannlicher Rifle
Barret Model 90 Bolt-Action Rifle
Beeman/HW 60J Bolt-Action Rifle
Blaser R84 Bolt-Action Rifle
BRNO 537 Sporter Bolt-Action Rifle
BRNO ZKB 527 Fox Bolt-Action Rifle
BRNO ZKK 600, 601, 602 Bolt-Action Rifles
Browning A-Bolt Rifle
Browning A-Bolt Stainless Stalker
Browning A-Bolt Left Hand
Browning A-Bolt Short Action
Browning Euro-Bolt Rifle
Browning A-Bolt Gold Medallion
Browning A-Bolt Micro Medallion
Century Centurion 14 Sporter
Century Enfield Sporter #4
Century Swedish Sporter #38
Century Mauser 98 Sporter
Cooper Model 38 Centerfire Sporter
Dakota 22 Sporter Bolt-Action Rifle
Dakota 76 Classic Bolt-Action Rifle
Dakota 76 Short Action Rifles
Dakota 76 Safari Bolt-Action Rifle
Dakota 416 Rigby African
E.A.A./Sabatti Rover 870 Bolt-Action Rifle
Auguste Francotte Bolt-Action Rifles
Carl Gustaf 2000 Bolt-Action Rifle
Heym Magnum Express Series Rifle
Howa Lightning Bolt-Action Rifle
Howa Realtree Camo Rifle
Interarms Mark X Viscount Bolt-Action Rifle
Interarms Mini-Mark X Rifle
Interarms Mark X Whitworth Bolt-Action Rifle
Interarms Whitworth Express Rifle
Iver Johnson Model 5100A1 Long-Range Rifle
KDF K15 American Bolt-Action Rifle
Krico Model 600 Bolt-Action Rifle
Krico Model 700 Bolt-Action Rifles
Mauser Model 66 Bolt-Action Rifle
Mauser Model 99 Bolt-Action Rifle
McMillan Signature Classic Sporter
McMillan Signature Super Varminter
McMillan Signature Alaskan
McMillan Signature Titanium Mountain Rifle
McMillan Classic Stainless Sporter
McMillan Talon Safari Rifle
McMillan Talon Sporter Rifle
Midland 1500S Survivor Rifle
Navy Arms TU-33/40 Carbine
Parker-Hale Model 81 Classic Rifle
Parker-Hale Model 81 Classic African Rifle
Parker-Hale Model 1000 Rifle
Parker-Hale Model 1100M African Magnum
Parker-Hale Model 1100 Lightweight Rifle
Parker-Hale Model 1200 Super Rifle
Parker-Hale Model 1200 Super Clip Rifle
Parker-Hale Model 1300C Scout Rifle
Parker-Hale Model 2100 Midland Rifle
Parker-Hale Model 2700 Lightweight Rifle
Parker-Hale Model 2800 Midland Rifle
Remington Model Seven Bolt-Action Rifle
Remington Model Seven Youth Rifle
Remington Model Seven Custom KS
Remington Model Seven Custom MS Rifle
Remington 700 ADL Bolt-Action Rifle
Remington 700 BDL Bolt-Action Rifle
Remington 700 BDL Varmint Special
Remington 700 BDL European Bolt-Action Rifle
Remington 700 Varmint Synthetic Rifle
Remington 700 BDL SS Rifle
Remington 700 Stainless Synthetic Rifle
Remington 700 MTRSS Rifle
Remington 700 BDL Left Hand
Remington 700 Camo Synthetic Rifle
Remington 700 Safari
Remington 700 Mountain Rifle
Remington 700 Custom KS Mountain Rifle
Remington 700 Classic Rifle
Ruger M77 Mark II Rifle
Ruger M77 Mark II Magnum Rifle
Ruger M77RL Ultra Light
Ruger M77 Mark II All-Weather Stainless Rifle
Ruger M77 RSI International Carbine
Ruger M77 Mark II Express Rifle
Ruger M77VT Target Rifle
Sako Hunter Rifle
Sako Fiberclass Sporter
Sako Safari Grade Bolt Action
Sako Hunter Left-Hand Rifle
Sako Classic Bolt Action
Sako Hunter LS Rifle
Sako Deluxe Lightweight
Sako Super Deluxe Sporter
Sako Mannlicher-Style Carbine
Sako Varmint Heavy Barrel
Sako TRG-S Bolt-Action Rifle
Sauer 90 Bolt-Action Rifle
Savage 110G Bolt-Action Rifle
Savage 110CY Youth/Ladies Rifle
Savage 110WLE One of One Thousand Limited Edition Rifle
Savage 110GXP3 Bolt-Action Rifle
Savage 110F Bolt-Action Rifle

Savage 110FXP3 Bolt-Action Rifle
Savage 110GV Varmint Rifle
Savage 112FV Varmint Rifle
Savage Model 112FVS Varmint Rifle
Savage Model 112BV Heavy Barrel Varmint Rifle
Savage 116FSS Bolt-Action Rifle
Savage Model 116FSK Kodiak Rifle
Savage 110FP Police Rifle
Steyr-Mannlicher Sporter Models SL, L, M, S, S/T
Steyr-Mannlicher Luxus Model L, M, S
Steyr-Mannlicher Model M Professional Rifle
Tikka Bolt-Action Rifle
Tikka Premium Grade Rifles
Tikka Varmint/Continental Rifle
Tikka Whitetail/Battue Rifle
Ultra Light Arms Model 20 Rifle
Ultra Light Arms Model 28, Model 40 Rifles
Voere VEC 91 Lightning Bolt-Action Rifle
Voere Model 2165 Bolt-Action Rifle
Voere Model 2155, 2150 Bolt-Action Rifles
Weatherby Mark V Deluxe Bolt-Action Rifle
Weatherby Lasermark V Rifle
Weatherby Mark V Crown Custom Rifles
Weatherby Mark V Sporter Rifle
Weatherby Mark V Safari Grade Custom Rifles
Weatherby Weathermark Rifle
Weatherby Weathermark Alaskan Rifle
Weatherby Classicmark No. 1 Rifle
Weatherby Weatherguard Alaskan Rifle
Weatherby Vanguard VGX Deluxe Rifle
Weatherby Vanguard Classic Rifle
Weatherby Vanguard Classic No. 1 Rifle
Weatherby Vanguard Weatherguard Rifle
Wichita Classic Rifle
Wichita Varmint Rifle
Winchester Model 70 Sporter
Winchester Model 70 Sporter WinTuff
Winchester Model 70 SM Sporter
Winchester Model 70 Stainless Rifle
Winchester Model 70 Varmint
Winchester Model 70 Synthetic Heavy Varmint Rifle
Winchester Model 70 DBM Rifle
Winchester Model 70 DBM-S Rifle
Winchester Model 70 Featherweight
Winchester Model 70 Featherweight WinTuff
Winchester Model 70 Featherweight Classic
Winchester Model 70 Lightweight Rifle
Winchester Ranger Rifle
Winchester Model 70 Super Express Magnum
Winchester Model 70 Super Grade
Winchester Model 70 Custom Sharpshooter
Winchester Model 70 Custom Sporting Sharpshooter Rifle

Centerfire Rifles—Single Shot

Armsport 1866 Sharps Rifle, Carbine
Brown Model One Single Shot Rifle
Browning Model 1885 Single Shot Rifle
Dakota Single Shot Rifle
Desert Industries G-90 Single Shot Rifle
Harrington & Richardson Ultra Varmint Rifle
Model 1885 High Wall Rifle
Navy Arms Rolling Block Buffalo Rifle
Navy Arms #2 Creedmoor Rifle
Navy Arms Sharps Cavalry Carbine
Navy Arms Sharps Plains Rifle
New England Firearms Handi-Rifle
Red Willow Armory Ballard No. 5 Pacific
Red Willow Armory Ballard No. 1.5 Hunting Rifle
Red Willow Armory Ballard No. 8 Union Hill Rifle
Red Willow Armory Ballard No. 4.5 Target Rifle
Remington-Style Rolling Block Carbine
Ruger No. 1B Single Shot
Ruger No. 1A Light Sporter
Ruger No. 1H Tropical Rifle
Ruger No. 1S Medium Sporter
Ruger No. 1 RSI International
Ruger No. 1V Special Varminter
C. Sharps Arms New Model 1874 Old Reliable
C. Sharps Arms New Model 1875 Rifle
C. Sharps Arms 1875 Classic Sharps
C. Sharps Arms New Model 1875 Target & Long Range
Shiloh Sharps 1874 Long Range Express
Shiloh Sharps 1874 Montana Roughrider
Shiloh Sharps 1874 Military Carbine
Shiloh Sharps 1874 Business Rifle
Shiloh Sharps 1874 Military Rifle
Sharps 1874 Old Reliable
Thompson/Center Contender Carbine
Thompson/Center Stainless Contender Carbine
Thompson/Center Contender Carbine Survival System
Thompson/Center Contender Carbine Youth Model
Thompson/Center TCR '87 Single Shot Rifle
Uberti Rolling Block Baby Carbine

Drillings, Combination Guns, Double Rifles

Beretta Express SSO O/U Double Rifles
Beretta Model 455 SxS Express Rifle
Chapuis RGExpress Double Rifle
Auguste Francotte Sidelock Double Rifles
Auguste Francotte Boxlock Double Rifle
Heym Model 55B O/U Double Rifle
Heym Model 55FW O/U Combo Gun
Heym Model 88b Side-by-Side Double Rifle
Kodiak Mk. IV Double Rifle
Kreighoff Teck O/U Combination Gun
Kreighoff Trumpf Drilling
Merkel Over/Under Combination Guns
Merkel Drillings
Merkel Model 160 Side-by-Side Double Rifles
Merkel Over/Under Double Rifles
Savage 24F O/U Combination Gun
Savage 24F-12T Turkey Gun
Springfield Inc. M6 Scout Rifle/Shotgun
Tikka Model 412s Combination Gun
Tikka Model 412S Double Fire
A. Zoli Rifle-Shotgun O/U Combo

Rimfire Rifles—Autoloaders

AMT Lightning 25/22 Rifle
AMT Lightning Small-Game Hunting Rifle II
AMT Magnum Hunter Auto Rifle
Anschutz 525 Deluxe Auto
Armscor Model 20P Auto Rifle
Browning Auto-22 Rifle
Browning Auto-22 Grade VI
Krico Model 260 Auto Rifle
Lakefield Arms Model 64B Auto Rifle
Marlin Model 60 Self-Loading Rifle
Marlin Model 60ss Self-Loading Rifle
Marlin Model 70 HC Auto
Marlin Model 990l Self-Loading Rifle
Marlin Model 70P Papoose
Marlin Model 922 Magnum Self-Loading Rifle
Marlin Model 995 Self-Loading Rifle
Norinco Model 22 ATD Rifle
Remington Model 522 Viper Autoloading Rifle
Remington 552BDL Speedmaster Rifle
Ruger 10/22 Autoloading Carbine (w/o folding stock)
Survival Arms AR-7 Explorer Rifle
Texas Remington Revolving Carbine
Voere Model 2115 Auto Rifle

Rimfire Rifles—Lever & Slide Action

Browning BL-22 Lever-Action Rifle
Marlin 39TDS Carbine
Marlin Model 39AS Golden Lever-Action Rifle
Remington 572BDL Fieldmaster Pump Rifle
Norinco EM-321 Pump Rifle
Rossi Model 62 SA Pump Rifle
Rossi Model 62 SAC Carbine
Winchester Model 9422 Lever-Action Rifle
Winchester Model 9422 Magnum Lever-Action Rifle

Rimfire Rifles—Bolt Actions & Single Shots

Anschutz Achiever Bolt-Action Rifle
Anschutz 1416D/1516D Classic Rifles
Anschutz 1418D/1518D Mannlicher Rifles
Anschutz 1700D Classic Rifles
Anschutz 1700D Custom Rifles
Anschutz 1700 FWT Bolt-Action Rifle
Anschutz 1700D Graphite Custom Rifle
Anschutz 1700D Bavarian Bolt-Action Rifle
Armscor Model 14P Bolt-Action Rifle
Armscor Model 1500 Rifle
BRNO ZKM-452 Deluxe Bolt-Action Rifle
BRNO ZKM 452 Deluxe
Beeman/HW 60-J-ST Bolt-Action Rifle
Browning A-Bolt 22 Bolt-Action Rifle
Browning A-Bolt Gold Medallion
Cabanas Phaser Rifle
Cabanas Master Bolt-Action Rifle
Cabanas Espronceda IV Bolt-Action Rifle
Cabanas Leyre Bolt-Action Rifle
Chipmunk Single Shot Rifle
Cooper Arms Model 36S Sporter Rifle
Dakota 22 Sporter Bolt-Action Rifle
Krico Model 300 Bolt-Action Rifles
Lakefield Arms Mark II Bolt-Action Rifle
Lakefield Arms Mark I Bolt-Action Rifle
Magtech Model MT-22C Bolt-Action Rifle
Marlin Model 880 Bolt-Action Rifle
Marlin Model 881 Bolt-Action Rifle
Marlin Model 882 Bolt-Action Rifle
Marlin Model 883 Bolt-Action Rifle
Marlin Model 883SS Bolt-Action Rifle
Marlin Model 25MN Bolt-Action Rifle
Marlin Model 25N Bolt-Action Repeater
Marlin Model 15YN "Little Buckaroo"
Mauser Model 107 Bolt-Action Rifle
Mauser Model 201 Bolt-Action Rifle
Navy Arms TU-KKW Training Rifle
Navy Arms TU-33/40 Carbine
Navy Arms TU-KKW Sniper Trainer
Norinco JW-27 Bolt-Action Rifle
Norinco JW-15 Bolt-Action Rifle
Remington 541-T
Remington 40-XR Rimfire Custom sporter
Remington 541-T HB Bolt-Action Rifle
Remington 581-S Sportsman Rifle
Ruger 77/22 Rimfire Bolt-Action Rifle
Ruger K77/22 Varmint Rifle
Ultra Light Arms Model 20 RF Bolt-Action Rifle
Winchester Model 52B Sporting Rifle

Competition Rifles—Centerfire & Rimfire

Anschutz 64-MS Left Silhouette
Anschutz 1808D RT Super Match 54 Target
Anschutz 1827B Biathlon Rifle

Anschutz 1903D Match Rifle
Anschutz 1803D Intermediate Match
Anschutz 1911 Match Rifle
Anschutz 54.18MS REP Deluxe Silhouette Rifle
Anschutz 1913 Super Match Rifle
Anschutz 1907 Match Rifle
Anschutz 1910 Super Match II
Anschutz 54.18MS Silhouette Rifle
Anschutz Super Match 54 Target Model 2013
Anschutz Super Match 54 Target Model 2007
Beeman/Feinwerkbau 2600 Target Rifle
Cooper Arms Model TRP-1 ISU Standard Rifle
E.A.A./Weihrauch HW 60 Target Rifle
E.A.A./HW 660 Match Rifle
Finnish Lion Standard Target Rifle
Krico Model 360 S2 Biathlon Rifle
Krico Model 400 Match Rifle
Krico Model 360S Biathlon Rifle
Krico Model 500 Kricotronic Match Rifle
Krico Model 600 Sniper Rifle
Krico Model 600 Match Rifle
Lakefield Arms Model 90B Target Rifle
Lakefield Arms Model 91T Target Rifle
Lakefield Arms Model 92S Silhouette Rifle
Marlin Model 2000 Target Rifle
Mauser Model 86-SR Specialty Rifle
McMillan M-86 Sniper Rifle
McMillan Combo M-87/M-88 50-Caliber Rifle
McMillan 300 Phoenix Long Range Rifle
McMillan M-89 Sniper Rifle
McMillan National Match Rifle
McMillan Long Range Rifle
Parker-Hale M-87 Target Rifle
Parker-Hale M-85 Sniper Rifle
Remington 40-XB Rangemaster Target Centerfire
Remington 40-XR KS Rimfire Position Rifle
Remington 40-XBBR KS
Remington 40-XC KS National Match Course Rifle
Sako TRG-21 Bolt-Action Rifle
Steyr-Mannlicher Match SPG-UIT Rifle
Steyr-Mannlicher SSG P-I Rifle
Steyr-Mannlicher SSG P-III Rifle
Steyr-Mannlicher SSG P-IV Rifle
Tanner Standard UIT Rifle
Tanner 50 Meter Free Rifle
Tanner 300 Meter Free Rifle
Wichita Silhouette Rifle

Shotguns—Autoloaders

American Arms/Franchi Black Magic 48/AL
Benelli Super Black Eagle Shotgun
Benelli Super Black Eagle Slug Gun
Benelli M1 Super 90 Field Auto Shotgun
Benelli Montefeltro Super 90 20-Gauge Shotgun
Benelli Montefeltro Super 90 Shotgun
Benelli M1 Sporting Special Auto Shotgun
Benelli Black Eagle Competition Auto Shotgun
Beretta A-303 Auto Shotgun
Beretta 390 Field Auto Shotgun
Beretta 390 Super Trap, Super Skeet Shotguns
Beretta Vittoria Auto Shotgun
Beretta Model 1201F Auto Shotgun
Browning BSA 10 Auto Shotgun
Browning BSA 10 Stalker Auto Shotgun
Browning A-500R Auto Shotgun
Browning A-500G Auto Shotgun
Browning A-500G Sporting Clays
Browning Auto-5 Light 12 and 20
Browning Auto-5 Stalker
Browning Auto-5 Magnum 20
Browning Auto-5 Magnum 12
Churchill Turkey Automatic Shotgun
Cosmi Automatic Shotgun
Maverick Model 60 Auto Shotgun
Mossberg Model 5500 Shotgun
Mossberg Model 9200 Regal Semi-Auto Shotgun
Mossberg Model 9200 USST Auto Shotgun
Mossberg Model 9200 Camo Shotgun
Mossberg Model 6000 Auto Shotgun
Remington Model 1100 Shotgun
Remington 11-87 Premier Shotgun
Remington 11-87 Sporting Clays
Remington 11-87 Premier Skeet
Remington 11-87 Premier Trap
Remington 11-87 Special Purpose Magnum
Remington 11-87 SPS-T Camo Auto Shotgun
Remington 11-87 Special Purpose Deer Gun
Remington 11-87 SPS-BG-Camo Deer/Turkey Shotgun
Remington 11-87 SPS-Deer Shotgun
Remington 11-87 Special Purpose Synthetic Camo
Remington SP-10 Magnum-Camo Auto Shotgun
Remington SP-10 Magnum Auto Shotgun
Remington SP-10 Magnum Turkey Combo
Remington 1100 LT-20 Auto
Remington 1100 Special Field
Remington 1100 20-Gauge Deer Gun
Remington 1100 LT-20 Tournament Skeet
Winchester Model 1400 Semi-Auto Shotgun

Shotguns—Slide Actions

Browning Model 42 Pump Shotgun
Browning BPS Pump Shotgun
Browning BPS Stalker Pump Shotgun
Browning BPS Pigeon Grade Pump Shotgun
Browning BPS pump Shotgun (Ladies and Youth Model)
Browning BPS Game Gun Turkey Special
Browning BPS Game Gun Deer Special
Ithaca Model 87 Supreme Pump Shotgun
Ithaca Model 87 Deerslayer Shotgun
Ithaca Deerslayer II Rifled Shotgun
Ithaca Model 87 Turkey Gun
Ithaca Model 87 Deluxe Pump Shotgun
Magtech Model 586-VR Pump Shotgun
Maverick Models 88, 91 Pump Shotguns
Mossberg Model 500 Sporting Pump
Mossberg Model 500 Camo Pump
Mossberg Model 500 Muzzleloader Combo
Mossberg Model 500 Trophy Slugster
Mossberg Turkey Model 500 Pump
Mossberg Model 500 Bantam Pump
Mossberg Field Grade Model 835 Pump Shotgun
Mossberg Model 835 Regal Ulti-Mag Pump
Remington 870 Wingmaster
Remington 870 Special Purpose Deer Gun
Remington 870 SPS-BG-Camo Deer/Turkey Shotgun
Remington 870 SPS-Deer Shotgun
Remington 870 Marine Magnum
Remington 870 TC Trap
Remington 870 Special Purpose Synthetic Camo
Remington 870 Wingmaster Small Gauges
Remington 870 Express Rifle Sighted Deer Gun
Remington 879 SPS Special Purpose Magnum
Remington 870 SPS-T Camo Pump Shotgun
Remington 870 Special Field
Remington 870 Express Turkey
Remington 870 High Grades
Remington 870 Express
Remington Model 870 Express Youth Gun
Winchester Model 12 Pump Shotgun
Winchester Model 42 High Grade Shotgun
Winchester Model 1300 Walnut Pump
Winchester Model 1300 Slug Hunter Deer Gun
Winchester Model 1300 Ranger Pump Gun Combo & Deer Gun
Winchester Model 1300 Turkey Gun
Winchester Model 1300 Ranger Pump Gun

Shotguns—Over/Unders

American Arms/Franchi Falconet 2000 O/U
American Arms Silver I O/U
American Arms Silver II Shotgun
American Arms Silver Skeet O/U
American Arms/Franchi Sporting 2000 O/U
American Arms Silver Sporting O/U
American Arms Silver Trap O/U
American Arms WS/OU 12, TS/OU 12 Shotguns
American Arms WT/OU 10 Shotgun
Armsport 2700 O/U Goose Gun
Armsport 2700 Series O/U
Armsport 2900 Tri-Barrel Shotgun
Baby Bretton Over/Under Shotgun
Beretta Model 686 Ultralight O/U
Beretta ASE 90 Competition O/U Shotgun
Beretta Over/Under Field Shotguns
Beretta Onyx Hunter Sport O/U Shotgun
Beretta Model SO5, SO6, SO9 Shotguns
Beretta Sporting Clay Shotguns
Beretta 687EL Sporting O/U
Beretta 682 Super Sporting O/U
Beretta Series 682 Competition Over/Unders
Browning Citori O/U Shotgun
Browning Superlight Citori Over/Under
Browning Lightning Sporting Clays
Browning Micro Citori Lightning
Browning Citori Plus Trap Combo
Browning Citori Plus Trap Gun
Browning Citori O/U Skeet Models
Browning Citori O/U Trap Models
Browning Special Sporting Clays
Browning Citori GTI Sporting Clays
Browning 325 Sporting Clays
Centurion Over/Under Shotgun
Chapuis Over/Under Shotgun
Connecticut Valley Classics Classic Sporter O/U
Connecticut Valley Classics Classic Field Waterfowler
Charles Daly Field Grade O/U
Charles Daly Lux Over/Under
E.A.A./Sabatti Sporting Clays Pro-Gold O/U
E.A.A/Sabatti Falcon-Mon Over/Under
Kassnar Grade I O/U Shotgun
Krieghoff K-80 Sporting Clays O/U
Krieghoff K-80 Skeet Shotgun
Krieghoff K-80 International Skeet
Krieghoff K-80 Four-Barrel Skeet Set
Krieghoff K-80/RT Shotguns
Krieghoff K-80 O/U Trap Shotgun
Laurona Silhouette 300 Sporting Clays
Laurona Silhouette 300 Trap
Laurona Super Model Over/Unders
Ljutic LM-6 Deluxe O/U Shotgun
Marocchi Conquista Over/Under Shotgun
Marocchi Avanza O/U Shotgun

Merkel Model 200E O/U Shotgun
Merkel Model 200E Skeet, Trap Over/Unders
Merkel Model 203E, 303E Over/Under Shotguns
Perazzi Mirage Special Sporting O/U
Perazzi Mirage Special Four-Gauge Skeet
Perazzi Sporting Classic O/U
Perazzi MX7 Over/Under Shotguns
Perazzi Mirage Special Skeet Over/Under
Perazzi MX8/MX8 Special Trap, Skeet
Perazzi MX8/20 Over/Under Shotgun
Perazzi MX9 Single Over/Under Shotguns
Perazzi MX12 Hunting Over/Under
Perazzi MX28, MX410 Game O/U Shotguns
Perazzi MX20 Hunting Over/Under
Piotti Boss Over/Under Shotgun
Remington Peerless Over/Under Shotgun
Ruger Red Label O/U Shotgun
Ruger Sporting Clays O/U Shotgun
San Marco 12-Ga. Wildflower Shotgun
San Marco Field Special O/U Shotgun
San Marco 10-Ga. O/U Shotgun
SKB Model 505 Deluxe Over/Under Shotgun
SKB Model 685 Over/Under Shotgun
SKB Model 885 Over/Under Trap, Skeet, Sporting Clays
Stoeger/IGA Condor I O/U Shotgun
Stoeger/IGA ERA 2000 Over/Under Shotgun
Techni-Mec Model 610 Over/Under
Tikka Model 412S Field Grade Over/Under
Weatherby Athena Grade IV O/U Shotguns
Weatherby Athena Grade V Classic Field O/U
Weatherby Orion O/U Shotguns
Weatherby II, III Classic Field O/Us
Weatherby Orion II Classic Sporting Clays O/U
Weatherby Orion II Sporting Clays O/U
Winchester Model 1001 O/U Shotgun
Winchester Model 1001 Sporting Clays O/U
Pietro Zanoletti Model 2000 Field O/U

Shotguns—Side by Sides

American Arms Brittany Shotgun
American Arms Gentry Double Shotgun
American Arms Derby Side-by-Side
American Arms Grulla #2 Double Shotgun
American Arms WS/SS 10
American Arms TS/SS 10 Double Shotgun
American Arms TS/SS 12 Side-by-Side
Arrieta Sidelock Double Shotguns
Armsport 1050 Series Double Shotguns
Arizaga Model 31 Double Shotgun
AYA Boxlock Shotguns
AYA Sidelock Double Shotguns
Beretta Model 452 Sidelock Shotgun
Beretta Side-by-Side Field Shotguns
Crucelegui Hermanos Model 150 Double
Chapuis Side-by-Side Shotgun
E.A.A./Sabatti Saba-Mon Double Shotgun
Charles Daly Model Dss Double
Ferlib Model F VII Double Shotgun
Auguste Francotte Boxlock Shotgun
Auguste Francotte Sidelock Shotgun
Garbi Model 100 Double
Garbi Model 101 Side-by-Side
Garbi Model 103A, B Side-by-Side
Garbi Model 200 Side-by-Side
Bill Hanus Birdgun Doubles
Hatfield Uplander Shotgun
Merkel Model 8, 47E Side-by-Side Shotguns
Merkel Model 47LSC Sporting Clays Double
Merkel Model 47S, 147S Side-by-Sides
Parker Reproductions Side-by-Side
Piotti King No. 1 Side-by-Side
Piotti Lunik Side-by-Side
Piotti King Extra Side-by-Side
Piotti Piuma Side-by-Side
Precision Sports Model 600 Series Doubles
Rizzini Boxlock Side-by-Side
Rizzini Sidelock Side-by-Side
Stoeger/IGA Uplander Side-by-Side Shotgun
Ugartechea 10-Ga. Magnum Shotgun

Shotguns—Bolt Actions & Single Shots

Armsport Single Barrel Shotgun
Browning BT-99 Competition Trap Special
Browning BT-99 Plus Trap Gun
Browning BT-99 Plus Micro
Browning Recoilless Trap Shotgun
Browning Micro Recoilless Trap Shotgun
Desert Industries Big Twenty Shotgun
Harrington & Richardson Topper Model 098
Harrington & Richardson Topper Classic Youth Shotgun
Harrington & Richardson N.W.T.F. Turkey Mag
Harrington & Richardson Topper Deluxe Model 098
Krieghoff KS-5 Trap Gun
Krieghoff KS-5 Special
Krieghoff K-80 Single Barrel Trap Gun
Ljutic Mono Gun Single Barrel
Ljutic LTX Super Deluxe Mono Gun
Ljutic Recoilless Space Gun Shotgun
Marlin Model 55 Goose Gun Bolt Action
New England Firearms Turkey and Goose Gun
New England Firearms N.W.T.F. Shotgun
New England Firearms Tracker Slug Gun
New England Firearms Standard Pardner
New England Firearms Survival Gun
Perazzi TM1 Special Single Trap
Remington 90-T Super Single Shotgun
Snake Charmer II Shotgun
Stoeger/IGA Reuna Single Barrel Shotgun
Thompson/Center TCR '87 Hunter Shotgun.".

Subtitle B—Youth Handgun Safety

SEC. 110201. PROHIBITION OF THE POSSESSION OF A HANDGUN OR AMMUNITION BY, OR THE PRIVATE TRANSFER OF A HANDGUN OR AMMUNITION TO, A JUVENILE.

(a) OFFENSE.—Section 922 of title 18, United States Code, as amended by section 110103(a), is amended by adding at the end the following new subsection:

"(x)(1) It shall be unlawful for a person to sell, deliver, or otherwise transfer to a person who the transferor knows or has reasonable cause to believe is a juvenile—

"(A) a handgun; or

"(B) ammunition that is suitable for use only in a handgun.

"(2) It shall be unlawful for any person who is a juvenile to knowingly possess—

"(A) a handgun; or

"(B) ammunition that is suitable for use only in a handgun.

"(3) This subsection does not apply to—

"(A) a temporary transfer of a handgun or ammunition to a juvenile or to the possession or use of a handgun or ammunition by a juvenile if the handgun and ammunition are possessed and used by the juvenile—

"(i) in the course of employment, in the course of ranching or farming related to activities at the residence of the juvenile (or on property used for ranching or farming at which the juvenile, with the permission of the property owner or lessee, is performing activities related to the operation of the farm or ranch), target practice, hunting, or a course of instruction in the safe and lawful use of a handgun;

"(ii) with the prior written consent of the juvenile's parent or guardian who is not prohibited by Federal, State, or local law from possessing a firearm, except—

"(I) during transportation by the juvenile of an unloaded handgun in a locked container directly from the place of transfer to a place at which an activity described in clause (i) is to take place and transportation by the juvenile of that handgun, unloaded and in a locked container, directly from the place at which such an activity took place to the transferor; or

"(II) with respect to ranching or farming activities as described in clause (i), a juvenile may possess and use a handgun or ammunition with the prior written approval of the juvenile's parent or legal guardian and at the direction of an adult who is not prohibited by Federal, State or local law from possessing a firearm;

"(iii) the juvenile has the prior written consent in the juvenile's possession at all times when a handgun is in the possession of the juvenile; and

"(iv) in accordance with State and local law;

"(B) a juvenile who is a member of the Armed Forces of the United States or the National Guard who possesses or is armed with a handgun in the line of duty;

"(C) a transfer by inheritance of title (but not possession) of a handgun or ammunition to a juvenile; or

"(D) the possession of a handgun or ammunition by a juvenile taken in defense of the juvenile or other persons against an intruder into the residence of the juvenile or a residence in which the juvenile is an invited guest.

"(4) A handgun or ammunition, the possession of which is transferred to a juvenile in circumstances in which the transferor is not in violation of this subsection shall not be subject to permanent confiscation by the Government if its possession by the juvenile subsequently becomes unlawful because of the conduct of the juvenile, but shall be returned to the lawful owner when such handgun or ammunition is no longer required by the Government for the purposes of investigation or prosecution.

"(5) For purposes of this subsection, the term 'juvenile' means a person who is less than 18 years of age.

"(6)(A) In a prosecution of a violation of this subsection, the court shall require the presence of a juvenile defendant's parent or legal guardian at all proceedings.

"(B) The court may use the contempt power to enforce subparagraph (A).

"(C) The court may excuse attendance of a parent or legal guardian of a juvenile defendant at a proceeding in a prosecution of a violation of this subsection for good cause shown.".

(b) PENALTIES.—Section 924(a) of title 18, United States Code, is amended—

(1) in paragraph (1) by striking "paragraph (2) or (3) of"; and

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

"(5)(A)(i) A juvenile who violates section 922(x) shall be fined under this title, imprisoned not more than 1 year, or both, except that a juvenile described in clause (ii) shall be sentenced to probation on appropriate conditions and shall not be incarcerated unless the juvenile fails to comply with a condition of probation.

"(ii) A juvenile is described in this clause if—

"(I) the offense of which the juvenile is charged is possession of a handgun or ammunition in violation of section 922(x)(2); and

"(II) the juvenile has not been convicted in any court of an offense (including an offense under section 922(x) or a similar State law, but not including any other offense consisting of conduct that if engaged in by an adult would not constitute an offense) or adjudicated as a juvenile delinquent for conduct that if engaged in by an adult would constitute an offense.

"(B) A person other than a juvenile who knowingly violates section 922(x)—

"(i) shall be fined under this title, imprisoned not more than 1 year, or both; and

"(ii) if the person sold, delivered, or otherwise transferred a handgun or ammunition to a juvenile knowing or having reasonable cause to know that the juvenile intended to carry or otherwise possess or discharge or otherwise use the handgun or ammunition in the commission of a crime of violence, shall be fined under this title, imprisoned not more than 10 years, or both.".

(c) TECHNICAL AMENDMENT OF JUVENILE DELINQUENCY PROVISIONS IN TITLE 18, UNITED STATES CODE.—

(1) SECTION 5031.—Section 5031 of title 18, United States Code, is amended by inserting "or a violation by such a person of section 922(x)" before the period at the end.

(2) SECTION 5032.—Section 5032 of title 18, United States Code, is amended—

(A) in the first undesignated paragraph by inserting "or (x)" after "922(p)"; and

(B) in the fourth undesignated paragraph by inserting "or section 922(x) of this title," before "criminal prosecution on the basis".

(d) TECHNICAL AMENDMENT OF THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974.—Section 223(a)(12)(A) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(a)(12)(A)) is amended by striking "which do not constitute violations of valid court orders" and inserting "(other than an offense that constitutes a violation of a valid court order or a violation of section 922(x) of title 18, United States Code, or a similar State law)."

(e) MODEL LAW.—The Attorney General, acting through the Director of the National Institute for Juvenile Justice and Delinquency Prevention, shall—

(1) evaluate existing and proposed juvenile handgun legislation in each State;

(2) develop model juvenile handgun legislation that is constitutional and enforceable;

(3) prepare and disseminate to State authorities the findings made as the result of the evaluation; and

(4) report to Congress by December 31, 1995, findings and recommendations concerning the need or appropriateness of further action by the Federal Government.

Subtitle C—Licensure

SEC. 110301. FIREARMS LICENSURE AND REGISTRATION TO REQUIRE A PHOTOGRAPH AND FINGERPRINTS.

(a) FIREARMS LICENSURE.—Section 923(a) of title 18, United States Code, is amended in the second sentence by inserting "and shall include a photograph and fingerprints of the applicant" before the period.

(b) REGISTRATION.—Section 5802 of the Internal Revenue Code of 1986 is amended by inserting after the first sentence the following: "An individual required to register under this section shall include a photograph and fingerprints of the individual with the initial application.".

SEC. 110302. COMPLIANCE WITH STATE AND LOCAL LAW AS A CONDITION TO LICENSE.

Section 923(d)(1) of title 18, United States Code, is amended—

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

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

(3) by adding at the end the following new subparagraph:

"(F) the applicant certifies that—

"(i) the business to be conducted under the license is not prohibited by State or local law in the place where the licensed premise is located;

"(ii)(I) within 30 days after the application is approved the business will comply with the requirements of State and local law applicable to the conduct of the business; and

"(II) the business will not be conducted under the license until the requirements of State and local law applicable to the business have been met; and

"(iii) that the applicant has sent or delivered a form to be prescribed by the Secretary, to the chief law enforcement officer of the locality in which the premises are located, which indicates that the applicant intends to apply for a Federal firearms license.".

SEC. 110303. ACTION ON FIREARMS LICENSE APPLICATION.

Section 923(d)(2) of title 18, United States Code, is amended by striking "forty-five-day" and inserting "60-day".

SEC. 110304. INSPECTION OF FIREARMS LICENSEES' INVENTORY AND RECORDS.

Section 923(g)(1)(B)(ii) of title 18, United States Code, is amended to read as follows:

"(ii) for ensuring compliance with the record keeping requirements of this chapter—

"(I) not more than once during any 12-month period; or

"(II) at any time with respect to records relating to a firearm involved in a criminal investigation that is traced to the licensee.".

SEC. 110305. REPORTS OF THEFT OR LOSS OF FIREARMS.

Section 923(g) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(6) Each licensee shall report the theft or loss of a firearm from the licensee's inventory or collection, within 48 hours after the theft or loss is discovered, to the Secretary and to the appropriate local authorities.".

SEC. 110306. RESPONSES TO REQUESTS FOR INFORMATION.

Section 923(g) of title 18, United States Code, as amended by section 110405, is amended by adding at the end the following new paragraph:

"(7) Each licensee shall respond immediately to, and in no event later than 24 hours after the receipt of, a request by the Secretary for information contained in the records required to be kept by this chapter as may be required for determining the disposition of 1 or more firearms in the course of a bona fide criminal investigation. The requested information shall be provided orally or in writing, as the Secretary may require. The Secretary shall implement a system whereby the licensee can positively identify and establish that an individual requesting information via telephone is employed by and authorized by the agency to request such information.".

SEC. 110307. NOTIFICATION OF NAMES AND ADDRESSES OF FIREARMS LICENSEES.

Section 923 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(1) The Secretary of the Treasury shall notify the chief law enforcement officer in the appropriate State and local jurisdictions of the names and addresses of all persons in the State to whom a firearms license is issued.".

Subtitle D—Domestic Violence

SEC. 110401. PROHIBITION AGAINST DISPOSAL OF FIREARMS TO, OR RECEIPT OF FIREARMS BY, PERSONS WHO HAVE COMMITTED DOMESTIC ABUSE.

(a) INTIMATE PARTNER DEFINED.—Section 921(a) of title 18, United States Code, as amended by section 110103(b), is amended by inserting at the end the following new paragraph:

"(32) The term 'intimate partner' means, with respect to a person, the spouse of the person, a former spouse of the person, an individual who is a parent of a child of the person, and an individual who cohabitates or has cohabited with the person.".

(b) PROHIBITION AGAINST DISPOSAL OF FIREARMS.—Section 922(d) of title 18, United States Code, is amended—

(1) by striking "or" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting "; or"; and

(3) by inserting after paragraph (7) the following new paragraph:

"(8) is subject to a court order that restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child, except that this paragraph shall only apply to a court order that—

"(A) was issued after a hearing of which such person received actual notice, and at which such person had the opportunity to participate; and

"(B)(i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or

"(ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury.".

(c) PROHIBITION AGAINST RECEIPT OF FIREARMS.—Section 922(g) of title 18, United States Code, is amended—

(1) by striking "or" at the end of paragraph (6);

(2) by inserting "or" at the end of paragraph (7); and

(3) by inserting after paragraph (7) the following:

"(8) who is subject to a court order that—

"(A) was issued after a hearing of which such person received actual notice, and at which such person had an opportunity to participate;

"(B) restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and

"(C)(i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or

"(ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury,".

(d) STORAGE OF FIREARMS.—Section 926(a) of title 18, United States Code, is amended—

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

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

(3) by inserting after paragraph (2) the following:

"(3) regulations providing for effective receipt and secure storage of firearms relinquished by or seized from persons described in subsection (d)(8) or (g)(8) of section 922.".

(e) RETURN OF FIREARMS.—Section 924(d)(1) of title 18, United States Code, is amended by striking "the seized" and inserting "or lapse of or court termination of the restraining order to which he is subject, the seized or relinquished".

Subtitle E—Gun Crime Penalties

SEC. 110501. ENHANCED PENALTY FOR USE OF A SEMIAUTOMATIC FIREARM DURING A CRIME OF VIOLENCE OR A DRUG TRAFFICKING CRIME.

(a) AMENDMENT TO SENTENCING GUIDELINES.—Pursuant to its authority under section 994 of

title 28, United States Code, the United States Sentencing Commission shall amend its sentencing guidelines to provide an appropriate enhancement of the punishment for a crime of violence (as defined in section 924(c)(3) of title 18, United States Code) or a drug trafficking crime (as defined in section 924(c)(2) of title 18, United States Code) if a semiautomatic firearm is involved.

(b) SEMIAUTOMATIC FIREARM.—In subsection (a), "semiautomatic firearm" means any repeating firearm that utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round and that requires a separate pull of the trigger to fire each cartridge.

SEC. 110502. ENHANCED PENALTY FOR SECOND OFFENSE OF USING AN EXPLOSIVE TO COMMIT A FELONY.

Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall promulgate amendments to the sentencing guidelines to appropriately enhance penalties in a case in which a defendant convicted under section 844(h) of title 18, United States Code, has previously been convicted under that section.

SEC. 110503. SMUGGLING FIREARMS IN AID OF DRUG TRAFFICKING.

Section 924 of title 18, United States Code, as amended by section 60013, is amended by adding at the end the following new subsection:

"(j) A person who, with intent to engage in or to promote conduct that—

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law of a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3),

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned not more than 10 years, fined under this title, or both.".

SEC. 110504. THEFT OF FIREARMS AND EXPLOSIVES.

(a) FIREARMS.—Section 924 of title 18, United States Code, as amended by section 110203(a), is amended by adding at the end the following new subsection:

"(k) A person who steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned for not more than 10 years, fined under this title, or both.".

(b) EXPLOSIVES.—Section 844 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(k) A person who steals any explosives materials which are moving as, or are a part of, or which have moved in, interstate or foreign commerce shall be imprisoned for not more than 10 years, fined under this title, or both.".

SEC. 110505. REVOCATION OF SUPERVISED RELEASE AFTER IMPRISONMENT.

Section 3583 of title 18, United States Code, is amended—

(1) in subsection (d) by striking "possess illegal controlled substances" and inserting "unlawfully possess a controlled substance";

(2) in subsection (e)—

(A) by striking "person" each place such term appears in such subsection and inserting "defendant"; and

(B) by amending paragraph (3) to read as follows:

"(3) revoke a term of supervised release, and require the defendant to serve in prison all or part of the term of supervised release authorized by statute for the offense that resulted in such term of supervised release without credit for time previously served on postrelease supervision, if the court, pursuant to the Federal Rules of Criminal Procedure applicable to revocation of probation or supervised release, finds by a preponderance of the evidence that the defendant violated a condition of supervised release, except that a defendant whose term is revoked under this paragraph may not be required to serve more than 5 years in prison if the offense that resulted in the term of supervised release is a class A felony, more than 3 years in prison if such offense is a class B felony, more than 2 years in prison if such offense is a class C or D felony, or more than one year in any other case; or"; and

(3) by striking subsection (g) and inserting the following:

"(g) MANDATORY REVOCATION FOR POSSESSION OF CONTROLLED SUBSTANCE OR FIREARM OR FOR REFUSAL TO COMPLY WITH DRUG TESTING.—If the defendant—

"(1) possesses a controlled substance in violation of the condition set forth in subsection (d);

"(2) possesses a firearm, as such term is defined in section 921 of this title, in violation of Federal law, or otherwise violates a condition of supervised release prohibiting the defendant from possessing a firearm; or

"(3) refuses to comply with drug testing imposed as a condition of supervised release;

the court shall revoke the term of supervised release and require the defendant to serve a term of imprisonment not to exceed the maximum term of imprisonment authorized under subsection (e)(3).

"(h) SUPERVISED RELEASE FOLLOWING REVOCATION.—When a term of supervised release is revoked and the defendant is required to serve a term of imprisonment that is less than the maximum term of imprisonment authorized under subsection (e)(3), the court may include a requirement that the defendant be placed on a term of supervised release after imprisonment. The length of such a term of supervised release shall not exceed the term of supervised release authorized by statute for the offense that resulted in the original term of supervised release, less any term of imprisonment that was imposed upon revocation of supervised release.

"(i) DELAYED REVOCATION.—The power of the court to revoke a term of supervised release for violation of a condition of supervised release, and to order the defendant to serve a term of imprisonment and, subject to the limitations in subsection (h), a further term of supervised release, extends beyond the expiration of the term of supervised release for any period reasonably necessary for the adjudication of matters arising before its expiration if, before its expiration, a warrant or summons has been issued on the basis of an allegation of such a violation.".

SEC. 110506. REVOCATION OF PROBATION.

(a) IN GENERAL.—Section 3565(a) of title 18, United States Code, is amended—

(1) in paragraph (2) by striking "impose any other sentence that was available under subchapter A at the time of the initial sentencing" and inserting "resentence the defendant under subchapter A"; and

(2) by striking the last sentence.

(b) MANDATORY REVOCATION.—Section 3565(b) of title 18, United States Code, is amended to read as follows:

"(b) MANDATORY REVOCATION FOR POSSESSION OF CONTROLLED SUBSTANCE OR FIREARM OR REFUSAL TO COMPLY WITH DRUG TESTING.—If the defendant—

"(1) possesses a controlled substance in violation of the condition set forth in section 3563(a)(3);

"(2) possesses a firearm, as such term is defined in section 921 of this title, in violation of Federal law, or otherwise violates a condition of probation prohibiting the defendant from possessing a firearm; or

"(3) refuses to comply with drug testing, thereby violating the condition imposed by section 3563(a)(4),

the court shall revoke the sentence of probation and resentence the defendant under subchapter A to a sentence that includes a term of imprisonment.".

SEC. 110507. INCREASED PENALTY FOR KNOWINGLY MAKING FALSE, MATERIAL STATEMENT IN CONNECTION WITH THE ACQUISITION OF A FIREARM FROM A LICENSED DEALER.

Section 924(a) of title 18, United States Code, is amended—

(1) in subsection (a)(1)(B) by striking "(a)(6),"; and

(2) in subsection (a)(2) by inserting "(a)(6)," after "subsections".

SEC. 110508. POSSESSION OF EXPLOSIVES BY FELONS AND OTHERS.

Section 842(i) of title 18, United States Code, is amended by inserting "or possess" after "to receive".

SEC. 110509. SUMMARY DESTRUCTION OF EXPLOSIVES SUBJECT TO FORFEITURE.

Section 844(c) of title 18, United States Code, is amended—

(1) by inserting "(1)" after "(c)"; and

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

"(2) Notwithstanding paragraph (1), in the case of the seizure of any explosive materials for any offense for which the materials would be subject to forfeiture in which it would be impracticable or unsafe to remove the materials to a place of storage or would be unsafe to store them, the seizing officer may destroy the explosive materials forthwith. Any destruction under this paragraph shall be in the presence of at least 1 credible witness. The seizing officer shall make a report of the seizure and take samples as the Secretary may by regulation prescribe.

"(3) Within 60 days after any destruction made pursuant to paragraph (2), the owner of (including any person having an interest in) the property so destroyed may make application to the Secretary for reimbursement of the value of the property. If the claimant establishes to the satisfaction of the Secretary that—

"(A) the property has not been used or involved in a violation of law; or

"(B) any unlawful involvement or use of the property was without the claimant's knowledge, consent, or willful blindness,

the Secretary shall make an allowance to the claimant not exceeding the value of the property destroyed.".

SEC. 110510. ELIMINATION OF OUTMODED LANGUAGE RELATING TO PAROLE.

(a) SECTION 924(e)(1) OF TITLE 18.—Section 924(e)(1) of title 18, United States Code, is amended by striking ", and such person shall not be eligible for parole with respect to the sentence imposed under this subsection".

(b) SECTION 924(c)(1) OF TITLE 18.—Section 924(c)(1) of title 18, United States Code, is amended by striking "No person sentenced under this subsection shall be eligible for parole during the term of imprisonment imposed under this subsection.".

SEC. 10511. PROHIBITION AGAINST TRANSACTIONS INVOLVING STOLEN FIREARMS WHICH HAVE MOVED IN INTERSTATE OR FOREIGN COMMERCE.

Section 922(j) of title 18, United States Code, is amended to read as follows:

"(j) It shall be unlawful for any person to receive, possess, conceal, store, barter, sell, or dispose of any stolen firearm or stolen ammunition, or pledge or accept as security for a loan any stolen firearm or stolen ammunition, which is

moving as, which is a part of, which constitutes, or which has been shipped or transported in, interstate or foreign commerce, either before or after it was stolen, knowing or having reasonable cause to believe that the firearm or ammunition was stolen.".

SEC. 110512. USING A FIREARM IN THE COMMISSION OF COUNTERFEITING OR FORGERY.

Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall amend its sentencing guidelines to provide an appropriate enhancement of the punishment for a defendant convicted of a felony under chapter 25 of title 18, United States Code, if the defendant used or carried a firearm (as defined in section 921(a)(3) of title 18, United States Code) during and in relation to the felony.

SEC. 110513. ENHANCED PENALTIES FOR FIREARMS POSSESSION BY VIOLENT FELONS AND SERIOUS DRUG OFFENDERS.

Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall amend its sentencing guidelines to—

(1) appropriately enhance penalties in cases in which a defendant convicted under section 922(g) of title 18, United States Code, has 1 prior conviction by any court referred to in section 922(g)(1) of title 18 for a violent felony (as defined in section 924(e)(2)(B) of that title) or a serious drug offense (as defined in section 924(e)(2)(A) of that title); and

(2) appropriately enhance penalties in cases in which such a defendant has 2 prior convictions for a violent felony (as so defined) or a serious drug offense (as so defined).

SEC. 110514. RECEIPT OF FIREARMS BY NONRESIDENT.

Section 922(a) of title 18, United States Code, is amended—

(1) by striking "and" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting "; and"; and

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

"(9) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, who does not reside in any State to receive any firearms unless such receipt is for lawful sporting purposes.".

SEC. 110515. THEFT OF FIREARMS OR EXPLOSIVES FROM LICENSEE.

(a) FIREARMS.—Section 924 of title 18, United States Code, as amended by section 110504(a), is amended by adding at the end the following new subsection:

"(l) A person who steals any firearm from a licensed importer, licensed manufacturer, licensed dealer, or licensed collector shall be fined under this title, imprisoned not more than 10 years, or both.".

(b) EXPLOSIVES.—Section 844 of title 18, United States Code, as amended by section 110204(b), is amended by adding at the end the following new subsection:

"(l) A person who steals any explosive material from a licensed importer, licensed manufacturer, or licensed dealer, or from any permittee shall be fined under this title, imprisoned not more than 10 years, or both.".

SEC. 110516. DISPOSING OF EXPLOSIVES TO PROHIBITED PERSONS.

Section 842(d) of title 18, United States Code, is amended by striking "licensee" and inserting "person".

SEC. 110517. INCREASED PENALTY FOR INTERSTATE GUN TRAFFICKING.

Section 924 of title 18, United States Code, as amended by section 110515(a), is amended by adding at the end the following new subsection:

"(m) A person who, with the intent to engage in conduct that constitutes a violation of section 922(a)(1)(A), travels from any State or foreign country into any other State and acquires, or attempts to acquire, a firearm in such other State in furtherance of such purpose shall be imprisoned for not more than 10 years.".

SEC. 110518. FIREARMS AND EXPLOSIVES CONSPIRACY.

(a) FIREARMS.—Section 924 of title 18, United States Code, as amended by section 110517(a), is amended by adding at the end the following new subsection:

"(n) A person who conspires to commit an offense under subsection (c) shall be imprisoned for not more than 20 years, fined under this title, or both; and if the firearm is a machinegun or destructive device, or is equipped with a firearm silencer or muffler, shall be imprisoned for any term of years or life.".

(b) EXPLOSIVES.—Section 844 of title 18, United States Code, as amended by section 110515(b), is amended by adding at the end the following new subsection:

"(m) A person who conspires to commit an offense under subsection (h) shall be imprisoned for any term of years not exceeding 20, fined under this title, or both.

SEC. 110519. DEFINITION OF ARMOR PIERCING AMMUNITION.

Section 921(a)(17) of title 18, United States Code, is amended by revising subparagraph (B) and adding a new subparagraph (C) to read as follows:

"(B) The term 'armor piercing ammunition' means—

"(i) a projectile or projectile core which may be used in a handgun and which is constructed entirely (excluding the presence of traces of other substances) from one or a combination of tungsten alloys, steel, iron, brass, bronze, beryllium copper, or depleted uranium; or

"(ii) a full jacketed projectile larger than .22 caliber designed and intended for use in a handgun and whose jacket has a weight of more than 25 percent of the total weight of the projectile.

"(C) The term 'armor piercing ammunition' does not include shotgun shot required by Federal or State environmental or game regulations for hunting purposes, a frangible projectile designed for target shooting, a projectile which the Secretary finds is primarily intended to be used for sporting purposes, or any other projectile or projectile core which the Secretary finds is intended to be used for industrial purposes, including a charge used in an oil and gas well perforating device.".

TITLE XII—TERRORISM

SEC. 120001. EXTENSION OF THE STATUTE OF LIMITATION FOR CERTAIN TERRORISM OFFENSES.

(a) IN GENERAL.—Chapter 213 of title 18, United States Code, is amended by inserting after section 3285 the following new section:

"§ 3286. Extension of statute of limitation for certain terrorism offenses

"Notwithstanding section 3282, no person shall be prosecuted, tried, or punished for any offense involving a violation of section 32 (aircraft destruction), section 36 (airport violence), section 112 (assaults upon diplomats), section 351 (crimes against Congressmen or Cabinet officers), section 1116 (crimes against diplomats), section 1203 (hostage taking), section 1361 (willful injury to government property), section 1751 (crimes against the President), section 2280 (maritime violence), section 2281 (maritime platform violence), section 2331 (terrorist acts abroad against United States nationals), section 2339 (use of weapons of mass destruction), or section 2340A (torture) of this title or section 46502, 46504, 46505, or 46506 of title 49, unless the indictment is found or the information is instituted within 8 years after the offense was committed.".

(b) APPLICATION OF AMENDMENT.—The amendment made by subsection (a) shall not apply to any offense committed more than 5 years prior to the date of enactment of this Act.

(c) TECHNICAL AMENDMENT.—The chapter analysis for chapter 213 of title 18, United States Code, is amended by inserting after the item relating to section 3285 the following new item:

"3286. Extension of statute of limitation for certain terrorism offenses.".

SEC. 120002. JURISDICTION OVER CRIMES AGAINST UNITED STATES NATIONALS ON CERTAIN FOREIGN SHIPS.

Section 7 of title 18, United States Code (relating to the special maritime and territorial jurisdiction of the United States), is amended by inserting at the end thereof the following new paragraph:

"(8) To the extent permitted by international law, any foreign vessel during a voyage having a scheduled departure from or arrival in the United States with respect to an offense committed by or against a national of the United States.".

SEC. 120003. COUNTERFEITING UNITED STATES CURRENCY ABROAD.

(a) IN GENERAL.—Chapter 25 of title 18, United States Code, is amended by adding before section 471 the following new section:

"§ 470. Counterfeit acts committed outside the United States

"A person who, outside the United States, engages in the act of—

"(1) making, dealing, or possessing any counterfeit obligation or other security of the United States; or

"(2) making, dealing, or possessing any plate, stone, or other thing, or any part thereof, used to counterfeit such obligation or security,

if such act would constitute a violation of section 471, 473, or 474 if committed within the United States, shall be fined under this title, imprisoned not more than 20 years, or both.".

(b) TECHNICAL AMENDMENTS.—

(1) CHAPTER ANALYSIS.—The chapter analysis for chapter 25 of title 18, United States Code, is amended by adding before section 471 the following new item:

"470. Counterfeit acts committed outside the United States.".

(2) PART ANALYSIS.—The part analysis for part I of title 18, United States Code, is amended by amending the item for chapter 25 to read as follows:

"25. Counterfeiting and forgery ..... 470".

SEC. 120004. SENTENCING GUIDELINES INCREASE FOR TERRORIST CRIMES.

The United States Sentencing Commission is directed to amend its sentencing guidelines to provide an appropriate enhancement for any felony, whether committed within or outside the United States, that involves or is intended to promote international terrorism, unless such involvement or intent is itself an element of the crime.

SEC. 120005. PROVIDING MATERIAL SUPPORT TO TERRORISTS.

(a) OFFENSE.—Chapter 113A of title 18, United States Code, is amended by adding the following new section:

"§ 2339A. Providing material support to terrorists

"(a) DEFINITION.—In this section, 'material support or resources' means currency or other financial securities, financial services, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, but does not include humanitarian assistance to persons not directly involved in such violations.

"(b) OFFENSE.—A person who, within the United States, provides material support or resources or conceals or disguises the nature, location, source, or ownership of material support or resources, knowing or intending that they are to be used in preparation for, or in carrying out, a violation of section 32, 36, 351, 844 (f) or (i), 1114, 1116, 1203, 1361, 1363, 1751, 2280, 2281, 2331, or 2339 of this title or section 46502 of title 49, or in preparation for or carrying out the concealment of an escape from the commission of any such violation, shall be fined under this title, imprisoned not more than 10 years, or both.

"(c) INVESTIGATIONS.—

"(1) IN GENERAL.—Within the United States, an investigation may be initiated or continued under this section only when facts reasonably indicate that—

"(A) in the case of an individual, the individual knowingly or intentionally engages, has engaged, or is about to engage in the violation of this or any other Federal criminal law; and

"(B) in the case of a group of individuals, the group knowingly or intentionally engages, has engaged, or is about to engage in the violation of this or any other Federal criminal law.

"(2) ACTIVITIES PROTECTED BY THE FIRST AMENDMENT.—An investigation may not be initiated or continued under this section based on activities protected by the First Amendment to the Constitution, including expressions of support or the provision of financial support for the nonviolent political, religious, philosophical, or ideological goals or beliefs of any person or group.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 113A of title 18, United States Code, is amended by adding the following new item:

"2339A. Providing material support to terrorists.".

TITLE XIII—CRIMINAL ALIENS AND IMMIGRATION ENFORCEMENT

SEC. 130001. ENHANCEMENT OF PENALTIES FOR FAILING TO DEPART, OR REENTERING, AFTER FINAL ORDER OF DEPORTATION.

(a) FAILURE TO DEPART.—Section 242(e) of the Immigration and Nationality Act (8 U.S.C. 1252(e)) is amended—

(1) by striking "paragraph (2), (3), or (4) of" the first time it appears; and

(2) by striking "shall be imprisoned not more than ten years" and inserting "shall be imprisoned not more than four years, or shall be imprisoned not more than ten years if the alien is a member of any of the classes described in paragraph (1)(E), (2), (3), or (4) of section 241(a).".

(b) REENTRY.—Section 276(b) of the Immigration and Nationality Act (8 U.S.C. 1326(b)) is amended—

(1) in paragraph (1)—

(A) by inserting after "commission of" the following: "three or more misdemeanors involving drugs, crimes against the person, or both, or"; and

(B) by striking "5" and inserting "10";

(2) in paragraph (2), by striking "15" and inserting "20"; and

(3) by adding at the end the following sentence:

"For the purposes of this subsection, the term 'deportation' includes any agreement in which an alien stipulates to deportation during a criminal trial under either Federal or State law.".

SEC. 130002. CRIMINAL ALIEN TRACKING CENTER.

(a) OPERATION.—The Attorney General shall, under the authority of section 242(a)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1252(a)(3)(A)), operate a criminal alien tracking center.

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

(1) $3,400,000 for fiscal year 1996;

(2) $3,600,000 for fiscal year 1997;

(3) $3,700,000 for fiscal year 1998;

(4) $3,800,000 for fiscal year 1999; and

(5) $3,900,000 for fiscal year 2000.

SEC. 130003. ALIEN WITNESS COOPERATION AND COUNTERTERRORISM INFORMATION.

(a) ESTABLISHMENT OF NEW NONIMMIGRANT CLASSIFICATION.—Section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) is amended—

(1) by striking "or" at the end of subparagraph (Q),

(2) by striking the period at the end of subparagraph (R) and inserting "; or", and

(3) by adding at the end the following new subparagraph:

"(S) subject to section 214(j), an alien—

"(i) who the Attorney General determines—

"(I) is in possession of critical reliable information concerning a criminal organization or enterprise;

"(II) is willing to supply or has supplied such information to Federal or State law enforcement authorities or a Federal or State court; and

"(III) whose presence in the United States the Attorney General determines is essential to the success of an authorized criminal investigation or the successful prosecution of an individual involved in the criminal organization or enterprise; or

"(ii) who the Secretary of State and the Attorney General jointly determine—

"(I) is in possession of critical reliable information concerning a terrorist organization, enterprise, or operation;

"(II) is willing to supply or has supplied such information to Federal law enforcement authorities or a Federal court;

"(III) will be or has been placed in danger as a result of providing such information; and

"(IV) is eligible to receive a reward under section 36(a) of the State Department Basic Authorities Act of 1956,

and, if the Attorney General (or with respect to clause (ii), the Secretary of State and the Attorney General jointly) considers it to be appropriate, the spouse, married and unmarried sons and daughters, and parents of an alien described in clause (i) or (ii) if accompanying, or following to join, the alien.".

(b) CONDITIONS OF ENTRY.—

(1) WAIVER OF GROUNDS FOR EXCLUSION.—Section 212(d) of the Immigration and Nationality Act (8 U.S.C. 1182(d)) is amended by inserting at the beginning the following new paragraph:

"(1) The Attorney General shall determine whether a ground for exclusion exists with respect to a nonimmigrant described in section 101(a)(15)(S). The Attorney General, in the Attorney General's discretion, may waive the application of subsection (a) (other than paragraph (3)(E)) in the case of a nonimmigrant described in section 101(a)(15)(S), if the Attorney General considers it to be in the national interest to do so. Nothing in this section shall be regarded as prohibiting the Immigration and Naturalization Service from instituting deportation proceedings against an alien admitted as a nonimmigrant under section 101(a)(15)(S) for conduct committed after the alien's admission into the United States, or for conduct or a condition that was not disclosed to the Attorney General prior to the alien's admission as a nonimmigrant under section 101(a)(15)(S).".

(2) NUMERICAL LIMITATIONS; PERIOD OF ADMISSION; ETC.—Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) is amended by adding at the end the following new subsection:

"(j)(1) The number of aliens who may be provided a visa as nonimmigrants under section 101(a)(15)(S)(i) in any fiscal year may not exceed 100. The number of aliens who may be provided a visa as nonimmigrants under section 101(a)(15)(S)(ii) in any fiscal year may not exceed 25.

"(2) No alien may be admitted into the United States as such a nonimmigrant more than 5 years after the date of the enactment of this subsection.

"(3) The period of admission of an alien as such a nonimmigrant may not exceed 3 years. Such period may not be extended by the Attorney General.

"(4) As a condition for the admission, and continued stay in lawful status, of such a nonimmigrant, the nonimmigrant—

"(A) shall report not less often than quarterly to the Attorney General such information concerning the alien's whereabouts and activities as the Attorney General may require;

"(B) may not be convicted of any criminal offense punishable by a term of imprisonment of 1 year or more after the date of such admission;

"(C) must have executed a form that waives the nonimmigrant's right to contest, other than on the basis of an application for withholding of deportation, any action for deportation of the alien instituted before the alien obtains lawful permanent resident status; and

"(D) shall abide by any other condition, limitation, or restriction imposed by the Attorney General.

"(5) The Attorney General shall submit a report annually to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate concerning—

"(A) the number of such nonimmigrants admitted;

"(B) the number of successful criminal prosecutions or investigations resulting from cooperation of such aliens;

"(C) the number of terrorist acts prevented or frustrated resulting from cooperation of such aliens;

"(D) the number of such nonimmigrants whose admission or cooperation has not resulted in successful criminal prosecution or investigation or the prevention or frustration of a terrorist act; and

"(E) the number of such nonimmigrants who have failed to report quarterly (as required under paragraph (4)) or who have been convicted of crimes in the United States after the date of their admission as such a nonimmigrant.".

(3) PROHIBITION OF CHANGE OF STATUS.—Section 248(1) of the Immigration and Naturalization Act (8 U.S.C. 1258(1)) is amended by striking "or (K)" and inserting "(K), or (S)".

(c) ADJUSTMENT TO PERMANENT RESIDENT STATUS.—

(1) IN GENERAL.—Section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) is amended by adding at the end the following new subsection:

"(i)(1) If, in the opinion of the Attorney General—

"(A) a nonimmigrant admitted into the United States under section 101(a)(15)(S)(i) has supplied information described in subclause (I) of such section; and

"(B) the provision of such information has substantially contributed to the success of an authorized criminal investigation or the prosecution of an individual described in subclause (III) of that section,

the Attorney General may adjust the status of the alien (and the spouse, married and unmarried sons and daughters, and parents of the alien if admitted under that section) to that of an alien lawfully admitted for permanent residence if the alien is not described in section 212(a)(3)(E).

"(2) If, in the sole discretion of the Attorney General—

"(A) a nonimmigrant admitted into the United States under section 101(a)(15)(S)(ii) has supplied information described in subclause (I) of such section, and

"(B) the provision of such information has substantially contributed to—

"(i) the prevention or frustration of an act of terrorism against a United States person or United States property, or

"(ii) the success of an authorized criminal investigation of, or the prosecution of, an individual involved in such an act of terrorism, and

"(C) the nonimmigrant has received a reward under section 36(a) of the State Department Basic Authorities Act of 1956,

the Attorney General may adjust the status of the alien (and the spouse, married and unmarried sons and daughters, and parents of the alien if admitted under such section) to that of an alien lawfully admitted for permanent residence if the alien is not described in section 212(a)(3)(E).

"(3) Upon the approval of adjustment of status under paragraphs (1) or (2), the Attorney General shall record the alien's lawful admission for permanent residence as of the date of such approval and the Secretary of State shall reduce by one the number of visas authorized to be issued under sections 201(d) and 203(b)(4) for the fiscal year then current.".

(2) EXCLUSIVE MEANS OF ADJUSTMENT.—Section 245(c) of the Immigration and Nationality Act (8 U.S.C. 1255(c)) is amended by striking "or" before "(4)" and by inserting before the period at the end the following: "; or (5) an alien who was admitted as a nonimmigrant described in section 101(a)(15)(S)".

(d) EXTENSION OF PERIOD OF DEPORTATION FOR CONVICTION OF A CRIME.—Section 241(a)(2)(A)(i)(I) of the Immigration and Nationality Act (8 U.S.C. 1251(a)(2)(A)(i)(I)) is amended by inserting "(or 10 years in the case of an alien provided lawful permanent resident status under section 245(i))" after "five years".

SEC. 130004. DEPORTATION PROCEDURES FOR CERTAIN CRIMINAL ALIENS WHO ARE NOT PERMANENT RESIDENTS.

(a) ELIMINATION OF ADMINISTRATIVE HEARING FOR CERTAIN CRIMINAL ALIENS.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended by adding at the end the following new subsection:

"(b) DEPORTATION OF ALIENS WHO ARE NOT PERMANENT RESIDENTS.—

"(1) The Attorney General may, in the case of an alien described in paragraph (2), determine the deportability of such alien under section 241(a)(2)(A)(iii) (relating to conviction of an aggravated felony) and issue an order of deportation pursuant to the procedures set forth in this subsection or section 242(b).

"(2) An alien is described in this paragraph if the alien—

"(A) was not lawfully admitted for permanent residence at the time at which proceedings under this section commenced; and

"(B) is not eligible for any relief from deportation under this Act.

"(3) The Attorney General may not execute any order described in paragraph (1) until 30 calendar days have passed from the date that such order was issued, unless waived by the alien, in order that the alien has an opportunity to apply for judicial review under section 106.

"(4) Proceedings before the Attorney General under this subsection shall be in accordance with such regulations as the Attorney General shall prescribe. The Attorney General shall provide that—

"(A) the alien is given reasonable notice of the charges and of the opportunity described in subparagraph (C);

"(B) the alien shall have the privilege of being represented (at no expense to the government) by such counsel, authorized to practice in such proceedings, as the alien shall choose;

"(C) the alien has a reasonable opportunity to inspect the evidence and rebut the charges;

"(D) the determination of deportability is supported by clear, convincing, and unequivocal evidence and a record is maintained for judicial review; and

"(E) the final order of deportation is not entered by the same person who issues the charges.".

(b) LIMITED JUDICIAL REVIEW.—Section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a) is amended—

(1) in the first sentence of subsection (a), by inserting "or pursuant to section 242A" after "under section 242(b)";

(2) in subsection (a)(1) and subsection (a)(3), by inserting "(including an alien described in section 242A)" after "aggravated felony"; and

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

"(d)(1) A petition for review or for habeas corpus on behalf of an alien against whom a final order of deportation has been issued pursuant to section 242A(b) may challenge only—

"(A) whether the alien is in fact the alien described in the order;

"(B) whether the alien is in fact an alien described in section 242A(b)(2);

"(C) whether the alien has been convicted of an aggravated felony and such conviction has become final; and

"(D) whether the alien was afforded the procedures required by section 242A(b)(5).

"(2) No court shall have jurisdiction to review any issue other than an issue described in paragraph (1).".

(c) TECHNICAL AMENDMENTS.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended—

(1) by amending the heading to read as follows:

"EXPEDITED DEPORTATION OF ALIENS CONVICTED OF COMMITTING AGGRAVATED FELONIES";

(2) in subsection (a), as designated prior to enactment of this Act, by striking "(a) IN GENERAL.—" and inserting the following:

"(a) DEPORTATION OF CRIMINAL ALIENS.—

"(1) IN GENERAL.—";

(3) in subsection (b), as designated prior to enactment of this Act, by striking "(b) IMPLEMENTATION.—" and inserting "(2) IMPLEMENTATION.—";

(4) by striking subsection (c);

(5) in subsection (d)—

(A) by striking "(d) EXPEDITED PROCEEDINGS.—(1)" and inserting "(3) EXPEDITED PROCEEDINGS.—(A)"; and

(B) by striking "(2)" and inserting "(B)"; and

(6) in subsection (e)—

(A) by striking "(e) REVIEW.—(1)" and inserting "(4) REVIEW.—(A)";

(B) by striking the second sentence; and

(C) by striking "(2)" and inserting "(B)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to all aliens against whom deportation proceedings are initiated after the date of enactment of this Act.

SEC. 130005. EXPEDITIOUS DEPORTATION FOR DENIED ASYLUM APPLICANTS.

(a) IN GENERAL.—The Attorney General may provide for the expeditious adjudication of asylum claims and the expeditious deportation of asylum applicants whose applications have been finally denied, unless the applicant remains in an otherwise valid nonimmigrant status.

(b) EMPLOYMENT AUTHORIZATION.—Section 208 of the Immigration and Nationality Act (8 U.S.C. 1158) is amended by adding at the end the following new subsection:

"(e) An applicant for asylum is not entitled to employment authorization except as may be provided by regulation in the discretion of the Attorney General.".

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

(1) $64,000,000 for fiscal year 1995;

(2) $90,000,000 for fiscal year 1996;

(3) $93,000,000 for fiscal year 1997; and

(4) $91,000,000 for fiscal year 1998.

SEC. 130006. IMPROVING BORDER CONTROLS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the Immigration and Naturalization Service to increase the resources for the Border Patrol, the Inspections Program, and the Deportation Branch to apprehend illegal aliens who attempt clandestine entry into the United States or entry into the United States with fraudulent documents or who remain in the country after their nonimmigrant visas expire—

(1) $228,000,000 for fiscal year 1995;

(2) $185,000,000 for fiscal year 1996;

(3) $204,000,000 for fiscal year 1997;

(4) $58,000,000 for fiscal year 1998.

Of the sums authorized in this section, all necessary funds shall, subject to the availability of appropriations, be allocated to increase the number of agent positions (and necessary support personnel positions) in the Border Patrol by not less than 1,000 full-time equivalent positions in each of fiscal years 1995, 1996, 1997, and 1998 beyond the number funded as of October 1, 1994.

(b) REPORT.—By September 30, 1996 and September 30, 1998, the Attorney General shall report to the Congress on the programs described in this section. The report shall include an evaluation of the programs, an outcome-based measurement of performance, and an analysis of the cost effectiveness of the additional resources provided under this Act.

SEC. 130007. EXPANDED SPECIAL DEPORTATION PROCEEDINGS.

(a) IN GENERAL.—Subject to the availability of appropriations, the Attorney General may expand the program authorized by section 242A(d) and 242(i) of the Immigration and Nationality Act to ensure that such aliens are immediately deportable upon their release from incarceration.

(b) DETENTION AND REMOVAL OF CRIMINAL ALIENS.—Subject to the availability of appropriations, the Attorney General may—

(1) construct or contract for the construction of 2 Immigration and Naturalization Service Processing Centers to detain criminal aliens; and

(2) provide for the detention and removal of such aliens.

(c) REPORT.—By September 30, 1996, and September 30, 1998 the Attorney General shall report to the Congress on the programs referred to in subsections (a) and (b). The report shall include an evaluation of the programs, an outcome-based measurement of performance, and an analysis of the cost effectiveness of the additional resources provided under this Act.

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

(1) $55,000,000 for fiscal year 1995;

(2) $54,000,000 for fiscal year 1996;

(3) $49,000,000 for fiscal year 1997; and

(4) $2,000,000 for fiscal year 1998.

SEC. 130008. AUTHORITY TO ACCEPT CERTAIN ASSISTANCE.

(a) IN GENERAL.—Subject to subsection (b) and notwithstanding any other provision of law, the Attorney General, in the discretion of the Attorney General, may accept, hold, administer, and utilize gifts of property and services (which may not include cash assistance) from State and local governments for the purpose of assisting the Immigration and Naturalization Service in the transportation of deportable

aliens who are arrested for misdemeanor or felony crimes under State or Federal law and who are either unlawfully within the United States or willing to submit to voluntary departure under safeguards. Any property acquired pursuant to this section shall be acquired in the name of the United States.

(b) LIMITATION.—The Attorney General shall terminate or rescind the exercise of the authority under subsection (a) if the Attorney General determines that the exercise of such authority has resulted in discrimination by law enforcement officials on the basis of race, color, or national origin.

SEC. 130009. PASSPORT AND VISA OFFENSES PENALTIES IMPROVEMENT.

(a) IN GENERAL.—Chapter 75 of title 18, United States Code, is amended—

(1) in section 1541 by striking "not more than $500 or imprisoned not more than one year" and inserting "under this title, imprisoned not more than 10 years";

(2) in each of sections 1542, 1543, and 1544 by striking "not more than $2,000 or imprisoned not more than five years" and inserting "under this title, imprisoned not more than 10 years";

(3) in section 1545 by striking "not more than $2,000 or imprisoned not more than three years" and inserting "under this title, imprisoned not more than 10 years";

(4) in section 1546(a) by striking "five years" and inserting "10 years";

(5) in section 1546(b) by striking "in accordance with this title, or imprisoned not more than two years" and inserting "under this title, imprisoned not more than 5 years"; and

(6) by adding at the end the following new section:

"§1547. Alternative imprisonment maximum for certain offenses

"Notwithstanding any other provision of this title, the maximum term of imprisonment that may be imposed for an offense under this chapter (other than an offense under section 1545)—

"(1) if committed to facilitate a drug trafficking crime (as defined in 929(a)) is 15 years; and

"(2) if committed to facilitate an act of international terrorism (as defined in section 2331) is 20 years.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 75 of title 18, United States Code, is amended by adding at the end the following new item:

"1547. Alternative imprisonment maximum for certain offenses.".

SEC. 130010. ASYLUM.

(a) FINDINGS.—The Senate finds that—

(1) in the last decade applications for asylum have greatly exceeded the original 5,000 annual limit provided in the Refugee Act of 1980, with more than 150,000 asylum applications filed in fiscal year 1993, and the backlog of cases growing to 340,000;

(2) this flood of asylum claims has swamped the system, creating delays in the processing of applications of up to several years;

(3) the delay in processing asylum claims due to the overwhelming numbers has contributed to numerous problems, including—

(A) an abuse of the asylum laws by fraudulent applicants whose primary interest is obtaining work authority in the United States while their claim languishes in the backlogged asylum processing system;

(B) the growth of alien smuggling operations, often involving organized crime;

(C) a drain on limited resources resulting from the high cost of processing frivolous asylum claims through our multilayered system; and

(D) an erosion of public support for asylum, which is a treaty obligation.

(4) asylum, a safe haven protection for aliens abroad who cannot return home, has been perverted by some aliens who use asylum claims to circumvent our immigration and refugee laws and procedures; and

(5) a comprehensive revision of our asylum law and procedures is required to address these problems.

(b) POLICY.—It is the sense of the Senate that—

(1) asylum is a process intended to protect aliens in the United States who cannot safely return home;

(2) persons outside their country of nationality who have a well-founded fear of persecution if they return should apply for refugee status at one of our refugee processing offices abroad; and

(3) the immigration, refugee and asylum laws of the United States should be reformed to provide—

(A) a procedure for the expeditious exclusion of any asylum applicant who arrives at a port-of-entry with fraudulent documents, or no documents, and makes a noncredible claim of asylum; and

(B) the immigration, refugee and asylum laws of the United States should be reformed to provide for a streamlined affirmative asylum processing system for asylum applicants who make their application after they have entered the United States.

TITLE XIV—YOUTH VIOLENCE

SEC. 140001. PROSECUTION AS ADULTS OF CERTAIN JUVENILES FOR CRIMES OF VIOLENCE.

The 4th undesignated paragraph of section 5032 of title 18, United States Code, is amended by striking "; however" and inserting ". In the application of the preceding sentence, if the crime of violence is an offense under section 113(a), 113(b), 113(c), 1111, 1113, or, if the juvenile possessed a firearm during the offense, section 2111, 2113, 2241(a), or 2241(c), 'thirteen' shall be substituted for 'fifteen' and 'thirteenth' shall be substituted for 'fifteenth'. Notwithstanding sections 1152 and 1153, no person subject to the criminal jurisdiction of an Indian tribal government shall be subject to the preceding sentence for any offense the Federal jurisdiction for which is predicated solely on Indian country (as defined in section 1151), and which has occurred within the boundaries of such Indian country, unless the governing body of the tribe has elected that the preceding sentence have effect over land and persons subject to its criminal jurisdiction. However".

SEC. 140002. COMMENCEMENT OF JUVENILE PROCEEDING.

Section 5032 of title 18, United States Code, is amended by striking "Any proceedings against a juvenile under this chapter or as an adult shall not be commenced until" and inserting "A juvenile shall not be transferred to adult prosecution nor shall a hearing be held under section 5037 (disposition after a finding of juvenile delinquency) until".

SEC. 140003. SEPARATION OF JUVENILE FROM ADULT OFFENDERS.

Section 5039 of title 18, United States Code, is amended by inserting ", whether pursuant to an adjudication of delinquency or conviction for an offense," after "committed" the first place it appears.

SEC. 140004. BINDOVER SYSTEM FOR CERTAIN VIOLENT JUVENILES.

Section 501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751), as amended by section 100003, is amended—

(1) by striking "and" at the end of paragraph (21);

(2) by striking the period at the end of paragraph (22) and inserting "; and"; and

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

"(23) programs that address the need for effective bindover systems for the prosecution of violent 16- and 17-year-old juveniles in courts with jurisdiction over adults for the crimes of—

"(A) murder in the first degree;

"(B) murder in the second degree;

"(C) attempted murder;

"(D) armed robbery when armed with a firearm;

"(E) aggravated battery or assault when armed with a firearm;

"(F) criminal sexual penetration when armed with a firearm; and

"(G) drive-by shootings as described in section 36 of title 18, United States Code.".

SEC. 140005. AMENDMENT CONCERNING RECORDS OF CRIMES COMMITTED BY JUVENILES.

Section 5038 of title 18, United States Code, is amended in subsection (f) by adding "or whenever a juvenille has been found guilty of committing an act after his 13th birthday which if committed by an adult would be an offense described in the second sentence of the fourth paragraph of section 5032 of this title," after "title 21,".

SEC. 140006. INCREASED PENALTIES FOR EMPLOYING CHILDREN TO DISTRIBUTE DRUGS NEAR SCHOOLS AND PLAYGROUNDS.

Section 419 of the Controlled Substances Act (21 U.S.C. 860) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) Notwithstanding any other law, any person at least 21 years of age who knowingly and intentionally—

"(1) employs, hires, uses, persuades, induces, entices, or coerces a person under 18 years of age to violate this section; or

"(2) employs, hires, uses, persuades, induces, entices, or coerces a person under 18 years of age to assist in avoiding detection or apprehension for any offense under this section by any Federal, State, or local law enforcement official, is punishable by a term of imprisonment, a fine, or both, up to triple those authorized by section 401.".

SEC. 140007. INCREASED PENALTIES FOR TRAVEL ACT CRIMES INVOLVING VIOLENCE AND CONSPIRACY TO COMMIT CONTRACT KILLINGS.

(a) TRAVEL ACT PENALTIES.—Section 1952(a) of title 18, United States Code, is amended by striking "and thereafter performs or attempts to perform any of the acts specified in subparagraphs (1), (2), and (3), shall be fined not more than $10,000 or imprisoned for not more than five years, or both." and inserting "and thereafter performs or attempts to perform—

"(A) an act described in paragraph (1) or (3) shall be fined under this title, imprisoned not more than 5 years, or both; or

"(B) an act described in paragraph (2) shall be fined under this title, imprisoned for not more than 20 years, or both, and if death results shall be imprisoned for any term of years or for life.".

(b) MURDER CONSPIRACY PENALTIES.—Section 1958(a) of title 18, United States Code, is amended by inserting "or who conspires to do so" before "shall be fined" the first place it appears.

SEC. 140008. SOLICITATION OF MINOR TO COMMIT CRIME.

(a) DIRECTIVE TO SENTENCING COMMISSION.—(1) The United States Sentencing Commission shall promulgate guidelines or amend existing guidelines to provide that a defendant 21 years of age or older who has been convicted of an offense shall receive an appropriate sentence enhancement if the defendant involved a minor in the commission of the offense.

(2) The Commission shall provide that the guideline enhancement promulgated pursuant to

paragraph (1) shall apply for any offense in relation to which the defendant has solicited, procured, recruited, counseled, encouraged, trained, directed, commanded, intimidated, or otherwise used or attempted to use any person less than 18 years of age with the intent that the minor would commit a Federal offense.

(b) RELEVANT CONSIDERATIONS.—In implementing the directive in subsection (a), the Sentencing Commission shall consider—

(1) the severity of the crime that the defendant intended the minor to commit;

(2) the number of minors that the defendant used or attempted to use in relation to the offense;

(3) the fact that involving a minor in a crime of violence is frequently of even greater seriousness than involving a minor in a drug trafficking offense, for which the guidelines already provide a two-level enhancement; and

(4) the possible relevance of the proximity in age between the offender and the minor(s) involved in the offense.

TITLE XV—CRIMINAL STREET GANGS

SEC. 150001. CRIMINAL STREET GANGS.

(a) IN GENERAL.—Part I of title 18, United States Code, is amended by inserting after chapter 25 the following new chapter:

"CHAPTER 26—CRIMINAL STREET GANGS

"§521. Criminal street gangs

"(a) DEFINITIONS.—

" 'conviction' includes a finding, under State or Federal law, that a person has committed an act of juvenile delinquency involving a violent or controlled substances felony.

" 'criminal street gang' means an ongoing group, club, organization, or association of 5 or more persons—

"(A) that has as 1 of its primary purposes the commission of 1 or more of the criminal offenses described in subsection (c);

"(B) the members of which engage, or have engaged within the past 5 years, in a continuing series of offenses described in subsection (c); and

"(C) the activities of which affect interstate or foreign commerce.

"(b) PENALTY.—The sentence of a person convicted of an offense described in subsection (c) shall be increased by up to 10 years if the offense is committed under the circumstances described in subsection (d).

"(c) OFFENSES.—The offenses described in this section are—

"(1) a Federal felony involving a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) for which the maximum penalty is not less than 5 years;

"(2) a Federal felony crime of violence that has as an element the use or attempted use of physical force against the person of another; and

"(3) a conspiracy to commit an offense described in paragraph (1) or (2).

"(d) CIRCUMSTANCES.—The circumstances described in this section are that the offense described in subsection (c) was committed by a person who—

"(1) participates in a criminal street gang with knowledge that its members engage in or have engaged in a continuing series of offenses described in subsection (c);

"(2) intends to promote or further the felonious activities of the criminal street gang or maintain or increase his or her position in the gang; and

"(3) has been convicted within the past 5 years for—

"(A) an offense described in subsection (c);

"(B) a State offense—

"(i) involving a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) for which the maximum penalty is not less than 5 years' imprisonment; or

"(ii) that is a felony crime of violence that has as an element the use or attempted use of physical force against the person of another;

"(C) any Federal or State felony offense that by its nature involves a substantial risk that physical force against the person of another may be used in the course of committing the offense; or

"(D) a conspiracy to commit an offense described in subparagraph (A), (B), or (C).".

(b) TECHNICAL AMENDMENT.—The part analysis for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 25 the following new item:

"26. Criminal street gangs ..... 521".

SEC. 150002. ADULT PROSECUTION OF SERIOUS JUVENILE OFFENDERS.

Section 5032 of title 18, United States Code, is amended—

(1) in the first undesignated paragraph by striking "922(p)" and inserting "924(b), (g), or (h)";

(2) in the fourth undesignated paragraph by inserting "or in section 924(b), (g), or (h) of this title," before "criminal prosecution" the first place it appears; and

(3) in the fifth undesignated paragraph by adding at the end the following: "In considering the nature of the offense, as required by this paragraph, the court shall consider the extent to which the juvenile played a leadership role in an organization, or otherwise influenced other persons to take part in criminal activities, involving the use or distribution of controlled substances or firearms. Such a factor, if found to exist, shall weigh in favor of a transfer to adult status, but the absence of this factor shall not preclude such a transfer.".

SEC. 150003. ADDITION OF ANTI-GANG BYRNE GRANT FUNDING OBJECTIVE.

Section 501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751(4)), as amended by section 140004, is amended—

(1) by striking "and" at the end of paragraph (22);

(2) by striking the period at the end of paragraph (23) and inserting "; and"; and

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

"(24) law enforcement and prevention programs relating to gangs, or to youth who are involved or at risk of involvement in gangs.".

SEC. 150004. MENTORING PROGRAM.

Section 288C of part G of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 is amended to read as follows:

"REGULATIONS AND GUIDELINES

"SEC. 288C. (a) PROGRAM GUIDELINES.—The Administrator shall issue program guidelines to implement this part. The program guidelines shall be effective only after a period for public notice and comment.

"(b) MODEL SCREENING GUIDELINES.—The Administrator shall develop and distribute to program participants specific model guidelines for the screening of prospective program mentors.".

SEC. 150005. JUVENILE ANTI-DRUG AND ANTI-GANG GRANTS IN FEDERALLY ASSISTED LOW-INCOME HOUSING.

Grants authorized in this Act to reduce or prevent juvenile drug and gang-related activity in "public housing" may be used for such purposes in federally assisted, low-income housing.

SEC. 150006. GANG INVESTIGATION COORDINATION AND INFORMATION COLLECTION.

(a) COORDINATION.—The Attorney General (or the Attorney General's designee), in consultation with the Secretary of the Treasury (or the Secretary's designee), shall develop a national strategy to coordinate gang-related investigations by Federal law enforcement agencies.

(b) DATA COLLECTION.—The Director of the Federal Bureau of Investigation shall acquire and collect information on incidents of gang violence for inclusion in an annual uniform crime report.

(c) REPORT.—The Attorney General shall prepare a report on national gang violence outlining the strategy developed under subsection (a) to be submitted to the President and Congress by January 1, 1996.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $1,000,000 for fiscal year 1996.

SEC. 150007. MULTIJURISDICTIONAL GANG TASK FORCES.

Section 504(f) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by inserting "victims assistance programs, or multijurisdictional gang task forces" after "drug task forces".

TITLE XVI—CHILD PORNOGRAPHY

SEC. 160001. PENALTIES FOR INTERNATIONAL TRAFFICKING IN CHILD PORNOGRAPHY.

(a) IMPORT RELATED OFFENSE.—Chapter 110 of title 18, United States Code, is amended by adding at the end the following new section:

"§2258. Production of sexually explicit depictions of a minor for importation into the United States

"(a) USE OF MINOR.—A person who, outside the United States, employs, uses, persuades, induces, entices, or coerces any minor to engage in, or who has a minor assist any other person to engage in, or who transports any minor with the intent that the minor engage in any sexually explicit conduct for the purpose of producing any visual depiction of such conduct, intending that the visual depiction will be imported into the United States or into waters within 12 miles of the coast of the United States, shall be punished as provided in subsection (c).

"(b) USE OF VISUAL DEPICTION.—A person who, outside the United States, knowingly receives, transports, ships, distributes, sells, or possesses with intent to transport, ship, sell, or distribute any visual depiction of a minor engaging in sexually explicit conduct (if the production of the visual depiction involved the use of a minor engaging in sexually explicit conduct), intending that the visual depiction will be imported into the United States or into waters within a distance of 12 miles of the coast of the United States, shall be punished as provided in subsection (c).

"(c) PENALTIES.—A person who violates subsection (a) or (b), or conspires or attempts to do so—

"(1) shall be fined under this title, imprisoned not more than 10 years, or both; and

"(2) if the person has a prior conviction under this chapter or chapter 109A, shall be fined under this title, imprisoned not more than 20 years, or both.".

(b) TECHNICAL AMENDMENT.—

(1) CHAPTER ANALYSIS.—The chapter analysis for chapter 110 of title 18, United States Code, is amended by adding at the end the following new item:

"2258. Production of sexually explicit depictions of a minor for importation into the United States.".

(2) FINE PROVISIONS.—Section 2251(d) of title 18, United States Code, is amended—

(A) by striking "not more than $100,000, or" and inserting "under this title,";

(B) by striking "not more than $200,000, or" and inserting "under this title,"; and

(C) by striking "not more than $250,000" and inserting "under this title".

(c) SECTION 2251 PENALTY ENHANCEMENT.—Section 2251(d) of title 18, United States Code, is amended by striking "this section" the second

place it appears and inserting "this chapter or chapter 109A".

(d) SECTION 2252 PENALTY ENHANCEMENT.—Section 2252(b)(1) of title 18, United States Code, is amended by striking "this section" and inserting "this chapter or chapter 109A".

(e) CONSPIRACY AND ATTEMPT.—Sections 2251(d) and 2252(b) of title 18, United States Code, are each amended by inserting ", or attempts or conspires to violate," after "violates" each place it appears.

(f) RICO AMENDMENT.—Section 1961(l) of title 18, United States Code, is amended by striking "2251–2252" and inserting "2251, 2251A, 2252, and 2258".

(g) TRANSPORTATION OF MINORS.—Section 2423 of title 18, United States Code, is amended—

(1) by striking "(a) Whoever" and inserting "(a) TRANSPORTATION WITH INTENT TO ENGAGE IN CRIMINAL SEXUAL ACTIVITY.—A person who"; and

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

"(b) TRAVEL WITH INTENT TO ENGAGE IN SEXUAL ACT WITH A JUVENILE.—A person who travels in interstate commerce, or conspires to do so, or a United States citizen or an alien admitted for permanent residence in the United States who travels in foreign commerce, or conspires to do so, for the purpose of engaging in any sexual act (as defined in section 2245) with a person under 18 years of age that would be in violation of chapter 109A if the sexual act occurred in the special maritime and territorial jurisdiction of the United States shall be fined under this title, imprisoned not more than 10 years, or both.".

SEC. 160002. SENSE OF CONGRESS CONCERNING STATE LEGISLATION REGARDING CHILD PORNOGRAPHY.

It is the sense of the Congress that each State that has not yet done so should enact legislation prohibiting the production, distribution, receipt, or simple possession of materials depicting a person under 18 years of age engaging in sexually explicit conduct (as defined in section 2256 of title 18, United States Code) and providing for a maximum imprisonment of at least 1 year and for the forfeiture of assets used in the commission or support of, or gained from, such offenses.

SEC. 160003. CONFIRMATION OF INTENT OF CONGRESS IN ENACTING SECTIONS 2252 AND 2256 OF TITLE 18, UNITED STATES CODE.

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

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

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

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

TITLE XVII—CRIMES AGAINST CHILDREN

Subtitle A—Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act

SEC. 170101. ESTABLISHMENT OF PROGRAM.

(a) IN GENERAL.—

(1) STATE GUIDELINES.—The Attorney General shall establish guidelines for State programs that require—

(A) a person who is convicted of a criminal offense against a victim who is a minor or who is convicted of a sexually violent offense to register a current address with a designated State law enforcement agency for the time period specified in subparagraph (A) of subsection (b)(6); and

(B) a person who is a sexually violent predator to register a current address with a designated State law enforcement agency unless such requirement is terminated under subparagraph (B) of subsection (b)(6).

(2) COURT DETERMINATION.—A determination that a person is a sexually violent predator and a determination that a person is no longer a sexually violent predator shall be made by the sentencing court after receiving a report by a State board composed of experts in the field of the behavior and treatment of sexual offenders.

(3) DEFINITIONS.—For purposes of this section:

(A) The term "criminal offense against a victim who is a minor" means any criminal offense that consists of—

(i) kidnapping of a minor, except by a parent;

(ii) false imprisonment of a minor, except by a parent;

(iii) criminal sexual conduct toward a minor;

(iv) solicitation of a minor to engage in sexual conduct;

(v) use of a minor in a sexual performance;

(vi) solicitation of a minor to practice prostitution;

(vii) any conduct that by its nature is a sexual offense against a minor; or

(viii) an attempt to commit an offense described in any of clauses (i) through (vii), if the State—

(I) makes such an attempt a criminal offense; and

(II) chooses to include such an offense in those which are criminal offenses against a victim who is a minor for the purposes of this section.

For purposes of this subparagraph conduct which is criminal only because of the age of the victim shall not be considered a criminal offense if the perpetrator is 18 years of age or younger.

(B) The term "sexually violent offense" means any criminal offense that consists of aggravated sexual abuse or sexual abuse (as described in sections 2241 and 2242 of title 18, United States Code, or as described in the State criminal code) or an offense that has as its elements engaging in physical contact with another person with intent to commit aggravated sexual abuse or sexual abuse (as described in such sections of title 18, United States Code, or as described in the State criminal code).

(C) The term "sexually violent predator" means a person who has been convicted of a sexually violent offense and who suffers from a mental abnormality or personality disorder that makes the person likely to engage in predatory sexually violent offenses.

(D) The term "mental abnormality" means a congenital or acquired condition of a person that affects the emotional or volitional capacity of the person in a manner that predisposes that person to the commission of criminal sexual acts to a degree that makes the person a menace to the health and safety of other persons.

(E) The term "predatory" means an act directed at a stranger, or a person with whom a relationship has been established or promoted for the primary purpose of victimization.

(b) REGISTRATION REQUIREMENT UPON RELEASE, PAROLE, SUPERVISED RELEASE, OR PROBATION.—An approved State registration program established under this section shall contain the following elements:

(1) DUTY OF STATE PRISON OFFICIAL OR COURT.—

(A) If a person who is required to register under this section is released from prison, or placed on parole, supervised release, or probation, a State prison officer, or in the case of probation, the court, shall—

(i) inform the person of the duty to register and obtain the information required for such registration;

(ii) inform the person that if the person changes residence address, the person shall give the new address to a designated State law enforcement agency in writing within 10 days;

(iii) inform the person that if the person changes residence to another State, the person shall register the new address with the law enforcement agency with whom the person last registered, and the person is also required to register with a designated law enforcement agency in the new State not later than 10 days after establishing residence in the new State, if the new State has a registration requirement;

(iv) obtain fingerprints and a photograph of the person if these have not already been obtained in connection with the offense that triggers registration; and

(v) require the person to read and sign a form stating that the duty of the person to register under this section has been explained.

(B) In addition to the requirements of subparagraph (A), for a person required to register under subparagraph (B) of subsection (a)(1), the State prison officer or the court, as the case may be, shall obtain the name of the person, identifying factors, anticipated future residence, offense history, and documentation of any treatment received for the mental abnormality or personality disorder of the person.

(2) TRANSFER OF INFORMATION TO STATE AND THE FBI.—The officer, or in the case of a person placed on probation, the court, shall, within 3 days after receipt of information described in paragraph (1), forward it to a designated State law enforcement agency. The State law enforcement agency shall immediately enter the information into the appropriate State law enforcement record system and notify the appropriate law enforcement agency having jurisdiction where the person expects to reside. The State law enforcement agency shall also immediately transmit the conviction data and fingerprints to the Federal Bureau of Investigation.

(3) VERIFICATION.—

(A) For a person required to register under subparagraph (A) of subsection (a)(1), on each anniversary of the person's initial registration date during the period in which the person is required to register under this section the following applies:

(i) The designated State law enforcement agency shall mail a nonforwardable verification form to the last reported address of the person.

(ii) The person shall mail the verification form to the designated State law enforcement agency within 10 days after receipt of the form.

(iii) The verification form shall be signed by the person, and state that the person still resides at the address last reported to the designated State law enforcement agency.

(iv) If the person fails to mail the verification form to the designated State law enforcement agency within 10 days after receipt of the form, the person shall be in violation of this section unless the person proves that the person has not changed the residence address.

(B) The provisions of subparagraph (A) shall be applied to a person required to register under subparagraph (B) of subsection (a)(1), except that such person must verify the registration every 90 days after the date of the initial release or commencement of parole.

(4) NOTIFICATION OF LOCAL LAW ENFORCEMENT AGENCIES OF CHANGES IN ADDRESS.—A change of address by a person required to register under this section reported to the designated State law enforcement agency shall be immediately reported to the appropriate law enforcement agency having jurisdiction where the person is residing. The designated law enforcement agency shall, if the person changes residence to another State, notify the law enforcement agency with which the person must register in the new State, if the new State has a registration requirement.

(5) REGISTRATION FOR CHANGE OF ADDRESS TO ANOTHER STATE.—A person who has been convicted of an offense which requires registration under this section shall register the new address with a designated law enforcement agency in another State to which the person moves not later than 10 days after such person establishes residence in the new State, if the new State has a registration requirement.

(6) LENGTH OF REGISTRATION.—

(A) A person required to register under subparagraph (A) of subsection (a)(1) shall continue to comply with this section until 10 years have elapsed since the person was released from prison, placed on parole, supervised release, or probation.

(B) The requirement of a person to register under subparagraph (B) of subsection (a)(1) shall terminate upon a determination, made in accordance with paragraph (2) of subsection (a), that the person no longer suffers from a mental abnormality or personality disorder that would make the person likely to engage in a predatory sexually violent offense.

(c) PENALTY.—A person required to register under a State program established pursuant to this section who knowingly fails to so register and keep such registration current shall be subject to criminal penalties in any State in which the person has so failed.

(d) RELEASE OF INFORMATION.—The information collected under a State registration program shall be treated as private data except that—

(1) such information may be disclosed to law enforcement agencies for law enforcement purposes;

(2) such information may be disclosed to government agencies conducting confidential background checks; and

(3) the designated State law enforcement agency and any local law enforcement agency authorized by the State agency may release relevant information that is necessary to protect the public concerning a specific person required to register under this section, except that the identity of a victim of an offense that requires registration under this section shall not be released.

(e) IMMUNITY FOR GOOD FAITH CONDUCT.—Law enforcement agencies, employees of law enforcement agencies, and State officials shall be immune from liability for good faith conduct under this section.

(f) COMPLIANCE.—

(1) COMPLIANCE DATE.—Subject to paragraph (2), each State shall have not more than 3 years from the date of enactment of this Act in which to implement this section, except that the Attorney General may grant an additional 2 years to a State that is making good faith efforts to implement this section.

(2) INELIGIBILITY FOR FUNDS.—

(A) A State that fails to implement the program as described in this section shall not receive 10 percent of the funds that would otherwise be allocated to the State under section 506 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3765).

(B) REALLOCATION OF FUNDS.—Any funds that are not allocated for failure to comply with this section shall be reallocated to States that comply with this section.

Subtitle B—Assaults Against Children

SEC. 170201. ASSAULTS AGAINST CHILDREN.

(a) SIMPLE ASSAULT.—Section 113(e) of title 18, United States Code, is amended by inserting ", or if the victim of the assault is an individual who has not attained the age of 16 years, by fine under this title or imprisonment for not more than 1 year, or both" before the period.

(b) ASSAULTS RESULTING IN SUBSTANTIAL BODILY INJURY.—Section 113 of title 18, United States Code, is amended by adding at the end the following:

"(7) Assault resulting in substantial bodily injury to an individual who has not attained the age of 16 years, by fine under this title or imprisonment for not more than 5 years, or both.".

(c) TECHNICAL AND STYLISTIC CHANGES TO SECTION 113.—Section 113 of title 18, United States Code, is amended—

(1) in paragraph (b), by striking "of not more than $3,000" and inserting "under this title";

(2) in paragraph (c), by striking "of not more than $1,000" and inserting "under this title";

(3) in paragraph (d), by striking "of not more than $500" and inserting "under this title";

(4) by modifying the left margin of each of paragraphs (a) through (f) so that they are indented 2 ems;

(5) by redesignating paragraphs (a) through (f) as paragraphs (1) through (6); and

(6) by inserting "(a)" before "Whoever".

(d) DEFINITIONS.—Section 113 of title 18, United States Code, is amended by adding at the end the following:

"(b) As used in this subsection—

"(1) the term 'substantial bodily injury' means bodily injury which involves—

"(A) a temporary but substantial disfigurement; or

"(B) a temporary but substantial loss or impairment of the function of any bodily member, organ, or mental faculty; and

"(2) the term 'serious bodily injury' has the meaning given that term in section 1365 of this title.".

(e) ASSAULTS IN INDIAN COUNTRY.—Section 1153(a) of title 18, United States Code, is amended by inserting "(as defined in section 1365 of this title), an assault against an individual who has not attained the age of 16 years" after "serious bodily injury".

Subtitle C—Missing and Exploited Children

SEC. 170301. SHORT TITLE.

This subtitle may be cited as the "Morgan P. Hardiman Task Force on Missing and Exploited Children Act".

SEC. 170302. PURPOSE.

The purpose of this subtitle is to establish a task force comprised of law enforcement officers from pertinent Federal agencies to work with the National Center for Missing and Exploited Children (referred to as the "Center") and coordinate the provision of Federal law enforcement resources to assist State and local authorities in investigating the most difficult cases of missing and exploited children.

SEC. 170303. ESTABLISHMENT OF TASK FORCE.

Title IV of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5771 et seq.) is amended—

(1) by redesignating sections 407 and 408 as sections 408 and 409, respectively; and

(2) by inserting after section 406 the following new section:

"TASK FORCE

"SEC. 407. (a) ESTABLISHMENT.—There is established a Missing and Exploited Children's Task Force (referred to as the "Task Force").

"(b) MEMBERSHIP.—

"(1) IN GENERAL.—The Task Force shall include at least 2 members from each of—

"(A) the Federal Bureau of Investigation;

"(B) the Secret Service;

"(C) the Bureau of Alcohol, Tobacco and Firearms;

"(D) the United States Customs Service;

"(E) the Postal Inspection Service;

"(F) the United States Marshals Service; and

"(G) the Drug Enforcement Administration.

"(2) CHIEF.—A representative of the Federal Bureau of Investigation (in addition to the members of the Task Force selected under paragraph (1)(A)) shall act as chief of the Task Force.

"(3) SELECTION.—(A) The Director of the Federal Bureau of Investigation shall select the chief of the Task Force.

"(B) The heads of the agencies described in paragraph (1) shall submit to the chief of the Task Force a list of at least 5 prospective Task Force members, and the chief shall select 2, or such greater number as may be agreeable to an agency head, as Task Force members.

"(4) PROFESSIONAL QUALIFICATIONS.—The members of the Task Force shall be law enforcement personnel selected for their expertise that would enable them to assist in the investigation of cases of missing and exploited children.

"(5) STATUS.—A member of the Task Force shall remain an employee of his or her respective agency for all purposes (including the purpose of performance review), and his or her service on the Task Force shall be without interruption or loss of civil service privilege or status and shall be on a nonreimbursable basis.

"(6) PERIOD OF SERVICE.—(A) Subject to subparagraph (B), 1 member from each agency shall initially serve a 1-year term, and the other member from the same agency shall serve a 1-year term, and may be selected to a renewal of service for 1 additional year; thereafter, each new member to serve on the Task Force shall serve for a 2-year period with the member's term of service beginning and ending in alternate years with the other member from the same agency; the period of service for the chief of the Task Force shall be 3 years.

"(B) The chief of the Task Force may at any time request the head of an agency described in paragraph (1) to submit a list of 5 prospective Task Force members to replace a member of the Task Force, for the purpose of maintaining a Task Force membership that will be able to meet the demands of its caseload.

"(c) SUPPORT.—

"(1) IN GENERAL.—The Administrator of the General Services Administration, in coordination with the heads of the agencies described in subsection (b)(1), shall provide the Task Force office space and administrative and support services, such office space to be in close proximity to the office of the Center, so as to enable the Task Force to coordinate its activities with that of the Center on a day-to-day basis.

"(2) LEGAL GUIDANCE.—The Attorney General shall assign an attorney to provide legal guidance, as needed, to members of the Task Force.

"(d) PURPOSE.—

"(1) IN GENERAL.—The purpose of the Task Force shall be to make available the combined resources and expertise of the agencies described in paragraph (1) to assist State and local governments in the most difficult missing and exploited child cases nationwide, as identified by the chief of the Task Force from time to time, in consultation with the Center, and as many additional cases as resources permit, including the provision of assistance to State and local investigators on location in the field.

"(2) TECHNICAL ASSISTANCE.—The role of the Task Force in any investigation shall be to provide advice and technical assistance and to make available the resources of the agencies described in subsection (b)(1); the Task Force shall not take a leadership role in any such investigation.

"(e) CROSS-DESIGNATION OF TASK FORCE MEMBERS.—The Attorney General may cross-

designate the members of the Task Force with jurisdiction to enforce Federal law related to child abduction to the extent necessary to accomplish the purposes of this section.".

TITLE XVIII—RURAL CRIME

Subtitle A—Drug Trafficking in Rural Areas

SEC. 180101. AUTHORIZATIONS FOR RURAL LAW ENFORCEMENT AGENCIES.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a)(9) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended to read as follows:

"(9) There are authorized to be appropriated to carry out part O—

"(A) $24,000,000 for fiscal year 1996;

"(B) $40,000,000 for fiscal year 1997;

"(C) $50,000,000 for fiscal year 1998;

"(D) $60,000,000 for fiscal year 1999; and

"(E) $66,000,000 for fiscal year 2000.".

(b) AMENDMENT TO BASE ALLOCATION.—Section 1501(a)(2)(A) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking "$100,000" and inserting "$250,000".

(c) CLARIFICATION.—Section 1501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. § 3796bb(b)) is amended by inserting ", based on the decennial census of 1990 through fiscal year 1997" before the period.

SEC. 180102. RURAL CRIME AND DRUG ENFORCEMENT TASK FORCES.

(a) ESTABLISHMENT.—The Attorney General, in consultation with the Governors, mayors, and chief executive officers of State and local law enforcement agencies, may establish a Rural Crime and Drug Enforcement Task Force in judicial districts that encompass significant rural lands. Assets seized as a result of investigations initiated by a Rural Crime and Drug Enforcement Task Force and forfeited under Federal law shall be used, consistent with the guidelines on equitable sharing established by the Attorney General and of the Secretary of the Treasury, primarily to enhance the operations of the task force and its participating State and local law enforcement agencies.

(b) TASK FORCE MEMBERSHIP.—The Task Forces established under subsection (a) shall be carried out under policies and procedures established by the Attorney General. The Attorney General may deputize State and local law enforcement officers and may cross-designate up to 100 Federal law enforcement officers, when necessary to undertake investigations pursuant to section 503(a) of the Controlled Substances Act (21 U.S.C. 873(a)) or offenses punishable by a term of imprisonment of 10 years or more under title 18, United States Code. The task forces—

(1) shall include representatives from—

(A) State and local law enforcement agencies;

(B) the office of the United States Attorney for the judicial district; and

(C) the Federal Bureau of Investigation, the Drug Enforcement Administration, the Immigration and Naturalization Service, and the United States Marshals Service; and

(2) may include representatives of other Federal law enforcement agencies, such as the United States Customs Service, United States Park Police, United States Forest Service, Bureau of Alcohol, Tobacco, and Firearms, and Bureau of Land Management.

SEC. 180103. RURAL DRUG ENFORCEMENT TRAINING.

(a) SPECIALIZED TRAINING FOR RURAL OFFICERS.—The Director of the Federal Law Enforcement Training Center shall develop a specialized course of instruction devoted to training law enforcement officers from rural agencies in the investigation of drug trafficking and related crimes.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out subsection (a)—

(1) $1,000,000 for fiscal year 1996;

(2) $1,000,000 for fiscal year 1997;

(3) $1,000,000 for fiscal year 1998;

(4) $1,000,000 for fiscal year 1999; and

(5) $1,000,000 for fiscal year 2000.

SEC. 180104. MORE AGENTS FOR THE DRUG ENFORCEMENT ADMINISTRATION.

There are authorized to be appropriated for the hiring of additional Drug Enforcement Administration agents—

(1) $12,000,000 for fiscal year 1996;

(2) $20,000,000 for fiscal year 1997;

(3) $30,000,000 for fiscal year 1998;

(4) $40,000,000 for fiscal year 1999; and

(5) $48,000,000 for fiscal year 2000.

Subtitle B—Drug Free Truck Stops and Safety Rest Areas

SEC. 180201. DRUG FREE TRUCK STOPS AND SAFETY REST AREAS.

(a) SHORT TITLE.—This section may be cited as the "Drug Free Truck Stop Act".

(b) AMENDMENT TO CONTROLLED SUBSTANCES ACT.—

(1) IN GENERAL.—Part D of the Controlled Substances Act (21 U.S.C. 801 et seq.) is amended by inserting after section 408 the following new section:

"TRANSPORTATION SAFETY OFFENSES

"SEC. 409. (a) DEFINITIONS.—In this section—

"'safety rest area' means a roadside facility with parking facilities for the rest or other needs of motorists.

"'truck stop' means a facility (including any parking lot appurtenant thereto) that—

"(A) has the capacity to provide fuel or service, or both, to any commercial motor vehicle (as defined in section 31301 of title 49, United States Code), operating in commerce (as defined in that section); and

"(B) is located within 2,500 feet of the National System of Interstate and Defense Highways or the Federal-Aid Primary System.

"(b) FIRST OFFENSE.—A person who violates section 401(a)(1) or section 416 by distributing or possessing with intent to distribute a controlled substance in or on, or within 1,000 feet of, a truck stop or safety rest area is (except as provided in subsection (b)) subject to—

"(1) twice the maximum punishment authorized by section 401(b); and

"(2) twice any term of supervised release authorized by section 401(b) for a first offense.

"(c) SUBSEQUENT OFFENSE.—A person who violates section 401(a)(1) or section 416 by distributing or possessing with intent to distribute a controlled substance in or on, or within 1,000 feet of, a truck stop or a safety rest area after a prior conviction or convictions under subsection (a) have become final is subject to—

"(1) 3 times the maximum punishment authorized by section 401(b); and

"(2) 3 times any term of supervised release authorized by section 401(b) for a first offense.".

(2) TECHNICAL AMENDMENTS.—

(A) CROSS REFERENCE.—Section 401(b) of the Controlled Substances Act (21 U.S.C. 841(b)) is amended by inserting "409," before "418," each place it appears.

(B) TABLE OF CONTENTS.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by striking the item relating to section 409 and inserting the following new item:

"Sec. 409. Transportation safety offenses.".

(c) SENTENCING GUIDELINES.—Pursuant to its authority under section 994 of title 28, United States Code, and section 21 of the Sentencing Act of 1987 (28 U.S.C. 994 note), the United States Sentencing Commission shall promulgate guidelines, or shall amend existing guidelines, to provide an appropriate enhancement of punishment for a defendant convicted of violating section 409 of the Controlled Substances Act, as added by subsection (b).

Subtitle C—Sense of Congress Regarding Funding for Rural Areas

SEC. 180301. FUNDING FOR RURAL AREAS.

It is the sense of Congress that—

(1) the Attorney General should ensure that funding for programs authorized by the provisions of this Act and amendments made by this Act is distributed in such a manner that rural areas continue to receive comparable support for their broad-based crime fighting initiatives;

(2) rural communities should not receive less funding than they received in fiscal year 1994 for anti-crime initiatives as a result of any legislative or administrative actions; and

(3) to the maximum extent possible, funding for the Edward Byrne Memorial State and Local Law Enforcement Assistance Program should be maintained at its fiscal year 1994 level.

TITLE XIX—FEDERAL LAW ENFORCEMENT

SEC. 190001. FEDERAL JUDICIARY AND FEDERAL LAW ENFORCEMENT.

(a) AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR THE FEDERAL JUDICIARY.—

(1) FEDERAL JUDICIARY.—There are authorized to be appropriated for the activities of the Federal Judiciary to help meet the increased demands for judicial activities, including supervised release, pre-trial and probation services, that will result from enactment into law of this Act—

(A) $30,000,000 for fiscal year 1996;

(B) $35,000,000 for fiscal year 1997;

(C) $40,000,000 for fiscal year 1998;

(D) $40,000,000 for fiscal year 1999; and

(E) $55,000,000 for fiscal year 2000.

(b) AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR THE DEPARTMENT OF JUSTICE.—There is authorized to be appropriated for the activities and agencies of the Department of Justice, in addition to sums authorized elsewhere in this section, to help meet the increased demands for Department of Justice activities that will result from enactment into law of this Act—

(A) $40,000,000 for fiscal year 1996;

(B) $40,000,000 for fiscal year 1997;

(C) $40,000,000 for fiscal year 1998;

(D) $40,000,000 for fiscal year 1999; and

(E) $39,000,000 for fiscal year 2000.

(c) AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR THE FEDERAL BUREAU OF INVESTIGATION.—There is authorized to be appropriated for the activities of the Federal Bureau of Investigation, to help meet the increased demands for Federal Bureau of Investigation activities that will result from enactment into law of this Act—

(A) $35,000,000 for fiscal year 1996;

(B) $40,000,000 for fiscal year 1997;

(C) $50,000,000 for fiscal year 1998;

(D) $60,000,000 for fiscal year 1999; and

(E) $60,000,000 for fiscal year 2000.

(d) AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR UNITED STATES ATTORNEYS.—There is authorized to be appropriated for the account Department of Justice, Legal Activities, "Salaries and expenses, United States Attorneys", to help meet the increased demands for litigation and related activities which will result from enactment into law of this Act—

(A) $5,000,000 for fiscal year 1996;

(B) $8,000,000 for fiscal year 1997;

(C) $10,000,000 for fiscal year 1998;

(D) $12,000,000 for fiscal year 1999; and

(E) $15,000,000 for fiscal year 2000.

(e) AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR THE DEPARTMENT OF THE TREASURY.—There is authorized to be appropriated for the activities of the Bureau of Alcohol, Tobacco, and Firearms, the United States Customs Service, the Financial Crimes Enforcement Network,

the Federal Law Enforcement Training Center, the Criminal Investigation Division of the Internal Revenue Service, and the United States Secret Service to help meet the increased demands for Department of the Treasury activities that will result from enactment into law of this Act—

(A) $30,000,000 for fiscal year 1995;

(B) $70,000,000 for fiscal year 1996;

(C) $90,000,000 for fiscal year 1997;

(D) $110,000,000 for fiscal year 1998;

(E) $125,000,000 for fiscal year 1999; and

(F) $125,000,000 for fiscal year 2000.

TITLE XX—POLICE CORPS AND LAW ENFORCEMENT OFFICERS TRAINING AND EDUCATION

Subtitle A—Police Corps

SEC. 200101. SHORT TITLE.

This subtitle may be cited as the "Police Corps Act".

SEC. 200102. PURPOSES.

The purposes of this subtitle are to—

(1) address violent crime by increasing the number of police with advanced education and training on community patrol; and

(2) provide educational assistance to law enforcement personnel and to students who possess a sincere interest in public service in the form of law enforcement.

SEC. 200103. DEFINITIONS.

In this subtitle—

"academic year" means a traditional academic year beginning in August or September and ending in the following May or June.

"dependent child" means a natural or adopted child or stepchild of a law enforcement officer who at the time of the officer's death—

(A) was no more than 21 years old; or

(B) if older than 21 years, was in fact dependent on the child's parents for at least one-half of the child's support (excluding educational expenses), as determined by the Director.

"Director" means the Director of the Office of the Police Corps and Law Enforcement Education appointed under section 200104.

"educational expenses" means expenses that are directly attributable to—

(A) a course of education leading to the award of the baccalaureate degree in legal- or criminal justice-related studies; or

(B) a course of graduate study legal or criminal justice studies following award of a baccalaureate degree,

including the cost of tuition, fees, books, supplies, transportation, room and board and miscellaneous expenses.

"institution of higher education" has the meaning stated in the first sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

"participant" means a participant in the Police Corps program selected pursuant to section 200106.

"State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

"State Police Corps program" means a State police corps program that meets the requirements of section 200110.

SEC. 200104. ESTABLISHMENT OF OFFICE OF THE POLICE CORPS AND LAW ENFORCEMENT EDUCATION.

There is established in the Department of Justice, under the general authority of the Attorney General, an Office of the Police Corps and Law Enforcement Education.

SEC. 200105. DESIGNATION OF LEAD AGENCY AND SUBMISSION OF STATE PLAN.

(a) LEAD AGENCY.—A State that desires to participate in the Police Corps program under this subtitle shall designate a lead agency that will be responsible for—

(1) submitting to the Director a State plan described in subsection (b); and

(2) administering the program in the State.

(b) STATE PLANS.—A State plan shall—

(1) contain assurances that the lead agency shall work in cooperation with the local law enforcement liaisons, representatives of police labor organizations and police management organizations, and other appropriate State and local agencies to develop and implement interagency agreements designed to carry out the program;

(2) contain assurances that the State shall advertise the assistance available under this subtitle;

(3) contain assurances that the State shall screen and select law enforcement personnel for participation in the program; and

(4) meet the requirements of section 200110.

SEC. 200106. SCHOLARSHIP ASSISTANCE.

(a) SCHOLARSHIPS AUTHORIZED.—(1) The Director may award scholarships to participants who agree to work in a State or local police force in accordance with agreements entered into pursuant to subsection (d).

(2)(A) Except as provided in subparagraph (B), each scholarship payment made under this section for each academic year shall not exceed—

(i) $7,500; or

(ii) the cost of the educational expenses related to attending an institution of higher education.

(B) In the case of a participant who is pursuing a course of educational study during substantially an entire calendar year, the amount of scholarship payments made during such year shall not exceed $10,000.

(C) The total amount of scholarship assistance received by any one student under this section shall not exceed $30,000.

(3) Recipients of scholarship assistance under this section shall continue to receive such scholarship payments only during such periods as the Director finds that the recipient is maintaining satisfactory progress as determined by the institution of higher education the recipient is attending.

(4)(A) The Director shall make scholarship payments under this section directly to the institution of higher education that the student is attending.

(B) Each institution of higher education receiving a payment on behalf of a participant pursuant to subparagraph (A) shall remit to such student any funds in excess of the costs of tuition, fees, and room and board payable to the institution.

(b) REIMBURSEMENT AUTHORIZED.—(1) The Director may make payments to a participant to reimburse such participant for the costs of educational expenses if the student agrees to work in a State or local police force in accordance with the agreement entered into pursuant to subsection (d).

(2)(A) Each payment made pursuant to paragraph (1) for each academic year of study shall not exceed—

(i) $7,500; or

(ii) the cost of educational expenses related to attending an institution of higher education.

(B) In the case of a participant who is pursuing a course of educational study during substantially an entire calendar year, the amount of scholarship payments made during such year shall not exceed $10,000.

(C) The total amount of payments made pursuant to subparagraph (A) to any 1 student shall not exceed $30,000.

(c) USE OF SCHOLARSHIP.—Scholarships awarded under this subsection shall only be used to attend a 4-year institution of higher education, except that—

(1) scholarships may be used for graduate and professional study; and

(2) if a participant has enrolled in the program upon or after transfer to a 4-year institution of higher education, the Director may reimburse the participant for the participant's prior educational expenses.

(d) AGREEMENT.—(1)(A) Each participant receiving a scholarship or a payment under this section shall enter into an agreement with the Director.

(B) An agreement under subparagraph (A) shall contain assurances that the participant shall—

(i) after successful completion of a baccalaureate program and training as prescribed in section 200108, work for 4 years in a State or local police force without there having arisen sufficient cause for the participant's dismissal under the rules applicable to members of the police force of which the participant is a member;

(ii) complete satisfactorily—

(I) an educational course of study and receipt of a baccalaureate degree (in the case of undergraduate study) or the reward of credit to the participant for having completed one or more graduate courses (in the case of graduate study); and

(II) Police Corps training and certification by the Director that the participant has met such performance standards as may be established pursuant to section 200108; and

(iii) repay all of the scholarship or payment received plus interest at the rate of 10 percent if the conditions of clauses (i) and (ii) are not complied with.

(2)(A) A recipient of a scholarship or payment under this section shall not be considered to be in violation of the agreement entered into pursuant to paragraph (1) if the recipient—

(i) dies; or

(ii) becomes permanently and totally disabled as established by the sworn affidavit of a qualified physician.

(B) If a scholarship recipient is unable to comply with the repayment provision set forth in paragraph (1)(B)(ii) because of a physical or emotional disability or for good cause as determined by the Director, the Director may substitute community service in a form prescribed by the Director for the required repayment.

(C) The Director shall expeditiously seek repayment from a participant who violates an agreement described in paragraph (1).

(e) DEPENDENT CHILD.—A dependent child of a law enforcement officer—

(1) who is a member of a State or local police force or is a Federal criminal investigator or uniformed police officer,

(2) who is not a participant in the Police Corps program, but

(3) who serves in a State for which the Director has approved a Police Corps plan, and

(4) who is killed in the course of performing police duties,

shall be entitled to the scholarship assistance authorized in this section for any course of study in any accredited institution of higher education. Such dependent child shall not incur any repayment obligation in exchange for the scholarship assistance provided in this section.

(f) APPLICATION.—Each participant desiring a scholarship or payment under this section shall submit an application as prescribed by the Director in such manner and accompanied by such information as the Director may reasonably require.

SEC. 200107. SELECTION OF PARTICIPANTS.

(a) IN GENERAL.—Participants in State Police Corps programs shall be selected on a competitive basis by each State under regulations prescribed by the Director.

(b) SELECTION CRITERIA AND QUALIFICATIONS.—(1) In order to participate in a State Police Corps program, a participant shall—

(A) be a citizen of the United States or an alien lawfully admitted for permanent residence in the United States;

(B) meet the requirements for admission as a trainee of the State or local police force to which the participant will be assigned pursuant to section 200110(5), including achievement of satisfactory scores on any applicable examination, except that failure to meet the age requirement for a trainee of the State or local police shall not disqualify the applicant if the applicant will be of sufficient age upon completing an undergraduate course of study;

(C) possess the necessary mental and physical capabilities and emotional characteristics to discharge effectively the duties of a law enforcement officer;

(D) be of good character and demonstrate sincere motivation and dedication to law enforcement and public service;

(E) in the case of an undergraduate, agree in writing that the participant will complete an educational course of study leading to the award of a baccalaureate degree and will then accept an appointment and complete 4 years of service as an officer in the State police or in a local police department within the State;

(F) in the case of a participant desiring to undertake or continue graduate study, agree in writing that the participant will accept an appointment and complete 4 years of service as an officer in the State police or in a local police department within the State before undertaking or continuing graduate study;

(G) contract, with the consent of the participant's parent or guardian if the participant is a minor, to serve for 4 years as an officer in the State police or in a local police department, if an appointment is offered; and

(H) except as provided in paragraph (2), be without previous law enforcement experience.

(2)(A) Until the date that is 5 years after the date of enactment of this Act, up to 10 percent of the applicants accepted into the Police Corps program may be persons who—

(i) have had some law enforcement experience; and

(ii) have demonstrated special leadership potential and dedication to law enforcement.

(B)(i) The prior period of law enforcement of a participant selected pursuant to subparagraph (A) shall not be counted toward satisfaction of the participant's 4-year service obligation under section 200109, and such a participant shall be subject to the same benefits and obligations under this subtitle as other participants, including those stated in section (b)(1) (E) and (F).

(ii) Clause (i) shall not be construed to preclude counting a participant's previous period of law enforcement experience for purposes other than satisfaction of the requirements of section 200109, such as for purposes of determining such a participant's pay and other benefits, rank, and tenure.

(3) It is the intent of this subtitle that there shall be no more than 20,000 participants in each graduating class. The Director shall approve State plans providing in the aggregate for such enrollment of applicants as shall assure, as nearly as possible, annual graduating classes of 20,000. In a year in which applications are received in a number greater than that which will produce, in the judgment of the Director, a graduating class of more than 20,000, the Director shall, in deciding which applications to grant, give preference to those who will be participating in State plans that provide law enforcement personnel to areas of greatest need.

(c) RECRUITMENT OF MINORITIES.—Each State participating in the Police Corps program shall make special efforts to seek and recruit applicants from among members of all racial, ethnic or gender groups. This subsection does not authorize an exception from the competitive standards for admission established pursuant to subsections (a) and (b).

(d) ENROLLMENT OF APPLICANT.—(1) An applicant shall be accepted into a State Police Corps program on the condition that the applicant will be matriculated in, or accepted for admission at, a 4-year institution of higher education—

(A) as a full-time student in an undergraduate program; or

(B) for purposes of taking a graduate course.

(2) If the applicant is not matriculated or accepted as set forth in paragraph (1), the applicant's acceptance in the program shall be revoked.

(e) LEAVE OF ABSENCE.—(1) A participant in a State Police Corps program who requests a leave of absence from educational study, training or service for a period not to exceed 1 year (or 18 months in the aggregate in the event of multiple requests) due to temporary physical or emotional disability shall be granted such leave of absence by the State.

(2) A participant who requests a leave of absence from educational study, training or service for a period not to exceed 1 year (or 18 months in the aggregate in the event of multiple requests) for any reason other than those listed in paragraph (1) may be granted such leave of absence by the State.

(3) A participant who requests a leave of absence from educational study or training for a period not to exceed 30 months to serve on an official church mission may be granted such leave of absence.

(f) ADMISSION OF APPLICANTS.—An applicant may be admitted into a State Police Corps program either before commencement of or during the applicant's course of educational study.

SEC. 200108. POLICE CORPS TRAINING.

(a) IN GENERAL.—(1) The Director shall establish programs of training for Police Corps participants. Such programs may be carried out at up to 3 training centers established for this purpose and administered by the Director, or by contracting with existing State training facilities. The Director shall contract with a State training facility upon request of such facility if the Director determines that such facility offers a course of training substantially equivalent to the Police Corps training program described in this subtitle.

(2) The Director may enter into contracts with individuals, institutions of learning, and government agencies (including State and local police forces) to obtain the services of persons qualified to participate in and contribute to the training process.

(3) The Director may enter into agreements with agencies of the Federal Government to utilize on a reimbursable basis space in Federal buildings and other resources.

(4) The Director may authorize such expenditures as are necessary for the effective maintenance of the training centers, including purchases of supplies, uniforms, and educational materials, and the provision of subsistence, quarters, and medical care to participants.

(b) TRAINING SESSIONS.—A participant in a State Police Corps program shall attend two 8-week training sessions at a training center, one during the summer following completion of sophomore year and one during the summer following completion of junior year. If a participant enters the program after sophomore year, the participant shall complete 16 weeks of training at times determined by the Director.

(c) FURTHER TRAINING.—The 16 weeks of Police Corps training authorized in this section is intended to serve as basic law enforcement training but not to exclude further training of participants by the State and local authorities to which they will be assigned. Each State plan approved by the Director under section 10 shall include assurances that following completion of a participant's course of education each participant shall receive appropriate additional training by the State or local authority to which the participant is assigned. The time spent by a participant in such additional training, but not the time spent in Police Corps training, shall be counted toward fulfillment of the participant's 4-year service obligation.

(d) COURSE OF TRAINING.—The training sessions at training centers established under this section shall be designed to provide basic law enforcement training, including vigorous physical and mental training to teach participants self-discipline and organizational loyalty and to impart knowledge and understanding of legal processes and law enforcement.

(e) EVALUATION OF PARTICIPANTS.—A participant shall be evaluated during training for mental, physical, and emotional fitness, and shall be required to meet performance standards prescribed by the Director at the conclusion of each training session in order to remain in the Police Corps program.

(f) STIPEND.—The Director shall pay participants in training sessions a stipend of $250 a week during training.

SEC. 200109. SERVICE OBLIGATION.

(a) SWEARING IN.—Upon satisfactory completion of the participant's course of education and training program established in section 200108 and meeting the requirements of the police force to which the participant is assigned, a participant shall be sworn in as a member of the police force to which the participant is assigned pursuant to the State Police Corps plan, and shall serve for 4 years as a member of that police force.

(b) RIGHTS AND RESPONSIBILITIES.—A participant shall have all of the rights and responsibilities of and shall be subject to all rules and regulations applicable to other members of the police force of which the participant is a member, including those contained in applicable agreements with labor organizations and those provided by State and local law.

(c) DISCIPLINE.—If the police force of which the participant is a member subjects the participant to discipline such as would preclude the participant's completing 4 years of service, and result in denial of educational assistance under section 200106, the Director may, upon a showing of good cause, permit the participant to complete the service obligation in an equivalent alternative law enforcement service and, if such service is satisfactorily completed, section 200106(d)(1)(B)(iii) shall not apply.

(d) LAYOFFS.—If the police force of which the participant is a member lays off the participant such as would preclude the participant's completing 4 years of service, and result in denial of educational assistance under section 200106, the Director may permit the participant to complete the service obligation in an equivalent alternative law enforcement service and, if such service is satisfactorily completed, section 200106(d)(1)(B)(iii) shall not apply.

SEC. 200110. STATE PLAN REQUIREMENTS.

A State Police Corps plan shall—

(1) provide for the screening and selection of participants in accordance with the criteria set out in section 200107;

(2) state procedures governing the assignment of participants in the Police Corps program to State and local police forces (no more than 10 percent of all the participants assigned in each year by each State to be assigned to a statewide police force or forces);

(3) provide that participants shall be assigned to those geographic areas in which—

(A) there is the greatest need for additional law enforcement personnel; and

(B) the participants will be used most effectively;

(4) provide that to the extent consistent with paragraph (3), a participant shall be assigned to an area near the participant's home or such other place as the participant may request;

(5) provide that to the extent feasible, a participant's assignment shall be made at the time

the participant is accepted into the program, subject to change—

(A) prior to commencement of a participant's fourth year of undergraduate study, under such circumstances as the plan may specify; and

(B) from commencement of a participant's fourth year of undergraduate study until completion of 4 years of police service by participant, only for compelling reasons or to meet the needs of the State Police Corps program and only with the consent of the participant;

(6) provide that no participant shall be assigned to serve with a local police force—

(A) whose size has declined by more than 5 percent since June 21, 1989; or

(B) which has members who have been laid off but not retired;

(7) provide that participants shall be placed and to the extent feasible kept on community and preventive patrol;

(8) ensure that participants will receive effective training and leadership;

(9) provide that the State may decline to offer a participant an appointment following completion of Federal training, or may remove a participant from the Police Corps program at any time, only for good cause (including failure to make satisfactory progress in a course of educational study) and after following reasonable review procedures stated in the plan; and

(10) provide that a participant shall, while serving as a member of a police force, be compensated at the same rate of pay and benefits and enjoy the same rights under applicable agreements with labor organizations and under State and local law as other police officers of the same rank and tenure in the police force of which the participant is a member.

SEC. 200111. ASSISTANCE TO STATES AND LOCALITIES EMPLOYING POLICE CORPS OFFICERS.

Each jurisdiction directly employing Police Corps participants during the 4-year term of service prescribed by section 200109 shall receive $10,000 on account of each such participant at the completion of each such year of service, but—

(1) no such payment shall be made on account of service in any State or local police force—

(A) whose average size, in the year for which payment is to be made, not counting Police Corps participants assigned under section 106, has declined more than 2 percent since January 1, 1993; or

(B) which has members who have been laid off but not retired; and

(2) no such payment shall be made on account of any Police Corps participant for years of service after the completion of the term of service prescribed in section 200109.

SEC. 200112. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $20,000,000 to carry out this subtitle for each of the fiscal years 1996 through 2000.

SEC. 200113. REPORTS TO CONGRESS.

(a) IN GENERAL.—Not later than April 1 of each year, the Director shall submit a report to the Attorney General, the President, the Speaker of the House of Representatives, and the President of the Senate.

(b) CONTENTS.—A report under subsection (a) shall—

(1) state the number of current and past participants in the Police Corps program, broken down according to the levels of educational study in which they are engaged and years of service they have served on police forces (including service following completion of the 4-year service obligation);

(2) describe the geographic, racial, and gender dispersion of participants in the Police Corps program; and

(3) describe the progress of the Police Corps program and make recommendations for changes in the program.

Subtitle B—Law Enforcement Scholarship Program

SEC. 200201. SHORT TITLE.

This subtitle may be cited as the "Law Enforcement Scholarships and Recruitment Act".

SEC. 200202. DEFINITIONS.

In this subtitle—

"Director" means the Director of the Office of the Police Corps and Law Enforcement Education appointed under section 200104.

"educational expenses" means expenses that are directly attributable to—

(A) a course of education leading to the award of an associate degree;

(B) a course of education leading to the award of a baccalaureate degree; or

(C) a course of graduate study following award of a baccalaureate degree,

including the cost of tuition, fees, books, supplies, and related expenses.

"institution of higher education" has the meaning stated in the first sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

"law enforcement position" means employment as an officer in a State or local police force, or correctional institution.

"State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

SEC. 200203. ALLOTMENT.

From amounts appropriated under section 200210, the Director shall allot—

(1) 80 percent of such amounts to States on the basis of the number of law enforcement officers in each State compared to the number of law enforcement officers in all States; and

(2) 20 percent of such amounts to States on the basis of the shortage of law enforcement personnel and the need for assistance under this subtitle in the State compared to the shortage of law enforcement personnel and the need for assistance under this subtitle in all States.

SEC. 200204. ESTABLISHMENT OF PROGRAM.

(a) USE OF ALLOTMENT.—

(1) IN GENERAL.—A State that receives an allotment pursuant to section 200203 shall use the allotment to pay the Federal share of the costs of—

(A) awarding scholarships to in-service law enforcement personnel to enable such personnel to seek further education; and

(B) providing—

(i) full-time employment in summer; or

(ii) part-time (not to exceed 20 hours per week) employment for a period not to exceed 1 year.

(2) EMPLOYMENT.—The employment described in paragraph (1)(B)—

(A) shall be provided by State and local law enforcement agencies for students who are juniors or seniors in high school or are enrolled in an institution of higher education and who demonstrate an interest in undertaking a career in law enforcement;

(B) shall not be in a law enforcement position; and

(C) shall consist of performing meaningful tasks that inform students of the nature of the tasks performed by law enforcement agencies.

(b) PAYMENTS; FEDERAL SHARE; NON-FEDERAL SHARE.—

(1) PAYMENTS.—Subject to the availability of appropriations, the Director shall pay to each State that receives an allotment under section 200203 the Federal share of the cost of the activities described in the application submitted pursuant to section 200203.

(2) FEDERAL SHARE.—The Federal share shall not exceed 60 percent.

(3) NON-FEDERAL SHARE.—The non-Federal share of the cost of scholarships and student employment provided under this subtitle shall be supplied from sources other than the Federal Government.

(c) RESPONSIBILITIES OF DIRECTOR.—The Director shall be responsible for the administration of the programs conducted pursuant to this subtitle and shall, in consultation with the Assistant Secretary for Postsecondary Education, issue rules to implement this subtitle.

(d) ADMINISTRATIVE EXPENSES.—A State that receives an allotment under section 200203 may reserve not more than 8 percent of the allotment for administrative expenses.

(e) SPECIAL RULE.—A State that receives an allotment under section 200203 shall ensure that each scholarship recipient under this subtitle be compensated at the same rate of pay and benefits and enjoy the same rights under applicable agreements with labor organizations and under State and local law as other law enforcement personnel of the same rank and tenure in the office of which the scholarship recipient is a member.

(f) SUPPLEMENTATION OF FUNDING.—Funds received under this subtitle shall only be used to supplement, and not to supplant, Federal, State, or local efforts for recruitment and education of law enforcement personnel.

SEC. 200205. SCHOLARSHIPS.

(a) PERIOD OF AWARD.—Scholarships awarded under this subtitle shall be for a period of 1 academic year.

(b) USE OF SCHOLARSHIPS.—Each individual awarded a scholarship under this subtitle may use the scholarship for educational expenses at an institution of higher education.

SEC. 200206. ELIGIBILITY.

(a) SCHOLARSHIPS.—A person shall be eligible to receive a scholarship under this subtitle if the person has been employed in law enforcement for the 2-year period immediately preceding the date on which assistance is sought.

(b) INELIGIBILITY FOR STUDENT EMPLOYMENT.—A person who has been employed as a law enforcement officer is ineligible to participate in a student employment program carried out under this subtitle.

SEC. 200207. STATE APPLICATION.

(a) IN GENERAL.—Each State desiring an allotment under section 200203 shall submit an application to the Director at such time, in such manner, and accompanied by such information as the Director may reasonably require.

(b) CONTENTS.—An application under subsection (a) shall—

(1) describe the scholarship program and the student employment program for which assistance under this subtitle is sought;

(2) contain assurances that the lead agency will work in cooperation with the local law enforcement liaisons, representatives of police labor organizations and police management organizations, and other appropriate State and local agencies to develop and implement interagency agreements designed to carry out this subtitle;

(3) contain assurances that the State will advertise the scholarship assistance and student employment it will provide under this subtitle and that the State will use such programs to enhance recruitment efforts;

(4) contain assurances that the State will screen and select law enforcement personnel for participation in the scholarship program under this subtitle;

(5) contain assurances that under such student employment program the State will screen and select, for participation in such program, students who have an interest in undertaking a career in law enforcement;

(6) contain assurances that under such scholarship program the State will make scholarship payments to institutions of higher education on behalf of persons who receive scholarships under this subtitle;

(7) with respect to such student employment program, identify—

(A) the employment tasks that students will be assigned to perform;

(B) the compensation that students will be paid to perform such tasks; and

(C) the training that students will receive as part of their participation in the program;

(8) identify model curriculum and existing programs designed to meet the educational and professional needs of law enforcement personnel; and

(9) contain assurances that the State will promote cooperative agreements with educational and law enforcement agencies to enhance law enforcement personnel recruitment efforts in institutions of higher education.

SEC. 200208. LOCAL APPLICATION.

(a) IN GENERAL.—A person who desires a scholarship or employment under this subtitle shall submit an application to the State at such time, in such manner, and accompanied by such information as the State may reasonably require.

(b) CONTENTS.—An application under subsection (a) shall describe—

(1) the academic courses for which a scholarship is sought; or

(2) the location and duration of employment that is sought.

(c) PRIORITY.—In awarding scholarships and providing student employment under this subtitle, each State shall give priority to applications from persons who are—

(1) members of racial, ethnic, or gender groups whose representation in the law enforcement agencies within the State is substantially less than in the population eligible for employment in law enforcement in the State;

(2) pursuing an undergraduate degree; and

(3) not receiving financial assistance under the Higher Education Act of 1965.

SEC. 200209. SCHOLARSHIP AGREEMENT.

(a) IN GENERAL.—A person who receives a scholarship under this subtitle shall enter into an agreement with the Director.

(b) CONTENTS.—An agreement described in subsection (a) shall—

(1) provide assurances that the scholarship recipient will work in a law enforcement position in the State that awarded the scholarship in accordance with the service obligation described in subsection (c) after completion of the scholarship recipient's academic courses leading to an associate, bachelor, or graduate degree;

(2) provide assurances that the scholarship recipient will repay the entire scholarship in accordance with such terms and conditions as the Director shall prescribe if the requirements of the agreement are not complied with, unless the scholarship recipient—

(A) dies;

(B) becomes physically or emotionally disabled, as established by the sworn affidavit of a qualified physician; or

(C) has been discharged in bankruptcy; and

(3) set forth the terms and conditions under which the scholarship recipient may seek employment in the field of law enforcement in a State other than the State that awarded the scholarship.

(c) SERVICE OBLIGATION.—

(1) IN GENERAL.— Except as provided in paragraph (2), a person who receives a scholarship under this subtitle shall work in a law enforcement position in the State that awarded the scholarship for a period of 1 month for each credit hour for which funds are received under the scholarship.

(2) SPECIAL RULE.—For purposes of satisfying the requirement of paragraph (1), a scholarship recipient shall work in a law enforcement position in the State that awarded the scholarship for not less than 6 months but shall not be required to work in such a position for more than 2 years.

SEC. 200210. AUTHORIZATION OF APPROPRIATIONS.

(a) GENERAL AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subtitle—

(1) $20,000,000 for fiscal year 1996;

(2) $20,000,000 for fiscal year 1997;

(3) $20,000,000 for fiscal year 1998;

(4) $20,000,000 for fiscal year 1999; and

(5) $20,000,000 for fiscal year 2000.

(b) USES OF FUNDS.—Of the funds appropriated under subsection (a) for a fiscal year—

(1) 80 percent shall be available to provide scholarships described in section 200204(a)(1)(A); and

(2) 20 percent shall be available to provide employment described in sections 200204(a)(1)(B) and 200204(a)(2).

TITLE XXI—STATE AND LOCAL LAW ENFORCEMENT

Subtitle A—Byrne Program

SEC. 210101. EXTENSION OF BYRNE GRANT FUNDING.

There is authorized to be appropriated for fiscal years 1995 through 2000 such sums as may be necessary to carry out the programs under parts D and E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, of which the following amounts may be appropriated from the Violent Crime Reduction Trust Fund:

(1) $580,000,000 for fiscal year 1995;

(2) $130,000,000 for fiscal year 1996;

(3) $100,000,000 for fiscal year 1997;

(4) $75,000,000 for fiscal year 1998;

(5) $70,000,000 for fiscal year 1999; and

(6) $45,000,000 for fiscal year 2000.

Subtitle B—Law Enforcement Family Support

SEC. 210201. LAW ENFORCEMENT FAMILY SUPPORT.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 50001(a), is amended—

(1) by redesignating part W as part X;

(2) by redesignating section 2301 as 2401; and

(3) by inserting after part V the following new part:

"PART W—FAMILY SUPPORT

"SEC. 2301. DUTIES.

"The Attorney General shall—

"(1) establish guidelines and oversee the implementation of family-friendly policies within law enforcement-related offices and divisions in the Department of Justice;

"(2) study the effects of stress on law enforcement personnel and family well-being and disseminate the findings of such studies to Federal, State, and local law enforcement agencies, related organizations, and other interested parties;

"(3) identify and evaluate model programs that provide support services to law enforcement personnel and families;

"(4) provide technical assistance and training programs to develop stress reduction and family support to State and local law enforcement agencies;

"(5) collect and disseminate information regarding family support, stress reduction, and psychological services to Federal, State, and local law enforcement agencies, law enforcement-related organizations, and other interested entities; and

"(6) determine issues to be researched by the Department of Justice and by grant recipients.

"SEC. 2302. GENERAL AUTHORIZATION.

"The Attorney General may make grants to States and local law enforcement agencies and to organizations representing State or local law enforcement personnel to provide family support services to law enforcement personnel.

"SEC. 2303. USES OF FUNDS.

"(a) IN GENERAL.—A State or local law enforcement agency or organization that receives a grant under this Act shall use amounts provided under the grant to establish or improve training and support programs for law enforcement personnel.

"(b) REQUIRED ACTIVITIES.—A law enforcement agency or organization that receives funds under this part shall provide at least one of the following services:

"(1) Counseling for law enforcement family members.

"(2) Child care on a 24-hour basis.

"(3) Marital and adolescent support groups.

"(4) Stress reduction programs.

"(5) Stress education for law enforcement recruits and families.

"(6) Technical assistance and training programs to support any or all of the services described in paragraphs (1), (2), (3), (4), and (5).

"(c) OPTIONAL ACTIVITIES.—A law enforcement agency or organization that receives funds under this part may provide the following services:

"(1) Post-shooting debriefing for officers and their spouses.

"(2) Group therapy.

"(3) Hypertension clinics.

"(4) Critical incident response on a 24-hour basis.

"(5) Law enforcement family crisis telephone services on a 24-hour basis.

"(6) Counseling for law enforcement personnel exposed to the human immunodeficiency virus.

"(7) Counseling for peers.

"(8) Counseling for families of personnel killed in the line of duty.

"(9) Seminars regarding alcohol, drug use, gambling, and overeating.

"(10) Technical assistance and training to support any or all of the services described in paragraphs (1), (2), (3), (4), (5), (6), (7), (8), and (9).

"SEC. 2304. APPLICATIONS.

"A law enforcement agency or organization desiring to receive a grant under this part shall submit to the Attorney General an application at such time, in such manner, and containing or accompanied by such information as the Attorney General may reasonably require. Such application shall—

"(1) certify that the law enforcement agency shall match all Federal funds with an equal amount of cash or in-kind goods or services from other non-Federal sources;

"(2) include a statement from the highest ranking law enforcement official from the State or locality or from the highest ranking official from the organization applying for the grant that attests to the need and intended use of services to be provided with grant funds; and

"(3) assure that the Attorney General or the Comptroller General of the United States shall have access to all records related to the receipt and use of grant funds received under this part.

"SEC. 2305. AWARD OF GRANTS; LIMITATION.

"(a) GRANT DISTRIBUTION.—In approving grants under this part, the Attorney General shall assure an equitable distribution of assistance among the States, among urban and rural areas of the United States, and among urban and rural areas of a State.

"(b) DURATION.—The Attorney General may award a grant each fiscal year, not to exceed $100,000 to a State or local law enforcement agency or $250,000 to a law enforcement organization for a period not to exceed 5 years. In any application from a State or local law enforcement agency or organization for a grant to continue a program for the second, third, fourth, or fifth fiscal year following the first fiscal year in which a grant was awarded to such agency, the Attorney General shall review the progress made

toward meeting the objectives of the program. The Attorney General may refuse to award a grant if the Attorney General finds sufficient progress has not been made toward meeting such objectives, but only after affording the applicant notice and an opportunity for reconsideration.

"(c) LIMITATION.—Not more than 5 percent of grant funds received by a State or a local law enforcement agency or organization may be used for administrative purposes.

"SEC. 2306. DISCRETIONARY RESEARCH GRANTS.

"The Attorney General may reserve 10 percent of funds to award research grants to a State or local law enforcement agency or organization to study issues of importance in the law enforcement field as determined by the Attorney General.

"SEC. 2307. REPORTS.

"A State or local law enforcement agency or organization that receives a grant under this part shall submit to the Attorney General an annual report that includes—

"(1) program descriptions;

"(2) the number of staff employed to administer programs;

"(3) the number of individuals who participated in programs; and

"(4) an evaluation of the effectiveness of grant programs.

"SEC. 2308. DEFINITIONS.

"For purposes of this part—

"(1) the term 'family-friendly policy' means a policy to promote or improve the morale and well being of law enforcement personnel and their families; and

"(2) the term 'law enforcement personnel' means individuals employed by Federal, State, and local law enforcement agencies.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 50001(b), is amended by striking the matter relating to part V and inserting the following:

"PART W—FAMILY SUPPORT

"Sec. 2301. Duties.
"Sec. 2302. General authorization.
"Sec. 2303. Uses of funds.
"Sec. 2304. Applications.
"Sec. 2305. Award of grants; limitation.
"Sec. 2306. Discretionary research grants.
"Sec. 2307. Reports.
"Sec. 2308. Definitions.

"PART V—TRANSITION-EFFECTIVE DATE-REPEALS

"Sec. 2301. Continuation of rules, authorities, and privileges.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 50001(c), is amended—

(1) in paragraph (3) by striking "and V" and inserting "V, and W"; and

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

"(21) There are authorized to be appropriated to carry out part W—

"(1) $2,500,000 for fiscal year 1996;
"(2) $4,000,000 for fiscal year 1997;
"(3) $5,000,000 for fiscal year 1998;
"(4) $6,000,000 for fiscal year 1999; and
"(5) $7,500,000 for fiscal year 2000.".

Subtitle C—DNA Identification

SEC. 210301. SHORT TITLE.

This subtitle may be cited as the "DNA Identification Act of 1994".

SEC. 210302. FUNDING TO IMPROVE THE QUALITY AND AVAILABILITY OF DNA ANALYSES FOR LAW ENFORCEMENT IDENTIFICATION PURPOSES.

(a) DRUG CONTROL AND SYSTEM IMPROVEMENT GRANT PROGRAM.—Section 501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751(b)) as amended by section 150003, is amended—

(1) by striking "and" at the end of paragraph (23);

(2) by striking the period at the end of paragraph (24) and inserting "; and"; and

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

"(25) developing or improving in a forensic laboratory a capability to analyze deoxyribonucleic acid (hereinafter in this title referred to as 'DNA') for identification purposes.".

(b) STATE APPLICATIONS.—Section 503(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)) is amended by adding at the end the following new paragraph:

"(12) If any part of funds received from a grant made under this part is to be used to develop or improve a DNA analysis capability in a forensic laboratory, a certification that—

"(A) DNA analyses performed at such laboratory will satisfy or exceed then current standards for a quality assurance program for DNA analysis, issued by the Director of the Federal Bureau of Investigation under section 210303 of the DNA Identification Act of 1994;

"(B) DNA samples obtained by, and DNA analyses performed at, such laboratory will be accessible only—

"(i) to criminal justice agencies for law enforcement identification purposes;

"(ii) in judicial proceedings, if otherwise admissible pursuant to applicable statutes or rules;

"(iii) for criminal defense purposes, to a defendant, who shall have access to samples and analyses performed in connection with the case in which such defendant is charged; or

"(iv) if personally identifiable information is removed, for a population statistics database, for identification research and protocol development purposes, or for quality control purposes; and

"(C) such laboratory, and each analyst performing DNA analyses at such laboratory, will undergo, at regular intervals of not to exceed 180 days, external proficiency testing by a DNA proficiency testing program meeting the standards issued under section 210303 of the DNA Identification Act of 1994.".

(c) DNA IDENTIFICATION GRANTS.—

(1) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 210201(a), is amended—

(A) by redesignating part X as part Y;

(B) by redesignating section 2401 as section 2501; and

(C) by inserting after part W the following new part:

"PART X—DNA IDENTIFICATION GRANTS

"SEC. 2401. GRANT AUTHORIZATION.

"The Attorney General may make funds available under this part to States and units of local government, or combinations thereof, to carry out all or a substantial part of a program or project intended to develop or improve the capability to analyze deoxyribonucleic acid (referred to in this part as 'DNA') in a forensic laboratory.

"SEC. 2402. APPLICATIONS.

"To request a grant under this part, the chief executive officer of a State or unit of local government shall submit an application in such form as the Attorney General may require.

"SEC. 2403. APPLICATION REQUIREMENTS.

"No grant may be made under this part unless an application has been submitted to the Attorney General in which the applicant certifies that—

"(1) DNA analyses performed at the laboratory will satisfy or exceed then current standards for a quality assurance program for DNA analysis issued by the Director of the Federal Bureau of Investigation under section 210303 of the DNA Identification Act of 1994.

"(2) DNA samples obtained by and DNA analyses performed at the laboratory shall be made available only—

"(A) to criminal justice agencies for law enforcement identification purposes;

"(B) in judicial proceedings, if otherwise admissible pursuant to applicable statutes or rules;

"(C) for criminal defense purposes, to a defendant, who shall have access to samples and analyses performed in connection with the case in which the defendant is charged; or

"(D) if personally identifiable information is removed, for a population statistics database, for identification research and protocol development purposes, or for quality control purposes; and

"(3) the laboratory and each analyst performing DNA analyses at the laboratory shall undergo, at regular intervals not exceeding 180 days, external proficiency testing by a DNA proficiency testing program that meets the standards issued under section 210303 of the DNA Identification Act of 1994.

"SEC. 2404. ADMINISTRATIVE PROVISIONS.

"(a) REGULATION AUTHORITY.—The Attorney General may promulgate guidelines, regulations, and procedures, as necessary to carry out the purposes of this part, including limitations on the number of awards made during each fiscal year, the submission and review of applications, selection criteria, and the extension or continuation of awards.

"(b) AWARD AUTHORITY.—The Attorney General shall have final authority over all funds awarded under this part.

"(c) TECHNICAL ASSISTANCE.—To assist and measure the effectiveness and performance of programs and activities funded under this part, the Attorney General may provide technical assistance as required.

"SEC. 2405. RESTRICTIONS ON USE OF FUNDS.

"(a) FEDERAL SHARE.—The Federal share of a grant, contract, or cooperative agreement made under this part may not exceed 75 percent of the total costs of the project described in the application submitted for the fiscal year for which the project receives assistance.

"(b) ADMINISTRATIVE COSTS.—A State or unit of local government may not use more than 10 percent of the funds it receives from this part for administrative expenses.

"SEC. 2406. REPORTS.

"(a) REPORTS TO ATTORNEY GENERAL.—Each State or unit of local government which receives a grant under this part shall submit to the Attorney General, for each year in which funds from a grant received under this part is expended, a report at such time and in such manner as the Attorney General may reasonably require which contains—

"(1) a summary of the activities carried out under the grant and an assessment of whether such activities are meeting the needs identified in the application submitted under section 2402; and

"(2) such other information as the Attorney General may require.

"(b) REPORTS TO CONGRESS.—Not later than 90 days after the end of each fiscal year for which grants are made under this part, the Attorney General shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate, a report that includes—

"(1) the aggregate amount of grants made under this part to each State or unit of local government for such fiscal year; and

"(2) a summary of the information provided in compliance with subsection (a)(1).

"SEC. 2407. EXPENDITURE RECORDS.

"(a) RECORDS.—Each State or unit of local government which receives a grant under this part shall keep records as the Attorney General may require to facilitate an effective audit.

"(b) ACCESS.—The Attorney General, the Comptroller General, or their designated agents shall have access, for the purpose of audit and examination, to any books, documents, and records of States and units of local government which receive grants made under this part if, in the opinion of the Attorney General, the Comptroller General, or their designated agents, such books, documents, and records are related to the receipt or use of any such grant.".

(2) TABLE OF CONTENTS.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 210201(b), is amended by striking the matter relating to part X and inserting the following:

"PART X—DNA IDENTIFICATION GRANTS

"Sec. 2401. Grant authorization.
"Sec. 2402. Applications.
"Sec. 2403. Application requirements.
"Sec. 2404. Administrative provisions.
"Sec. 2405. Restrictions on use of funds.
"Sec. 2406. Reports.
"Sec. 2407. Expenditure records.

"PART Y—TRANSITION-EFFECTIVE DATE-REPEALER

"Sec. 2501. Continuation of rules, authorities, and proceedings.".

(3) AUTHORIZATION OF APPROPRIATIONS.—Section 1001 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793), as amended by section 210201(c), is amended—

(A) in paragraph (3) by striking "and W" and inserting "W, and X"; and

(B) adding at the end the following new paragraph:

"(22) There are authorized to be appropriated to carry out part X—

"(1) $1,000,000 for fiscal year 1996;
"(2) $3,000,000 for fiscal year 1997;
"(3) $5,000,000 for fiscal year 1998;
"(4) $13,500,000 for fiscal year 1999; and
"(5) $17,500,000 for fiscal year 2000.".

(4) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date that is 60 days after the date of enactment of this Act.

SEC. 210303. QUALITY ASSURANCE AND PROFICIENCY TESTING STANDARDS.

(a) PUBLICATION OF QUALITY ASSURANCE AND PROFICIENCY TESTING STANDARDS.—(1)(A) Not later than 180 days after the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall appoint an advisory board on DNA quality assurance methods from among nominations proposed by the head of the National Academy of Sciences and professional societies of crime laboratory officials.

(B) The advisory board shall include as members scientists from State, local, and private forensic laboratories, molecular geneticists and population geneticists not affiliated with a forensic laboratory, and a representative from the National Institute of Standards and Technology.

(C) The advisory board shall develop, and if appropriate, periodically revise, recommended standards for quality assurance, including standards for testing the proficiency of forensic laboratories, and forensic analysts, in conducting analyses of DNA.

(2) The Director of the Federal Bureau of Investigation, after taking into consideration such recommended standards, shall issue (and revise from time to time) standards for quality assurance, including standards for testing the proficiency of forensic laboratories, and forensic analysts, in conducting analyses of DNA.

(3) The standards described in paragraphs (1) and (2) shall specify criteria for quality assurance and proficiency tests to be applied to the various types of DNA analyses used by forensic laboratories. The standards shall also include a system for grading proficiency testing performance to determine whether a laboratory is performing acceptably.

(4) Until such time as the advisory board has made recommendations to the Director of the Federal Bureau of Investigation and the Director has acted upon those recommendations, the quality assurance guidelines adopted by the technical working group on DNA analysis methods shall be deemed the Director's standards for purposes of this section.

(b) ADMINISTRATION OF THE ADVISORY BOARD.—(1) For administrative purposes, the advisory board appointed under subsection (a) shall be considered an advisory board to the Director of the Federal Bureau of Investigation.

(2) Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the advisory board appointed under subsection (a).

(3) The DNA advisory board established under this section shall be separate and distinct from any other advisory board administered by the FBI, and is to be administered separately.

(4) The board shall cease to exist on the date 5 years after the initial appointments are made to the board, unless the existence of the board is extended by the Director of the Federal Bureau of Investigation.

(c) PROFICIENCY TESTING PROGRAM.—(1) Not later than 1 year after the effective date of this Act, the Director of the National Institute of Justice shall certify to the Committees on the Judiciary of the House and Senate that—

(A) the Institute has entered into a contract with, or made a grant to, an appropriate entity for establishing, or has taken other appropriate action to ensure that there is established, not later than 2 years after the date of enactment of this Act, a blind external proficiency testing program for DNA analyses, which shall be available to public and private laboratories performing forensic DNA analyses;

(B) a blind external proficiency testing program for DNA analyses is already readily available to public and private laboratories performing forensic DNA analyses; or

(C) it is not feasible to have blind external testing for DNA forensic analyses.

(2) As used in this subsection, the term "blind external proficiency test" means a test that is presented to a forensic laboratory through a second agency and appears to the analysts to involve routine evidence.

(3) Notwithstanding any other provision of law, the Attorney General shall make available to the Director of the National Institute of Justice during the first fiscal year in which funds are distributed under this subtitle up to $250,000 from the funds available under part X of Title I of the Omnibus Crime Control and Safe Streets Act of 1968 to carry out this subsection.

SEC. 210304. INDEX TO FACILITATE LAW ENFORCEMENT EXCHANGE OF DNA IDENTIFICATION INFORMATION.

(a) ESTABLISHMENT OF INDEX.—The Director of the Federal Bureau of Investigation may establish an index of—

(1) DNA identification records of persons convicted of crimes;

(2) analyses of DNA samples recovered from crime scenes; and

(3) analyses of DNA samples recovered from unidentified human remains.

(b) INFORMATION.—The index described in subsection (a) shall include only information on DNA identification records and DNA analyses that are—

(1) based on analyses performed by or on behalf of a criminal justice agency in accordance with publicly available standards that satisfy or exceed the guidelines for a quality assurance program for DNA analysis, issued by the Director of the Federal Bureau of Investigation under section 210303;

(2) prepared by laboratories, and DNA analysts, that undergo, at regular intervals of not to exceed 180 days, external proficiency testing by a DNA proficiency testing program meeting the standards issued under section 210303; and

(3) maintained by Federal, State, and local criminal justice agencies pursuant to rules that allow disclosure of stored DNA samples and DNA analyses only—

(A) to criminal justice agencies for law enforcement identification purposes;

(B) in judicial proceedings, if otherwise admissible pursuant to applicable statutes or rules;

(C) for criminal defense purposes, to a defendant, who shall have access to samples and analyses performed in connection with the case in which such defendant is charged; or

(D) if personally identifiable information is removed, for a population statistics database, for identification research and protocol development purposes, or for quality control purposes.

(c) FAILURE TO COMPLY.—Access to the index established by this section is subject to cancellation if the quality control and privacy requirements described in subsection (b) are not met.

SEC. 210305. FEDERAL BUREAU OF INVESTIGATION.

(a) PROFICIENCY TESTING REQUIREMENTS.—

(1) GENERALLY.—(A) Personnel at the Federal Bureau of Investigation who perform DNA analyses shall undergo, at regular intervals of not to exceed 180 days, external proficiency testing by a DNA proficiency testing program meeting the standards issued under section 210303.

(B) Within 1 year after the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall arrange for periodic blind external tests to determine the proficiency of DNA analysis performed at the Federal Bureau of Investigation laboratory.

(C) In this paragraph, "blind external test" means a test that is presented to the laboratory through a second agency and appears to the analysts to involve routine evidence.

(2) REPORT.—For 5 years after the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall submit to the Committees on the Judiciary of the House and Senate an annual report on the results of each of the tests described in paragraph (1).

(b) PRIVACY PROTECTION STANDARDS.—

(1) GENERALLY.—Except as provided in paragraph (2), the results of DNA tests performed for a Federal law enforcement agency for law enforcement purposes may be disclosed only—

(A) to criminal justice agencies for law enforcement identification purposes;

(B) in judicial proceedings, if otherwise admissible pursuant to applicable statues or rules; and

(C) for criminal defense purposes, to a defendant, who shall have access to samples and analyses performed in connection with the case in which such defendant is charged.

(2) EXCEPTION.—If personally identifiable information is removed, test results may be disclosed for a population statistics database, for identification research and protocol development purposes, or for quality control purposes.

(c) CRIMINAL PENALTY.—(1) A person who—

(A) by virtue of employment or official position, has possession of, or access to, individually identifiable DNA information indexed in a database created or maintained by any Federal law enforcement agency; and

(B) knowingly discloses such information in any manner to any person or agency not authorized to receive it,

shall be fined not more than $100,000.

(2) A person who, without authorization, knowingly obtains DNA samples or individually identifiable DNA information indexed in a database created or maintained by any Federal law enforcement agency shall be fined not more than $100,000.

SEC. 210306. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Federal Bureau of Investigation to carry out sections 210303, 210304, and 210305—

(1) $5,500,000 for fiscal year 1996;
(2) $8,000,000 for fiscal year 1997;
(3) $8,000,000 for fiscal year 1998;
(4) $2,500,000 for fiscal year 1999; and
(5) $1,000,000 for fiscal year 2000.

Subtitle D—Police Pattern or Practice

SEC. 210401. CAUSE OF ACTION.

(a) UNLAWFUL CONDUCT.—It shall be unlawful for any governmental authority, or any agent thereof, or any person acting on behalf of a governmental authority, to engage in a pattern or practice of conduct by law enforcement officers or by officials or employees of any governmental agency with responsibility for the administration of juvenile justice or the incarceration of juveniles that deprives persons of rights, privileges, or immunities secured or protected by the Constitution or laws of the United States.

(b) CIVIL ACTION BY ATTORNEY GENERAL.—Whenever the Attorney General has reasonable cause to believe that a violation of paragraph (1) has occurred, the Attorney General, for or in the name of the United States, may in a civil action obtain appropriate equitable and declaratory relief to eliminate the pattern or practice.

SEC. 210402. DATA ON USE OF EXCESSIVE FORCE.

(a) ATTORNEY GENERAL TO COLLECT.—The Attorney General shall, through appropriate means, acquire data about the use of excessive force by law enforcement officers.

(b) LIMITATION ON USE OF DATA.—Data acquired under this section shall be used only for research or statistical purposes and may not contain any information that may reveal the identity of the victim or any law enforcement officer.

(c) ANNUAL SUMMARY.—The Attorney General shall publish an annual summary of the data acquired under this section.

Subtitle E—Improved Training and Technical Automation

SEC. 210501. IMPROVED TRAINING AND TECHNICAL AUTOMATION.

(a) GRANTS.—

(1) IN GENERAL.—The Attorney General shall, subject to the availability of appropriations, make grants to State, Indian tribal, and local criminal justice agencies and to nonprofit organizations for the purposes of improving criminal justice agency efficiency through computerized automation and technological improvements.

(2) TYPES OF PROGRAMS.—Grants under this section may include programs to—

(A) increase use of mobile digital terminals;

(B) improve communications systems, such as computer-aided dispatch and incident reporting systems;

(C) accomplish paper-flow reduction;

(D) establish or improve ballistics identification programs;

(E) increase the application of automated fingerprint identification systems and their communications on an interstate and intrastate basis; and

(F) improve computerized collection of criminal records.

(3) FUNDING.—No funds under this subtitle may be used to implement any cryptographic or digital telephony programs.

(b) TRAINING AND INVESTIGATIVE ASSISTANCE.—

(1) IN GENERAL.—The Attorney General shall, subject to the availability of appropriations—

(A) expand and improve investigative and managerial training courses for State, Indian tribal, and local law enforcement agencies; and

(B) develop and implement, on a pilot basis with no more than 10 participating cities, an intelligent information system that gathers, integrates, organizes, and analyzes information in active support of investigations by Federal, State, and local law enforcement agencies of violent serial crimes.

(2) IMPROVEMENT OF FACILITIES.—The improvement described in subsection (a) shall include improvements of the training facilities of the Federal Bureau of Investigation Academy at Quantico, Virginia.

(3) INTELLIGENT INFORMATION SYSTEM.—The intelligent information system described in paragraph (1)(B) shall be developed and implemented by the Federal Bureau of Investigation and shall utilize the resources of the Violent Criminal Apprehension Program.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

(1) to carry out subsection (a)—
(A) $10,000,000 for fiscal year 1996;
(B) $20,000,000 for fiscal year 1997;
(C) $23,000,000 for fiscal year 1998;
(D) $23,000,000 for fiscal year 1999; and
(E) $24,000,000 for fiscal year 2000.
(2) to carry out subsection (b)(1)—
(A) $4,000,000 for fiscal year 1996;
(B) $2,000,000 for fiscal year 1997;
(C) $3,000,000 for fiscal year 1998;
(D) $5,000,000 for fiscal year 1999; and
(E) $6,000,000 for fiscal year 2000; and
(3) to carry out subsection (b)(2)—
$10,000,000 for fiscal year 1996.

(d) DEFINITIONS.—In this section—

"Indian tribe" means a tribe, band, pueblo, nation, or other organized group or community of Indians, including an Alaska Native village (as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, and the United States Virgin Islands.

Subtitle F—Other State and Local Aid

SEC. 210601. REAUTHORIZATION OF OFFICE OF JUSTICE PROGRAMS.

Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)) is amended—

(1) in paragraph (1) by striking "1993 and 1994" and inserting "1994 and 1995";

(2) in paragraph (2) by striking "1993 and 1994" and inserting "1994 and 1995";

(3) in paragraph (3) by striking "1993 and 1994" and inserting "1994 and 1995";

(4) in paragraph (5) by striking "1993 and 1994" and inserting "1994 and 1995";

(5) in paragraph (6) by inserting "and 1995" after "1994";

(6) in paragraph (7) by striking "1991, 1992, 1993, and 1994," and inserting "1994 and 1995";

(7) in paragraph (8) by inserting "and 1995" after "1994"; and

(8) in paragraph (9) by inserting "and 1995" after "1994".

SEC. 210602. FEDERAL ASSISTANCE TO EASE THE INCREASED BURDENS ON STATE COURT SYSTEMS RESULTING FROM ENACTMENT OF THIS ACT.

(a) IN GENERAL.—The Attorney General shall, subject to the availability of appropriation, make grants for States and units of local government to pay the costs of providing increased resources for courts, prosecutors, public defenders, and other criminal justice participants as necessary to meet the increased demands for judicial activities resulting from the provisions of this Act and amendments made by this Act.

(b) APPLICATIONS.—In carrying out this section, the Attorney General may make grants to, or enter into contracts with public or private agencies, institutions, or organizations or individuals to carry out any purpose specified in this section. The Attorney General shall have final authority over all funds awarded under this section.

(c) RECORDS.—Each recipient that receives a grant under this section shall keep such records as the Attorney General may require to facilitate an effective audit.

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

(1) $23,000,000 for fiscal year 1996;
(2) $30,000,000 for fiscal year 1997;
(3) $30,000,000 for fiscal year 1998;
(4) $32,000,000 for fiscal year 1999; and
(5) $35,000,000 for fiscal year 2000,

to remain available for obligation until expended.

SEC. 210603. AVAILABILITY OF VIOLENT CRIME REDUCTION TRUST FUND TO FUND ACTIVITIES AUTHORIZED BY THE BRADY HANDGUN VIOLENCE PREVENTION ACT AND THE NATIONAL CHILD PROTECTION ACT OF 1993.

(a) APPROPRIATIONS.—Of the amounts authorized in Sections 103(k) and 106(b)(2) of the Brady Handgun Violence Prevention Act (18 U.S.C. 922 note) and in section 4(b) of the National Child Protection Act of 1993 (42 U.S.C. 5119b(b)), a total of $100,000,000 for fiscal year 1995, $25,000,000 for fiscal year 1996, and $25,000,000 for fiscal year 1997 may be appropriated from the Violent Crime Reduction Trust Fund established by this Act.

(b) TECHNICAL AMENDMENT.—Sections 103(k) and 106(b) of the Brady Handgun Violence Prevention Act (18 U.S.C. 922 note) are each amended by striking ", which may be appropriated from the Violent Crime Reduction Trust Fund,".

TITLE XXII—MOTOR VEHICLE THEFT PREVENTION

SEC. 220001. SHORT TITLE.

This title may be cited as the "Motor Vehicle Theft Prevention Act".

SEC. 220002. MOTOR VEHICLE THEFT PREVENTION PROGRAM.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Attorney General shall develop, in cooperation with the States, a national voluntary motor vehicle theft prevention program (in this section referred to as the "program") under which—

(1) the owner of a motor vehicle may voluntarily sign a consent form with a participating State or locality in which the motor vehicle owner—

(A) states that the vehicle is not normally operated under certain specified conditions; and

(B) agrees to—

(i) display program decals or devices on the owner's vehicle; and

(ii) permit law enforcement officials in any State to stop the motor vehicle and take reasonable steps to determine whether the vehicle is being operated by or with the permission of the owner, if the vehicle is being operated under the specified conditions; and

(2) participating States and localities authorize law enforcement officials in the State or locality to stop motor vehicles displaying program decals or devices under specified conditions and take reasonable steps to determine whether the vehicle is being operated by or with the permission of the owner.

(b) UNIFORM DECAL OR DEVICE DESIGNS.—

(1) IN GENERAL.—The motor vehicle theft prevention program developed pursuant to this section shall include a uniform design or designs for decals or other devices to be displayed by motor vehicles participating in the program.

(2) TYPE OF DESIGN.—The uniform design shall—

(A) be highly visible; and

(B) explicitly state that the motor vehicle to which it is affixed may be stopped under the specified conditions without additional grounds for establishing a reasonable suspicion that the vehicle is being operated unlawfully.

(c) VOLUNTARY CONSENT FORM.—The voluntary consent form used to enroll in the program shall—

(1) clearly state that participation in the program is voluntary;

(2) clearly explain that participation in the program means that, if the participating vehicle is being operated under the specified conditions, law enforcement officials may stop the vehicle and take reasonable steps to determine whether it is being operated by or with the consent of the owner, even if the law enforcement officials have no other basis for believing that the vehicle is being operated unlawfully;

(3) include an express statement that the vehicle is not normally operated under the specified conditions and that the operation of the vehicle under those conditions would provide sufficient grounds for a prudent law enforcement officer to reasonably believe that the vehicle was not being operated by or with the consent of the owner; and

(4) include any additional information that the Attorney General may reasonably require.

(d) SPECIFIED CONDITIONS UNDER WHICH STOPS MAY BE AUTHORIZED.—

(1) IN GENERAL.—The Attorney General shall promulgate rules establishing the conditions under which participating motor vehicles may be authorized to be stopped under this section. These conditions may not be based on race, creed, color, national origin, gender, or age. These conditions may include—

(A) the operation of the vehicle during certain hours of the day; or

(B) the operation of the vehicle under other circumstances that would provide a sufficient basis for establishing a reasonable suspicion that the vehicle was not being operated by the owner, or with the consent of the owner.

(2) MORE THAN ONE SET OF CONDITIONS.—The Attorney General may establish more than one set of conditions under which participating motor vehicles may be stopped. If more than one set of conditions is established, a separate consent form and a separate design for program decals or devices shall be established for each set of conditions. The Attorney General may choose to satisfy the requirement of a separate design for program decals or devices under this paragraph by the use of a design color that is clearly distinguishable from other design colors.

(3) NO NEW CONDITIONS WITHOUT CONSENT.—After the program has begun, the conditions under which a vehicle may be stopped if affixed with a certain decal or device design may not be expanded without the consent of the owner.

(4) LIMITED PARTICIPATION BY STATES AND LOCALITIES.—A State or locality need not authorize the stopping of motor vehicles under all sets of conditions specified under the program in order to participate in the program.

(e) MOTOR VEHICLES FOR HIRE.—

(1) NOTIFICATION TO LESSEES.—Any person who is in the business of renting or leasing motor vehicles and who rents or leases a motor vehicle on which a program decal or device is affixed shall, prior to transferring possession of the vehicle, notify the person to whom the motor vehicle is rented or leased about the program.

(2) TYPE OF NOTICE.—The notice required by this subsection shall—

(A) be in writing;

(B) be in a prominent format to be determined by the Attorney General; and

(C) explain the possibility that if the motor vehicle is operated under the specified conditions, the vehicle may be stopped by law enforcement officials even if the officials have no other basis for believing that the vehicle is being operated unlawfully.

(3) FINE FOR FAILURE TO PROVIDE NOTICE.—Failure to provide proper notice under this subsection shall be punishable by a fine not to exceed $5,000.

(f) NOTIFICATION OF POLICE.—As a condition of participating in the program, a State or locality must agree to take reasonable steps to ensure that law enforcement officials throughout the State or locality are familiar with the program, and with the conditions under which motor vehicles may be stopped under the program.

(g) REGULATIONS.—The Attorney General shall promulgate regulations to implement this section.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to carry out this section.

(1) $1,500,000 for fiscal year 1996;

(2) $1,700,000 for fiscal year 1997; and

(3) $1,800,000 for fiscal year 1998.

SEC. 220003. ALTERING OR REMOVING MOTOR VEHICLE IDENTIFICATION NUMBERS.

(a) BASIC OFFENSE.—Subsection (a) of section 511 of title 18, United States Code, is amended to read as follows:

"(a) A person who—

"(1) knowingly removes, obliterates, tampers with, or alters an identification number for a motor vehicle or motor vehicle part; or

"(2) with intent to further the theft of a motor vehicle, knowingly removes, obliterates, tampers with, or alters a decal or device affixed to a motor vehicle pursuant to the Motor Vehicle Theft Prevention Act,

shall be fined under this title, imprisoned not more than 5 years, or both.".

(b) EXCEPTED PERSONS.—Paragraph (2) of section 511(b) of title 18, United States Code, is amended—

(1) by striking "and" after the semicolon in subparagraph (B);

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

(3) by adding at the end the following new subparagraph:

"(D) a person who removes, obliterates, tampers with, or alters a decal or device affixed to a motor vehicle pursuant to the Motor Vehicle Theft Prevention Act, if that person is the owner of the motor vehicle, or is authorized to remove, obliterate, tamper with or alter the decal or device by—

"(i) the owner or his authorized agent;

"(ii) applicable State or local law; or

"(iii) regulations promulgated by the Attorney General to implement the Motor Vehicle Theft Prevention Act.".

(c) DEFINITION.—Section 511 of title 18, United States Code, is amended by adding at the end thereof the following:

"(d) For purposes of subsection (a) of this section, the term 'tampers with' includes covering a program decal or device affixed to a motor vehicle pursuant to the Motor Vehicle Theft Prevention Act for the purpose of obstructing its visibility.".

(d) UNAUTHORIZED APPLICATION OF A DECAL OR DEVICE.—

(1) IN GENERAL.—Chapter 25 of title 18, United States Code, is amended by adding after section 511 the following new section:

"§511A. Unauthorized application of theft prevention decal or device

"(a) Whoever affixes to a motor vehicle a theft prevention decal or other device, or a replica thereof, unless authorized to do so pursuant to the Motor Vehicle Theft Prevention Act, shall be punished by a fine not to exceed $1,000.

"(b) For purposes of this section, the term 'theft prevention decal or device' means a decal or other device designed in accordance with a uniform design for such devices developed pursuant to the Motor Vehicle Theft Prevention Act.".

(2) TECHNICAL AMENDMENT.—The chapter analysis for chapter 25 of title 18, United States Code, is amended by adding after the item relating to section 511 the following new item:

"511A. Unauthorized application of theft prevention decal or device.".

TITLE XXIII—VICTIMS OF CRIME

Subtitle A—Victims of Crime

SEC. 230101. VICTIM'S RIGHT OF ALLOCUTION IN SENTENCING.

(a) MODIFICATION OF PROPOSED AMENDMENTS.—The proposed amendments to the Federal Rules of Criminal Procedure which are embraced by an order entered by the Supreme Court of the United States on April 29, 1994, shall take effect on December 1, 1994, as otherwise provided by law, but with the following amendments:

(b) IN GENERAL.—Rule 32 of the Federal Rules of Criminal Procedure is amended by—

(1) striking "and" following the semicolon in subdivision (c)(3)(C);

(2) striking the period at the end of subdivision (c)(3)(D) and inserting "; and";

(3) inserting after subdivision (c)(3)(D) the following:

"(E) if sentence is to be imposed for a crime of violence or sexual abuse, address the victim personally if the victim is present at the sentencing hearing and determine if the victim wishes to make a statement or present any information in relation to the sentence.";

(4) in subdivision (c)(3)(D), striking "equivalent opportunity" and inserting in lieu thereof "opportunity equivalent to that of the defendant's counsel";

(5) in the last sentence of subdivision (c)(4), striking "and (D)" and inserting "(D), and (E)";

(6) in the last sentence of subdivision (c)(4), inserting "the victim," before "or the attorney for the Government."; and

(7) adding at the end the following:

"(f) DEFINITIONS.—For purposes of this rule—

"(1) 'victim' means any individual against whom an offense has been committed for which a sentence is to be imposed, but the right of allocution under subdivision (c)(3)(E) may be exercised instead by—

"(A) a parent or legal guardian if the victim is below the age of eighteen years or incompetent; or

"(B) one or more family members or relatives designated by the court if the victim is deceased or incapacitated;

if such person or persons are present at the sentencing hearing, regardless of whether the victim is present; and

"(2) 'crime of violence or sexual abuse' means a crime that involved the use or attempted or threatened use of physical force against the person or property of another, or a crime under chapter 109A of title 18, United States Code.".

(c) EFFECTIVE DATE.—The amendments made by subsection (b) shall become effective on December 1, 1994.

SEC. 230102. SENSE OF THE SENATE CONCERNING THE RIGHT OF A VICTIM OF A VIOLENT CRIME OR SEXUAL ABUSE TO SPEAK AT AN OFFENDER'S SENTENCING HEARING AND ANY PAROLE HEARING.

It is the sense of the Senate that—

(1) the law of a State should provide for a victim's right of allocution at a sentencing hearing

and at any parole hearing if the offender has been convicted of a crime of violence or sexual abuse;

(2) such a victim should have an opportunity equivalent to the opportunity accorded to the offender to address the sentencing court or parole board and to present information in relation to the sentence imposed or to the early release of the offender; and

(3) if the victim is not able to or chooses not to testify at a sentencing hearing or parole hearing, the victim's parents, legal guardian, or family members should have the right to address the court or board.

Subtitle B—Crime Victims' Fund

SEC. 230201. ALLOCATION OF FUNDS FOR COSTS AND GRANTS.

(a) GENERALLY.—Section 1402(d) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(d)) is amended by—

(1) striking paragraph (2) and inserting the following:

"(2) the next $10,000,000 deposited in the Fund shall be available for grants under section 1404A.";

(2) striking paragraph (3) and inserting the following:

"(3) Of the remaining amount deposited in the Fund in a particular fiscal year—

"(A) 48.5 percent shall be available for grants under section 1403;

"(B) 48.5 percent shall be available for grants under section 1404(a); and

"(C) 3 percent shall be available for grants under section 1404(c).";

(3) striking paragraph (4) and inserting the following:

"(4) The Director may retain any portion of the Fund that was deposited during a fiscal year that is in excess of 110 percent of the total amount deposited in the Fund during the preceding fiscal year as a reserve for use in a year in which the Fund falls below the amount available in the previous year. Such reserve may not exceed $20,000,000."; and

(4) striking paragraph (5).

(b) CONFORMING CROSS REFERENCE.—Section 1402(g)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(g)(1)) is amended by striking "(d)(2)(D)" and inserting "(d)(2)".

SEC. 230202. RELATIONSHIP OF CRIME VICTIM COMPENSATION TO CERTAIN FEDERAL PROGRAMS.

Section 1403 of the Victims of Crime Act of 1984 (42 U.S.C. 10602) is amended by adding at the end the following new subsection:

"(e) Notwithstanding any other law, if the compensation paid by an eligible crime victim compensation program would cover costs that a Federal program, or a federally financed State or local program, would otherwise pay,—

"(1) such crime victim compensation program shall not pay that compensation; and

"(2) the other program shall make its payments without regard to the existence of the crime victim compensation program.".

SEC. 230203. ADMINISTRATIVE COSTS FOR CRIME VICTIM COMPENSATION.

(a) CREATION OF EXCEPTION.—The final sentence of section 1403(a)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(a)(1)) is amended by striking "A grant" and inserting "Except as provided in paragraph (3), a grant".

(b) REQUIREMENTS OF EXCEPTION.—Section 1403(a) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(a)) is amended by adding at the end the following new paragraph:

"(3) Not more than 5 percent of a grant made under this section may be used for the administration of the State crime victim compensation program receiving the grant.".

SEC. 230204. GRANTS FOR DEMONSTRATION PROJECTS.

Section 1404(c)(1)(A) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(c)(1)(A)) is amended by inserting "demonstration projects and" before "training".

SEC. 230205. ADMINISTRATIVE COSTS FOR CRIME VICTIM ASSISTANCE.

(a) CREATION OF EXCEPTION.—Section 1404(b)(2) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(b)(2)) is amended by striking "An eligible" and inserting "Except as provided in paragraph (3), an eligible".

(b) REQUIREMENTS OF EXCEPTION.—Section 1404(b) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(b)) is amended by adding at the end the following new subsection:

"(3) Not more than 5 percent of sums received under subsection (a) may be used for the administration of the State crime victim assistance program receiving such sums.".

SEC. 230206. MAINTENANCE OF EFFORT.

Section 1407 of the Victims of Crime Act of 1984 (42 U.S.C. 10604) is amended by adding at the end the following new subsection:

"(h) Each entity receiving sums made available under this Act for administrative purposes shall certify that such sums will not be used to supplant State or local funds, but will be used to increase the amount of such funds that would, in the absence of Federal funds, be made available for these purposes.".

SEC. 230207. CHANGE OF DUE DATE FOR REQUIRED REPORT.

Section 1407(g) of the Victims of Crime Act of 1984 (42 U.S.C. 10604(g)) is amended by striking "and on December 31 every two years thereafter", and inserting "and on June 30 every two years thereafter".

SEC. 230208. AMENDMENT OF THE VICTIMS OF CRIME ACT.

Section 1404(a)(5)(B) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(a)(5)(B)) is amended to read as follows:

"(B) $200,000 thereafter.".

TITLE XXIV—PROTECTIONS FOR THE ELDERLY

SEC. 240001. MISSING ALZHEIMER'S DISEASE PATIENT ALERT PROGRAM.

(a) GRANT.—The Attorney General shall, subject to the availability of appropriations, award a grant to an eligible organization to assist the organization in paying for the costs of planning, designing, establishing, and operating a Missing Alzheimer's Disease Patient Alert Program, which shall be a locally based, proactive program to protect and locate missing patients with Alzheimer's disease and related dementias.

(b) APPLICATION.—To be eligible to receive a grant under subsection (a), an organization shall submit an application to the Attorney General at such time, in such manner, and containing such information as the Attorney General may require, including, at a minimum, an assurance that the organization will obtain and use assistance from private nonprofit organizations to support the program.

(c) ELIGIBLE ORGANIZATION.—The Attorney General shall award the grant described in subsection (a) to a national voluntary organization that has a direct link to patients, and families of patients, with Alzheimer's disease and related dementias.

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

(1) $900,000 for fiscal year 1996;

(2) $900,000 for fiscal year 1997; and

(3) $900,000 for fiscal year 1998.

SEC. 240002. CRIMES AGAINST THE ELDERLY.

(a) IN GENERAL.—Pursuant to its authority under the Sentencing Reform Act of 1984 and section 21 of the Sentencing Act of 1987 (including its authority to amend the sentencing guidelines and policy statements) and its authority to make such amendments on an emergency basis, the United States Sentencing Commission shall ensure that the applicable guideline range for a defendant convicted of a crime of violence against an elderly victim is sufficiently stringent to deter such a crime, to protect the public from additional crimes of such a defendant, and to adequately reflect the heinous nature of such an offense.

(b) CRITERIA.—In carrying out subsection (a), the United States Sentencing Commission shall ensure that—

(1) the guidelines provide for increasingly severe punishment for a defendant commensurate with the degree of physical harm caused to the elderly victim;

(2) the guidelines take appropriate account of the vulnerability of the victim; and

(3) the guidelines provide enhanced punishment for a defendant convicted of a crime of violence against an elderly victim who has previously been convicted of a crime of violence against an elderly victim, regardless of whether the conviction occurred in Federal or State court.

(c) DEFINITIONS.—In this section—

"crime of violence" means an offense under section 113, 114, 1111, 1112, 1113, 1117, 2241, 2242, or 2244 of title 18, United States Code.

"elderly victim" means a victim who is 65 years of age or older at the time of an offense.

TITLE XXV—SENIOR CITIZENS AGAINST MARKETING SCAMS

SEC. 250001. SHORT TITLE.

This Act may be cited as the "Senior Citizens Against Marketing Scams Act of 1994".

SEC. 250002. ENHANCED PENALTIES FOR TELEMARKETING FRAUD.

(a) OFFENSE.—Part I of title 18, United States Code, is amended—

(1) by redesignating chapter 113A as chapter 113B; and

(2) by inserting after chapter 113 the following new chapter:

"CHAPTER 113A—TELEMARKETING FRAUD

"Sec.

"2325. Definition.

"2326. Enhanced penalties.

"2327. Mandatory restitution.

"§2325. Definition

"In this chapter, 'telemarketing'—

"(1) means a plan, program, promotion, or campaign that is conducted to induce—

"(A) purchases of goods or services; or

"(B) participation in a contest or sweepstakes,

by use of 1 or more interstate telephone calls initiated either by a person who is conducting the plan, program, promotion, or campaign or by a prospective purchaser or contest or sweepstakes participant; but

"(2) does not include the solicitation of sales through the mailing of a catalog that—

"(A) contains a written description or illustration of the goods or services offered for sale;

"(B) includes the business address of the seller;

"(C) includes multiple pages of written material or illustration; and

"(D) has been issued not less frequently than once a year,

if the person making the solicitation does not solicit customers by telephone but only receives calls initiated by customers in response to the catalog and during those calls take orders without further solicitation.

"§2326. Enhanced penalties

"A person who is convicted of an offense under section 1028, 1029, 1341, 1342, 1343, or 1344 in connection with the conduct of telemarketing—

"(1) may be imprisoned for a term of up to 5 years in addition to any term of imprisonment imposed under any of those sections, respectively; and

"(2) in the case of an offense under any of those sections that—

"(A) victimized ten or more persons over the age of 55; or

"(B) targeted persons over the age of 55,

may be imprisoned for a term of up to 10 years in addition to any term of imprisonment imposed under any of those sections, respectively.

"§2327. Mandatory restitution

"(a) IN GENERAL.—Notwithstanding section 3663, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—

"(1) DIRECTIONS.—The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court, pursuant to paragraph (3); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) ENFORCEMENT BY VICTIM.—An order of restitution may be enforced by a victim named in the order to receive the restitution as well as by the United States Attorney, in the same manner as a judgment in a civil action.

"(3) DEFINITION.—For purposes of this subsection, the term 'full amount of the victim's losses' means all losses suffered by the victim as a proximate result of the offense.

"(4) ORDER MANDATORY.—(A) The issuance of a restitution order under this section is mandatory.

"(B) A court may not decline to issue an order under this section because of—

"(i) the economic circumstances of the defendant; or

"(ii) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

"(C)(i) Notwithstanding subparagraph (A), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid.

"(ii) For purposes of this subparagraph, the term 'economic circumstances' includes—

"(I) the financial resources and other assets of the defendant;

"(II) projected earnings, earning capacity, and other income of the defendant; and

"(III) any financial obligations of the defendant, including obligations to dependents.

"(D) Subparagraph (A) does not apply if—

"(i) the court finds on the record that the economic circumstances of the defendant do not allow for the payment of any amount of a restitution order, and do not allow for the payment of any or some portion of the amount of a restitution order in the foreseeable future (under any reasonable schedule of payments); and

"(ii) the court enters in its order the amount of the victim's losses, and provides a nominal restitution award.

"(5) MORE THAN 1 OFFENDER.—When the court finds that more than 1 offender has contributed to the loss of a victim, the court may make each offender liable for payment of the full amount of restitution or may apportion liability among the offenders to reflect the level of contribution and economic circumstances of each offender.

"(6) MORE THAN 1 VICTIM.—When the court finds that more than 1 victim has sustained a loss requiring restitution by an offender, the court shall order full restitution of each victim but may provide for different payment schedules to reflect the economic circumstances of each victim.

"(7) PAYMENT SCHEDULE.—An order under this section may direct the defendant to make a single lump-sum payment or partial payments at specified intervals.

"(8) SETOFF.—Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(9) EFFECT ON OTHER SOURCES OF COMPENSATION.—The issuance of a restitution order shall not affect the entitlement of a victim to receive compensation with respect to a loss from insurance or any other source until the payments actually received by the victim under the restitution order fully compensate the victim for the loss.

"(10) CONDITION OF PROBATION OR SUPERVISED RELEASE.—Compliance with a restitution issued under this section shall be a condition of any probation or supervised release of a defendant. The court may revoke probation or a term of supervised release, modify the terms or conditions of probation or a term of supervised release, hold the defendant in contempt pursuant to section 3583(e), or suspend the offender's eligibility for any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or with appropriated funds of the United States if the defendant fails to comply with the order. In determining whether to revoke probation or a term of supervised release, modify the terms or conditions of probation or supervised release or hold a defendant serving a term of supervised release in contempt, the court shall consider the defendant's employment status, earning ability and financial resources, the willfulness of the defendant's failure to comply, and any other circumstances that may have a bearing on the defendant's ability to comply.

"(c) PROOF OF CLAIM.—

"(1) AFFIDAVIT.—Within 60 days after conviction and, in any event, not later than 10 days prior to sentencing, the United States Attorney (or the United States Attorney's delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or the United States Attorney's delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or the United States Attorney's delegee) shall advise the victim that the victim may file a separate affidavit and shall provide the victim with an affidavit form which may be used to do so.

"(2) OBJECTION.—If, after the defendant has been notified of the affidavit, no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to paragraph (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or the United States Attorney's delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) ADDITIONAL DOCUMENTATION AND TESTIMONY.—If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. The privacy of any records filed, or testimony heard, pursuant to this section shall be maintained to the greatest extent possible, and such records may be filed or testimony heard in camera.

"(4) FINAL DETERMINATION OF LOSSES.—If the victim's losses are not ascertainable by the date that is 10 days prior to sentencing as provided in paragraph (1), the United States Attorney (or the United States Attorney's delegee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) MODIFICATION OF ORDER.—A victim or the offender may petition the court at any time to modify a restitution order as appropriate in view of a change in the economic circumstances of the offender.

"(e) REFERENCE TO MAGISTRATE OR SPECIAL MASTER.—The court may refer any issue arising in connection with a proposed order of restitution to a magistrate or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.

"(f) DEFINITION.—For purposes of this section, the term 'victim' includes the individual harmed as a result of a commission of a crime under this chapter, including, in the case of a victim who is incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court, but in no event shall the defendant be named as such representative or guardian.".

(b) TECHNICAL AMENDMENTS.—

(1) PART ANALYSIS.—The part analysis for part I of title 18, United States Code, is amended by striking the item relating to chapter 113A and inserting the following:

"113A. Telemarketing fraud 2325
"113B. Terrorism ..... 2331".

(2) CHAPTER 113B.—The chapter heading for chapter 113B of title 18, United States Code, as redesignated by subsection (a)(1), is amended to read as follows:

"CHAPTER 113B—TERRORISM".

SEC. 250003. INCREASED PENALTIES FOR FRAUD AGAINST OLDER VICTIMS.

(a) REVIEW.—The United States Sentencing Commission shall review and, if necessary, amend the sentencing guidelines to ensure that victim related adjustments for fraud offenses against older victims over the age of 55 are adequate.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Sentencing Commission shall report to Congress the result of its review under subsection (a).

SEC. 250004. REWARDS FOR INFORMATION LEADING TO PROSECUTION AND CONVICTION.

Section 3059 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) In special circumstances and in the Attorney General's sole discretion, the Attorney General may make a payment of up to $10,000 to a person who furnishes information unknown to the Government relating to a possible prosecution under section 2326 which results in a conviction.

"(2) A person is not eligible for a payment under paragraph (1) if—

"(A) the person is a current or former officer or employee of a Federal, State, or local government agency or instrumentality who furnishes information discovered or gathered in the course of government employment;

"(B) the person knowingly participated in the offense;

"(C) the information furnished by the person consists of an allegation or transaction that has been disclosed to the public—

"(i) in a criminal, civil, or administrative proceeding;

"(ii) in a congressional, administrative, or General Accounting Office report, hearing, audit, or investigation; or

"(iii) by the news media, unless the person is the original source of the information; or

"(D) when, in the judgment of the Attorney General, it appears that a person whose illegal activities are being prosecuted or investigated could benefit from the award.

"(3) For the purposes of paragraph (2)(C)(iii), the term 'original source' means a person who has direct and independent knowledge of the information that is furnished and has voluntarily provided the information to the Government prior to disclosure by the news media.

"(4) Neither the failure of the Attorney General to authorize a payment under paragraph (1) nor the amount authorized shall be subject to judicial review.".

SEC. 250005. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for the purposes of carrying out this Act and the amendments made by this Act—

(1) for the Federal Bureau of Investigation to hire, equip, and train special agents and support staff to investigate telemarketing fraud cases—

(A) $750,000 for fiscal year 1996;

(B) $1,500,000 for fiscal year 1997;

(C) $1,500,000 for fiscal year 1998;

(D) $1,800,000 for fiscal year 1999; and

(E) $1,950,000 for fiscal year 2000;

(2) to hire, equip, and train Department of Justice attorneys, assistant United States Attorneys, and support staff to prosecute telemarketing fraud cases—

(A) $250,000 for fiscal year 1996;

(B) $500,000 for fiscal year 1997;

(C) $500,000 for fiscal year 1998;

(D) $600,000 for fiscal year 1999; and

(E) $650,000 for fiscal year 2000; and

(3) for the Department of Justice to conduct, in cooperation with State and local law enforcement agencies and senior citizen advocacy organizations, public awareness and prevention initiatives for senior citizens, such as seminars and training—

(A) $1,000,000 for fiscal year 1996;

(B) $2,000,000 for fiscal year 1997;

(C) $2,000,000 for fiscal year 1998;

(D) $2,500,000 for fiscal year 1999; and

(E) $2,500,000 for fiscal year 2000.

SEC. 250006. BROADENING APPLICATION OF MAIL FRAUD STATUTE.

Section 1341 of title 18, United States Code, is amended—

(1) by inserting "or deposits or causes to be deposited any matter or thing whatever to be sent or delivered by any private or commercial interstate carrier," after "Postal Service,"; and

(2) by inserting "or such carrier" after "causes to be delivered by mail".

SEC. 250007. FRAUD AND RELATED ACTIVITY IN CONNECTION WITH ACCESS DEVICES.

Section 1029 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "or" at the end of paragraph (3); and

(B) by inserting after paragraph (4) the following new paragraphs:

"(5) knowingly and with intent to defraud effects transactions, with 1 or more access devices issued to another person or persons, to receive payment or any other thing of value during any 1-year period the aggregate value of which is equal to or greater than $1,000;

"(6) without the authorization of the issuer of the access device, knowingly and with intent to defraud solicits a person for the purpose of—

"(A) offering an access device; or

"(B) selling information regarding or an application to obtain an access device; or

"(7) without the authorization of the credit card system member or its agent, knowingly and with intent to defraud causes or arranges for another person to present to the member or its agent, for payment, 1 or more evidences or records of transactions made by an access device;";

(2) in subsection (c)(1) by striking "(a)(2) or (a)(3)" and inserting "(a) (2), (3), (5), (6), or (7)"; and

(3) in subsection (e)—

(A) by striking "and" at the end of paragraph (5);

(B) by striking the period at the end of paragraph (6) and inserting "; and"; and

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

"(7) the term 'credit card system member' means a financial institution or other entity that is a member of a credit card system, including an entity, whether affiliated with or identical to the credit card issuer, that is the sole member of a credit card system.".

SEC. 250008. INFORMATION NETWORK.

(a) HOTLINE.—The Attorney General shall, subject to the availability of appropriations, establish a national toll-free hotline for the purpose of—

(1) providing general information on telemarketing fraud to interested persons; and

(2) gathering information related to possible violations of this Act.

(b) ACTION ON INFORMATION GATHERED.—The Attorney General shall work in cooperation with the Federal Trade Commission to ensure that information gathered through the hotline shall be acted on in an appropriate manner.

TITLE XXVI—COMMISSION MEMBERSHIP AND APPOINTMENT

SEC. 260001. COMMISSION MEMBERSHIP AND APPOINTMENT.

(a) MEMBERSHIP.—Section 211(B)(f) of Public Law 101-515 (104 Stat. 2123) is amended to read as follows:

"(f) NUMBER AND APPOINTMENT.—

"(1) IN GENERAL.—The Commission shall be composed of 29 members as follows:

"(A) Nine individuals appointed from national law enforcement organizations representing law enforcement officers, of whom—

"(i) two shall be appointed by the Speaker of the House of Representatives;

"(ii) two shall be appointed by the majority leader of the Senate;

"(iii) two shall be appointed by the minority leader of the House of Representatives;

"(iv) two shall be appointed by the minority leader of the Senate; and

"(v) one shall be appointed by the President.

"(B) Nine individuals appointed from national law enforcement organizations representing law enforcement management, of whom—

"(i) two shall be appointed by the Speaker of the House of Representatives;

"(ii) two shall be appointed by the majority leader of the Senate;

"(iii) two shall be appointed by the minority leader of the House of Representatives;

"(iv) two shall be appointed by the minority leader of the Senate; and

"(v) one shall be appointed by the President.

"(C) Two individuals appointed with academic expertise regarding law enforcement issues, of whom—

"(i) one shall be appointed by the Speaker of the House of Representatives and the majority leader of the Senate; and

"(ii) one shall be appointed by the minority leader of the Senate and the minority leader of the House of Representatives.

"(D) Two Members of the House of Representatives, appointed by the Speaker and the minority leader of the House of Representatives.

"(E) Two Members of the Senate, appointed by the majority leader and the minority leader of the Senate.

"(F) One individual from the Department of Justice, appointed by the President.

"(G) Two individuals representing a State or local governmental entity, such as a Governor, mayor, or State attorney general, to be appointed jointly by the majority leader and the minority leader of the Senate.

"(H) Two individuals representing a State or local governmental entity, such as a Governor, mayor, or State attorney general, to be appointed jointly by the Speaker and the minority leader of the House of Representatives.

"(2) COMPTROLLER GENERAL.—The Comptroller General shall serve in an advisory capacity and shall oversee the methodology and approve of the Commission study.

"(3) CHAIRPERSON.—Upon their appointment the members of the Commission shall select one of their number to act as chairperson.

"(4) APPOINTMENT DATE.—Members of the Commission shall be appointed no later than 90 days after the enactment of this Act.".

(b) REPORT.—Section 211(B)(p) of Public Law 101-515 (104 Stat. 2124) is amended by striking "the expiration" and all that follows through "this Act," and inserting "March 31, 1996,".

(c) REIMBURSEMENT.—

(1) Section 211(B)(i) of Public Law 101-515 (104 Stat. 2124) is amended by striking "non-reimbursable" and inserting "a reimbursable".

(2) Section 211(b)(j) of Public Law 101-515 (104 Stat. 2124) is amended by adding after "Commission" the following: ", on a reimbursable basis,".

SEC. 260002. CONFORMING AMENDMENT.

Section 3404(a) of Public Law 101-647 (42 U.S.C. 3721 note) is repealed.

TITLE XXVII—PRESIDENTIAL SUMMIT ON VIOLENCE AND NATIONAL COMMISSION ON CRIME PREVENTION AND CONTROL

SEC. 270001. PRESIDENTIAL SUMMIT.

Congress calls on the President to convene a national summit on violence in America prior to convening the Commission established under this title.

SEC. 270002. ESTABLISHMENT; COMMITTEES AND TASK FORCES; REPRESENTATION.

(a) ESTABLISHMENT AND APPOINTMENT OF MEMBERS.—There is established a commission to be known as the "National Commission on Crime Control and Prevention". The Commission shall be composed of 28 members appointed as follows:

(1) 10 persons by the President, not more than 6 of whom shall be of the same major political party.

(2) 9 persons by the President pro tempore of the Senate, 5 of whom shall be appointed on the recommendation of the Majority Leader of the Senate and the chairman of the Committee on the Judiciary of the Senate, and 4 of whom shall be appointed on the recommendation of the Minority Leader of the Senate and the ranking minority member of the Committee on the Judiciary of the Senate.

(3) 9 persons appointed by the Speaker of the House of Representatives, in consultation with the chairman of the Committee on the Judiciary of the House of Representatives, and 4 of whom shall be appointed on the recommendation of the Minority Leader of the House of Representatives, in consultation with the ranking member of the Committee on the Judiciary.

(b) COMMITTEES AND TASK FORCES.—The Commission shall establish committees or task forces from among its members for the examination of specific subject areas and the carrying out of other functions or responsibilities of the Commission, including committees or task forces for the examination of the subject areas of crime and violence generally, the causes of the demand for drugs, violence in schools, and violence against women, as described in subsections (b) through (e) of section 270004.

(c) REPRESENTATION.—(1) At least 1 member of the Commission appointed by the President, at least 2 members of the Commission appointed by the President pro tempore of the Senate, and at least 2 members of the Commission appointed by the Speaker of the House of Representatives shall be persons well-qualified to participate in the Commission's examination of the subject area of crime and violence generally, with education, training, expertise, or experience in such areas as law enforcement, law, sociology, psychology, social work, and ethnography and urban poverty (including health care, housing, education, and employment).

(2) At least 1 member of the Commission appointed by the President, at least 2 members of the Commission appointed by the President pro tempore of the Senate, and at least 2 members of the Commission appointed by the Speaker of the House of Representatives shall be persons well-qualified to participate in the Commission's examination of the subject area of the causes of the demand for drugs, with education, training, expertise, or experience in such areas as addiction, biomedicine, sociology, psychology, law, and ethnography and urban poverty (including health care, housing, education, and employment).

(3) At least 1 member of the Commission appointed by the President, at least 2 members of the Commission appointed by the President pro tempore of the Senate, and at least 2 members of the Commission appointed by the Speaker of the House of Representatives shall be persons well-qualified to participate in the Commission's examination of the subject area of violence in schools, with education, training, expertise, or experience in such areas as law nforcement, education, school governance policy and teaching, law, sociology, psychology, and ethnography and urban poverty (including health care, housing, education, and employment).

(4) At least 1 member of the Commission appointed by the President, at least 2 members of the Commission appointed by the President pro tempore of the Senate, and at least 2 members of the Commission appointed by the Speaker of the House of Representatives shall be persons well-qualified to participate in the Commission's examination of the subject area of violence against women, as survivors of violence, or as persons with education, training, expertise, or experience in such areas as law enforcement, law, judicial administration, prosecution, defense, victim services or advocacy in sexual assault or domestic violence cases (including medical services and counseling), and protection of victims' rights.

SEC. 270003. PURPOSES.

The purposes of the Commission are as follows:

(1) To develop a comprehensive proposal for preventing and controlling crime and violence in the United States, including cost estimates for implementing any recommendations made by the Commission.

(2) To bring attention to successful models and programs in crime prevention and crime control.

(3) To reach out beyond the traditional criminal justice community for ideas for controlling and preventing crime.

(4) To recommend improvements in the coordination of local, State, Federal, and international crime control and prevention efforts, including efforts relating to crime near international borders.

(5) To make a comprehensive study of the economic and social factors leading to or contributing to crime and violence, including the causes of illicit drug use and other substance abuse, and to develop specific proposals for legislative and administrative actions to reduce crime and violence and the factors that contribute to it.

(6) To recommend means of utilizing criminal justice resources as effectively as possible, including targeting finite correctional facility space to the most serious and violent offenders, and considering increased use of intermediate sanctions for offenders who can be dealt with adequately by such means.

(7) To examine distinctive crime problems and the impact of crime on members of minority groups, Indians living on reservations, and other groups defined by race, ethnicity, religion, age, disability, or other characteristics, and to recommend specific responses to the distinctive crime problems of such groups.

(8) To examine the problem of sexual assaults, domestic violence, and other criminal and unlawful acts that particularly affect women, and to recommend Federal, State, and local strategies for more effectively preventing and punishing such crimes and acts.

(9) To examine the treatment of victims in Federal, State, and local criminal justice systems, and to develop recommendations to enhance and protect the rights of victims.

(10) To examine the ability of Federal, State, and local criminal justice systems to administer criminal law and criminal sanctions impartially without discrimination on the basis of race, ethnicity, religion, gender, or other legally proscribed grounds, and to make recommendations for correcting any deficiencies in the impartial administration of justice on these grounds.

(11) To examine the nature, scope, causes, and complexities of violence in schools and to recommend a comprehensive response to that problem.

SEC. 270004. RESPONSIBILITIES OF THE COMMISSION.

(a) IN GENERAL.—The responsibilities of the Commission shall include such study and consultation as may be necessary or appropriate to carry out the purposes set forth in section 270003, including the specific measures described in subsections (b) through (e) in relation to the subject areas addressed in those subsections.

(b) CRIME AND VIOLENCE GENERALLY.—In addressing the subject of crime and violence generally, the activities of the Commission shall include the following:

(1) Reviewing the effectiveness of traditional criminal justice approaches in preventing and controlling crime and violence.

(2) Examining the impact that changes in Federal and State law have had in controlling crime and violence.

(3) Examining the impact of changes in Federal immigration laws and policies and increased development and growth along United States international borders on crime and violence in the United States, particularly among the Nation's youth.

(4) Examining the problem of youth gangs and providing recommendations as to how to reduce youth involvement in violent crime.

(5) Examining the extent to which the use of dangerous weapons in the commission of crime has contributed to violence and murder in the United States.

(6) Convening field hearings in various regions of the country to receive testimony from a cross section of criminal justice professionals, business leaders, elected officials, medical doctors, and other persons who wish to participate.

(7) Reviewing all segments of the Nation's criminal justice systems, including the law enforcement, prosecution, defense, judicial, and corrections components in developing the crime control and prevention proposal.

(c) CAUSES OF THE DEMAND FOR DRUGS.—In addressing the subject of the causes of the demand for drugs, the activities of the Commission shall include the following:

(1) Examining the root causes of illicit drug use and abuse in the United States, including by compiling existing research regarding those root causes, and including consideration of the following factors:

(A) The characteristics of potential illicit drug users and abusers or drug traffickers, including age and social, economic, and educational backgrounds.

(B) Environmental factors that contribute to illicit drug use and abuse, including the correlation between unemployment, poverty, and homelessness and drug experimentation and abuse.

(C) The effects of substance use and abuse by a relative or friend in contributing to the likelihood and desire of an individual to experiment with illicit drugs.

(D) Aspects of, and changes in cultural values, attitudes and traditions that contribute to illicit drug use and abuse.

(E) The physiological and psychological factors that contribute to the desire for illicit drugs.

(2) Evaluating Federal, State, and local laws and policies on the prevention of drug abuse, control of unlawful production, distribution and use of controlled substances, and the efficacy of sentencing policies with regard to those laws.

(3) Analyzing the allocation of resources among interdiction of controlled substances entering the United States, enforcement of Federal laws relating to the unlawful production, distribution, and use of controlled substances, education with regard to and the prevention of the unlawful use of controlled substances, and treatment and rehabilitation of drug abusers.

(4) Analyzing current treatment and rehabilitation methods and making recommendations for improvements.

(5) Identifying any existing gaps in drug abuse policy that result from the lack of attention to the root causes of drug abuse.

(6) Assessing the needs of government at all levels for resources and policies for reducing the overall desire of individuals to experiment with and abuse illicit drugs.

(7) Making recommendations regarding necessary improvements in policies for reducing the use of illicit drugs in the United States.

(d) VIOLENCE IN SCHOOLS.—In addressing the subject of violence in schools, the activities of the Commission shall include the following:

(1) Defining the causes of violence in schools.

(2) Defining the scope of the national problem of violence in schools.

(3) Providing statistics and data on the problem of violence in schools on a State-by-State basis.

(4) Investigating the problem of youth gangs and their relation to violence in schools and providing recommendations on how to reduce youth involvement in violent crime in schools.

(5) Examining the extent to which dangerous weapons have contributed to violence and murder in schools.

(6) Exploring the extent to which the school environment has contributed to violence in schools.

(7) Reviewing the effectiveness of current approaches in preventing violence in schools.

(e) VIOLENCE AGAINST WOMEN.—In addressing the subject of sexual assault, domestic violence, and other criminal and unlawful acts that particularly affect women, the activities of the Commission shall include the following:

(1) Evaluating the adequacy of, and making recommendations regarding, current law enforcement efforts at the Federal, State, and local levels to reduce the incidence of such crimes and acts, and to punish those responsible for such crimes and acts.

(2) Evaluating the adequacy of, and making recommendations regarding, the responsiveness of prosecutors and courts to such crimes and acts.

(3) Evaluating the adequacy of rules of evidence, practice, and procedure to ensure the effective prosecution and conviction of perpetrators of such crimes and acts and to protect victims of such crimes and acts from abuse in legal

proceedings, making recommendations, where necessary, to improve those rules.

(4) Evaluating the adequacy of pretrial release, sentencing, incarceration, and post-conviction release in relation to such crimes and acts.

(5) Evaluating the adequacy of, and making recommendations regarding, the adequacy of Federal and State laws on sexual assault and the need for a more uniform statutory response to sex offenses, including sexual assaults and other sex offenses committed by offenders who are known or related by blood or marriage to the victim.

(6) Evaluating the adequacy of, and making recommendations regarding, the adequacy of Federal and State laws on domestic violence and the need for a more uniform statutory response to domestic violence.

(7) Evaluating the adequacy of, and making recommendations regarding, the adequacy of current education, prevention, and protective services for victims of such crimes and acts.

(8) Assessing the issuance, formulation, and enforcement of protective orders, whether or not related to a criminal proceeding, and making recommendations for their more effective use in domestic violence and stalking cases.

(9) Assessing the problem of stalking and recommending effective means of response to the problem.

(10) Evaluating the adequacy of, and making recommendations regarding, programs for public awareness and public dissemination of information to prevent such crimes and acts.

(11) Evaluating the treatment of victims of such crimes and acts in Federal, State, and local criminal justice systems, and making recommendations designed to improve such treatment.

SEC. 270005. ADMINISTRATIVE MATTERS.

(a) CHAIR.—The President shall designate a member of the Commission to chair the Commission.

(b) NO ADDITIONAL PAY OR BENEFITS; PER DIEM.—Members of the Commission shall receive no pay or benefits by reason of their service on the Commission, but shall receive travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

(c) VACANCIES.—Vacancies on the Commission shall be filled in the same manner as initial appointments.

(d) MEETINGS OPEN TO THE PUBLIC.—The Commission shall be considered to be an agency for the purposes of section 552b of title 5, United States Code, relating to the requirement that meetings of Federal agencies be open to the public.

SEC. 270006. STAFF AND SUPPORT SERVICES.

(a) DIRECTOR.—With the approval of the Commission, the chairperson shall appoint a staff director for the Commission.

(b) STAFF.—With the approval of the Commission, the staff director may appoint and fix the compensation of staff personnel for the Commission.

(c) CIVIL SERVICE LAWS.—The staff of the Commission shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Staff compensation may be set without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, but in no event shall any such personnel be compensated at a rate greater than the rate of basic pay for level ES-4 of the Senior Executive Service Schedule under section 5382 of that title. The staff director shall be paid at a rate not to exceed the rate of basic pay for level V of the Executive Schedule.

(d) CONSULTANTS.—With the approval of the Commission, the staff director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(e) STAFF OF FEDERAL AGENCIES.—Upon the request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, personnel of that agency to the Commission to assist in carrying out its duties.

(f) PHYSICAL FACILITIES.—The Administrator of the General Service Administration shall provide suitable office space for the operation of the Commission. The facilities shall serve as the headquarters of the Commission and shall include all necessary equipment and incidentals required for proper functioning.

SEC. 270007. POWERS.

(a) HEARINGS.—For the purposes of carrying out this title, the Commission may conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission may administer oaths before the Commission.

(b) DELEGATION.—Any committee, task force, member, or agent, of the Commission may, if authorized by the Commission, take any action that the Commission is authorized to take under this title.

(c) ACCESS TO INFORMATION.—The Commission may request directly from any Federal agency or entity in the executive or legislative branch such information as is needed to carry out its functions.

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

SEC. 270008. REPORT; TERMINATION.

Not later than 2 years after the date on which the Commission is fully constituted under section 270001, the Commission shall submit a detailed report to the Congress and the President containing its findings and recommendations. The Commission shall terminate 30 days after the submission of its report.

SEC. 270009. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title—

(1) $1,000,000 for fiscal year 1996.

TITLE XXVIII—SENTENCING PROVISIONS

SEC. 280001. IMPOSITION OF SENTENCE.

Section 3553(a)(4) of title 18, United States Code, is amended to read as follows:

"(4) the kinds of sentence and the sentencing range established for—

"(A) the applicable category of offense committed by the applicable category of defendant as set forth in the guidelines issued by the Sentencing Commission pursuant to section 994(a)(1) of title 28, United States Code, and that are in effect on the date the defendant is sentenced; or

"(B) in the case of a violation of probation or supervised release, the applicable guidelines or policy statements issued by the Sentencing Commission pursuant to section 994(a)(3) of title 28, United States Code;".

SEC. 280002. TECHNICAL AMENDMENT TO MANDATORY CONDITIONS OF PROBATION.

Section 3563(a)(3) of title 18, United States Code, is amended by striking "possess illegal controlled substances" and inserting "unlawfully possess a controlled substance".

SEC. 280003. DIRECTION TO UNITED STATES SENTENCING COMMISSION REGARDING SENTENCING ENHANCEMENTS FOR HATE CRIMES.

(a) DEFINITION.—In this section, "hate crime" means a crime in which the defendant intentionally selects a victim, or in the case of a property crime, the property that is the object of the crime, because of the actual or perceived race, color, religion, national origin, ethnicity, gender, disability, or sexual orientation of any person.

(b) SENTENCING ENHANCEMENT.—Pursuant to section 994 of title 28, United States Code, the United States Sentencing Commission shall promulgate guidelines or amend existing guidelines to provide sentencing enhancements of not less than 3 offense levels for offenses that the finder of fact at trial determines beyond a reasonable doubt are hate crimes. In carrying out this section, the United States Sentencing Commission shall ensure that there is reasonable consistency with other guidelines, avoid duplicative punishments for substantially the same offense, and take into account any mitigating circumstances that might justify exceptions.

SEC. 280004. AUTHORIZATION OF PROBATION FOR PETTY OFFENSES IN CERTAIN CASES.

Section 3561(a)(3) of title 18, United States Code, is amended by inserting "that is not a petty offense" before the period.

SEC. 280005. FULL-TIME VICE CHAIRS OF THE UNITED STATES SENTENCING COMMISSION.

(a) ESTABLISHMENT OF POSITIONS.—Section 991 (a) of title 28, United States Code, is amended—

(1) in the second sentence by striking the period and inserting "and three of whom shall be designated by the President as Vice Chairs.";

(2) in the fourth sentence by striking the period and inserting ", and of the three Vice Chairs, no more than two shall be members of the same political party."; and

(3) in the sixth sentence by striking "Chairman" and inserting "Chair, Vice Chairs,".

(b) TERMS AND COMPENSATION.—Section 992(c) of title 28, United States Code, is amended—

(1) by amending the first sentence to read as follows: "The Chair and Vice Chairs of the Commission shall hold full-time positions and shall be compensated during their terms of office at the annual rate at which judges of the United States courts of appeals are compensated.";

(2) in the second sentence by striking "Chairman" and inserting "Chair and Vice Chairs"; and

(3) in the third sentence by striking "Chairman" and inserting "Chair and Vice Chairs,".

(c) TECHNICAL AMENDMENTS.—Chapter 58 of title 28, United States Code, is amended—

(1) by striking "Chairman" each place it appears and inserting "Chair";

(2) in the fifth sentence of section 991(a) by striking "his" and inserting "the Attorney General's";

(3) in the fourth sentence of section 992(c) by striking "his" and inserting "the judge's";

(4) in section 994(i)(2) by striking "he" and inserting "the defendant" and striking "his" and inserting "the defendant's"; and

(5) in section 996(a) by striking "him" and inserting "the Staff Director".

SEC. 280006. COCAINE PENALTY STUDY.

Not later than December 31, 1994, the United States Sentencing Commission shall submit a report to Congress on issues relating to sentences applicable to offenses involving the possession or distribution of all forms of cocaine. The report shall address the differences in penalty levels that apply to different forms of cocaine and include any recommendations that the Commission may have for retention or modification of such differences in penalty levels.

TITLE XXIX—COMPUTER CRIME

SEC. 290001. COMPUTER ABUSE AMENDMENTS ACT OF 1994.

(a) SHORT TITLE.—This subtitle may be cited as the "Computer Abuse Amendments Act of 1994".

(b) PROHIBITION.—Section 1030(a)(5) of title 18, United States Code, is amended to read as follows:

"(5)(A) through means of a computer used in interstate commerce or communications, knowingly causes the transmission of a program, information, code, or command to a computer or computer system if—

"(i) the person causing the transmission intends that such transmission will—

"(I) damage, or cause damage to, a computer, computer system, network, information, data, or program; or

"(II) withhold or deny, or cause the withholding or denial, of the use of a computer, computer services, system or network, information, data or program; and

"(ii) the transmission of the harmful component of the program, information, code, or command—

"(I) occurred without the authorization of the persons or entities who own or are responsible for the computer system receiving the program, information, code, or command; and

"(II)(aa) causes loss or damage to one or more other persons of value aggregating $1,000 or more during any 1-year period; or

"(bb) modifies or impairs, or potentially modifies or impairs, the medical examination, medical diagnosis, medical treatment, or medical care of one or more individuals; or

"(B) through means of a computer used in interstate commerce or communication, knowingly causes the transmission of a program, information, code, or command to a computer or computer system—

"(i) with reckless disregard of a substantial and unjustifiable risk that the transmission will—

"(I) damage, or cause damage to, a computer, computer system, network, information, data or program; or

"(II) withhold or deny or cause the withholding or denial of the use of a computer, computer services, system, network, information, data or program; and

"(ii) if the transmission of the harmful component of the program, information, code, or command—

"(I) occurred without the authorization of the persons or entities who own or are responsible for the computer system receiving the program, information, code, or command; and

"(II)(aa) causes loss or damage to one or more other persons of a value aggregating $1,000 or more during any 1-year period; or

"(bb) modifies or impairs, or potentially modifies or impairs, the medical examination, medical diagnosis, medical treatment, or medical care of one or more individuals;".

(c) PENALTY.—Section 1030(c) of title 18, United States Code is amended—

(1) in paragraph (2)(B) by striking "and" after the semicolon;

(2) in paragraph (3)(A) by inserting "(A)" after "(a)(5)";

(3) in paragraph (3)(B) by striking the period at the end thereof and inserting "; and"; and

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

"(4) a fine under this title or imprisonment for not more than 1 year, or both, in the case of an offense under subsection (a)(5)(B).".

(d) CIVIL ACTION.—Section 1030 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) Any person who suffers damage or loss by reason of a violation of the section, other than a violation of subsection (a)(5)(B), may maintain a civil action against the violator to obtain compensatory damages and injunctive relief or other equitable relief. Damages for violations of any subsection other than subsection (a)(5)(A)(ii)(II)(bb) or (a)(5)(B)(ii)(II)(bb) are limited to economic damages. No action may be brought under this subsection unless such action is begun within 2 years of the date of the act complained of or the date of the discovery of the damage.".

(e) REPORTING REQUIREMENTS.—Section 1030 of title 18 United States Code, is amended by adding at the end the following new subsection:

"(h) The Attorney General and the Secretary of the Treasury shall report to the Congress annually, during the first 3 years following the date of the enactment of this subsection, concerning investigations and prosecutions under section 1030(a)(5) of title 18, United States Code.".

(f) PROHIBITION.—Section 1030(a)(3) of title 18, United States Code, is amended by inserting "adversely" before "affects the use of the Government's operation of such computer".

TITLE XXX—PROTECTION OF PRIVACY OF INFORMATION IN STATE MOTOR VEHICLE RECORDS

SEC. 300001. SHORT TITLE.

This title may be cited as the "Driver's Privacy Protection Act of 1994".

SEC. 300002. PROHIBITION ON RELEASE AND USE OF CERTAIN PERSONAL INFORMATION FROM STATE MOTOR VEHICLE RECORDS.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 121 the following new chapter:

"CHAPTER 123—PROHIBITION ON RELEASE AND USE OF CERTAIN PERSONAL INFORMATION FROM STATE MOTOR VEHICLE RECORDS

"§2721. Prohibition on release and use of certain personal information from State motor vehicle records

"(a) IN GENERAL.—Except as provided in subsection (b), a State department of motor vehicles, and any officer, employee, or contractor, thereof, shall not knowingly disclose or otherwise make available to any person or entity personal information about any individual obtained by the department in connection with a motor vehicle record.

"(b) PERMISSIBLE USES.—Personal information referred to in subsection (a) shall be disclosed for use in connection with matters of motor vehicle or driver safety and theft, motor vehicle emissions, motor vehicle product alterations, recalls, or advisories, performance monitoring of motor vehicles and dealers by motor vehicle manufacturers, and removal of non-owner records from the original owner records of motor vehicle manufacturers to carry out the purposes of the Automobile Information Disclosure Act, the Motor Vehicle Information and Cost Saving Act, the National Traffic and Motor Vehicle Safety Act of 1966, the Anti-Car Theft Act of 1992, and the Clean Air Act, and may be disclosed as follows:

"(1) For use by any government agency, including any court or law enforcement agency, in carrying out its functions, or any private person or entity acting on behalf of a Federal, State, or local agency in carrying out its functions.

"(2) For use in connection with matters of motor vehicle or driver safety and theft; motor vehicle emissions; motor vehicle product alterations, recalls, or advisories; performance monitoring of motor vehicles, motor vehicle parts and dealers; motor vehicle market research activities, including survey research; and removal of non-owner records from the original owner records of motor vehicle manufacturers.

"(3) For use in the normal course of business by a legitimate business or its agents, employees, or contractors, but only—

"(A) to verify the accuracy of personal information submitted by the individual to the business or its agents, employees, or contractors; and

"(B) if such information as so submitted is not correct or is no longer correct, to obtain the correct information, but only for the purposes of preventing fraud by, pursuing legal remedies against, or recovering on a debt or security interest against, the individual.

"(4) For use in connection with any civil, criminal, administrative, or arbitral proceeding in any Federal, State, or local court or agency or before any self-regulatory body, including the service of process, investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or pursuant to an order of a Federal, State, or local court.

"(5) For use in research activities, and for use in producing statistical reports, so long as the personal information is not published, redisclosed, or used to contact individuals.

"(6) For use by any insurer or insurance support organization, or by a self-insured entity, or its agents, employees, or contractors, in connection with claims investigation activities, anti-fraud activities, rating or underwriting.

"(7) For use in providing notice to the owners of towed or impounded vehicles.

"(8) For use by any licensed private investigative agency or licensed security service for any purpose permitted under this subsection.

"(9) For use by an employer or its agent or insurer to obtain or verify information relating to a holder of a commercial driver's license that is required under the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. App. 2710 et seq.).

"(10) For use in connection with the operation of private toll transportation facilities.

"(11) For any other use in response to requests for individual motor vehicle records if the motor vehicle department has provided in a clear and conspicuous manner on forms for issuance or renewal of operator's permits, titles, registrations, or identification cards, notice that personal information collected by the department may be disclosed to any business or person, and has provided in a clear and conspicuous manner on such forms an opportunity to prohibit such disclosures.

"(12) For bulk distribution for surveys, marketing or solicitations if the motor vehicle department has implemented methods and procedures to ensure that—

"(A) individuals are provided an opportunity, in a clear and conspicuous manner, to prohibit such uses; and

"(B) the information will be used, rented, or sold solely for bulk distribution for surveys, marketing, and solicitations, and that surveys, marketing, and solicitations will not be directed at those individuals who have requested in a timely fashion that they not be directed at them.

"(13) For use by any requester, if the requester demonstrates it has obtained the written consent of the individual to whom the information pertains.

"(14) For any other use specifically authorized under the law of the State that holds the record, if such use is related to the operation of a motor vehicle or public safety.

"(c) RESALE OR REDISCLOSURE.—An authorized recipient of personal information (except a recipient under subsection (b) (11) or (12)) may resell or redisclose the information only for a use permitted under subsection (b) (but not for uses under subsection (b) (11) or (12)). An authorized recipient under subsection (b)(11) may resell or redisclose personal information for any purpose. An authorized recipient under subsection (b)(12) may resell or redisclose personal information pursuant to subsection (b)(12). Any authorized recipient (except a recipient under subsection (b)(11)) that resells or rediscloses personal information covered by this title must keep for a period of 5 years records identifying each person or entity that receives information and the permitted purpose for which the information will be used and must make such records available to the motor vehicle department upon request.

"(d) WAIVER PROCEDURES.—A State motor vehicle department may establish and carry out procedures under which the department or its agents, upon receiving a request for personal information that does not fall within one of the exceptions in subsection (b), may mail a copy of the request to the individual about whom the information was requested, informing such individual of the request, together with a statement to the effect that the information will not be released unless the individual waives such individual's right to privacy under this section.

"§2722. Additional unlawful acts

"(a) PROCUREMENT FOR UNLAWFUL PURPOSE.—It shall be unlawful for any person knowingly to obtain or disclose personal information, from a motor vehicle record, for any use not permitted under section 2721(b) of this title.

"(b) FALSE REPRESENTATION.—It shall be unlawful for any person to make false representation to obtain any personal information from an individual's motor vehicle record.

"§2723. Penalties

"(a) CRIMINAL FINE.—A person who knowingly violates this chapter shall be fined under this title.

"(b) VIOLATIONS BY STATE DEPARTMENT OF MOTOR VEHICLES.—Any State department of motor vehicles that has a policy or practice of substantial noncompliance with this chapter shall be subject to a civil penalty imposed by the Attorney General of not more than $5,000 a day for each day of substantial noncompliance.

"§2724. Civil action

"(a) CAUSE OF ACTION.—A person who knowingly obtains, discloses or uses personal information, from a motor vehicle record, for a purpose not permitted under this chapter shall be liable to the individual to whom the information pertains, who may bring a civil action in a United States district court.

"(b) REMEDIES.—The court may award—

"(1) actual damages, but not less than liquidated damages in the amount of $2,500;

"(2) punitive damages upon proof of willful or reckless disregard of the law;

"(3) reasonable attorneys' fees and other litigation costs reasonably incurred; and

"(4) such other preliminary and equitable relief as the court determines to be appropriate.

"§2725. Definitions

"In this chapter—

"(1) 'motor vehicle record' means any record that pertains to a motor vehicle operator's permit, motor vehicle title, motor vehicle registration, or identification card issued by a department of motor vehicles;

"(2) 'person' means an individual, organization or entity, but does not include a State or agency thereof; and

"(3) 'personal information' means information that identifies an individual, including an individual's photograph, social security number, driver identification number, name, address (but not the 5-digit zip code), telephone number, and medical or disability information, but does not include information on vehicular accidents, driving violations, and driver's status.".

(b) CLERICAL AMENDMENT.—The table of parts at the beginning of part I of title 18, United States Code, is amended by adding at the end the following new item:

"123. Prohibition on release and use of certain personal information from State motor vehicle records ..... 2271"

SEC. 300003. EFFECTIVE DATE.

The amendments made by section 300002 shall become effective on the date that is 3 years after the date of enactment of this Act. After the effective date, if a State has implemented a procedure under sections 2721(b) (11) and (12) of title 18, United States Code, as added by section 2902, for prohibiting disclosures or uses of personal information, and the procedure otherwise meets the requirements of subsection (b) (11) and (12), the State shall be in compliance with subsections (b) (11) and (12) even if the procedure is not available to individuals until they renew their license, title, registration or identification card, so long as the State provides some other procedure for individuals to contact the State on their own initiative to prohibit such uses or disclosures. Prior to the effective date, personal information covered by the amendment made by section 300002 may be released consistent with State law or practice.

TITLE XXXI—VIOLENT CRIME REDUCTION TRUST FUND

SEC. 310001. CREATION OF VIOLENT CRIME REDUCTION TRUST FUND.

(a) VIOLENT CRIME REDUCTION TRUST FUND.—There is established a separate account in the Treasury, known as the "Violent Crime Reduction Trust Fund" (referred to in this section as the "Fund") into which shall be transferred, in accordance with subsection (b), savings realized from implementation of section 5 of the Federal Workforce Restructuring Act of 1994 (5 U.S.C. 3101 note; Public Law 103-226).

(b) TRANSFERS INTO THE FUND.—On the first day of the following fiscal years (or as soon thereafter as possible for fiscal year 1995), the following amounts shall be transferred from the general fund to the Fund—

(1) for fiscal year 1995, $2,423,000,000;

(2) for fiscal year 1996, $4,287,000,000;

(3) for fiscal year 1997, $5,000,000,000;

(4) for fiscal year 1998, $5,500,000,000;

(5) for fiscal year 1999, $6,500,000,000; and

(6) for fiscal year 2000, $6,500,000,000.

(c) APPROPRIATIONS FROM THE FUND.—(1) Amounts in the Fund may be appropriated exclusively for the purposes authorized in this Act and for those expenses authorized by any Act enacted before this Act that are expressly qualified for expenditure from the Fund.

(2) Amounts appropriated under paragraph (1) and outlays flowing from such appropriations shall not be taken into account for purposes of any budget enforcement procedures under the Balanced Budget and Emergency Deficit Control Act of 1985 except section 251A of that Act as added by subsection (g), or for purposes of section 605(b) of the Congressional Budget Act of 1974. Amounts of new budget authority and outlays under paragraph (1) that are included in concurrent resolutions on the budget shall not be taken into account for purposes of sections 601(b), 606(b), and 606(c) of the Congressional Budget Act of 1974, or for purposes of section 24 of House Concurrent Resolution 218 (One Hundred Third Congress).

(d) LISTING OF THE FUND AMONG GOVERNMENT TRUST FUNDS.—Section 1321(a) of title 31, United States Code, is amended by inserting at the end the following new paragraph:

"(91) Violent Crime Reduction Trust Fund.".

(e) REQUIREMENT FOR THE PRESIDENT TO REPORT ANNUALLY ON THE STATUS OF THE TRUST FUND.—Section 1105(a) of title 31, United States Code, is amended by adding at the end the following new paragraphs:

"(30) information about the Violent Crime Reduction Trust Fund, including a separate statement of amounts in that Trust Fund.

"(31) an analysis displaying, by agency, proposed reductions in full-time equivalent positions compared to the current year's level in order to comply with section 5 of the Federal Workforce Restructuring Act of 1994.".

(f) ALLOCATION AND SUBALLOCATION OF AMOUNTS IN THE FUND.—

(1) IN GENERAL.—Section 602(a) of the Congressional Budget Act of 1974 is amended—

(A) in paragraph (1)(A) by striking "and" at the end of clause (ii), by striking the semicolon and inserting a comma at the end of clause (iii), and by adding after clause (iii) the following:

"(iv) new budget authority from the Violent Crime Reduction Trust Fund, and

"(v) outlays from the Violent Crime Reduction Trust Fund;";

(B) in paragraph (2) by striking "and" at the end of subparagraph (B) and by adding after subparagraph (C) the following:

"(D) new budget authority from the Violent Crime Reduction Trust Fund; and

"(E) outlays from the Violent Crime Reduction Trust Fund;"; and

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

"(4) NO DOUBLE COUNTING.—Amounts allocated among committees under clause (iv) or (v) of paragraph (1)(A) or under subparagraph (D) or (E) of paragraph (2) shall not be included within any other allocation under that paragraph.".

(2) FISCAL YEAR 1995.—The chairman of the Committee on the Budget shall submit to the House of Representatives or the Senate, as the case may be, appropriately revised allocations under clauses (iv) and (v) of paragraph (1)(A) or subparagraphs (D) and (E) of paragraph (2) of section 602(a) of the Congressional Budget Act of 1974 for fiscal year 1995 to carry out subsection (b)(1).

(g) VIOLENT CRIME REDUCTION TRUST FUND SEQUESTRATION.—

(1) SEQUESTRATION.—Part C of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding after section 251 the following new section:

"SEC. 251A. SEQUESTRATION WITH RESPECT TO VIOLENT CRIME REDUCTION TRUST FUND.

"(a) SEQUESTRATION.—Within 15 days after Congress adjourns to end a session, there shall be a sequestration to eliminate any budgetary excess in the Violent Crime Reduction Trust Fund as described in subsection (b).

"(b) ELIMINATING A BUDGETARY EXCESS.—

"(1) IN GENERAL.—Except as provided by paragraph (2), appropriations from the Violent Crime Reduction Trust Fund shall be reduced by a uniform percentage necessary to eliminate any amount by which estimated outlays in the budget year from the Fund exceed the following levels of outlays:

"(A) For fiscal year 1995, $703,000,000.

"(B) For fiscal year 1996, $2,334,000,000.

"(C) For fiscal year 1997, $3,936,000,000.

"(D) For fiscal year 1998, $4,904,000,000.

For fiscal year 1999, the comparable level for budgetary purposes shall be deemed to be $5,639,000,000. For fiscal year 2000, the comparable level for budgetary purposes shall be deemed to be $6,225,000,000.

"(2) SPECIAL OUTLAY ALLOWANCE.—If estimated outlays from the Fund for a fiscal year exceed the level specified in paragraph (1) for that year, that level shall be increased by the lesser of that excess or 0.5 percent of that level.

"(c) LOOK-BACK.—If, after June 30, an appropriation for the fiscal year in progress is enacted that causes a budgetary excess in the Violent Crime Reduction Trust Fund as described in subsection (b) for that year (after taking into account any sequestration of amounts under this section), the level set forth in subsection (b) for the next fiscal year shall be reduced by the amount of that excess.

"(d) WITHIN-SESSION SEQUESTRATION.—If an appropriation for a fiscal year in progress is enacted (after Congress adjourns to end the session for the budget year and before July 1 of that fiscal year) that causes a budgetary excess in the Violent Crime Reduction Trust Fund as described in subsection (b) for that year (after taking into account any prior sequestration of amounts under this section), 15 days later there

shall be a sequestration to eliminate that excess following the procedures set forth in subsection (b).

"(e) PART-YEAR APPROPRIATIONS AND OMB ESTIMATES.—Paragraphs (4) and (7) of section 251(a) shall apply to appropriations from, and sequestration of amounts appropriated from, the Violent Crime Reduction Trust Fund under this section in the same manner as those paragraphs apply to discretionary appropriations and sequestrations under that section.".

(2) REPORTS.—Section 254(g) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) REPORTS ON SEQUESTRATION TO REDUCE THE VIOLENT CRIME REDUCTION TRUST FUND.—The final reports shall set forth for the budget year estimates for each of the following:

"(A) The amount of budget authority appropriated from the Violent Crime Reduction Trust Fund and outlays resulting from those appropriations.

"(B) The sequestration percentage and reductions, if any, required under section 251A.".

SEC. 310002. CONFORMING REDUCTION IN DISCRETIONARY SPENDING LIMITS.

Upon enactment of this Act, the discretionary spending limits set forth in section 601(a)(2) of the Congressional Budget Act of 1974 (2 U.S.C. 665(a)(2)) (as adjusted in conformance with section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985, and in the Senate, with section 24 of House Concurrent Resolution 218 (103d Congress)) for fiscal years 1995 through 1998 are reduced as follows:

(1) for fiscal year 1995, for the discretionary category: $2,423,000,000 in new budget authority and $703,000,000 in outlays;

(2) for fiscal year 1996, for the discretionary category: $4,287,000,000 in new budget authority and $2,334,000,000 in outlays;

(3) for fiscal year 1997, for the discretionary category: $5,000,000,000 in new budget authority and $3,936,000,000 in outlays; and

(4) for fiscal year 1998, for the discretionary category: $5,500,000,000 in new budget authority and $4,904,000,000 in outlays.

For fiscal year 1999, the comparable amount for budgetary purposes shall be deemed to be $6,500,000,000 in new budget authority and $5,639,000,000 in outlays. For fiscal year 2000, the comparable amount for budgetary purposes shall be deemed to be $6,500,000,000 in new budget authority and $6,225,000,000 in outlays.

SEC. 310003. EXTENSION OF AUTHORIZATIONS OF APPROPRIATIONS FOR FISCAL YEARS FOR WHICH THE FULL AMOUNT AUTHORIZED IS NOT APPROPRIATED.

If, in making an appropriation under any provision of this Act or amendment made by this Act that authorizes the making of an appropriation for a certain purpose for a certain fiscal year in a certain amount, the Congress makes an appropriation for that purpose for that fiscal year in a lesser amount, that provision or amendment shall be considered to authorize the making of appropriations for that purpose for later fiscal years in an amount equal to the difference between the amount authorized to be appropriated and the amount that has been appropriated.

SEC. 310004. FLEXIBILITY IN MAKING OF APPROPRIATIONS.

(a) FEDERAL LAW ENFORCEMENT.—In the making of appropriations under any provision of this Act or amendment made by this Act that authorizes the making of an appropriation for a Federal law enforcement program for a certain fiscal year in a certain amount out of the Violent Crime Reduction Trust Fund, not to exceed 10 percent of that amount is authorized to be appropriated for that fiscal year for any other Federal law enforcement program for which appropriations are authorized by any other Federal law enforcement provision of this Act or amendment made by this Act. The aggregate reduction in the authorization for any particular Federal law enforcement program may not exceed 10 percent of the total amount authorized to be appropriated from the Violent Crime Reduction Trust Fund for that program in this Act or amendment made by this Act.

(b) STATE AND LOCAL LAW ENFORCEMENT.—In the making of appropriations under any provision of this Act or amendment made by this Act that authorizes the making of an appropriation for a State and local law enforcement program for a certain fiscal year in a certain amount out of the Violent Crime Reduction Trust Fund, not to exceed 10 percent of that amount is authorized to be appropriated for that fiscal year for any other State and local law enforcement program for which appropriations are authorized by any other State and local law enforcement provision of this Act or amendment made by this Act. The aggregate reduction in the authorization for any particular State and local law enforcement program may not exceed 10 percent of the total amount authorized to be appropriated from the Violent Crime Reduction Trust Fund for that program in this Act or amendment made by this Act.

(c) PREVENTION.—In the making of appropriations under any provision of this Act or amendment made by this Act that authorizes the making of an appropriation for a prevention program for a certain fiscal year in a certain amount out of the Violent Crime Reduction Trust Fund, not to exceed 10 percent of that amount is authorized to be appropriated for that fiscal year for any other prevention program for which appropriations are authorized by any other prevention provision of this Act or amendment made by this Act. The aggregate reduction in the authorization for any particular prevention program may not exceed 10 percent of the total amount authorized to be appropriated from the Violent Crime Reduction Trust Fund for that program in this Act or amendment made by this Act.

(d) DEFINITIONS.—In this section—"Federal law enforcement program" means a program authorized in any of the following sections:

(1) section 190001(a);
(2) section 190001(b);
(3) section 190001(c);
(4) section 190001(d);
(5) section 190001(e);
(6) section 320925;
(7) section 150008;
(8) section 220002;
(9) section 130002;
(10) section 130005;
(11) section 130006;
(12) section 130007;
(13) section 250005;
(14) sections 210303–210306;
(15) section 180104; and
(16) section 270009.

"State and local law enforcement program" means a program authorized in any of the following sections:

(1) sections 10001–10003;
(2) section 210201;
(3) section 210603;
(4) section 180101;
(5) section 180103;
(6) sections 31701–31708;
(7) section 210602;
(8) sections 30801–30802;
(9) section 210302;
(10) section 210501;
(11) section 210101;
(12) section 320930;
(13) sections 20101–20109;
(14) section 20301;
(15) section 32201; and
(16) section 20201.

"prevention program" means a program authorized in any of the following sections:

(1) section 50001;
(2) sections 30101–30104;
(3) sections 30201–30208;
(4) sections 30301–30307;
(5) sections 30401–30403;
(6) sections 30701–30702;
(7) sections 31001–31002;
(8) sections 31101–31133;
(9) sections 31501–31505;
(10) sections 31901–31922;
(11) section 32001;
(12) section 32101;
(13) section 32401;
(14) section 40114;
(15) section 40121;
(16) section 40151;
(17) section 40152;
(18) section 40155;
(19) section 40156;
(20) section 40211;
(21) section 40231;
(22) section 40241;
(23) section 40251;
(24) section 40261;
(25) section 40292;
(26) section 40293;
(27) section 40295;
(28) sections 40411–40414;
(29) sections 40421–40422;
(30) section 40506;
(31) sections 40601–40611; and
(32) section 24001.

TITLE XXXII—MISCELLANEOUS

Subtitle A—Increases in Penalties

SEC. 320101. INCREASED PENALTIES FOR ASSAULT.

(a) CERTAIN OFFICERS AND EMPLOYEES.—Section 111 of title 18, United States Code, is amended—

(1) in subsection (a) by inserting ", where the acts in violation of this section constitute only simple assault, be fined under this title or imprisoned not more than one year, or both, and in all other cases," after "shall"; and

(2) in subsection (b) by inserting "or inflicts bodily injury" after "weapon".

(b) FOREIGN OFFICIALS, OFFICIAL GUESTS, AND INTERNATIONALLY PROTECTED PERSONS.—Section 112(a) of title 18, United States Code, is amended—

(1) by striking "not more than $5,000" and inserting "under this title";

(2) by inserting ", or inflicts bodily injury," after "weapon"; and

(3) by striking "not more than $10,000" and inserting "under this title".

(c) MARITIME AND TERRITORIAL JURISDICTION.—Section 113 of title 18, United States Code, is amended—

(1) in subsection (c)—

(A) by striking "of not more than $1,000" and inserting "under this title"; and

(B) by striking "five" and inserting "ten"; and

(2) in subsection (e)—

(A) by striking "of not more than $300" and inserting "under this title"; and

(B) by striking "three" and inserting "six".

(d) CONGRESS, CABINET, OR SUPREME COURT.—Section 351(e) of title 18, United States Code, is amended—

(1) by striking "not more than $5,000," and inserting "under this title,";

(2) by inserting "the assault involved in the use of a dangerous weapon, or" after "if";

(3) by striking "not more than $10,000" and inserting "under this title"; and

(4) by striking "for".

(e) PRESIDENT AND PRESIDENT'S STAFF.—Section 1751(e) of title 18, United States Code, is amended—

(1) by striking "not more than $10,000," both places it appears and inserting "under this title,";

(2) by striking "not more than $5,000," and inserting "under this title,"; and

(3) by inserting "the assault involved the use of a dangerous weapon, or" after "if".

SEC. 320102. INCREASED PENALTIES FOR MANSLAUGHTER.

Section 1112 of title 18, United States Code, is amended—

(1) in subsection (b)—

(A) by inserting "fined under this title or" after "shall be" in the first undesignated paragraph; and

(B) by inserting ", or both" after "years";

(2) by striking "not more than $1,000" and inserting "under this title"; and

(3) by striking "three" and inserting "six".

SEC. 320103. INCREASED PENALTIES FOR CIVIL RIGHTS VIOLATIONS.

(a) CONSPIRACY AGAINST RIGHTS.—Section 241 of title 18, United States Code, is amended—

(1) by striking "not more than $10,000" and inserting "under this title";

(2) by inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill" after "results";

(3) by striking "subject to imprisonment" and inserting "fined under this title or imprisoned"; and

(4) by inserting ", or both" after "life".

(b) DEPRIVATION OF RIGHTS.—Section 242 of title 18, United States Code, is amended—

(1) by striking "not more than $1,000" and inserting "under this title";

(2) by inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire," after "bodily injury results";

(3) by inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse, or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this title, or" after "death results";

(4) by striking "shall be subject to imprisonment" and inserting "imprisoned"; and

(5) by inserting ", or both" after "life".

(c) FEDERALLY PROTECTED ACTIVITIES.—Section 245(b) of title 18, United States Code, is amended in the matter following paragraph (5)—

(1) by striking "not more than $1,000" and inserting "under this title";

(2) by inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire" after "bodily injury results;

(3) by striking "not more than $10,000" and inserting "under this title";

(4) by inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill," after "death results";

(5) by striking "subject to imprisonment" and inserting "fined under this title or imprisoned"; and

(6) by inserting ", or both" after "life".

(d) DAMAGE TO RELIGIOUS PROPERTY.—Section 247 of title 18, United States Code, is amended—

(1) in subsection (c)(1) by inserting "from acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill" after "death results";

(2) in subsection (c)(2)—

(A) by striking "serious"; and

(B) by inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire" after "bodily injury results"; and

(3) by amending subsection (e) to read as follows:

"(e) As used in this section, the term 'religious property' means any church, synagogue, mosque, religious cemetery, or other religious property.".

(e) FAIR HOUSING ACT.—Section 901 of the Fair Housing Act (42 U.S.C. 3631) is amended—

(1) in the caption by striking "bodily injury; death;";

(2) by striking "not more than $1,000," and inserting "under this title";

(3) by inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire" after "bodily injury results";

(4) by striking "not more than $10,000," and inserting "under this title";

(5) by inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill," after "death results";

(6) by striking "subject to imprisonment" and inserting "fined under this title or imprisoned"; and

(7) by inserting ", or both" after "life".

SEC. 320104. PENALTIES FOR TRAFFICKING IN COUNTERFEIT GOODS AND SERVICES.

(a) IN GENERAL.—Section 2320(a) of title 18, United States Code, is amended—

(1) in the first sentence—

(A) by striking "$250,000 or imprisoned not more than five years" and inserting "$2,000,000 or imprisoned not more than 10 years"; and

(B) by striking "$1,000,000" and inserting "$5,000,000"; and

(2) in the second sentence—

(A) by striking "$1,000,000 or imprisoned not more than fifteen years" and inserting "$5,000,000 or imprisoned not more than 20 years"; and

(B) by striking "$5,000,000" and inserting "$15,000,000".

(b) LAUNDERING MONETARY INSTRUMENTS.—Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking "or section 2319 (relating to copyright infringement)," and inserting "section 2319 (relating to copyright infringement), or section 2320 (relating to trafficking in counterfeit goods and services),".

SEC. 320105. INCREASED PENALTY FOR CONSPIRACY TO COMMIT MURDER FOR HIRE.

Section 1958(a) of title 18, United States Code, is amended by inserting "or who conspires to do so" before "shall be fined" the first place it appears.

SEC. 320106. INCREASED PENALTIES FOR ARSON.

Section 844 of title 18, United States Code, is amended—

(1) in subsection (f)—

(A) by striking "not more than ten years, or fined not more than $10,000" and inserting "not more than 20 years, fined the greater of the fine under this title or the cost of repairing or replacing any property that is damaged or destroyed,"; and

(B) by striking "not more than twenty years, or fined not more than $10,000" and inserting "not more than 40 years, fined the greater of the fine under this title or the cost of repairing or replacing any property that is damaged or destroyed,";

(2) in subsection (h)—

(A) in the first sentence by striking "five years" and inserting "5 years but not more than 15 years"; and

(B) in the second sentence by striking "ten years" and inserting "10 years but not more than 25 years"; and

(3) in subsection (i)—

(A) by striking "not more than ten years or fined not more than $10,000" and inserting "not more than 20 years, fined the greater of the fine under this title or the cost of repairing or replacing any property that is damaged or destroyed,"; and

(B) by striking "not more than twenty years or fined not more than $20,000" and inserting "not more than 40 years, fined the greater of the fine under this title or the cost of repairing or replacing any property that is damaged or destroyed,".

SEC. 320107. INCREASED PENALTIES FOR DRUG TRAFFICKING NEAR PUBLIC HOUSING.

Section 419 of the Controlled Substances Act (21 U.S.C. 860) is amended—

(1) in subsection (a) by striking "playground, or within" and inserting "playground, or housing facility owned by a public housing authority, or within"; and

(2) in subsection (b) by striking "playground, or within" and inserting "playground, or housing facility owned by a public housing authority, or within".

SEC. 320108. TASK FORCE AND CRIMINAL PENALTIES RELATING TO THE INTRODUCTION OF NONINDIGENOUS SPECIES.

(a) TASK FORCE.—

(1) IN GENERAL.—The Attorney General is authorized to convene a law enforcement task force in Hawaii to facilitate the prosecution of violations of Federal laws, and laws of the State of Hawaii, relating to the wrongful conveyance, sale, or introduction of nonindigenous plant and animal species.

(2) MEMBERSHIP.—(A) The task force shall be composed of representatives of—

(i) the Office of the United States Attorney for the District of Hawaii;

(ii) the United States Customs Service;

(iii) the Animal and Plant Health Inspection Service;

(iv) the Fish and Wildlife Service;

(v) the National Park Service;

(vi) the United States Forest Service;

(vii) the Military Customs Inspection Office of the Department of Defense;

(viii) the United States Postal Service;

(ix) the office of the Attorney General of the State of Hawaii;

(x) the Hawaii Department of Agriculture;

(xi) the Hawaii Department of Land and Natural Resources; and

(xii) such other individuals as the Attorney General deems appropriate.

(B) The Attorney General shall, to the extent practicable, select individuals to serve on the task force who have experience with the enforcement of laws relating to the wrongful conveyance, sale, or introduction of nonindigenous plant and animal species.

(3) DUTIES.—The task force shall—

(A) facilitate the prosecution of violations of Federal and State laws relating to the conveyance, sale, or introduction of nonindigenous plant and animal species into Hawaii; and

(B) make recommendations on ways to strengthen Federal and State laws and law enforcement strategies designed to prevent the introduction of nonindigenous plant and animal species.

(4) REPORT.—The task force shall report to the Attorney General, the Secretary of Agriculture,

the Secretary of the Interior, and to the Committee on the Judiciary and Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on the Judiciary, Committee on Agriculture, and Committee on Merchant Marine and Fisheries of the House of Representatives on—

(A) the progress of its enforcement efforts; and

(B) the adequacy of existing Federal laws and laws of the State of Hawaii that relate to the introduction of nonindigenous plant and animal species.

Thereafter, the task force shall make such reports as the task force deems appropriate.

(5) CONSULTATION.—The task force shall consult with Hawaii agricultural interests and representatives of Hawaii conservation organizations about methods of preventing the wrongful conveyance, sale, or introduction of nonindigenous plant and animal species into Hawaii.

(b) CRIMINAL PENALTY.—

(1) IN GENERAL.—Chapter 83 of title 18, United States Code, is amended by inserting after section 1716C the following new section:

"§1716D. Nonmailable injurious animals, plant pests, plants, and illegally taken fish, wildlife, and plants

"A person who knowingly deposits for mailing or delivery, or knowingly causes to be delivered by mail, according to the direction thereon, or at any place at which it is directed to be delivered by the person to whom it is addressed, anything that section 3015 of title 39 declares to be nonmailable matter shall be fined under this title, imprisoned not more than 1 year, or both.".

(2) TECHNICAL AMENDMENT.—The chapter analysis for chapter 83 of title 18, United States Code, is amended by inserting after the item relating to section 1716C the following new item:

"1716D. Nonmailable injurious animals, plant pests, plants, and illegally taken fish, wildlife, and plants.".

SEC. 320109. MILITARY MEDALS AND DECORATIONS.

Section 704 of title 18, United States Code, is amended—

(1) by striking "Whoever" and inserting (a) IN GENERAL.—Whoever";

(2) by striking "not more than $250" and inserting "under this title"; and

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

"(b) CONGRESSIONAL MEDAL OF HONOR.—

"(1) IN GENERAL.—If a decoration or medal involved in an offense under subsection (a) is a Congressional Medal of Honor, in lieu of the punishment provided in that subsection, the offender shall be fined under this title, imprisoned not more than 1 year, or both.

"(2) DEFINITIONS.—(A) As used in subsection (a) with respect to a Congressional Medal of Honor, 'sells' includes trades, barters, or exchanges for anything of value.

"(B) As used in this subsection, 'Congressional Medal of Honor' means a medal awarded under section 3741 of title 10.".

Subtitle B—Extension of Protection of Civil Rights Statutes

SEC. 320201. EXTENSION OF PROTECTION OF CIVIL RIGHTS STATUTES.

(a) CONSPIRACY AGAINST RIGHTS.—Section 241 of title 18, United States Code, is amended by striking "inhabitant of" and inserting "person in".

(b) DEPRIVATION OF RIGHTS UNDER COLOR OF LAW.—Section 242 of title 18, United States Code, is amended—

(1) by striking "inhabitant of" and inserting "person in"; and

(2) by striking "such inhabitant" and inserting "such person".

Subtitle C—Audit and Report

SEC. 320301. AUDIT REQUIREMENT FOR STATE AND LOCAL LAW ENFORCEMENT AGENCIES RECEIVING FEDERAL ASSET FORFEITURE FUNDS.

(a) STATE REQUIREMENT.—Section 524(c)(7) of title 28, United States Code, is amended to read as follows:

"(7)(A) The Fund shall be subject to annual audit by the Comptroller General.

"(B) The Attorney General shall require that any State or local law enforcement agency receiving funds conduct an annual audit detailing the uses and expenses to which the funds were dedicated and the amount used for each use or expense and report the results of the audit to the Attorney General.".

(b) INCLUSION IN ATTORNEY GENERAL'S REPORT.—Section 524(c)(6)(C) of title 28, United States Code, is amended by adding at the end the following flush sentence: "The report should also contain all annual audit reports from State and local law enforcement agencies required to be reported to the Attorney General under subparagraph (B) of paragraph (7).".

SEC. 320302. REPORT TO CONGRESS ON ADMINISTRATIVE AND CONTRACTING EXPENSES.

Section 524(c)(6) of title 28, United States Code, is amended—

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

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

(3) by adding at the end the following new subparagraph:

"(D) a report for such fiscal year containing a description of the administrative and contracting expenses paid from the Fund under paragraph (1)(A).".

Subtitle D—Coordination

SEC. 320401. COORDINATION OF SUBSTANCE ABUSE TREATMENT AND PREVENTION PROGRAMS.

The Attorney General shall consult with the Secretary of the Department of Health and Human Services in establishing and carrying out the substance abuse treatment and prevention components of the programs authorized under this Act, to assure coordination of programs, eliminate duplication of efforts and enhance the effectiveness of such services.

Subtitle E—Gambling

SEC. 320501. CLARIFYING AMENDMENT REGARDING SCOPE OF PROHIBITION AGAINST GAMBLING ON SHIPS IN INTERNATIONAL WATERS.

The paragraph of section 1081 of title 18, United States Code, defining the term "gambling ship" is amended by adding at the end the following: "Such term does not include a vessel with respect to gambling aboard such vessel beyond the territorial waters of the United States during a covered voyage (as defined in section 4472 of the Internal Revenue Code of 1986 as in effect on January 1, 1994).".

Subtitle F—White Collar Crime Amendments

SEC. 320601. RECEIVING THE PROCEEDS OF EXTORTION OR KIDNAPPING.

(a) PROCEEDS OF EXTORTION.—Chapter 41 of title 18, United States Code, is amended—

(1) by adding at the end the following new section:

"§880. Receiving the proceeds of extortion

"A person who receives, possesses, conceals, or disposes of any money or other property which was obtained from the commission of any offense under this chapter that is punishable by imprisonment for more than 1 year, knowing the same to have been unlawfully obtained, shall be imprisoned not more than 3 years, fined under this title, or both."; and

(2) in the table of sections, by adding at the end the following new item:

"880. Receiving the proceeds of extortion.".

(b) RANSOM MONEY.—Section 1202 of title 18, United States Code, is amended—

(1) by designating the existing matter as subsection "(a)"; and

(2) by adding the following new subsections:

"(b) A person who transports, transmits, or transfers in interstate or foreign commerce any proceeds of a kidnapping punishable under State law by imprisonment for more than 1 year, or receives, possesses, conceals, or disposes of any such proceeds after they have crossed a State or United States boundary, knowing the proceeds to have been unlawfully obtained, shall be imprisoned not more than 10 years, fined under this title, or both.

"(c) For purposes of this section, the term 'State' has the meaning set forth in section 245(d) of this title.".

SEC. 320602. RECEIVING THE PROCEEDS OF A POSTAL ROBBERY.

Section 2114 of title 18, United States Code, is amended—

(1) by striking "whoever" and inserting:

"(a) ASSAULT.—A person who"; and

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

"(b) RECEIPT, POSSESSION, CONCEALMENT, OR DISPOSAL OF PROPERTY.—A person who receives, possesses, conceals, or disposes of any money or other property that has been obtained in violation of this section, knowing the same to have been unlawfully obtained, shall be imprisoned not more than 10 years, fined under this title, or both.".

SEC. 320603. CRIMES BY OR AFFECTING PERSONS ENGAGED IN THE BUSINESS OF INSURANCE WHOSE ACTIVITIES AFFECT INTERSTATE COMMERCE.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following new sections:

"§1033. Crimes by or affecting persons engaged in the business of insurance whose activities affect interstate commerce

"(a)(1) Whoever is engaged in the business of insurance whose activities affect interstate commerce and knowingly, with the intent to deceive, makes any false material statement or report or willfully and materially overvalues any land, property or security—

"(A) in connection with any financial reports or documents presented to any insurance regulatory official or agency or an agent or examiner appointed by such official or agency to examine the affairs of such person, and

"(B) for the purpose of influencing the actions of such official or agency or such an appointed agent or examiner,

shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under paragraph (1) is a fine as established under this title or imprisonment for not more than 10 years, or both, except that the term of imprisonment shall be not more than 15 years if the statement or report or overvaluing of land, property, or security jeopardized the safety and soundness of an insurer and was a significant cause of such insurer being placed in conservation, rehabilitation, or liquidation by an appropriate court.

"(b)(1) Whoever—

"(A) acting as, or being an officer, director, agent, or employee of, any person engaged in the business of insurance whose activities affect interstate commerce, or

"(B) is engaged in the business of insurance whose activities affect interstate commerce or is involved (other than as an insured or beneficiary under a policy of insurance) in a transaction relating to the conduct of affairs of such a business,

willfully embezzles, abstracts, purloins, or misappropriates any of the moneys, funds, premiums, credits, or other property of such person

so engaged shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under paragraph (1) is a fine as provided under this title or imprisonment for not more than 10 years, or both, except that if such embezzlement, abstraction, purloining, or misappropriation described in paragraph (1) jeopardized the safety and soundness of an insurer and was a significant cause of such insurer being placed in conservation, rehabilitation, or liquidation by an appropriate court, such imprisonment shall be not more than 15 years. If the amount or value so embezzled, abstracted, purloined, or misappropriated does not exceed $5,000, whoever violates paragraph (1) shall be fined as provided in this title or imprisoned not more than one year, or both.

"(c)(1) Whoever is engaged in the business of insurance and whose activities affect interstate commerce or is involved (other than as an insured or beneficiary under a policy of insurance) in a transaction relating to the conduct of affairs of such a business, knowingly makes any false entry of material fact in any book, report, or statement of such person engaged in the business of insurance with intent to deceive any person, including any officer, employee, or agent of such person engaged in the business of insurance, any insurance regulatory official or agency, or any agent or examiner appointed by such official or agency to examine the affairs of such person, about the financial condition or solvency of such business shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under paragraph (1) is a fine as provided under this title or imprisonment for not more than 10 years, or both, except that if the false entry in any book, report, or statement of such person jeopardized the safety and soundness of an insurer and was a significant cause of such insurer being placed in conservation, rehabilitation, or liquidation by an appropriate court, such imprisonment shall be not more than 15 years.

"(d) Whoever, by threats or force or by any threatening letter or communication, corruptly influences, obstructs, or impedes or endeavors corruptly to influence, obstruct, or impede the due and proper administration of the law under which any proceeding involving the business of insurance whose activities affect interstate commerce is pending before any insurance regulatory official or agency or any agent or examiner appointed by such official or agency to examine the affairs of a person engaged in the business of insurance whose activities affect interstate commerce, shall be fined as provided in this title or imprisoned not more than 10 years, or both.

"(e)(1)(A) Any individual who has been convicted of any criminal felony involving dishonesty or a breach of trust, or who has been convicted of an offense under this section, and who willfully engages in the business of insurance whose activities affect interstate commerce or participates in such business, shall be fined as provided in this title or imprisoned not more than 5 years, or both.

"(B) Any individual who is engaged in the business of insurance whose activities affect interstate commerce and who willfully permits the participation described in subparagraph (A) shall be fined as provided in this title or imprisoned not more than 5 years, or both.

"(2) A person described in paragraph (1)(A) may engage in the business of insurance or participate in such business if such person has the written consent of any insurance regulatory official authorized to regulate the insurer, which consent specifically refers to this subsection.

"(f) As used in this section—

"(1) the term 'business of insurance' means—

"(A) the writing of insurance, or

"(B) the reinsuring of risks,

by an insurer, including all acts necessary or incidental to such writing or reinsuring and the activities of persons who act as, or are, officers, directors, agents, or employees of insurers or who are other persons authorized to act on behalf of such persons;

"(2) the term 'insurer' means any entity the business activity of which is the writing of insurance or the reinsuring of risks, and includes any person who acts as, or is, an officer, director, agent, or employee of that business;

"(3) the term 'interstate commerce' means—

"(A) commerce within the District of Columbia, or any territory or possession of the United States;

"(B) all commerce between any point in the State, territory, possession, or the District of Columbia and any point outside thereof;

"(C) all commerce between points within the same State through any place outside such State; or

"(D) all other commerce over which the United States has jurisdiction; and

"(4) the term 'State' includes any State, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

"§1034. Civil penalties and injunctions for violations of section 1033

"(a) The Attorney General may bring a civil action in the appropriate United States district court against any person who engages in conduct constituting an offense under section 1033 and, upon proof of such conduct by a preponderance of the evidence, such person shall be subject to a civil penalty of not more than $50,000 for each violation or the amount of compensation which the person received or offered for the prohibited conduct, whichever amount is greater. If the offense has contributed to the decision of a court of appropriate jurisdiction to issue an order directing the conservation, rehabilitation, or liquidation of an insurer, such penalty shall be remitted to the appropriate regulatory official for the benefit of the policyholders, claimants, and creditors of such insurer. The imposition of a civil penalty under this subsection does not preclude any other criminal or civil statutory, common law, or administrative remedy, which is available by law to the United States or any other person.

"(b) If the Attorney General has reason to believe that a person is engaged in conduct constituting an offense under section 1033, the Attorney General may petition an appropriate United States district court for an order prohibiting that person from engaging in such conduct. The court may issue an order prohibiting that person from engaging in such conduct if the court finds that the conduct constitutes such an offense. The filing of a petition under this section does not preclude any other remedy which is available by law to the United States or any other person.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 47 of such title is amended by adding at the end the following new items:

"1033. Crimes by or affecting persons engaged in the business of insurance whose activities affect interstate commerce.

"1034. Civil penalties and injunctions for violations of section 1033.".

SEC. 320604. MISCELLANEOUS AMENDMENTS TO TITLE 18, UNITED STATES CODE.

(a) TAMPERING WITH INSURANCE REGULATORY PROCEEDINGS.—Section 1515(a)(1) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (B);

(2) by inserting "or" at the end of subparagraph (C); and

(3) by adding at the end thereof the following new subparagraph:

"(D) a proceeding involving the business of insurance whose activities affect interstate commerce before any insurance regulatory official or agency or any agent or examiner appointed by such official or agency to examine the affairs of any person engaged in the business of insurance whose activities affect interstate commerce; or".

(b) LIMITATIONS.—Section 3293 of such title is amended by inserting "1033," after "1014,".

(c) OBSTRUCTION OF CRIMINAL INVESTIGATIONS.—Section 1510 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(d)(1) Whoever—

"(A) acting as, or being, an officer, director, agent or employee of a person engaged in the business of insurance whose activities affect interstate commerce, or

"(B) is engaged in the business of insurance whose activities affect interstate commerce or is involved (other than as an insured or beneficiary under a policy of insurance) in a transaction relating to the conduct of affairs of such a business,

with intent to obstruct a judicial proceeding, directly or indirectly notifies any other person about the existence or contents of a subpoena for records of that person engaged in such business or information that has been furnished to a Federal grand jury in response to that subpoena, shall be fined as provided by this title or imprisoned not more than 5 years, or both.

"(2) As used in paragraph (1), the term 'subpoena for records' means a Federal grand jury subpoena for records that has been served relating to a violation of, or a conspiracy to violate, section 1033 of this title.".

SEC. 320605. FEDERAL DEPOSIT INSURANCE ACT AMENDMENT.

Section 19(a) of the Federal Deposit Insurance Act (12 U.S.C. 1829(a)) is amended in paragraph (2)(A)(i)(I)—

(1) by striking "or 1956"; and

(2) by inserting "1517, 1956, or 1957".

SEC. 320606. FEDERAL CREDIT UNION ACT AMENDMENTS.

Section 205(d) of the Federal Credit Union Act (12 U.S.C. 1785(d)) is amended to read as follows:

"(d) PROHIBITION.—

"(1) IN GENERAL.—Except with prior written consent of the Board—

"(A) any person who has been convicted of any criminal offense involving dishonesty or a breach of trust, or has agreed to enter into a pretrial diversion or similar program in connection with a prosecution for such offense, may not—

"(i) become, or continue as, an institution-affiliated party with respect to any insured credit union; or

"(ii) otherwise participate, directly or indirectly, in the conduct of the affairs of any insured credit union; and

"(B) any insured credit union may not permit any person referred to in subparagraph (A) to engage in any conduct or continue any relationship prohibited under such subparagraph.

"(2) MINIMUM 10-YEAR PROHIBITION PERIOD FOR CERTAIN OFFENSES.—

"(A) IN GENERAL.—If the offense referred to in paragraph (1)(A) in connection with any person referred to in such paragraph is—

"(i) an offense under—

"(I) section 215, 656, 657, 1005, 1006, 1007, 1008, 1014, 1032, 1344, 1517, 1956, or 1957 of title 18, United States Code; or

"(II) section 1341 or 1343 of such title which affects any financial institution (as defined in section 20 of such title); or

"(ii) the offense of conspiring to commit any such offense,

the Board may not consent to any exception to the application of paragraph (1) to such person during the 10-year period beginning on the date the conviction or the agreement of the person becomes final.

"(B) EXCEPTION BY ORDER OF SENTENCING COURT.—

"(i) IN GENERAL.—On motion of the Board, the court in which the conviction or the agreement of a person referred to in subparagraph (A) has been entered may grant an exception to the application of paragraph (1) to such person if granting the exception is in the interest of justice.

"(ii) PERIOD FOR FILING.—A motion may be filed under clause (i) at any time during the 10-year period described in subparagraph (A) with regard to the person on whose behalf such motion is made.

"(3) PENALTY.—Whoever knowingly violates paragraph (1) or (2) shall be fined not more than $1,000,000 for each day such prohibition is violated or imprisoned for not more than 5 years, or both.".

SEC. 320607. ADDITION OF PREDICATE OFFENSES TO FINANCIAL INSTITUTIONS REWARDS STATUTE.

Section 3059A of title 18, United States Code, is amended—

(1) by inserting "225," after "215";

(2) by striking "or" before "1344"; and

(3) by inserting ", or 1517" after "1344".

SEC. 320608. DEFINITION OF SAVINGS AND LOAN ASSOCIATION" FOR PURPOSES OF THE OFFENSE OF BANK ROBBERY AND RELATED OFFENSES.

Section 2113 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(h) As used in this section, the term 'savings and loan association' means—

"(1) a Federal savings association or State savings association (as defined in section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b))) having accounts insured by the Federal Deposit Insurance Corporation; and

"(2) a corporation described in section 3(b)(1)(C) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b)(1)(C)) that is operating under the laws of the United States.".

SEC. 320609. DEFINITION OF 1-YEAR PERIOD FOR PURPOSES OF THE OFFENSE OF OBSTRUCTION OF A FEDERAL AUDIT.

Section 1516(b) of title 18, United States Code, is amended—

(1) by striking "section the term" and inserting "section—

"(1) the term";

(2) by striking the period at the end and inserting a semicolon; and

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

"(2) the term 'in any 1 year period' has the meaning given to the term 'in any one-year period' in section 666.".

Subtitle G—Safer Streets and Neighborhoods

SEC. 320701. SHORT TITLE.

This subtitle may be cited as the "Safer Streets and Neighborhoods Act of 1994".

SEC. 320702. LIMITATION ON GRANT DISTRIBUTION.

(a) AMENDMENT.—Section 510(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3760(b)) is amended by inserting "non-Federal" after "with".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1994.

Subtitle H—Recreational Hunting Safety

SEC. 320801. SHORT TITLE.

This subtitle may be cited as the "Recreational Hunting Safety and Preservation Act of 1994".

SEC. 320802. OBSTRUCTION OF A LAWFUL HUNT.

It is a violation of this section intentionally to engage in any physical conduct that significantly hinders a lawful hunt.

SEC. 320803. CIVIL PENALTIES.

(a) IN GENERAL.—A person who violates section 320802 shall be assessed a civil penalty in an amount computed under subsection (b).

(b) COMPUTATION OF PENALTY.—The penalty shall be—

(1) not more than $10,000, if the violation involved the use of force or violence, or the threatened use of force or violence, against the person or property of another person; and

(2) not more than $5,000 for any other violation.

(c) RELATIONSHIP TO OTHER PENALTIES.—The penalties established by this section shall be in addition to other criminal or civil penalties that may be levied against the person as a result of an activity in violation of section 320802.

(d) PROCEDURE.—Upon receipt of—

(1) a written complaint from an officer, employee, or agent of the Forest Service, Bureau of Land Management, National Park Service, United States Fish and Wildlife Service, or other Federal agency that a person violated section 320802; or

(2) a sworn affidavit from an individual and a determination by the Secretary that the statement contains sufficient factual allegations to create a reasonable belief that a violation of section 320802 has occurred;

the Secretary may request the Attorney General of the United States to institute a civil action for the imposition and collection of the civil penalty under this section.

(e) USE OF PENALTY MONEY COLLECTED.—After deduction of costs attributable to collection, money collected from penalties shall be—

(1) deposited into the trust fund established pursuant to the Act entitled "An Act to provide that the United States shall aid the States in wildlife-restoration projects, and for other purposes", approved September 2, 1937 (16 U.S.C. 669) (commonly known as the "Pitman-Robertson Wildlife Restoration Act"), to support the activities authorized by such Act and undertaken by State wildlife management agencies; or

(2) used in such other manner as the Secretary determines will enhance the funding and implementation of—

(A) the North American Waterfowl Management Plan signed by the Secretary of the Interior and the Minister of Environment for Canada in May 1986; or

(B) a similar program that the Secretary determines will enhance wildlife management—

(i) on Federal lands; or

(ii) on private or State-owned lands when the efforts will also provide a benefit to wildlife management objectives on Federal lands.

SEC. 320804. OTHER RELIEF.

Injunctive relief against a violation of section 320802 may be sought by—

(1) the head of a State agency with jurisdiction over fish or wildlife management;

(2) the Attorney General of the United States; or

(3) any person who is or would be adversely affected by the violation.

SEC. 320805. RELATIONSHIP TO STATE AND LOCAL LAW AND CIVIL ACTIONS.

This subtitle does not preempt a State law or local ordinance that provides for civil or criminal penalties for conduct that violates this subtitle.

SEC. 320806. REGULATIONS.

The Secretary may issue such regulations as are necessary to carry out this subtitle.

SEC. 320807. RULE OF CONSTRUCTION.

Nothing in this subtitle shall be construed to impair a right guaranteed to a person under the first article of amendment to the Constitution or limit any legal remedy for forceful interference with a person's lawful participation in speech or peaceful assembly.

SEC. 320808. DEFINITIONS.

As used in this subtitle:

(1) FEDERAL LANDS.—The term "Federal lands" means—

(A) national forests;

(B) public lands;

(C) national parks; and

(D) wildlife refuges.

(2) LAWFUL HUNT.—The term "lawful hunt" means the taking or harvesting (or attempted taking or harvesting) of wildlife or fish, on Federal lands, which—

(A) is lawful under the laws applicable in the place it occurs; and

(B) does not infringe upon a right of an owner of private property.

(3) NATIONAL FOREST.—The term "national forest" means lands included in the National Forest System (as defined in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a))).

(4) NATIONAL PARK.—The term "national park" means lands and waters included in the National Park System (as defined in section 2(a) of the Act entitled "An Act to facilitate the management of the National Park System and miscellaneous areas administered in connection with that system, and for other purposes", approved August 8, 1953 (16 U.S.C. 1c(a))).

(5) PUBLIC LANDS.—The term "public lands" has the same meaning as is provided in section 103(e) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702(e)).

(6) SECRETARY.—The term "Secretary" means—

(A) the Secretary of Agriculture with respect to national forests; and

(B) the Secretary of the Interior with respect to—

(i) public lands;

(ii) national parks; and

(iii) wildlife refuges.

(7) WILDLIFE REFUGE.—The term "wildlife refuge" means lands and waters included in the National Wildlife Refuge System (as established by section 4 of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd)).

(8) CONDUCT.—The term "conduct" does not include speech protected by the first article of amendment to the Constitution.

Subtitle I—Other Provisions

SEC. 320901. WIRETAPS.

Section 2511(1) of title 18, United States Code, is amended—

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

(2) by inserting "or" at the end of paragraph (d); and

(3) by adding after paragraph (d) the following new paragraph:

"(e)(i) intentionally discloses, or endeavors to disclose, to any other person the contents of any wire, oral, or electronic communication, intercepted by means authorized by sections 2511(2)(A)(ii), 2511(b)–(c), 2511(e), 2516, and 2518 of this subchapter, (ii) knowing or having reason to know that the information was obtained through the interception of such a communication in connection with a criminal investigation, (iii) having obtained or received the information in connection with a criminal investigation, and (iv) with intent to improperly obstruct, impede, or interfere with a duly authorized criminal investigation,".

SEC. 320902. THEFT OF MAJOR ARTWORK.

(a) OFFENSE.—Chapter 31 of title 18, United States Code, is amended by adding at the end the following new section:

"§668. Theft of major artwork

"(a) DEFINITIONS.—In this section—

"'museum' means an organized and permanent institution, the activities of which affect interstate or foreign commerce, that—

"(A) is situated in the United States;

"(B) is established for an essentially educational or aesthetic purpose;

"(C) has a professional staff; and

"(D) owns, utilizes, and cares for tangible objects that are exhibited to the public on a regular schedule.

"'object of cultural heritage' means an object that is—

"(A) over 100 years old and worth in excess of $5,000; or

"(B) worth at least $100,000.".

"(b) OFFENSES.—A person who—

"(1) steals or obtains by fraud from the care, custody, or control of a museum any object of cultural heritage; or

"(2) knowing that an object of cultural heritage has been stolen or obtained by fraud, if in fact the object was stolen or obtained from the care, custody, or control of a museum (whether or not that fact is known to the person), receives, conceals, exhibits, or disposes of the object,

shall be fined under this title, imprisoned not more than 10 years, or both.".

(b) PERIOD OF LIMITATION.—Chapter 213 of title 18, United States Code, is amended by adding at the end the following new section:

"§3294. Theft of major artwork

"No person shall be prosecuted, tried, or punished for a violation of or conspiracy to violate section 668 unless the indictment is returned or the information is filed within 20 years after the commission of the offense.".

(d) TECHNICAL AMENDMENTS.—

(1) CHAPTER 31.—The chapter analysis for chapter 31 of title 18, United States Code, is amended by adding at the end the following new item:

"668. Theft of major artwork.".

(2) CHAPTER 213.—The chapter analysis for chapter 213 of title 18, United States Code, is amended by adding at the end the following new item:

"3294. Theft of major artwork.".

SEC. 320903. ADDITION OF ATTEMPTED ROBBERY, KIDNAPPING, SMUGGLING, AND PROPERTY DAMAGE OFFENSES TO ELIMINATE INCONSISTENCIES AND GAPS IN COVERAGE.

(a) ROBBERY AND BURGLARY.—(1) Section 2111 of title 18, United States Code, is amended by inserting "or attempts to take" after "takes".

(2) Section 2112 of title 18, United States Code, is amended by inserting "or attempts to rob" after "robs".

(3) Section 2114 of title 18, United States Code, is amended by inserting "or attempts to rob" after "robs".

(b) KIDNAPPING.—Section 1201(d) of title 18, United States Code, is amended by striking "Whoever attempts to violate subsection (a)(4) or (a)(5)" and inserting "Whoever attempts to violate subsection (a)".

(c) SMUGGLING.—Section 545 of title 18, United States Code, is amended by inserting "or attempts to smuggle or clandestinely introduce" after "smuggles, or clandestinely introduces".

(d) MALICIOUS MISCHIEF.—(1) Section 1361 of title 18, United States Code, is amended—

(A) by inserting "or attempts to commit any of the foregoing offenses" before "shall be punished", and

(B) by inserting "or attempted damage" after "damage" each place it appears.

(2) Section 1362 of title 18, United States Code, is amended by inserting "or attempts willfully or maliciously to injure or destroy" after "willfully or maliciously injures or destroys".

(3) Section 1366 of title 18, United States Code, is amended—

(A) by inserting "or attempts to damage" after "damages" each place it appears;

(B) by inserting "or attempts to cause" after "causes"; and

(C) by inserting "or would if the attempted offense had been completed have exceeded" after "exceeds" each place it appears.

SEC. 320904. GUN-FREE SCHOOL ZONES.

Section 922(q) of title 18, United States Code, is amended—

(1) by redesignating paragraphs (1), (2), and (3) as paragraphs (2), (3), and (4), respectively; and

(2) by inserting after "(q)" the following new paragraph:

"(1) The Congress finds and declares that—

"(A) crime, particularly crime involving drugs and guns, is a pervasive, nationwide problem;

"(B) crime at the local level is exacerbated by the interstate movement of drugs, guns, and criminal gangs;

"(C) firearms and ammunition move easily in interstate commerce and have been found in increasing numbers in and around schools, as documented in numerous hearings in both the Judiciary Committee of the House of Representatives and Judiciary Committee of the Senate;

"(D) in fact, even before the sale of a firearm, the gun, its component parts, ammunition, and the raw materials from which they are made have considerably moved in interstate commerce;

"(E) while criminals freely move from State to State, ordinary citizens and foreign visitors may fear to travel to or through certain parts of the country due to concern about violent crime and gun violence, and parents may decline to send their children to school for the same reason;

"(F) the occurrence of violent crime in school zones has resulted in a decline in the quality of education in our country;

"(G) this decline in the quality of education has an adverse impact on interstate commerce and the foreign commerce of the United States;

"(H) States, localities, and school systems find it almost impossible to handle gun-related crime by themselves; even States, localities, and school systems that have made strong efforts to prevent, detect, and punish gun-related crime find their efforts unavailing due in part to the failure or inability of other States or localities to take strong measures; and

"(I) Congress has power, under the interstate commerce clause and other provisions of the Constitution, to enact measures to ensure the integrity and safety of the Nation's schools by enactment of this subsection.".

SEC. 320905. INTERSTATE WAGERING.

Section 1301 of title 18, United States Code, is amended by inserting "or, being engaged in the business of procuring for a person in 1 State such a ticket, chance, share, or interest in a lottery, gift, enterprise or similar scheme conducted by another State (unless that business is permitted under an agreement between the States in question or appropriate authorities of those States), knowingly transmits in interstate or foreign commerce information to be used for the purpose of procuring such a ticket, chance, share, or interest;" after "scheme;".

SEC. 320906. SENSE OF CONGRESS WITH RESPECT TO VIOLENCE AGAINST TRUCKERS.

It is the sense of Congress that—

(1) when there is Federal jurisdiction, Federal authorities should prosecute to the fullest extent of the law murders, rapes, burglaries, kidnappings and assaults committed against commercial truckers; and

(2) appropriate Federal agencies should acknowledge this problem and place a priority on evaluating how best to prevent these crimes and apprehend those involved, and continue to coordinate their activities with multi-jurisdictional authorities to combat violent crimes committed against truckers.

SEC. 320907. SENSE OF THE SENATE REGARDING A STUDY ON OUT-OF-WEDLOCK BIRTHS.

It is the sense of the Senate that—

(1) the Secretary of Health and Human Services, in consultation with the National Center for Health Statistics, should prepare an analysis of the causes of the increase in out-of-wedlock births, and determine whether there is any historical precedent for such increase, as well as any equivalent among foreign nations, and

(2) the Secretary of Health and Human Services should report to Congress within 12 months after the date of the enactment of this Act on the Secretary's analysis of the out-of-wedlock problem and its causes, as well as possible remedial measures that could be taken.

SEC. 320908. SENSE OF THE SENATE REGARDING THE ROLE OF THE UNITED NATIONS IN INTERNATIONAL ORGANIZED CRIME CONTROL.

It is the sense of the Senate that—

(1) the United States should encourage the development of a United Nations Convention on Organized Crime; and

(2) the United Nations should—

(A) provide significant additional resources to the Commission on Crime Prevention and Criminal Justice;

(B) consider an expansion of the Commission's role and authority; and

(C) seek a cohesive approach to the international organized crime problem.

SEC. 320909. OPTIONAL VENUE FOR ESPIONAGE AND RELATED OFFENSES.

(a) IN GENERAL.—Chapter 211 of title 18, United States Code, is amended by inserting after section 3238 the following new section:

"§3239. Optional venue for espionage and related offenses

"The trial for any offense involving a violation, begun or committed upon the high seas or elsewhere out of the jurisdiction of any particular State or district, of—

"(1) section 793, 794, 798, or section 1030(a)(1) of this title;

"(2) section 601 of the National Security Act of 1947 (50 U.S.C. 421); or

"(3) section 4(b) or 4(c) of the Subversive Activities Control Act of 1950 (50 U.S.C. 783 (b) or (c));

may be in the District of Columbia or in any other district authorized by law.".

(b) TECHNICAL AMENDMENT.—The item relating to section 3239 in the table of sections of chapter 211 of title 18, United States Code, is amended to read as follows:

"3239. Optional venue for espionage and related offenses.".

SEC. 320910. UNDERCOVER OPERATIONS.

(a) IN GENERAL.—Chapter 1 of title 18, United States Code, is amended by adding at the end the following new section:

"§21. Stolen or counterfeit nature of property for certain crimes defined

"(a) Wherever in this title it is an element of an offense that—

"(1) any property was embezzled, robbed, stolen, converted, taken, altered, counterfeited, falsely made, forged, or obliterated; and

"(2) the defendant knew that the property was of such character;

such element may be established by proof that the defendant, after or as a result of an official representation as to the nature of the property, believed the property to be embezzled, robbed, stolen, converted, taken, altered, counterfeited, falsely made, forged, or obliterated.

"(b) For purposes of this section, the term 'official representation' means any representation

made by a Federal law enforcement officer (as defined in section 115) or by another person at the direction or with the approval of such an officer.".

(b) TECHNICAL AMENDMENT.—The table of sections of chapter 1 of title 18, United States Code, is amended by adding at the end the following new item:

"21. Stolen or counterfeit nature of property for certain crimes defined.".

SEC. 320911. MISUSE OF INITIALS "DEA".

(a) AMENDMENT.—Section 709 of title 18, United States Code, is amended—

(1) in the thirteenth unnumbered paragraph by striking "words—" and inserting "words; or"; and

(2) by inserting after the thirteenth unnumbered paragraph the following new paragraph:

"A person who, except with the written permission of the Administrator of the Drug Enforcement Administration, knowingly uses the words 'Drug Enforcement Administration' or the initials 'DEA' or any colorable imitation of such words or initials, in connection with any advertisement, circular, book, pamphlet, software or other publication, play, motion picture, broadcast, telecast, or other production, in a manner reasonably calculated to convey the impression that such advertisement, circular, book, pamphlet, software or other publication, play, motion picture, broadcast, telecast, or other production is approved, endorsed, or authorized by the Drug Enforcement Administration;".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on the date that is 90 days after the date of enactment of this Act.

SEC. 320912. DEFINITION OF LIVESTOCK.

Section 2311 of title 18, United States Code, is amended by inserting after the second paragraph relating to the definition of "cattle" the following new paragraph:

"'livestock' means any domestic animals raised for home use, consumption, or profit, such as horses, pigs, llamas, goats, fowl, sheep, buffalo, and cattle, or the carcasses thereof.".

SEC. 320913. ASSET FORFEITURE.

(a) AMENDMENT.—Section 524(c)(1) of title 28, United States Code, is amended—

(1) by redesignating subparagraph (H) as subparagraph (I); and

(2) by inserting after subparagraph (G) the following new subparagraph:

"(H) the payment of State and local property taxes on forfeited real property that accrued between the date of the violation giving rise to the forfeiture and the date of the forfeiture order; and".

(b) APPLICATION OF AMENDMENT.—The amendment made by subsection (a) shall apply to all claims pending at the time of or commenced subsequent to the date of enactment of this Act.

SEC. 320914. CLARIFICATION OF DEFINITION OF A "COURT OF THE UNITED STATES" TO INCLUDE THE DISTRICT COURTS FOR GUAM, THE NORTHERN MARIANA ISLANDS, AND THE VIRGIN ISLANDS.

(a) IN GENERAL.—Chapter 1 of title 18, United States Code, is amended by adding at the end the following new section:

"§23. Court of the United States defined

"As used in this title, except where otherwise expressly provided the term 'court of the United States' includes the District Court of Guam, the District Court for the Northern Mariana Islands, and the District Court of the Virgin Islands.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 1 of title 18, United States Code, is amended by adding at the end the following new item:

"23. Court of the United States defined.".

SEC. 320915. LAW ENFORCEMENT PERSONNEL.

It is the sense of the Senate that law enforcement personnel should not be reduced and calls upon the President of the United States to exempt Federal law enforcement positions from Executive Order 12839 and other Executive memoranda mandating reductions in the Federal workforce.

SEC. 320916. AUTHORITY TO INVESTIGATE VIOLENT CRIMES AGAINST TRAVELERS.

(a) IN GENERAL.—Chapter 33 of title 28, United States Code, is amended by adding at the end the following new section:

"§540A. Investigation of violent crimes against travelers

"(a) IN GENERAL.—At the request of an appropriate law enforcement official of a State or political subdivision, the Attorney General and Director of the Federal Bureau of Investigation may assist in the investigation of a felony crime of violence in violation of the law of any State in which the victim appears to have been selected because he or she is a traveler.

"(b) FOREIGN TRAVELERS.—In a case in which the traveler who is a victim of a crime described in subsection (a) is from a foreign nation, the Attorney General and Director of the Federal Bureau of Investigation, and, when appropriate, the Secretary of State shall assist the prosecuting and law enforcement officials of a State or political subdivision to the fullest extent possible in securing from abroad such evidence or other information as may be needed for the effective investigation and prosecution of the crime.

"(c) DEFINITIONS.—In this section—

"'felony crime of violence' means an offense punishable by more than one year in prison that has as an element the use, attempted use, or threatened use of physical force against the person of another.

"'State' means a State, the District of Columbia, and any commonwealth, territory, or possession of the United States.

"'traveler' means a victim of a crime of violence who is not a resident of the State in which the crime of violence occurred.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 33 of title 28, United States Code, is amended by adding at the end the following new item:

"540A. Investigation of violent crimes against travelers.".

SEC. 320917. EXTENSION OF STATUTE OF LIMITATIONS FOR ARSON.

(a) IN GENERAL.—Section 844(i) of title 18, United States Code, is amended by adding at the end the following: "No person shall be prosecuted, tried, or punished for any noncapital offense under this subsection unless the indictment is found or the information is instituted within 7 years after the date on which the offense was committed.".

(b) APPLICATION OF AMENDMENT.—The amendment made by subsection (a) shall not apply to any offense described in the amendment that was committed more than 5 years prior to the date of enactment of this Act.

SEC. 320918. SENSE OF CONGRESS CONCERNING CHILD CUSTODY AND VISITATION RIGHTS.

It is the sense of the Congress that in determining child custody and visitation rights, the courts should take into consideration the history of drunk driving that any person involved in the determination may have.

SEC. 320919. EDWARD BYRNE MEMORIAL FORMULA GRANT PROGRAM.

Nothing in this Act shall be construed to prohibit or exclude the expenditure of appropriations to grant recipients that would have been or are eligible to receive grants under subpart 1 of part E of the Omnibus Crime Control and Safe Streets Act of 1968.

SEC. 320920. SENSE OF THE SENATE REGARDING LAW DAY U.S.A.

It is the sense of the Senate that in celebration of "Law Day, U.S.A.", May 1, 1995, the grateful people of this Nation should give special emphasis to all law enforcement personnel of the United States, and the grateful people of this Nation should acknowledge the unflinching and devoted service law enforcement personnel perform as such personnel help preserve domestic tranquillity and guarantee the legal rights of all individuals of this Nation.

SEC. 320921. FIRST TIME DOMESTIC VIOLENCE OFFENDER REHABILITATION PROGRAM.

(a) SENTENCE OF PROBATION.—Section 3561 of title 18, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting the following new subsection after subsection (a):

"(b) DOMESTIC VIOLENCE OFFENDERS.—A defendant who has been convicted for the first time of a domestic violence crime shall be sentenced to a term of probation if not sentenced to a term of imprisonment. The term 'domestic violence crime' means a crime of violence for which the defendant may be prosecuted in a court of the United States in which the victim or intended victim is the spouse, former spouse, intimate partner, former intimate partner, child, or former child of the defendant, or any relative defendant, child, or former child of the defendant, or any other relative of the defendant.".

(b) CONDITIONS OF PROBATION.—Section 3563(a) of title 18, United States Code, is amended by—

(1) striking "and" at the end of paragraph (2);

(2) striking the period at the end of paragraph (3) and inserting "; and"; and

(3) by inserting the following new paragraph:

"(4) for a domestic violence crime as defined in section 3561(b) by a defendant convicted of such an offense for the first time that the defendant attend a public, private, or private nonprofit offender rehabilitation program that has been approved by the court, in consultation with a State Coalition Against Domestic Violence or other appropriate experts, if an approved program is readily available within a 50-mile radius of the legal residence of the defendant.".

(c) SUPERVISED RELEASE.—Section 3583 of title 18, United States Code, is amended—

(1) in subsection (a) by inserting "or if the defendant has been convicted for the first time of a domestic violence crime as defined in section 3561(b)" after "statute"; and

(2) in subsection (d) by inserting the following after the first sentence: "The court shall order as an explicit condition of supervised release for a defendant convicted for the first time of a domestic violence crime as defined in section 3561(b) that the defendant attend a public, private, or private nonprofit offender rehabilitation program that has been approved by the court, in consultation with a State Coalition Against Domestic Violence or other appropriate experts, if an approved program is readily available within a 50-mile radius of the legal residence of the defendant.".

SEC. 320922. DISPLAY OF FLAGS AT HALFSTAFF.

(a) PUBLIC LAW 87–726.—The first section of Public Law 87–726 (36 U.S.C. 167) is amended—

(1) by striking "(2)" and inserting "(3)";

(2) by inserting after clause (1) the following new clause: "(2) directing the officials of the Government to display at halfstaff the flag of the United States on all Government buildings on such day, as provided by section 3(m) of the Act of June 22, 1942 (Chapter 435; 56 Stat. 377; 36 U.S.C. 175),";

(3) by striking "(3)" and inserting "(4)"; and

(4) by inserting in paragraph (4) ", including the display at half-staff of the flag of the United States" after "activities".

(b) ACT OF JUNE 22, 1942.—Section 3(m) of the Act of June 22, 1942 (Chapter 435; 56 Stat. 377; 36 U.S.C. 175) is amended by inserting "The flag shall be flown at half-staff on Peace Officers Memorial Day, unless that day is also Armed Forces Day." after "a Member of Congress.".

SEC. 320923. FINANCIAL INSTITUTION FRAUD.

Section 528 of Public Law 101-509, approved November 5, 1990, is amended by striking "with the authority of the Resolution Trust Corporation or its successor" at the end of subsection (b)(2) and inserting "on December 31, 2004".

SEC. 320924. DEFINITION OF "PARENT" FOR THE PURPOSES OF THE OFFENSE OF KIDNAPPING.

Section 1201 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(h) As used in this section, the term 'parent' does not include a person whose parental rights with respect to the victim of an offense under this section have been terminated by a final court order.".

SEC. 320926. HATE CRIME STATISTICS ACT.

Subsection (b)(1) of the first section of the Hate Crime Statistics Act (28 U.S.C. 534 note) is amended by inserting "disability," after "religion,".

SEC. 320927. EXEMPTION FROM BRADY BACKGROUND CHECK REQUIREMENT OF RETURN OF HANDGUN TO OWNER.

Section 922(s)(1) of title 18, United States Code, is amended in the first sentence by inserting "(other than the return of a handgun to the person from whom it was received)" after "handgun".

SEC. 320928. AMENDMENT OF THE NATIONAL CHILD PROTECTION ACT OF 1993.

(a) PROTECTION OF THE ELDERLY AND INDIVIDUALS WITH DISABILITIES.—

(1) BACKGROUND CHECKS.—Section 3(a)(1) of the National Child Protection Act of 1993 (42 U.S.C. 5119a) is amended by striking "an individual's fitness to have responsibility for the safety and well-being of children" and inserting "the provider's fitness to have responsibility for the safety and well-being of children, the elderly, or individuals with disabilities".

(2) GUIDELINES.—Section 3(b) of the National Child Protection Act of 1993 (42 U.S.C. 5119b(b)) is amended—

(A) in paragraph (1)(E)—

(i) by striking "child" the first place it appears and inserting "person"; and

(ii) by striking "child" the second place it appears; and

(B) in paragraph (4) by striking "an individual's fitness to have responsibility for the safety and well-being of children" and inserting "the provider's fitness to have responsibility for the safety and well-being of children, the elderly, or individuals with disabilities".

(3) DEFINITION OF CARE.—Section 5 of the National Child Protection Act of 1993 (42 U.S.C. 5119c(5)) is amended—

(A) by amending paragraph (5) to read as follows:

"(5) the term 'care' means the provision of care, treatment, education, training, instruction, supervision, or recreation to children, the elderly, or individuals with disabilities;"; and

(B) in paragraph (8) by striking "child care" each place it appears and inserting "care".

(b) INFORMATION REQUIRED TO BE REPORTED.—Section 2(a) of the National Child Protection Act of 1993 (42 U.S.C. 5119(a)) is amended by adding at the end "A criminal justice agency may satisfy the requirement of this subsection by reporting or indexing all felony and serious misdemeanor arrests and dispositions.".

(c) CLARIFICATION OF IMMUNITY PROVISION.—Section 3(d) of the National Child Protection Act of 1993 (42 U.S.C. 5119a(d)) is amended by inserting "(other than itself)" after "failure of a qualified entity".

(d) DEFRAYMENT OF COSTS TO VOLUNTEERS OF CONDUCTING BACKGROUND CHECKS.—Section 4(b) of the National Child Protection Act of 1993 (42 U.S.C. 5119b(b)) is amended—

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

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

(3) by adding at the end the following new subparagraph:

"(E) to assist the State in paying all or part of the cost to the State of conducting background checks on persons who are employed by or volunteer with a public, not-for-profit, or voluntary qualified entity to reduce the amount of fees charged for such background checks.".

(e) FEES.—Section 3(e) of the National Child Protection Act of 1993 is amended by striking "the actual cost" and inserting "eighteen dollars, respectively, or the actual cost, whichever is less,".

(f) COSTS OF THE FBI.—Funds authorized to be appropriated to the Federal Bureau of Investigation under section 190001(c) of this Act may be used to pay all or part of the cost to the Federal Bureau of Investigation of carrying out the National Child Protection Act of 1993, including the cost of conducting background checks on persons who are employed by or volunteer with a public, not-for-profit, or voluntary qualified entity to reduce the amount of fees charged for such background checks.

(g) GUIDELINES.—

(1) IN GENERAL.—The Attorney General, in consultation with Federal, State, and local officials, including officials responsible for criminal history record systems, and representatives of public and private care organizations and health, legal, and social welfare organizations, shall develop guidelines for the adoption of appropriate safeguards by care providers and by States for protecting children, the elderly, or individuals with disabilities from abuse.

(2) MATTERS TO BE ADDRESSED.—In developing guidelines under paragraph (1), the Attorney General shall address the availability, cost, timeliness, and effectiveness of criminal history background checks and recommend measures to ensure that fees for background checks do not discourage volunteers from participating in care programs.

(3) DISSEMINATION.—The Attorney General shall, subject to the availability of appropriations, disseminate the guidelines to State and local officials and to public and private care providers.

(h) CHANGE OF REPORT DEADLINE.—Section 2(f)(2) of the National Child Protection Act of 1993 (42 U.S.C. 5119(f)(2)) is amended by striking "1 year" and inserting "2 years".

(i) CHANGE OF IMPLEMENTATION DEADLINE.—Section 2(b)(2)(A) of the National Child Protection Act of 1993 (42 U.S.C. 5119(b)(2)(A)) is amended by striking "3 years" and inserting "5 years".

(j) DEFINITION OF CHILD ABUSE CASES AND INDIVIDUALS WITH DISABILITIES.—Section 5 of the National Child Protection Act of 1993 (42 U.S.C. 5119c) is amended—

(1) by redesignating paragraph (6), (7), (8), and (9) as paragraph (8), (9), (10), and (11), respectively; and

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

"(6) the term 'identifiable child abuse crime case' means a case that can be identified by the authorized criminal justice agency of the State as involving a child abuse crime by reference to the statutory citation or descriptive label of the crime as it appears in the criminal history record;

"(7) the term 'individuals with disabilities' means persons with a mental or physical impairment who require assistance to perform one or more daily living tasks;".

SEC. 320929. TENNESSEE VALLEY AUTHORITY LAW ENFORCEMENT PERSONNEL.

The Tennessee Valley Authority Act of 1933 (16 U.S.C. 831 et seq.) is amended by inserting after section 4 the following new section:

"SEC. 4A. LAW ENFORCEMENT.—(a) DESIGNATION OF LAW ENFORCEMENT AGENTS.—The Board may designate employees of the corporation to act as law enforcement agents in the area of jurisdiction described in subsection (c).

"(b) DUTIES AND POWERS.—

"(1) DUTIES.—A law enforcement agent designated under subsection (a) shall maintain law and order and protect persons and property in the area of jurisdiction described in subsection (c) and protect property and officials and employees of the corporation outside that area.

"(2) POWERS.—In the performance of duties described in paragraph (1), a law enforcement agent designated under subsection (a) may—

"(A) make arrests without warrant for any offense against the United States committed in the agent's presence, or for any felony cognizable under the laws of the United States if the agent has probable cause to believe that the person to be arrested has committed or is committing such a felony;

"(B) execute any warrant or other process issued by a court or officer of competent jurisdiction for the enforcement of any Federal law or regulation issued pursuant to law in connection with the investigation of an offense described in subparagraph (A);

"(C) conduct an investigation of an offense described in subparagraph (A) in the absence of investigation of the offense by any Federal law enforcement agency having investigative jurisdiction over the offense or with the concurrence of that agency; and

"(D) carry firearms in carrying out any activity described in subparagraph (A), (B), or (C).

"(c) AREA OF JURISDICTION.—A law enforcement agent designated under subsection (a) shall be authorized to exercise the law enforcement duties and powers described in subsection (b)—

"(1) on any lands or facilities owned or leased by the corporation or within such adjoining areas in the vicinities of such lands or facilities as may be determined by the board under subsection (e); and

"(2) on other lands or facilities—

"(A) when the person to be arrested is in the process of fleeing from such lands, facilities, or adjoining areas to avoid arrest;

"(B) in conjunction with the protection of property or officials or employees of the corporation on or within lands or facilities other than those owned or leased by the corporation; or

"(C) in cooperation with other Federal, State, or local law enforcement agencies.

"(d) FEDERAL INVESTIGATIVE JURISDICTION AND STATE CIVIL AND CRIMINAL JURISDICTION NOT PREEMPTED.—Nothing in this section shall be construed to—

"(1) limit or restrict the investigative jurisdiction of any Federal law enforcement agency; or

"(2) affect any right of a State or a political subdivision thereof to exercise civil and criminal jurisdiction on or within lands or facilities owned or leased by the corporation.

"(e) DETERMINATION OF ADJOINING AREAS.—

"(1) IN GENERAL.—The board shall determine and may from time-to-time modify the adjoining areas for each facility or particular area of land, or for individual categories of such facilities or lands, for the purposes of subsection (c)(1).

"(2) NOTICE.—A notice and description of each adjoining area determination or modification of a determination made under paragraph (1) shall be published in the Federal Register.

"(f) QUALIFICATIONS AND TRAINING.—The board, in consultation with the Attorney General, shall adopt qualification and training standards for law enforcement agents designated under subsection (a).

"(g) RELATION TO OTHER LAW.—A law enforcement agent designated under subsection (a) shall not be considered to be a law enforcement officer of the United States for the purposes of any other law, and no law enforcement agent designated under subsection (a) or other employee of the corporation shall receive an increase in compensation solely on account of this section.

"(h) RELATIONSHIP WITH ATTORNEY GENERAL.—The duties and powers of law enforcement agents designated under subsection (a) that are described in subsection (b) shall be exercised in accordance with guidelines approved by the Attorney General.".

SEC. 320932. ASSISTANT UNITED STATES ATTORNEY RESIDENCY.

Section 545(a) of title 28, United States Code, is amended—

(1) by striking "and assistant United States attorney"; and

(2) by inserting the following after the first sentence: "Each assistant United States attorney shall reside in the district for which he or she is appointed or within 25 miles thereof.".

SEC. 320933. LABELS ON PRODUCTS.

To the extent any person introduces, delivers for introduction, sells, advertises, or offers for sale in commerce a product with a "Made in the U.S.A." or "Made in America" label, or the equivalent thereof, in order to represent that such product was in whole or substantial part of domestic origin, such label shall be consistent with decisions and orders of the Federal Trade Commission issued pursuant to section 5 of the Federal Trade Commission Act. This section only applies to such labels. Nothing in this section shall preclude the application of other provisions of law relating to labeling. The Commission may periodically consider an appropriate percentage of imported components which may be included in the product and still be reasonably consistent with such decisions and orders. Nothing in this section shall preclude use of such labels for products that contain imported components under the label when the label also discloses such information in a clear and conspicuous manner. The Commission shall administer this section pursuant to section 5 of the Federal Trade Commission Act and may from time to time issue rules pursuant to section 553 of Title 5, United States Code for such purpose. If a rule is issued, such violation shall be treated by the Commission as a violation of a rule under section 18 of the Federal Trade Commissions Act (15 U.S.C. 57a) regarding unfair or deceptive acts or practices. This section shall be effective upon publication in the Federal Register of a Notice of the provisions of this section. The Commission shall publish such notice within six months after the enactment of this section.

SEC. 320934. NON-DISCHARGEABILITY OF PAYMENT OF RESTITUTION ORDER.

Section 523(a) of title 11, United States Code, is amended—

(1) by striking "or" at the end of paragraph (11);

(2) by striking the period at the end of paragraph (12) and inserting "; or"; and

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

"(13) for any payment of an order of restitution issued under title 18, United States Code."

SEC. 320935 ADMISSIBILITY OF EVIDENCE OF SIMILAR CRIMES IN SEX OFFENSE CASES.

(a) The Federal Rules of Evidence are amended by adding after Rule 412 the following new rules:

"Rule 413. Evidence of Similar Crimes in Sexual Assault Cases

"(a) In a criminal case in which the defendant is accused of an offense of sexual assault, evidence of the defendant's commission of another offense or offenses of sexual assault is admissible, and may be considered for its bearing on any matter to which it is relevant.

"(b) In a case in which the Government intends to offer evidence under this rule, the attorney for the Government shall disclose the evidence to the defendant, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

"(c) This rule shall not be construed to limit the admission or consideration of evidence under any other rule.

"(d) For purposes of this rule and Rule 415, "offense of sexual assault" means a crime under Federal law or the law of a State (as defined in section 513 of title 18, United States Code) that involved—

"(1) any conduct proscribed by chapter 109A of title 18, United States Code;

"(2) contact, without consent, between any part of the defendant's body or an object and the genitals or anus of another person;

"(3) contact, without consent, between the genitals or anus of the defendant and any part of another person's body;

"(4) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on another person; or

"(5) an attempt or conspiracy to engage in conduct described in paragraph (1)–(4).

"Rule 414. Evidence of Similar Crimes in Child Molestation Cases

"(a) In a criminal case in which the defendant is accused of an offense of child molestation, evidence of the defendant's commission of another offense or offenses of child molestation is admissible, and may be considered for its bearing on any matter to which it is relevant.

"(b) In a case in which the Government intends to offer evidence under this rule, the attorney for the Government shall disclose the evidence to the defendant, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

"(c) This rule shall not be construed to limit the admission or consideration of evidence under any other rule.

"(d) For purposes of this rule and Rule 415, "child" means a person below the age of fourteen, and "offense of child molestation" means a crime under Federal law or the law of a State (as defined in section 513 of title 18, United States Code) that involved—

"(1) any conduct proscribed by chapter 109A of title 18, United States Code, that was committed in relation to a child;

"(2) any conduct proscribed by chapter 110 of title 18, United States Code;

"(3) contact between any part of the defendant's body or an object and the genitals or anus of a child;

"(4) contact between the genitals or anus of the defendant and any part of the body of a child;

"(5) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on a child; or

"(6) an attempt or conspiracy to engage in conduct described in paragraphs (1)–(5).

"Rule 415. Evidence of Similar Acts in Civil Cases Concerning Sexual Assault or Child Molestation

"(a) In a civil case in which a claim for damages or other relief is predicated on a party's alleged commission of conduct constituting an offense of sexual assault or child molestation, evidence of that party's commission of another offense or offenses of sexual assault or child molestation is admissible and may be considered as provided in Rule 413 and Rule 414 of these rules.

"(b) A party who intends to offer evidence under this Rule shall disclose the evidence to the party against whom it will be offered, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

"(c) This rule shall not be construed to limit the admission or consideration of evidence under any other rule."

(b) IMPLEMENTATION.—The amendments made by subsection (a) shall become effective pursuant to subsection (d).

(c) RECOMMENDATIONS BY JUDICIAL CONFERENCE.—Not later than 150 days after the date of enactment of this Act, the Judicial Conference of the United States shall transmit to Congress a report containing recommendations for amending the Federal Rules of Evidence as they affect the admission of evidence of a defendant's prior sexual assault or child molestation crimes in cases involving sexual assault and child molestation. The Rules Enabling Act shall not apply to the recommendations made by the Judicial Conference pursuant to this section.

(d) CONGRESSIONAL ACTION.—

(1) If the recommendations described in subsection (c) are the same as the amendments made by subsection (a) then the amendments made by subsection (a) shall become effective 30 days after the transmittal of the recommendations.

(2) If the recommendations described in subsection (c) are different than the amendments made by subsection (a), the amendments made by subsection (a) shall become effective 150 days after the transmittal of the recommendations unless otherwise provided by law.

(3) If the Judicial Conference fails to comply with subsection (c), the amendments made by subsection (a) shall become effective 150 days after the date the recommendations were due under subsection (c) unless otherwise provided by law.

(e) APPLICATION.—The amendments made by subsection (a) shall apply to proceedings commenced on or after the effective date of such amendments.

TITLE XXXIII—TECHNICAL CORRECTIONS

SEC. 330001. AMENDMENTS RELATING TO FEDERAL FINANCIAL ASSISTANCE FOR LAW ENFORCEMENT.

(a) CROSS REFERENCE CORRECTIONS.—Section 506 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756) is amended—

(1) in subsection (a) by striking "Of" and inserting "Subject to subsection (f), of";

(2) in subsection (c) by striking "subsections (b) and (c)" and inserting "subsection (b)";

(3) in subsection (e) by striking "or (e)" and inserting "or (f)"; and

(4) in subsection (f)(1)—

(A) in subparagraph (A)—

(i) by striking ", taking into consideration subsection (e) but"; and

(ii) by striking "this subsection," and inserting "this subsection"; and

(B) in subparagraph (B) by striking "amount" and inserting "funds".

(b) CORRECTIONAL OPTIONS GRANTS.—(1) Section 515(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(A) by striking "subsection (a)(1) and (2)" and inserting "paragraphs (1) and (2) of subsection (a)"; and

(B) in paragraph (2) by striking "States" and inserting "public agencies".

(2) Section 516 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(A) in subsection (a) by striking "for section" each place it appears and inserting "shall be used to make grants under section"; and

(B) in subsection (b) by striking "section 515(a)(1) or (a)(3)" and inserting "paragraph (1) or (3) of section 515(a)".

(3) Section 1001(a)(5) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(5)) is amended by inserting "(other than chapter B of subpart 2)" after "and E".

(c) DENIAL OR TERMINATION OF GRANT.—Section 802(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3783(b)) is amended by striking "M,," and inserting "M,".

(d) DEFINITIONS.—Section 901(a)(21) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(21)) is amended by adding a semicolon at the end.

(e) PUBLIC SAFETY OFFICERS DISABILITY BENEFITS.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796) is amended—

(1) in section 1201—

(A) in subsection (a) by striking "subsection (g)" and inserting "subsection (h),"; and

(B) in subsection (b)—

(i) by striking "subsection (g)" and inserting "subsection (h)";

(ii) by striking "personal"; and

(iii) in the first proviso by striking "section" and inserting "subsection"; and

(2) in section 1204(3) by striking "who was responding to a fire, rescue or police emergency".

(f) HEADINGS.—(1) The heading for part M of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797) is amended to read as follows:

"PART M—REGIONAL INFORMATION SHARING SYSTEMS".

(2) The heading for part O of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797) is amended to read as follows:

"PART O—RURAL DRUG ENFORCEMENT".

(g) TABLE OF CONTENTS.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) in the item relating to section 501 by striking "Drug Control and System Improvement Grant" and inserting "drug control and system improvement grant";

(2) in the item relating to section 1403 by striking "Application" and inserting "Applications"; and

(3) in the items relating to part O by redesignating sections 1401 and 1402 as sections 1501 and 1502, respectively.

(h) OTHER TECHNICAL AMENDMENTS.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) in section 202(c)(2)(E) by striking "crime,," and inserting "crime,";

(2) in section 302(c)(19) by striking a period at the end and inserting a semicolon;

(3) in section 602(a)(1) by striking "chapter 315" and inserting "chapter 319";

(4) in section 603(a)(6) by striking "605" and inserting "606";

(5) in section 605 by striking "this section" and inserting "this part";

(6) in section 606(b) by striking "and Statistics" and inserting "Statistics";

(7) in section 801(b)—

(A) by striking "parts D," and inserting "parts";

(B) by striking "part D" each place it appears and inserting "subpart 1 of part E";

(C) by striking "403(a)" and inserting "501"; and

(D) by striking "403" and inserting "503";

(8) in the first sentence of section 802(b) by striking "part D," and inserting "subpart 1 of part E or under part";

(9) in the second sentence of section 804(b) by striking "Prevention or" and inserting "Prevention, or";

(10) in section 808 by striking "408, 1308," and inserting "507";

(11) in section 809(c)(2)(H) by striking "805" and inserting "804";

(12) in section 811(e) by striking "Law Enforcement Assistance Administration" and inserting "Bureau of Justice Assistance";

(13) in section 901(a)(3) by striking "and," and inserting ", and";

(14) in section 1001(c) by striking "parts" and inserting "part".

(i) CONFORMING AMENDMENT TO OTHER LAW.—Section 4351(b) of title 18, United States Code, is amended by striking "Administrator of the Law Enforcement Assistance Administration" and inserting "Director of the Bureau of Justice Assistance".

SEC. 330002. GENERAL TITLE 18 CORRECTIONS.

(a) SECTION 1031.—Section 1031(g)(2) of title 18, United States Code, is amended by striking "a government" and inserting "a Government".

(b) SECTION 208.—Section 208(c)(1) of title 18, United States Code, is amended by striking "Banks" and inserting "banks".

(c) SECTION 1007.—The heading for section 1007 of title 18, United States Code, is amended by striking "Transactions" and inserting "transactions".

(d) SECTION 1014.—Section 1014 of title 18, United States Code, is amended by striking the comma that follows a comma.

(e) ELIMINATION OF OBSOLETE CROSS REFERENCE.—Section 3293 of title 18, United States Code, is amended by striking "1008,".

(f) ELIMINATION OF DUPLICATE SUBSECTION DESIGNATION.—Section 1031 of title 18, United States Code, is amended by redesignating the second subsection (g) as subsection (h).

(g) TECHNICAL AMENDMENT TO PART ANALYSIS FOR PART I.—The item relating to chapter 33 in the part analysis for part I of title 18, United States Code, is amended by striking "701" and inserting "700".

(h) AMENDMENT TO SECTION 924(a)(1)(B).—Section 924(a)(1)(B) of title 18, United States Code, is amended by striking "(q)" and inserting "(r)".

(i) PUNCTUATION CORRECTION.—Section 207(c)(2)(A)(ii) of title 18, United States Code, is amended by striking the semicolon at the end and inserting a comma.

(j) CHAPTER ANALYSIS CORRECTION.—The chapter analysis for chapter 223 of title 18, United States Code, is amended by adding at the end the following:

"3509. Child Victims' and child witnesses' rights.".

(k) ELIMINATION OF SUPERFLUOUS COMMA.—Section 3742(b) of title 18, United States Code, is amended by striking "Government," and inserting "Government".

SEC. 330003. CORRECTIONS OF ERRONEOUS CROSS REFERENCES AND MISDESIGNATIONS.

(a) SECTION 1791 OF TITLE 18.—Section 1791(b) of title 18, United States Code, is amended by striking "(c)" each place it appears and inserting "(d)".

(b) SECTION 2703 OF TITLE 18.—Section 2703(d) of title 18, United States Code, is amended by striking "section 3126(2)(A)" and inserting "section 3127(2)(A)".

(c) SECTION 666 OF TITLE 18.—Section 666(d) of title 18, United States Code, is amended—

(1) by redesignating the second paragraph (4) as paragraph (5);

(2) by striking "and" at the end of paragraph (3); and

(3) by striking the period at the end of paragraph (4) and inserting "; and".

(d) SECTION 4247 OF TITLE 18.—Section 4247(h) of title 18, United States Code, is amended by striking "subsection (e) of section 4241, 4243, 4244, 4245, or 4246," and inserting "subsection (e) of section 4241, 4244, 4245, or 4246, or subsection (f) of section 4243,".

(e) SECTION 408 OF THE CONTROLLED SUBSTANCES ACT.—Section 408(b)(2)(A) of the Controlled Substances Act (21 U.S.C. 848(b)(2)(A)) is amended by striking "subsection (d)(1)" and inserting "subsection (c)(1)".

(f) MARITIME DRUG LAW ENFORCEMENT ACT.—(1) Section 994(h) of title 28, United States Code, is amended by striking "section 1 of the Act of September 15, 1980 (21 U.S.C. 955a)" each place it appears and inserting "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)".

(2) Section 924(e) of title 18, United States Code, is amended by striking "the first section or section 3 of Public Law 96-350 (21 U.S.C. 955a et seq.)" and inserting "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)".

(g) SECTION 2596 OF THE CRIME CONTROL ACT OF 1990.—Section 2596(d) of the Crime Control Act of 1990 is amended, effective retroactively to the date of enactment of such Act, by striking "951(c)(1)" and inserting "951(c)(2)".

(h) FEDERAL RULES OF CRIMINAL PROCEDURE.—Rule 46(i)(1) of the Federal Rules of Criminal Procedure for the United States Courts is amended by striking "18 U.S.C. §3144" and inserting "18 U.S.C. §3142".

SEC. 330004. REPEAL OF OBSOLETE PROVISIONS IN TITLE 18.

Title 18, United States Code, is amended—

(1) in section 212 by striking "or of any National Agricultural Credit Corporation," and by striking "or National Agricultural Credit Corporations,";

(2) in section 213 by striking "or examiner of National Agricultural Credit Corporations";

(3) in section 709 by striking the seventh and thirteenth paragraphs;

(4) in section 711 by striking the second paragraph;

(5) by striking section 754 and amending the chapter analysis for chapter 35 by striking the item relating to section 754;

(6) in sections 657 and 1006 by striking "Reconstruction Finance Corporation," and striking "Farmers' Home Corporation,";

(7) in section 658 by striking "Farmers' Home Corporation,";

(8) in section 1013 by striking ", or by any National Agricultural Credit Corporation";

(9) in section 1160 by striking "white person" and inserting "non-Indian";

(10) in section 1698 by striking the second paragraph;

(11) by striking sections 1904 and 1908 and amending the chapter analysis for chapter 93 by striking the items relating to those sections;

(12) in section 1909 by inserting "or" before "farm credit examiner" and by striking "or an examiner of National Agricultural Credit Corporations,";

(13) by striking sections 2157 and 2391 and amending the chapter analysis for chapter 105 and for 115, respectively, by striking the items relating to those sections;

(14) in section 2257 by striking the subsections (f) and (g) that were enacted by Public Law 100-690;

(15) in section 3113 by striking the third paragraph;

(16) in section 3281 by striking "except for offenses barred by the provisions of law existing on August 4, 1939";

(17) in section 443 by striking "or (3) five years after 12 o'clock noon of December 31, 1946,";

(18) in sections 542, 544, and 545 by striking "the Philippine Islands,"; and

(19) in section 1073—

(A) by striking "or which, in the case of New Jersey, is a high misdemeanor under the laws of said State,"; and

(B) by striking "or which in the case of New Jersey, is a high misdemeanor under the laws of said State,".

SEC. 330005. CORRECTION OF DRAFTING ERROR IN THE FOREIGN CORRUPT PRACTICES ACT.

Section 104(a)(3) of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd–2) is amended by striking "issuer" and inserting "domestic concern".

SEC. 330006. ELIMINATION OF REDUNDANT PENALTY PROVISION IN 18 U.S.C. 1116.

Section 1116(a) of title 18, United States Code, is amended by striking ", and any such person who is found guilty of attempted murder shall be imprisoned for not more than twenty years".

SEC. 330007. ELIMINATION OF REDUNDANT PENALTY.

Section 1864(c) of title 18, United States Code, is amended by striking "(b) (3), (4), or (5)" and inserting "(b)(5)".

SEC. 330008. CORRECTIONS OF MISSPELLINGS AND GRAMMATICAL ERRORS.

Title 18, United States Code, is amended—

(1) in section 513(c)(4) by striking "association or persons" and inserting "association of persons";

(2) in section 1956(e) by striking "Evironmental" and inserting "Environmental";

(3) in section 3125—

(A) in subsection (a)(2) by striking "use" and the quotation mark that immediately follows it and inserting "use;";

(B) by realigning the matter in subsection (a)(2) that begins with "may have installed" and ends with "section 3123 of this title" so that it is flush to the left margin; and

(C) by striking "provider for" and inserting "provider of" in subsection (d);

(4) in section 3731 by striking "order of a district courts" and inserting "order of a district court" in the second undesignated paragraph;

(5) in section 151 by striking "mean" and inserting "means";

(6) in section 208(b) by inserting "if" after "(4)";

(7) in section 209(d) by striking "under the terms of the chapter 41" and inserting "under the terms of chapter 41";

(8) in section 1014 by inserting a comma after "National Credit Union Administration Board"; and

(9) in section 3291 by striking "the afore-mentioned" and inserting "such".

SEC. 330009. OTHER TECHNICAL AMENDMENTS.

(a) SECTION 419 OF CONTROLLED SUBSTANCES ACT.—Section 419(b) of the Controlled Substances Act (21 U.S.C. 860(b)) is amended by striking "years Penalties" and inserting "years. Penalties".

(b) SECTION 667.—Section 667 of title 18, United States Code, is amended by adding at the end the following: "The term 'livestock' has the meaning set forth in section 2311 of this title.".

(c) SECTION 1114.—Section 1114 of title 18, United States Code, is amended by striking "or any other officer, agency, or employee of the United States" and inserting "or any other officer or employee of the United States or any agency thereof".

(d) SECTION 408 OF CONTROLLED SUBSTANCES ACT.—Section 408(q)(8) of the Controlled Substances Act (21 U.S.C. 848(q)(8)) is amended by striking "applications, for writ" and inserting "applications for writ".

SEC. 330010. CORRECTION OF ERRORS FOUND DURING CODIFICATION.

Title 18, United States Code, is amended—

(1) in section 212 by striking "218" and inserting "213";

(2) in section 1917—

(A) by striking "Civil Service Commission" and inserting "Office of Personnel Management"; and

(B) by striking "the Commission" in paragraph (1) and inserting "such Office";

(3) by transferring the subchapter analysis for each subchapter of each of chapters 227 and 229 to follow the heading of that subchapter;

(4) so that the heading of section 1170 reads as follows:

"§1170. Illegal trafficking in Native American human remains and cultural items";

(5) so that the item relating to section 1170 in the chapter analysis for chapter 53 reads as follows:

"1170. Illegal trafficking in Native American human remains and cultural items.";

(6) in section 3509(a) by striking paragraph (11) and redesignating paragraphs (12) and (13) as paragraphs (11) and (12), respectively;

(7) in section 3509—

(A) by striking "subdivision" each place it appears and inserting "subsection"; and

(B) by striking "government" each place it appears and inserting "Government";

(8) in section 2252(a)(3)(B) by striking "materails" and inserting " materials";

(9) in section 14 by striking "45," and "608, 611, 612,";

(10) in section 3059A—

(A) in subsection (b) by striking "this subsection" and inserting "subsection"; and

(B) in subsection (c) by striking "this subsection" and inserting "subsection";

(11) in section 1761(c)—

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

(B) by inserting "and" at the end of paragraph (3); and

(C) by striking the period at the end of paragraph (2)(B) and inserting a semicolon;

(12) in the chapter analysis for chapter 11—

(A) in the item relating to section 203 by inserting a comma after "officers" and by striking the comma after "others"; and

(B) in the item relating to section 204 by inserting "the" before "United States Court of Appeals for the Federal Circuit";

(13) in the chapter analysis for chapter 23, in the item relating to section 437, by striking the period immediately following "Indians";

(14) in the chapter analysis for the beginning of chapter 25, in the item relating to section 491, by striking the period immediately following "paper used as money";

(15) in section 207(a)(3) by striking "Clarification of Restrictions" and inserting "Clarification of restrictions";

(16) in section 176 by striking "the government" and inserting "the Government";

(17) in section 3059A(e)(2)(iii) by striking "backpay" and inserting "back pay"; and

(18) by adding a period at the end of the item relating to section 3059A in the chapter analysis for chapter 203.

SEC. 330011. PROBLEMS RELATED TO EXECUTION OF PRIOR AMENDMENTS.

(a) INCORRECT REFERENCE.—Section 2587(b) of Public Law 101–647 is amended, effective as of the date on which that section took effect, by striking "The chapter heading for" and inserting "The chapter analysis for".

(b) LACK OF PUNCTUATION IN STRICKEN LANGUAGE.—Section 46(b) of the Criminal Law and Procedure Technical Amendments Act of 1986 is amended, effective as of the date on which that section took effect, so that—

(A) in paragraph (1), the matter proposed to be stricken from the beginning of section 201(b) of title 18, United States Code, reads "(b) Whoever, directly"; and

(B) in paragraph (2), a comma, rather than a semicolon, appears after "his lawful duty" in the matter to be stricken from paragraph (3) of section 201(b) of that title.

(c) BIOLOGICAL WEAPONS.—(1) Section 3(b) of the Biological Weapons Anti-Terrorism Act of 1989 is amended, effective as of the date on which that section took effect, by striking "2516(c)" and inserting "2516(1)(c)".

(2) The item in the part analysis for part I of title 18, United States Code, that relates to chapter 10 is amended by striking "Weapons" and inserting "weapons".

(d) PLACEMENT OF NEW SECTION.—Section 404(a) of Public Law 101–630 is amended, effective on the date such section took effect, by striking "adding at the end thereof" each place it appears and inserting "inserting after section 1169".

(e) ELIMINATION OF ERRONEOUS CHARACTERIZATION OF MATTER INSERTED.—Section 225(a) of Public Law 101–647 is amended, effective as of the date on which that section took effect, by striking "new rule".

(f) CLARIFICATION OF PLACEMENT OF AMENDMENT.—Section 1205(c) of Public Law 101–647 is amended, effective as of the date on which that section took effect, by inserting "at the end" after "adding".

(g) ELIMINATION OF DUPLICATE AMENDMENT.—Section 1606 of Public Law 101–647 (amending section 1114 of title 18, United States Code) is repealed effective as of the date of enactment of that section.

(h) ERROR IN AMENDMENT PHRASING.—Section 3502 of Public Law 101–647 is amended, effective as of the date on which that section took effect, by striking "10" and inserting "ten".

(i) CLARIFICATION THAT AMENDMENTS WERE TO TITLE 18.—Sections 3524, 3525, and 3528 of Public Law 101–647 are each amended, effective as of the date on which those sections took effect, by inserting "of title 18, United States Code" before "is amended".

(j) CORRECTION OF PARAGRAPH REFERENCE.—Section 3527 of Public Law 101–647 is amended, effective as of the date on which that section took effect, by striking "4th" and inserting "5th".

(k) REPEAL OF OBSOLETE TECHNICAL CORRECTION TO SECTION 1345.—Section 3542 of Public Law 101–647 is repealed, effective as of the date of its enactment.

(l) REPEAL OF OBSOLETE TECHNICAL CORRECTION TO SECTION 1956.—Section 3557(2)(E) of Public Law 101–647 is repealed, effective as of the date of its enactment.

(m) CLARIFICATION OF PLACEMENT OF AMENDMENTS.—Public Law 101–647 is amended, effective as of the date of its enactment—

(1) in section 3564(1) by inserting "each place it appears" after the quotation mark following "2251" the first place it appears; and

(2) in section 3565(3)(A) by inserting "each place it appears" after the quotation mark following "subchapter".

(n) CORRECTION OF WORD QUOTED IN AMENDMENT.—Section 3586(1) of Public Law 101–647 is amended, effective as of the date on which that section took effect, by striking "fines" and inserting "fine".

(o) ELIMINATION OF OBSOLETE TECHNICAL AMENDMENT TO SECTION 4013.—Section 3599 of Public Law 101–647 is repealed, effective as of the date of its enactment.

(p) CORRECTION OF DIRECTORY LANGUAGE.—Section 3550 of Public Law 101–647 is amended, effective as of the date on which that section took effect, by striking "not more than".

(q) REPEAL OF DUPLICATE PROVISIONS.—(1) Section 3568 of Public Law 101–647 is repealed, effective as of the date on which that section took effect.

(2) Section 1213 of Public Law 101–647 is repealed, effective as of the date on which that section took effect.

(r) CORRECTION OF WORDS QUOTED IN AMENDMENT.—Section 2531(3) of Public Law 101–647 is amended, effective as of the date on which that section took effect, by striking "1679(c)(2)" and inserting "1679a(c)(2)".

(s) FORFEITURE.—(1) Section 1401 of Public Law 101–647 is amended, effective as of the date on which that section took effect—

(A) by inserting a comma after ", 5316"; and

(B) by inserting "the first place it appears" after the quotation mark following "5313(a)".

(2) Section 2525(a)(2) of Public Law 101–647 is amended, effective as of the date on which that section took effect, by striking "108(3)" and inserting "2508(3)".

SEC. 330012. AMENDMENT TO SECTION 1956 OF TITLE 18 TO ELIMINATE DUPLICATE PREDICATE CRIMES.

Section 1956 of title 18, United States Code, is amended in subsection (c)(7)(E), by striking the period that follows a period.

SEC. 330013. AMENDMENTS TO PART V OF TITLE 18.

Part V of title 18, United States Code, is amended—

(1) by inserting after the heading for that part the following:

"CHAPTER 601—IMMUNITY OF WITNESSES";

(2) in section 6001(1)—

(A) by striking "Atomic Energy Commission" and inserting "Nuclear Regulatory Commission"; and

(B) by striking "the Subversive Activities Control Board,"

(3) by striking "part" the first place it appears and inserting "chapter"; and

(4) by striking "part" each other place it appears and inserting "title".

SEC. 330014. UPDATE OF CROSS REFERENCE.

Section 408(n)(11) of the Controlled Substances Act is amended by striking "section 405" and inserting "section 418".

SEC. 330015. CORRECTION OF ERROR IN AMENDATORY LANGUAGE.

Section 1904 of Public Law 101–647 is amended, effective as of the date on which that section took effect, by striking "by inserting a new subsection (e) as follows" and inserting "so that subsection (e) reads as follows".

SEC. 330016. CORRECTION OF MISLEADING AND OUTMODED FINE AMOUNTS IN OFFENSES UNDER TITLE 18.

Title 18, United States Code, is amended—

(1)(A) in sections 1693, 1694, 1695, and 1696 by striking "not more than $50" and inserting "under this title";

(B) in sections 333, 489, 754, 1303, 1699, 1701, 1703, 1710, 1723, 1726, 1730, and 2390 by striking "not more than $100" and inserting "under this title";

(C) in sections 1697 and 1698 by striking "not more than $150" and inserting "under this title";

(D) in sections 1165 and 2279 by striking "not more than $200" and inserting "under this title";

(E) in sections 701, 702, 703, 704, 705, 706, 707, 708, 710, 711, 711a, 713, 715, 1164, and 1858 by striking "not more than $250" each place it appears and inserting "under this title";

(F) in sections 916, 1501, 1502, 1719, 1725, and 1861 by striking "not more than $300" and inserting "under this title";

(G) in sections 4, 41, 42, 46, 47, 112, 154, 244, 288, 290, 336, 475, 501, 502, 755, 872, 875, 876, 877, 917, 1013, 1018, 1024, 1154, 1155, 1156, 1382, 1541, 1700, 1703, 1704, 1707, 1712, 1713, 1720, 1721, 1722, 1729, 1731, 1734, 1752, 1793, 1856, 1857, 1863, 1912, 1913, 1922, 2074, 2195, and 2511 by striking "not more than $500" each place it appears and inserting "under this title";

(H) in sections 81, 210, 211, 215, 217, 242, 245, 291, 292, 439, 442, 480, 483, 484, 490, 491, 494, 495, 503, 507, 510, 594, 595, 596, 597, 598, 599, 604, 605, 641, 643, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 661, 662, 665, 712, 751, 752, 756, 795, 796, 797, 836, 844, 871, 875, 876, 877, 879, 911, 912, 913, 924, 957, 959, 961, 1003, 1012, 1021, 1025, 1026, 1071, 1112, 1163, 1262, 1263, 1264, 1301, 1302, 1304, 1306, 1341, 1342, 1343, 1361, 1363, 1384, 1504, 1508, 1509, 1657, 1705, 1706, 1707, 1711, 1715, 1716, 1733, 1738, 1761, 1762, 2276, 2277, 2278, 2382, and 2389 by striking "not more than $1,000" each place it appears and inserting "under this title";

(I) in sections 331, 482, 486, 499, 755, 873, 958, 1016, 1154, 1156, 1381, 1542, 1543, 1544, 1545, 1586, 1621, 1622, 1702, 1708, 1709, 1920, 1921, 1923, 2071, 2193, 2233, 2386, and 2424 by striking "not more than $2,000" each place it appears and inserting "under this title";

(J) in sections 431, 432, 479, 960, 1859, 1901, 1911, and 1959 by striking "not more than $3,000" and inserting "under this title";

(K) in sections 35, 81, 112, 152, 153, 155, 212, 213, 214, 285, 334, 351, 435, 436, 438, 471, 472, 473, 476, 477, 478, 481, 485, 487, 488, 497, 498, 505, 506, 508, 509, 541, 542, 543, 544, 546, 547, 548, 549, 550, 551, 552, 592, 593, 602, 603, 606, 607, 642, 655, 658, 659, 660, 661, 663, 751, 799, 844, 872, 874, 875, 876, 877, 878, 914, 915, 924, 953, 954, 956, 1004, 1010, 1011, 1015, 1017, 1025, 1028, 1071, 1073, 1074, 1163, 1169, 1231, 1265, 1363, 1421, 1422, 1423, 1424, 1425, 1426, 1427, 1428, 1429, 1461, 1462, 1463, 1465, 1503, 1505, 1506, 1507, 1510, 1581, 1582, 1583, 1584, 1585, 1588, 1658, 1659, 1717, 1732, 1735, 1737, 1751, 1906, 1907, 1908, 1909, 1915, 1991, 2072, 2073, 2113, 2217, 2152, 2197, 2231, 2244, 2314, 2316, 2317, 2344, and 2701 by striking "not more than $5,000" each place it appears and inserting "under this title";

(L) in sections 33, 224, 231, 241, 245, 246, 286, 289, 332, 335, 337, 351, 371, 437, 440, 441, 493, 496, 500, 510, 545, 595, 599, 600, 601, 641, 664, 665, 667, 757, 792, 793, 798, 844, 892, 893, 894, 924, 952, 955, 962, 963, 964, 965, 966, 967, 970, 1001, 1002, 1003, 1019, 1020, 1022, 1023, 1027, 1082, 1084, 1115, 1202, 1361, 1362, 1364, 1365, 1385, 1461, 1462, 1464, 1587, 1623, 1654, 1656, 1735, 1737, 1751, 1902, 1903, 1904, 1910, 1951, 1952, 1953, 1954, 1958, 1992, 2101, 2113, 2153, 2154, 2155, 2156, 2231, 2232, 2271, 2274, 2275, 2314, 2315, 2383, 2386, 2387, 2388, and 2512 by striking "not more than $10,000" each place it appears and inserting "under this title";

(M) in section 1028 by striking "not more than $15,000" and inserting "under this title";

(N) in sections 844, 878, 1728, 1955, 1958, 2321, 2384, and 2385 by striking "not more than $20,000" each place it appears and inserting "under this title";

(O) in sections 32, 114, 753, 1028, 1365, 1512, 1792, and 2118 by striking "not more than $25,000" each place it appears and inserting "under this title";

(P) in section 2118 by striking "not more than $35,000" and inserting "under this title";

(Q) in sections 1365, 1958, and 2118 by striking "not more than $50,000" and inserting "under this title";

(R) in section 951 by striking "not more than $75,000" and inserting "under this title";

(S) in sections 32, 1167, 1365, 2251, and 2344 by striking "not more than $100,000" each place it appears and inserting "under this title";

(T) in section 2251 by striking "not more than $200,000" and inserting "under this title"; and

(U) in sections 1158, 1167, 1512, 1513, 2251, 2318, 2320, and 2701 by striking "not more than $250,000" and inserting "under this title";

(2)(A) in sections 3 and 373 by inserting "(notwithstanding section 3571)" before "fined not more than one-half";

(B) in section 113 by striking "fine of not more than" through the immediately following dollar amount each place it appears and inserting "a fine under this title";

(C) in sections 115, 513, 709, 831, 1366, 1511 and 1959 by striking "of not more than" through the immediately following dollar amount each place it appears and inserting "under this title";

(D) in section 201 by inserting "under this title or" after "be fined"; and by inserting "whichever is greater," before "or imprisoned";

(E) in section 402 by striking "fine" the first place it appears and inserting "a fine under this title";

(F) in section 443 by striking "shall, if a corporation, be fined not more than $50,000, and, if a natural person, be fined not more than $10,000" and inserting "shall be fined under this title";

(G) in sections 643, 644, 645, 647, 648, 649, 650, 651, 652, 653, and 1711 by inserting "under this title or" after "be fined" the first place it appears; and by inserting ", whichever is greater," before "or imprisoned the first place it appears;

(H) in sections 646 and 654 by inserting "under this title or" after "be fined" the first place it appears; and by inserting "whichever is greater," before "or imprisoned" the first place it appears;

(I) in section 1029 by striking "of not more than" through the immediately following dollar amount each place it appears and inserting "under this title"; and by inserting ", whichever is greater," before "or imprisonment" each place it appears;

(J) in section 2381 by inserting "under this title but" before "not less than $10,000"; and

(K) in section 3146(b)(1)(A)(iv) by striking "fine under this chapter" and inserting "fined under this title".

SEC. 330017. TECHNICAL CORRECTIONS TO TITLE 31 CRIMES.

(a) TITLE 31, U.S.C., AMENDMENTS.—

(1) Section 5321(a)(5)(A) of title 31, United States Code, is amended by inserting "any violation of" after "causing".

(2) Section 5324(a) of title 31, United States Code, is amended—

(A) by striking "section 5313(a), section 5325, or the regulations issued thereunder or section 5325 or regulations prescribed under such section 5325" each place it appears and inserting "section 5313(a) or 5325 or any regulation prescribed under any such section"; and

(B) by striking "with respect to such transaction".

(b) AMENDMENT RELATING TO TITLE 31, U.S.C.—

(1) Effective as of the date of enactment of the Annunzio-Wylie Anti-Money Laundering Act, section 1517(b) of that Act is amended by striking "5314" and inserting "5318".

(2) Section 5239 of the Revised Statutes of the United States is amended by redesignating the second subsection (c) (as added by section 1502(a) of the Annunzio-Wylie Anti-Money Laundering Act) as subsection (d).

SEC. 330018. REPEAL OF SUPERFLUOUS STATUTE OF LIMITATION AND TRANSFER OF CHILD ABUSE STATUTE OF LIMITATION.

(a) IN GENERAL.—Section 3283 of title 18, United States Code, is amended to read as follows:

"§3283. Child abuse offenses

"No statute of limitations that would otherwise preclude prosecution for an offense involving the sexual or physical abuse of a child under the age of 18 years shall preclude such prosecution before the child reaches the age of 25 years.".

(b) CONFORMING REPEAL.—Section 3509(k) of title 18, United States Code, is amended by striking the subsection heading and the first sentence and inserting "STAY OF CIVIL ACTION.—".

(c) TECHNICAL AMENDMENT.—The item in the chapter analysis for chapter 213 of title 18, United States Code, that relates to section 3283 is amended to read as follows:

"3283. Child abuse offenses.".

SEC. 330019. TECHNICAL ERRORS IN SECTION 1956.

(a) TECHNICAL CORRECTIONS.—Section 1956 of title 18, United States Code, is amended—

(1) in subsection (c)(7)(B)(iii) by inserting a close parenthesis after "1978";

(2) by redesignating the second subsection (g) as subsection (h); and

(3) in subsection (a)(2) by inserting "not more than" before "$500,000".

(b) CROSS REFERENCE CORRECTION.—Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking "section 9(c) of the Food Stamp Act of 1977" and inserting "section 15 of the Food Stamp Act of 1977".

SEC. 330020. TECHNICAL ERROR.

Section 1957(f)(1) of title 18, United States Code, is amended by striking the comma that follows a comma.

SEC. 330021. CONFORMING SPELLING OF VARIANTS OF "KIDNAP".

Title 18, United States Code, is amended—

(1) by striking "kidnaping" each place it appears and inserting "kidnapping"; and

(2) by striking "kidnaped" each place it appears and inserting "kidnapped".

SEC. 330022. MARGIN ERROR.

Section 2512(2) of title 18, United States Code, is amended by realigning the matter that begins with "to send through" and ends with "electronic communications" so that it is flush to the left margin.

SEC. 330023. TECHNICAL CORRECTIONS RELATING TO SECTION 248 OF TITLE 18, UNITED STATES CODE.

(a) IN GENERAL.—Chapter 13 of title 18, United States Code, is amended—

(1) in the chapter analysis so that the item relating to section 248 reads as follows:

"248. Freedom of access to clinic entrances.";

(2) so that the heading of section 248 reads as follows:

"§248. Freedom of access to clinic entrances"; *and*

(3) in section 248(b) by inserting ", notwithstanding section 3571," before "be not more than $25,000".

(b) EFFECTIVE DATE.—The amendments made by this subsection (a) shall take effect on the date of enactment of the Freedom of Access to Clinic Entrances Act of 1994.

SEC. 330024. TECHNICAL AMENDMENTS NECESSITATED BY THE ENACTMENT OF THE DOMESTIC CHEMICAL DIVERSION CONTROL ACT OF 1993.

(a) MISSING CONJUNCTION.—Section 102(39)(A)(iv) of the Controlled Substances Act (21 U.S.C. 802(39)(A)(iv)) is amended by striking the period at the end and inserting "; or".

(b) PUNCTUATION AND INDENTATION CORRECTION.—Section 102(34) of the Controlled Substances Act is amended—

(1) by moving subparagraphs (V) and (W) two ems toward the left margin;

(2) in subparagraph (V) by striking "b" and inserting "B"; and

(3) in subparagraph (W) by striking "n" the first place it appears and inserting "N".

(c) ERRONEOUS CROSS REFERENCES.—

(1) Section 5(a) of the Domestic Chemical Diversion Control Act of 1993 is amended by striking "section 1505(a)" and inserting "section 4".

(2) Section 9(b) of the Domestic Chemical Diversion Control Act of 1993 is amended by striking "Controlled Substances Act" and inserting "Controlled Substances Import and Export Act".

(d) CORRECTION OF AMENDATORY LANGUAGE.—

(1) Section 2(a)(4)(B) of the Domestic Chemical Diversion Control Act of 1993 is amended by inserting "the first place it appears" before the semicolon.

(2) Section 5(b)(3) of the Domestic Chemical Diversion Control Act of 1993 is amended by striking "at the end" and inserting "after paragraph (4)".

(e) MISSING CONFORMING AMENDMENT.—Section 304(g) of the Controlled Substances Act is amended by inserting "or chemical" after "such substance" in the last sentence.

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect as of the date that is 120 days after the date of enactment of the Domestic Chemical Diversion Control Act of 1993.

SEC. 330025. VICTIMS OF CRIME ACT.

(a) INCORRECT SECTION REFERENCE.—Section 1402(d)(3) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(d)(3)) is amended by striking "1404(a)" and inserting "1404A".

(b) MISSING TEXT.—Section 1403(b)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(b)(1)) is amended by inserting after "domestic violence" the following: "for—

"(A) medical expenses attributable to a physical injury resulting from compensable crime, including expenses for mental health counseling and care;

"(B) loss of wages attributable to a physical injury resulting from a compensable crime; and

"(C) funeral expenses attributable to a death resulting from a compensable crime".

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the amendment of the House to the title of the bill, insert the following: "An Act to control and prevent crime.".

And the House agree to the same.

JACK BROOKS,
DON EDWARDS,
BILL HUGHES,
CHARLES SCHUMER,
JOHN CONYERS,
PAT SCHROEDER,
BARNEY FRANK,
MICHAEL N. CASTLE,

As additional conferees from the Committee on Agriculture, for consideration of sections 4601–08, 5105, and 5145 of the Senate amendment, and modifications committed to conference:

E DE LA GARZA,
CHARLIE ROSE,
CHARLIE STENHOLM,
PAT ROBERTS,
RICHARD POMBO,

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of sections 2201–04, 2301, and 4901–33 of the Senate amendment, and sections 1031(b), 1038, and 1099AA–1099CC of the House amendment, and modifications committed to conference:

HENRY GONZALEZ,
STEPHEN NEAL,
BRUCE F. VENTO,

As additional conferees from the Committee on Education and Labor, for consideration of sections 631–33, 662(e), 662(f), 811–16, 921–28, 1121–50, 1331, 2801–03, 3261, 3263, 3311, 3341, 3351, 3361, 3381–83, 3501, 3707, 4001–09, 4301–04, 4701–02, 4801–09, 4901–33, 5120, 5122, 5135, 5140, 5142–43, and 5147 of the Senate amendment, and sections 1010–26, 1030–34, 1038, 1051–52, 1065–71, 1081–96, 1099A–1099G, 1099H–1099O, 1099P–1099T, 1606, 1610, 1653–54, 1902(e), 1902(f), 2201–02, 2701–39, 3061–62, 3089–90, of the House amendment, and modifications committed to conference:

WILLIAM D. FORD,
DALE E. KILDEE,

As additional conferees from the Committee on Energy and Commerce, for consideration of sections 1503–04, 1511–23, 1532, 1534–35, 1537, 1902(e), 3101–03, 3261, and 5166 of the Senate amendment, and sections 1010–26, 1041–44, 1606, 2901–03, and 3086 of the House amendment, and modifications committed to conference:

JOHN D. DINGELL,
HENRY A. WAXMAN,
CARDISS COLLINS,

As additional conferees from the Committee on Government Operations, for consideration of sections 1353–54, 1535, and 5150 of the Senate amendment, and sections 1075–76 of the House amendment, and modifications committed to conference:

Provided, Mr. Spratt and Mr. Kyl are appointed in lieu of Mr. Waxman and Mr. Clinger solely for the consideration of sections 1535 and 5150 of the Senate amendment.

JOHN M. SPRATT, Jr.,

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of sections 713–15, 4601–08, 5105, and 5145 of the Senate amendment, and modifications committed to conference:

GARY E. STUDDS,
GEORGE HOCHBRUECKNER,

As additional conferees from the Committee on Natural Resources, for consideration of sections 3232–33, 4601–08, and 5145 of the Senate amendment and sections 1099U–1099Z of the House amendment, and modifications committed to conference:

GEORGE MILLER,
BRUCE VENTO,
KAREN SHEPHERD,
DON YOUNG,

Provided, Ms. English of Arizona is appointed in lieu of Ms. Shepherd solely for the consideration of sections 4601–08 of the Senate amendment.

KAREN ENGLISH,

Provided, Mr. Hinchey is appointed in lieu of Ms. Shepherd solely for the consideration of sections 1099U–1099Z of the House amendment.

MAURICE HINCHEY,

As additional conferees from the Committee on Post Office and Civil Service, for consideration of sections 1352 and 3371 of the Senate amendment, and modifications committed to conference:

WILLIAM CLAY,
FRANK MCCLOSKEY,
ELEANOR H. NORTON,
CONSTANCE MORELLA,

As additional conferees from the Committee on Public Works and Transportation, for consideration of sections 1533, 1536, and 3231 of the Senate amendment, and section 1801 of the House amendment and modifications committed to conference:

NORMAN Y. MINETA,
NICK RAHALL,
BUD SHUSTER,
THOMAS E. PETRI,

As additional conferees from the Committee on Rules, for consideration of sections 1353–54 of the Senate amendment, and modifications committed to conference:

BUTLER DERRICK,

As additional conferees from the Committee on Ways and Means, for consideration of sections 311(b), 1502, 1515–16, 1802, 4702(e)(1), 5102,

and 5113 of the Senate amendment, and modifications committed to conference:

DAN ROSTENKOWSKI,
SAM GIBBONS,
J.J. PICKLE,
Managers on the Part of the House.

JOSEPH R. BIDEN, Jr.,
TED KENNEDY,
HOWARD METZENBAUM,
DENNIS DECONCINI,
PAT LEAHY,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (H.R. 3355), to amend the Omnibus Crime Control and Safe Streets Act of 1968 to allow grants to increase police presence, to expand and improve cooperative efforts between law enforcement agencies and members of the community to address crime and disorder problems, and otherwise to enhance public safety, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

TITLE I—PUBLIC SAFETY AND POLICING

House sections 1401–02 recede to Senate sections 101–02 and that portion of section 103 dealing with "Cops on the Beat" with the following modifications: the minimum amount for each qualified State is 0.5 percent; all applications will be direct to the Attorney General with special provisions for expedited submission and approval of applications from America's small jurisdictions as well as for small grants for non-police hiring; cost per police officer shall be limited to $75,000 which may be expended for periods up to five years; hiring funds may also be used to train new career law enforcement officers for community policing; 50 percent of the monies must be granted to jurisdictions with populations over 150,000, the remaining 50 percent must be allocated to jurisdictions with populations of 150,000 or less; the addition of the House provision regarding coordination of other Federal programs; a revised minority recruitment section; the addition of Indian tribal governments; and other modifications.

The Conferees are particularly concerned about those areas where members of racial and ethnic minority groups and women are highly under-represented in the law enforcement agency's sworn positions. The Conferees encourage the Attorney General to review this matter carefully in the applications from such areas.

One of the modifications permits additional flexibility in the use of grant funds. The Conferees were informed that, in some police departments, payment of overtime or purchase of computers or other technology or the employment of support personnel will enable officers to be deployed, or redeployed from non-patrol assignments, to community-oriented policing assignments. The additional flexibility is intended to achieve that goal.

Thus, in addition to the use of grant funds pursuant to 1701(b) to hire or rehire police officers, a limited amount of such funds can be used for the payment of overtime or procurement of equipment, technology or support systems or support personnel, provided that expenditures for such purposes enable additional officers to be deployed to community-oriented policing assignments. The Conferees also note that, in appropriate circumstances, the permissible uses of the funding pursuant to section 1701(d) could also include payment for overtime.

The Conferees intend that the Attorney General, in awarding grants that will be used for redeployment purposes, take into consideration the extent to which police departments are committed to consultation about such redeployment with representatives of local labor organizations that represent police officers.

The Conferees also note Congress has found with regard to this title that: (1) according to data compiled by the Federal Bureau of Investigation, in 1961, there was approximately 1 reported violent crime per city police officer; but, while from 1961–1991 there was no substantial increase in United States cities' police employment rate, during the same period the number of reported violent crimes per city police officer rose to approximately 4.6 per officer; (2) National Crime Survey figures indicate that nearly 5,000,000 households in the United States had at least 1 member who had been a victim of violent crime during 1991; (3) these victims of violence experienced more than 6,400,000 crimes of which about one-half were reported to law enforcement authorities; (4) community-oriented policing ("cops on the beat") enhances communication and cooperation between law enforcement and members of the community; (5) such communication and cooperation between law enforcement and members of the community significantly assists in preventing and controlling crime and violence, thus enhancing public safety; and (6) while increasing and maintaining police resources and presence in the community are the long-term responsibility of State and local governments, State and local law enforcement agencies are in need of immediate assistance to begin the process of rehiring officers who have been laid off for budgetary reasons and hiring new, additional officers to assist in the implementation of community-oriented policing.

TITLE II—PRISONS

SUBTITLE A—VIOLENT OFFENDER INCARCERATION AND TRUTH IN SENTENCING INCENTIVE GRANTS

Senate sections 1321 and 1341 recede to House sections 601–05 and 801–04 with modifications.

SUBTITLE B—PUNISHMENT FOR YOUNG OFFENDERS

Senate section 1203, Certainty of Punishment for Young Offenders, recedes to House sections 2101–03 with modifications.

SUBTITLE C—ALIEN INCARCERATION

Senate section 5136, reimbursement for the costs of incarcerating criminal illegal aliens, recedes to House section 2403 with modifications to change the compensation criteria and funding provision.

SUBTITLE D—MISCELLANEOUS

Section 20401—House recedes to Senate section 1301, offender's place of imprisonment.

Section 20402—House recedes to Senate section 1302, prison impact statements, with modification.

Section 20403—House recedes to Senate section 1305, criminal fines to account for the cost of imprisonment.

Section 20404—House recedes to Senate section 1325, supervised release pertaining to probation or parole.

Section 20405—House recedes to Senate section 5101, "good time credits," with modification.

Sections 20406–07—House section 3046 recedes to Senate section 5107, task force on prison design and construction and section 5112, encouraging and assessing low-cost construction components, with modifications. The Conferees note the sense of Congress that, in providing assistance to State and local governments, the Attorney General should emphasize the provision to technical assistance in implementing methods to promote cost efficiency and realization of savings.

Section 20408—House recedes to Senate section 5120, panel of correctional educational experts, with modification.

Section 20409—House section 3080, prison overcrowding, recedes to Senate section 5139. The Conferees note that this section has no effect on the certification or success of class action lawsuits.

Section 20410—House recedes to Senate section 5149, Sense of Senate regarding prison facilities in Lorton, with technical modifications.

Section 20411—Senate section 5135, Pell grants, recedes to House section 3089.

Section 20412—Senate recedes to House section 3095, requiring prisoners to earn a high school diploma or G.E.D., with modifications.

Section 20413—Senate recedes to House section 3021 with modifications to delete subsection (c), remove limit on facilities suitable for conversion, and conforming modifications.

Section 20414—House recedes to Senate section 1303 with modification.

Section 20415—House recedes to Senate section 1801–02, Bail Posting Reporting, with modifications to the reporting requirements regarding the Internal Revenue Service.

Section 20416—House sections 3070–74, Civil Rights of Institutionalized Persons, recede to Senate section 5103 with modification to change subsection (b) to conform with current law.

Section 20417—House recedes to Senate section 1324, notification of release of prisoners, with modification to lodge responsibility in the appropriate Federal entity.

Section 20418—House recedes to Senate sections 4701–02, Correctional Job Training and Placement, with technical modification. The Conferees note with respect to this provision Congress finds that job training and placement are important to, and make a significant contribution to, the readjustment to society of incarcerated persons and ex-offenders; and there is a growing need for immediate action by the Federal Government to assist State and local job training programs, and job placement programs, that provide services to incarcerated persons or ex-offenders.

Senate section 1322, NIJ study of inmate transfers, recedes to House.

Senate section 1323, NIJ study of recidivism rates, recedes to House.

Senate section 5125, use of anti-loitering laws, recedes to House.

Senate section 5113 recedes to House.

Senate section 5138, improvement of Federal and State fingerprinting systems, recedes to House.

Senate section 5153, Sense of Senate regarding Federal Prison Industries, recedes to House.

Senate section 5165, reviewing capacity of Federal prisons to accommodate State prisoners, recedes to House.

House section 3066, strength training in prisons, recedes to Senate.

It is the intent of the Conferees that, with the exception of Subtitle B of Title II (which provides for correctional programming for offenders up to the age of 22), all programs

and activities for juvenile offenders funded under this legislation shall be carried out in a manner consistent with the mandates of the Juvenile Justice and Delinquency Prevention Act (42 U.S.C. §5600 et seq.).

TITLE III—CRIME PREVENTION

SUBTITLE A—OUNCE OF PREVENTION COUNCIL

Section 30101—House section 1010 recedes to Senate section 103, Ounce of Prevention, with modifications including to: (1) give President the authority to designate chair, (2) give authority to the Council to coordinate any program under the bill, but only at the request of the Council member with jurisdiction over the program; (3) revise Council's administrative responsibilities or powers; (4) revise evaluation component.

The Conferees note the work of the National Crime Prevention Council, which serves as a resource center for the prevention of crime, violence, and substance abuse. Such work is reflected in the design of a variety of programs in this bill.

Section 30102-04—Senate recedes to House section 1011 with modifications.

SUBTITLE B—LOCAL CRIME PREVENTION BLOCK GRANT PROGRAM

Section 30201-08—Conferees consolidate various House and Senate crime prevention programs in a Local Crime Prevention Block Grant Program. The Attorney General is to allocate funds directly to units of local government based on the number of violent crimes and at-risk children. Funds are permitted to be used to carry out one or more of the purposes of the following House and Senate provisions: Senate section 633, Youth Development Centers; Senate section 5143, Olympic Youth Development Centers; Senate section 631, Juvenile Drug and Gang Prevention Grants; Senate sections 4001-09, Child Safety; House sections 1065-71, National Triad Program; House sections 1099I-990, Gang Prevention Services for Boys and Girls; House sections 1081-96, Youth Employment and Skills Crime Prevention; House section 1038, Midnight Sports; House sections 1099P-99T, Anti-Crime Youth Councils; House sections 1099A-99C, Boys and Girls Clubs in Public Housing; House sections 1099B-99G, Hope in Youth; House proposal regarding Safe Senior Corridors; and House sections 1030-34, Police Partnerships and Safe Low Income Housing.

CHILD SAFETY

The Conferees note that the problem of family violence does not necessarily cease when the victimized family is legally separated, divorced, or otherwise not sharing a household. During separation and divorce, family violence often escalates, and child custody and visitation become the new forum for the continuation of abuse. Some perpetrators use the children as pawns to control the abused party after the couple is separated. Every year an estimated 1,000 to 5,000 children are killed by their parents in the United States. In 1988, the Department of Justice reported that 354,100 children were abducted by family members who violated custody agreements or decrees (most victims were children from ages 2 to 11 years). Approximately 160,000 children are seriously injured or impaired by abuse or neglect each year. Studies by the American Humane Association indicate that reports of child abuse and neglect have increased by over 200 percent from 1976 to 1986; approximately 90 percent of children in homes in which their mothers are abused witness the abuse. Data indicates that women and children are at elevated risk for violence during the process of and after separation; and 50 to 70 percent of men who abuse their spouses or partners also abuse their children. Up to 75 percent of all domestic assaults reported to law enforcement agencies were inflicted after the separation of the couples; in one study of spousal homicide, over half of the male defendants were separated from their victims, seventy-three percent of battered women seeking emergency medical services do so after separation.

THE TRIAD MODEL

The Conferees note that Triad cooperative models are sponsored by the National Sheriff's Association (NSA), the International Association of Chiefs of Police (IACP), and the American Association of Retired Persons (AARP).

The Conferees also note that older Americans are among the most rapidly growing segments of our society; currently, older Americans comprise 15 percent of our society, and predictions are that by the turn of the century they will constitute 18 percent of the nation's population; older Americans find themselves uniquely situated in the society, environmentally and physically; many older Americans are experiencing increased social isolation due to fragmented and distant familial relations, scattered associations, limited access to transportation, and other insulating factors; physical conditions such as hearing loss, poor eyesight, lessened agility, and chronic and debilitating illnesses often contribute to a senior citizen's susceptibility to criminal victimization; older Americans are too frequently the victims of abuse and neglect, violent crime, property crime, consumer fraud, medical quackery, and confidence games; studies have found that older Americans who are victims of violent crime are more likely to be injured and require medical attention than are younger victims; victimization data on crimes against older Americans are incomplete and out of date, and data sources are partial, scattered, and not easily obtained; although a few studies have attempted to define and estimate the extent of abuse and neglect of older Americans, both in their homes and in institutional settings, many experts believe that abuse and neglect crimes are substantially underreported and undetected; similarly, while some evidence suggests that older Americans may be targeted in a range of fraudulent schemes, neither the Uniform Crime Report nor the National Crime Survey collects data on individual- or household-level fraud; many law enforcement agencies do not have model practices for responding to the criminal abuse of older Americans; law enforcement officers and social service providers come from different disciplines and frequently bring different perspectives to the problem of crimes against older Americans; the differences in approaches can inhibit a genuinely effective response; there are a few efforts currently under way that seek to forge partnerships to coordinate criminal justice and social service approaches to victimization of older Americans; the Triad program, sponsored by the National Sheriffs' Association (NSA), the International Association of Chiefs of Police (IACP), and the American Association of Retired Persons (AARP), is one such effort; the Assistant Secretary for Aging, as the senior executive branch officer formulating older Americans policy is an appropriate leader in efforts to reduce violent crime against older Americans; and recognizing that older Americans have the same fundamental desire as other members of our society to live freely, without fear or restriction due to the criminal element, the Federal government should seek to expand efforts to reduce crime against this growing and uniquely vulnerable segment of our population.

GANG PREVENTION SERVICES FOR BOYS AND GIRLS

The Conferees note that services provided through existing federally supported gang prevention programs do not adequately address the needs of boys and girls in communities with high levels of gang activity and other barriers to service (such as large concentrations of minority populations who have limited English speaking proficiency, geographically isolated populations, and communities in which social service providers are limited or nonexistent); children who are exposed to gang activity at an early age are more likely to become gang-involved than children who are exposed to such activity later in life, or children who are never exposed to such activity; gangs are increasingly targeting younger children for recruitment, especially children at middle schools and elementary schools; Federal studies indicate that violent crime has increased more significantly in the gang population compared to the adult population; and small community-based service agencies with strong ties to the educational and law enforcement systems offer the best chance to prevent young children from becoming involved in gangs.

HOPE IN YOUTH

The Conferees note that larger cities around the country, particularly those involved in empowerment zones, are attempting to empower low-income and ethnic minority communities; programs that involve local government and local community leaders and that include significant participation by service providers, service participants, and service funders, as equal partners in the design and direction of a myriad of social service support programs have been among the most effective demonstration models; programs that attempt to link disenfranchised and disconnected citizens through an umbrella organization that provides guidance to public and private service providers have proven to be an effective strategy for empowering local low-income communities; families in low-income communities have not attained their full potential as productive citizens, and Federal efforts thus far have been insufficient to assist them in fully realizing that potential.

POLICE PARTNERSHIPS

The Conferees note that homicide is the second leading cause of juvenile injury deaths for all youth 15 to 24 years of age. Homicide rates for children and youth have more than doubled since 1950. Teenagers are more than twice as likely as adults to be victims of violent crime, such as rape, robbery or assault. Physical fighting severe enough to require medical treatment for at least one participant occurs among high school students in patterns similar to those of homicide. The incidence rates of such physical fighting are higher for males than females, higher for minorities than for nonminorities, and more frequent between acquaintances than among strangers. Children increasingly live amidst chronic community violence and experience trauma as a result of such violence. One survey of inner-city children 6 to 10 years of age found that over 90 percent had witnessed some type of violence. A Chicago housing project survey found that virtually all children in such survey had firsthand experiences with shootings by the age of 5. Children who have been the victims of, or

who have witnessed violence, are at risk of becoming involved in further violence if the trauma such children have experienced is not addressed. Police frequently encounter children who have been the victims of violence or who have witnessed violence in the course of the police work, but the police often lack the resource necessary to adequately respond to such children's needs. Child and family service agencies have expertise in child development and family issues that could support police efforts. Community-based police, by their visibility at the neighborhood level and their engagement in benign activities, can provide role models and resources to promote the well-being of children and families, as well as to identify and refer those at risk for behavioral problems.

SUBTITLE C—MODEL INTENSIVE GRANT PROGRAMS

Senate recedes to House sections 1001–07, Model Intensive Grants, with modifications to add a provision ensuring equitable distribution of grants; to include a definition of the term "State"; and to permit consultation with the Ounce of Prevention Council.

SUBTITLE D—FAMILY AND COMMUNITY ENDEAVOR SCHOOLS GRANT PROGRAM

House sections 1015–24, Community Schools, recede to Senate section 5142 with modifications which include dividing the program into two separate programs: (1) Community Schools, with responsibility lodged in the Secretary of Health and Human Services in consultation and coordination with the Attorney General, and (2) Family and Community Endeavor Schools (FACES), with responsibility lodged in the Secretary of Education.

COMMUNITY SCHOOLS

The Conferees note the sense of the Congress with regard to Community School that public-private partnerships between government and community-based organizations offer an opportunity to empower distressed and disconnected communities to develop their resources and abilities in order to meet the needs of children, forge innovative solutions to the challenges confronting the development of the children in such communities, and create environments where children grow up learning a healthy respect for themselves, for neighbors, and for their communities; increased resources should be invested in public-private partnerships; and community-based organizations, acting through such public-private partnerships should provide year-round supervised sports programs, and extracurricular and academic programs, for children in the communities, and in providing such extracurricular and academic programs, should promote the positive character development of such children through programs such as curriculum-based supervised educational, work force preparation, entrepreneurship, cultural, and health programs, social activities, arts and crafts programs, dance programs, tutorial and mentoring programs, and other related activities.

The Conferees also note that Congress has found with regard to this program the following: parents are devoting less time than in previous generations to the supervision, education, and nurturing of their children; the lack of supervision and meaningful activity after school contributes to the spread of violent juvenile delinquency in the form of youth and gang violence, drug trafficking, dangerous and self-destructive behavior, and lack of hope among children in our Nation; every child has the capacity to be productive and law abiding and deserves to grow in a safe and protected environment; communities have a responsibility to develop the children of our Nation into productive adults; because of their centrality, public schools are among the best facilities that communities can use to provide needed space and support services for programs for children; schools are most effective at serving a community when the people of the community are involved in activities designed to fulfill the needs of children in the community; and activities provided in community centers, recreational facilities, and other places where children gather, have a significant impact and influence on the behavior and attitudes of children.

FAMILY AND COMMUNITY ENDEAVORS SCHOOLS

The Conferees note that Congress has found with regard to this program that: (1) children in areas with a high incidence of poverty are more likely to be exposed to problems created by economic deprivation, poor housing, overwhelming family responsibilities, inadequate parental educational background or parental substance abuse and are at risk of failure; (2) students from poor families are 3 times more likely to drop out of school than students from more advantaged homes; (3) without social intervention, at-risk children are often unable to improve academic performance; (4) schools are accessible, central resources in every community where social and education services can be coordinated and disseminated to at-risk children and their families; (5) schools are most effective at serving a community when the people of the community are involved in school management and help design activities to fulfill the needs of children in the community; and (6) many schools have successfully improved the academic performance and social development of at-risk children by instituting an organizational and management plan that incorporates parental involvement in school management and incorporates mental health and social intervention services in the daily academic curriculum.

SUBTITLE G—ASSISTANCE FOR DELINQUENT AND AT-RISK YOUTH

Senate recedes to House sections 1051–52, Assistance for Delinquent and At-Risk Youth, with technical modification.

SUBTITLE H—POLICE RECRUITMENT

Senate recedes to House sections 1061–62, Police Recruitment, with technical modification. The term 'non-profits' includes, but is not limited to, public institutions of higher education that so qualify under section 501(c)(3) of the Internal Revenue Code.

SUBTITLE J—LOCAL PARTNERSHIP ACT

Senate recedes to House section 1075–76, Local Partnership Act, with various modifications including the clarification of the purposes for which funds under this program can be used. The Local Partnership Act ("LPA") is authorized for fiscal years 1995 through 2000 rather than for fiscal years 1995 and 1996. At the request of the Administration, the LPA will be administered by the Secretary of Housing and Urban Development ("HUD") rather than the Secretary of Treasury, and HUD may delegate some or all of its administrative responsibilities to other Executive branch departments and agencies. Two and one-half percent of the total funds authorized for the LPA are authorized to be appropriated for fiscal years 1995 through 2000 for administrative costs of HUD in administering the LPA. Checks will be sent to local governments by HUD within 90 days of the actual appropriation of funds rather than 60 days. Technical changes are made in the LPA's allocation formula so that HUD will be able to replicate for fiscal year 1995 the dollar allocations to 39,000 local governments produced by the General Accounting Office ("GAO") on April 25, 1994; for later years HUD is free to use more reliable data—if available—than the data used by GAO.

The Conferees note that, in some areas of the country, public functions such as transportation, education, and hospitals are supported by property or sales taxes collected by separate taxing jurisdictions. The Conferees expect HUD, in consultation with the Governments Division of the Bureau of the Census, to report to the Committee on Government Operations on the operation of the Local Partnership Act in such areas and to include in its report any suggestions on changes to the statutory definition of the general tax effort factor.

The Conferees agreed to an amendment dealing with payments of less than $5,000 to Indian tribes and Alaskan native villages.

The Conferees also agreed to an amendment providing that GAO will report to Congress on a comparison of waste and efficiency under the LPA compared to other comparable Federal programs.

The Local Partnership Act contains a one percent set-aside for the Commonwealth of Puerto Rico, Guam, American Samoa, and the Virgin Islands. The allocation formula for local governments within the 50 States does not apply to these four jurisdictions. The Conferees expect, however, that objective criteria, such as population and/or per capita income, will be used to ensure an equitable distribution of these funds regrading the local governments within these four jurisdictions.

SUBTITLE K—NATIONAL COMMUNITY ECONOMIC PARTNERSHIP

House recedes to Senate sections 4901–33, Community Economic Partnership Act.

SUBTITLE O—URBAN RECREATION AND AT-RISK YOUTH

Senate recedes to House sections 1099U–99Z, Urban Recreation and At-Risk Youth, with modifications.

SUBTITLE Q—COMMUNITY BASED GRANTS FOR PROSECUTORS

Senate recedes to House sections 1099DD–99KK, Community Based Justice Grants for Local Prosecutors, with modifications.

SUBTITLE S—FAMILY UNITY DEMONSTRATION PROJECT

House recedes to Senate sections 4101–22, Family Unity Demonstration Project, with the following modifications: a child is defined as less than seven years of age; the definition of eligible offender as well as the definition of a State are clarified; the Attorney General is designated as the responsible official; and technical modification.

The Conferees note that Congress finds with regard to this program an increasing number of children are becoming separated from their primary caretaker parents due to the incarceration of the parents in prisons and jails; such separation of children from their primary caretaker parents can cause harm to children's psychological well-being and hinder their growth and development; a significant number of children are born shortly before or during the incarceration of their mothers and are then quickly separated from their mothers, preventing the parent-child bonding that is crucial to developing in children a sense of security and trust; maintaining close relationships with

their children provides a powerful incentive for prisoners to participate in and successfully benefit from rehabilitative programs; and maintaining strong family ties during imprisonment has been shown to decrease recidivism, thereby reducing prison costs.

SUBTITLE T—SUBSTANCE ABUSE TREATMENT IN FEDERAL PRISONS

Senate section 1304, Drug Treatment in Federal Prisons, recedes to House section 2001 with modifications to subject the program to the availability of appropriations, to require the Bureau of Prisons to provide residential treatment, and to limit the early release incentive for successful program completion to non-violent offenders.

The authority provided to the Bureau of Prisons under this section is not to be construed as limiting any authority already possessed by the Bureau of Prisons with respect to the release of inmates.

SUBTITLE U—RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR STATE PRISONERS

Senate section 1204 recedes to House sections 2301–02, Substance Abuse Treatment in State Prisons, with modifications to clarify that certain local detention facilities are eligible; extend the time for approval of an application to not later than 90 days; change the time period for residential substance abuse treatment programs to those lasting between 6 and 12 months; and designate the Attorney General as the responsible official.

SUBTITLE V—PREVENTION, DIAGNOSIS, AND TREATMENT OF TUBERCULOSIS IN CORRECTIONAL INSTITUTIONS

House recedes to Senate section 5121, tuberculosis prevention, with modification to include National Institute of Corrections rather than National Institute of Justice.

SUBTITLE X—GANG RESISTANCE EDUCATION AND TRAINING

House recedes to Senate section 5163, Gang Resistance Education and Training Projects, with modifications. The Conferees intend that the Secretary of the Treasury will consult with the Director of the BATF regarding the selection of communities for participation in this program.

TITLE IV—VIOLENCE AGAINST WOMEN

SUBTITLE A—SAFE STREETS FOR WOMEN

CHAPTER 1—FEDERAL PENALTIES FOR SEX CRIMES

Section 40111—House recedes to Senate section 3211, increasing penalties for repeat offenders, with modifications regarding foreign country convictions.

Section 40112—House recedes to Senate section 3212, Federal penalties.

Section 40113—House section 1609 recedes to Senate section 3213 and the restitution provisions of 3321 and 3704–05, with modifications including: if a court finds a defendant is unable to pay any amount of restitution under any reasonable schedule of payments, the court must enter an order providing for a nominal restitution award; victims are permitted to enforce restitution awards; victims can recover costs in obtaining civil protection orders; the provision on compensation to third party payers is eliminated; privacy of records is expanded; compliance with a restitution order is made a condition of probation or supervised release; petition to modify order is added; court authority to refer, subject to de novo review, a matter to a magistrate or special master is added.

Section 40114—House recedes to Senate section 3214, Federal victims' counselors.

CHAPTER 2—LAW ENFORCEMENT AND PROSECUTION GRANTS TO REDUCE VIOLENT CRIMES AGAINST WOMEN

House recedes to Senate section 3221, grants to combat violent crimes against women, with the following modifications: the merger of three grant programs in Senate bill: grants for high intensity crime areas, general grants to States, and Domestic Violence and Family Support Grants (§3341); the addition of purposes to strengthen victim services programs in diverse populations, and programs addressing the needs of Indian tribes; the addition of a matching fund requirement (which tribal governments may satisfy with Federal funds from the Bureau of Indian Affairs); and the designation of the Attorney General as the responsible official. With regard to the matching fund requirement, the Conferees intend that in disbursing grants for nongovernmental victim services, States shall not pass through to the subgrantees the amount of any required State match. With regard to this program, the Conferees acknowledge the critical role probation agencies play in monitoring and controlling the perpetrators of family violence; the Conferees intend that probation agencies receive appropriate consideration under this program.

Senate section 3262 recedes to House sections 1603–04, rape exam payments and filing costs, with modifications to extend the requirements to units of local government and Indian tribal governments except (in the case of rape exams) where another governmental entity incurs the costs of the exams; and to give States a period for bringing laws, policies, and practices into compliance with filing cost requirements.

CHAPTER 3—SAFETY FOR WOMEN IN PUBLIC TRANSIT AND PUBLIC PARKS

Section 40131—House recedes to Senate section 3231, grants for capital improvements to prevent crime in public transportation, with modification to clarify that Trust Fund money is not available for this program, and other modifications.

Section 40132—House recedes to Senate section 3232, National Park System Crime Prevention Assistance, with modification to clarify that Trust Fund money is not available for this program.

Section 40133—House recedes to Senate section 3233, Grants for Capital Improvements to Prevent Crime in Public Parks, with modification to clarify that Trust Fund money is not available for this program.

CHAPTER 4—NEW EVIDENTIARY RULES

Section 40141—House recedes to Senate sections 3251–3254 and 3706 with a modification to substitute the revisions of Federal Rule of Evidence 412 as transmitted to Congress by the Supreme Court on April 29, 1994 with an additional modification to extend evidentiary protection to civil cases (as proposed by the Judicial Conference of the United States to the Supreme Court on October 25, 1993). The Conferees intend that the Advisory Committee Note on Rule 412, as transmitted by the Judicial Conference of the United States to the Supreme Court on October 25, 1993, applies to Rule 412 as enacted by this section. This section, which modifies Rule 412 of the Federal Rules of Evidence as transmitted to the Congress by the United States Supreme Court, is enacted pursuant to the Rules Enabling Act.

CHAPTER 5—ASSISTANCE TO VICTIMS OF SEXUAL ASSAULT

Section 40151—House recedes to Senate section 3261, Education and Prevention Grants to Reduce Sexual Assaults Against Women, with modification to allocate funds to States on the basis of population.

Section 40152—House recedes to Senate section 1607, National Institute of Justice Training Program, to assist court personnel in treating sex offenders.

Section 40153—House recedes to Senate proposal regarding confidentiality of communications between sexual assault or domestic violence victims and their counselors, with modifications.

Section 40154—House recedes to Senate section 1608 with regard to information about sex offender treatment programs.

Section 40155—House recedes to Senate section 3263 with modification to make runaway youth education and prevention grants gender-neutral and to cover juveniles.

Section 40156—House recedes to Senate section 5126, Victims of Child Abuse Act, with modifications.

SUBTITLE B—SAFE HOMES FOR WOMEN

CHAPTER 1—NATIONAL DOMESTIC VIOLENCE HOTLINE

Section 40211—House section 1653 recedes to Senate section 3311, grant for a national domestic violence hotline, with modifications as follows: (1) a grant may extend for 5 years, subject to annual approval; (2) applicants must include a plan for assisting non-English speaking callers and the hearing-impaired; and (3) applicants must demonstrate support from advocacy groups, such as State coalitions and recognized national domestic violence groups. The Conferees note Congress has found with regard to this program that (1) 4,000,000 women are battered by their partners each year, of which 4,000 die as a result of such abuse; (2) victims of domestic violence need access to resources which will refer such victims and their children to safe homes and shelters; and (3) there is a need for a national domestic violence hotline to provide information and assistance to victims of domestic violence because a privately funded national domestic violence hotline which previously handled more than 65,000 crisis calls annually no longer exits.

CHAPTER 2—INTERSTATE ENFORCEMENT

Section 40221—Senate section 3321, Interstate Enforcement, recedes to House section 1622 with modifications including: the addition of penalties for causing the crossing of State lines to commit a crime of violence; the revision of the new Federal crime for crossing a State line; the addition of a penalty where the crime results in disfigurement or life-threatening bodily injury; the modification of the mandatory restitution provisions to comport with the mandatory restitution provisions for sex crimes and crimes involving the sexual exploitation and abuse of children; and the modification of the definition of "spouse or intimate partner."

CHAPTER 3—ARREST POLICIES IN DOMESTIC VIOLENCE CASES

Section 40231—Senate section 3331 recedes to House section 1623, grants to encourage arrest polices, with modifications to include a two-year period for grantees to comply, and a modification to the definition of "domestic violence."

CHAPTER 4—SHELTER GRANTS

Section 40241—House recedes to Senate section 3341(j), authorizing money for battered women's shelters. (The remainder of Senate section 3341 was incorporated into Subtitle A, Chapter 2, of this title.)

CHAPTER 5—YOUTH EDUCATION

Section 40251—House recedes to Senate section 3361, youth education and domestic violence, with modification to permit the Secretary of Health and Human Services to consult with the Secretary of Education to select, implement, and evaluate four model programs.

CHAPTER 6—COMMUNITY PROGRAMS ON DOMESTIC VIOLENCE

Section 40261—House section 1654 recedes to Senate section 5140, community programs on domestic violence, with modifications. Senate section 5122 is deleted as duplicative.

CHAPTER 7—FAMILY VIOLENCE PREVENTION AND SERVICES ACT AMENDMENTS

Section 40271—House recedes to Senate section 3351, grantee reporting.

Section 40272—House recedes to Senate sections 3381–83, technical amendments.

CHAPTER 8—CONFIDENTIALITY FOR ABUSED PERSONS

Section 40281—House recedes to Senate section 3371, confidentiality for abused persons, with modification to give Postal Service additional regulatory guidance.

CHAPTER 9—DATA AND RESEARCH

Section 40291—House recedes to Senate section 3391, data and research agenda, with modification to include diversity considerations for panel and to require the issuance of a report no later than 12 months rather than 9 months after enactment.

Section 40292—House recedes to Senate section 3392, State data bases, with modification to place responsibility for the study and report with the appropriate Department of Justice entities.

Section 40293—House recedes to Senate section 3393, number and cost of injuries.

CHAPTER 10—RURAL DOMESTIC VIOLENCE AND CHILD ABUSE ENFORCEMENT

Section 40295—House section 2521 recedes to Senate section 1421, rural domestic violence and child abuse enforcement assistance.

SUBTITLE C—CIVIL RIGHTS FOR WOMEN

Sections 40301–03—House recedes to Senate sections 3401–03, Civil Rights. The Conferees note that the applicable standard of proof in a civil rights cause of action under this section is preponderance of the evidence. The Conferees also note that the Congress has found that crimes of violence motivated by gender constitute bias crimes in violation of the victim's right to be free from discrimination on the basis of gender; current law provides a civil rights remedy for gender crimes committed in the workplace, but not for crimes of violence motivated by gender committed on the street or in the home; State and Federal criminal laws do not adequately protect against the bias element of crimes of violence motivated by gender, which separates these crimes from acts of random violence, nor do these adequately provide victims of gender-motivated crimes the opportunity to vindicate their interests; existing bias and discrimination in the criminal justice system often deprives victims of crimes of violence motivated by gender of equal protection of the laws and the redress to which they are entitled; crimes of violence motivated by gender have a substantial adverse effect on interstate commerce, by deterring potential victims from traveling interstate, from engaging in employment in interstate business, and from transacting with business, and in places involved, in interstate commerce; crimes of violence motivated by gender have a substantial adverse effect on interstate commerce, by diminishing national productivity, increasing medical and other costs, and decreasing the supply of and the demand for interstate products; a Federal civil rights action as specified in this section is necessary to guarantee equal protection of the laws and to reduce the substantial adverse effects on interstate commerce caused by crimes of violence motivated by gender; and the victims of crimes of violence motivated by gender have a right to equal protection of the laws, including a system of justice that is unaffected by bias or discrimination and that, at every relevant stage, treats such crimes as seriously as other violent crimes.

Section 40304—House recedes to Senate section 3404, Sense of the Senate concerning protection of privacy of rape victims, with technical modifications. The Conferees note that the Senate finds with regard to this provision that: (1) there is a need for a strong and clear Federal response to violence against women, particularly with respect to the crime of rape; (2) Rape is an abominable and repugnant crime, and one that is severely underreported to law enforcement authorities because of its stigmatizing nature: (3) The victims of rape are often further victimized by a criminal justice system that is insensitive to the trauma caused by the crime and are increasingly victimized by news media that are insensitive to the victim's emotional and psychological needs; (4) Rape victims' need for privacy should be respected; (5) Rape victims need to be encouraged to come forward and report the crime of rape without fear of being revictimized through involuntary public disclosure of their identities; (6) Rape victims need a reasonable expectation that their physical safety will be protected against retaliation or harassment by an assailant; (7) The news media should, in the exercise of their discretion, balance the public's interest in knowing facts reported by free news media against important privacy interests of a rape victim, and an absolutist view of the public interest leads to insensitivity to a victim's privacy interest; and (8) The public's interest in knowing the identity of a rape victim is small compared with the interests of maintaining the privacy of rape victims and encouraging rape victims to report and assist in the prosecution of the crime of rape.

Senate section 3501, safe campuses for women, is deleted because it has already been enacted.

SUBTITLE D—EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT

CHAPTER 1—EDUCATION AND TRAINING FOR JUDGES AND COURT PERSONNEL IN STATE COURTS

Sections 40411–14—House sections 1661–64 recede to Senate sections 3601–14, Equal Justice for Women in the Courts Act, with modifications to include Indian tribal governments as grantees and to modify grant purposes.

CHAPTER 2—EDUCATION AND TRAINING FOR JUDGES AND COURT PERSONNEL IN FEDERAL COURTS

Sections 40421–22—House sections 1665–67 recede to Senate sections 3621–22 with modifications to designate the Administrative Office of the United States Courts as the clearinghouse for the dissemination of reports and to delete circuit court allocation limits.

SUBTITLE E—VIOLENCE AGAINST WOMEN ACT IMPROVEMENTS

Section 40501—House recedes to Senate section 3701, pre-trial detention in sex offense cases.

Section 40502—House recedes to Senate section 3702, increased penalties for sex offenses against victims below the age of 16. Senate section 801, sexual abuse amendments, is deleted as duplicative.

Section 40503—Senate sections 3703(a)–(b) recede to House section 1652, payment of cost of victim testing for sexually transmitted disease, with modification to ensure confidentiality and anonymity of the test, subject to waiver by the victim. House recedes to Senate sections 3703(c)–(g) with modification.

Section 40504—House recedes to Senate section 3704, extension and strengthening of restitution.

Section 40505—House recedes to Senate section 3705, with modifications.

Section 40506—House recedes to Senate section 3707, National Baseline Study on Campus Sexual Assault, with technical modification.

Section 40507—Senate section 3708, Report on Battered Women's Syndrome, recedes to House section 121. Senate section 2964 is deleted as duplicative.

Section 40508—House recedes to Senate section 3709, Report on Confidentiality of Addresses for Victims of Domestic Violence.

Section 40509—House recedes to Senate section 3710, Report on Record Keeping Relating to Domestic Violence.

Senate section 3711, Report on Fair Treatment in Legal Proceedings, recedes to House.

Senate section 3712 recedes to House.

Senate section 3713 recedes to House.

SUBTITLE F—NATIONAL STALKER AND DOMESTIC VIOLENCE REDUCTION

Senate recedes to House sections 2801–12, Stalking, with modifications.

SUBTITLE G—PROTECTIONS FOR BATTERED IMMIGRANT WOMEN AND CHILDREN

Senate recedes to House sections 1626–28, Battered Immigrant Women, with modifications.

TITLE V—DRUG COURTS

Senate sections 1201–02 recede to House sections 1041–44 with modifications to prohibit violent offenders from participating, to add a GAO study, and with technical and conforming changes.

The Conferees recognize that drug court programs may support costs of judges, magistrates, quasi-judicial personnel, probation officers, drug testing personnel, prosecutors, defense attorneys, other criminal justice participants, drug treatment personnel, persons involved in programmatic and aftercare services, and other personnel necessary to implement drug court programs.

The Conferees note the diversity of court structures under which jurisdictions throughout the United States are organized and intend that the Attorney General, in implementing this program, issue regulations that are as flexible as possible in this regard.

TITLE VI—DEATH PENALTY

Procedures: The House recedes to the Senate with the following exceptions: (1) Senate recedes to the House regarding the firearm aggravator; (2) Senate recedes to the House to add the aggravator for sexual assault or child molestation; (3) the Conferees modified the provision regarding information presented at sentencing to reflect current law.

Offenses: The House recedes to the Senate death penalties, including terrorism death penalties, with the following modifications: (1) the deletion of Senate section 203(a)(8), attempted assassination of the President; (2) the deletion of the part of Senate section 202(a) which adds section 3591(b)(3) to title 18

regarding unintentional deaths due to overdose; (3) the addition of the Hyde amendment to section 203(a)(2), espionage; (4) Senate section 504 recedes to House section 708 regarding correctional officers; (5) Senate section 716, torture, recedes to House section 713 with modifications to delete already enacted provisions; (6) the addition of an intent standard for carjacking; (7) Senate recedes to the House intent standard; (8) Senate section 2406, to federalize all murders committed with guns, recedes to House; (9) Senate section 711, weapons of mass destruction, recedes to House section 710; and (10) the modification of Senate section 215, alien smuggling, to increase penalties. House recedes to Senate sections 501-03 and 505.

House sections 901-02, racially discriminatory capital sentencing, recede to Senate.

Senate section 1021, racial and ethnic bias study grants, recedes to House.

Section 60026—Senate recedes to House proposal regarding appointment of counsel.

TITLE VII—MANDATORY LIFE IMPRISONMENT FOR PERSONS CONVICTED OF CERTAIN FELONIES

Senate sections 2408 and 5111 recede to House sections 501-02 with modifications. The authority provided to the Bureau of Prisons under this section is not to be construed as limiting any authority already possessed by the Bureau of Prisons with respect to the release of inmates.

TITLE VIII—APPLICABILITY OF MANDATORY MINIMUM PENALTIES

Senate section 2404 recedes to House sections 201-03 with modifications.

TITLE IX—DRUG CONTROL

SUBTITLE A—ENHANCED PENALTIES AND GENERAL PROVISIONS

In carrying out directions from the Congress, the U.S. Sentencing Commission shall assure reasonable consistency with other guidelines, avoid duplicative punishment for substantially the same offense, and take into account any mitigating circumstances which might justify exceptions. The Commission shall also carry out such directions in light of the factors set forth in subsection 3535(a) of title 18, United States Code.

Section 90101—House recedes to Senate section 1501, drug trafficking in prisons.

Section 90102—House recedes to Senate section 1505, drug-dealing in drug free zones, with modifications.

Section 90103—House recedes to Senate section 1506, illegal drug use in prisons, with technical modification.

Section 90104—House recedes to Senate section 1531, clarification of narcotics and other dangerous drugs.

Section 90105—House recedes to Senate section 1532, conforming amendments to recidivist penalty provisions of the Controlled Substance Act and the Controlled Substances Import and Export Act.

Section 90106—House recedes to Senate section 1534, Advertising, with modifications.

Section 90107—House recedes to Senate section 1538, Violent Crime and Drug Emergency Areas, with modifications.

SUBTITLE B—NATIONAL NARCOTICS LEADERSHIP ACT AMENDMENTS

Sections 90201-08—House recedes to Senate section 5150, which reauthorizes the Office of National Drug Control Policy through September 30, 1997, with modifications.

In addition to the Director's authority to recommend to Federal agencies appropriate drug budget levels by July 1 of each year as those agencies are first developing their budgets for the following fiscal year, authority is granted to ensure that the agencies' budget submissions to the Office of Management and Budget are consistent with the National Drug Control Strategy.

The provision also provides authority to detail temporarily drug control personnel to other Departments or agencies to implement the National Drug Control Strategy. It further provides authority, except to the extent that the Director's authority is limited in an annual appropriations Act, to transfer up to 2% among National Drug Control Program accounts, upon advance approval of the Committees on Appropriations of each House of Congress. It is the intent of the Conferees that such advance approval be obtained from each of the Appropriations Subcommittees with jurisdiction over accounts increased or decreased by such budget shifts.

Several additional goals are added to the National Drug Control Strategy, including the "consequences" of drug abuse (such as emergency room overdoses and drug-related crime), assessment of national drug treatment system, and other evaluations of the strategy. Drug treatment and prevention are added to the mission of the Counter-Drug Technology Assessment Center. And, the provision prohibits the Director and other officials in the Office who are confirmed by the Senate from participating in Federal election campaigns.

Senate section 1504, anabolic steroids penalties, recedes to House as duplicative of stronger current law.

Senate section 1533, Program to provide public awareness of the provisions of Public Law 101-516, recedes to House.

Senate section 1537, Drug paraphernalia amendment, recedes to House.

Senate sections 1511-23, Precursor Chemicals Act, deleted because already enacted.

Senate section 1536 recedes to House.

Senate section 1535, national drug control strategy, recedes to House.

Senate section 1502 is deleted because already enacted.

Senate section 2407 recedes to House.

TITLE X—DRUNK DRIVING PROVISIONS

Section 100002—House recedes to Senate section 1602, applying State law in areas of Federal jurisdiction.

Section 100003—House sections 1801-02, Driving While Intoxicated Prosecution Program, recede to Senate section 5115.

TITLE XI—FIREARMS

SUBTITLE A—ASSAULT WEAPONS

House recedes to Senate sections 4501-10, with modifications.

The Conferees recognize that some workers will be adversely impacted by the enactment of this Subtitle. The Conferees note that the Department of Labor has made available, as of July 1, more than $1.1 billion through Title III of the Job Training Partnership Act to assist dislocated workers. The types of assistance available to dislocated workers under that Act include retraining, job search assistance, job counseling, on-the-job training, and other services. The Conferees expect that any employees dislocated as a result of enactment of this Subtitle will be eligible to apply for such benefits in accordance with Department of Labor criteria.

SUBTITLE B—YOUTH HANDGUN SAFETY

Section 110201—House sections 1901-02 recede to Senate section sections 661-62 with the deletion of Senate section 662(a) and technical modifications. Senate section 663 recedes to House.

The Conferees note Congress finds with regard to these sections that: Crime, particularly crime involving drugs and guns, is a pervasive, nationwide problem; problems with crime at the local level are exacerbated by the interstate movement of drugs, guns, and criminal gangs; firearms and ammunition, and handguns in particular, move easily in interstate commerce, as documented in numerous hearings in both the Judiciary Committee of the House of Representatives and Judiciary Committee of the Senate. Even before the sale of a handgun, its component parts, ammunition, and the raw materials from which they are made have considerably moved in interstate commerce. While criminals freely move from State to State, ordinary citizens may fear to travel to or through certain parts of the country due to the concern that violent crime is not under control, and people from other countries may decline to travel in the United States for the same reason. Just as hardened drug kingpins often begin their lives in the illicit drug culture by exposure to drugs at a young age, violent criminals often start their criminal careers on streets where the ready availability of guns to young people results in the acceptability of their random use. Violent crime and the use of illicit drugs go hand-in-hand, and attempts to control one without controlling the other may be fruitless. Individual States and localities find it impossible to handle the problem by themselves; even States and localities that have made a strong effort to prevent, detect, and punish crime find their efforts unavailing due in part to the failure or inability of other States and localities to take strong measures. Inasmuch as illicit drug activity and related violent crime overflow State lines and national boundaries, the Congress has power, under the interstate commerce clause and other provisions of the Constitution, to enact measures to combat these problems. The Congress finds that it is necessary and appropriate to assist the States in controlling crime by stopping the commerce in handguns with juveniles nationwide, and allowing the possession of handguns by juveniles only when handguns are possessed and used for legitimate purposes under appropriate conditions.

SUBTITLE C—LICENSURE

Sections 110301-07—House recedes to Senate sections 311-17, Firearms Licensure.

SUBTITLE D—DOMESTIC VIOLENCE

Section 110401—Senate sections 301, Persons Subject to Restraining Orders, and 4201-03, Prohibition Against Disposal of Firearms to, or Receipt of Firearms by, Persons Who Have Committed Domestic Violence, recede to House sections 1624-25, with modifications.

The Conferees intend that the term "child" be read with common sense and normal meaning, and to include a child over whom a person's parental rights have been terminated by a court order. The Conferees also note that Congress finds with respect to this provision that domestic violence is the leading cause of injury to women in the United States between the ages of 15 and 44; firearms are used by the abuser in 7 percent of domestic violence incidents and produces an adverse effect on interstate commerce; and individuals with a history of domestic abuse should not have easy access to firearms.

SUBTITLE E—GUN CRIME PENALTIES

In carrying out directions from the Congress, the U.S. Sentencing Commission shall assure reasonable consistency with other guidelines, avoid duplicative punishment for substantially the same offense, and take into account any mitigating circumstances which

might justify exceptions. The Commission shall also carry out such directions in light of the factors set forth in subsection 3553(a) of title 18, United States Code.

Section 110501—House recedes to Senate section 401, enhanced penalty for use of semi-automatic weapons during crime of violence or drug trafficking crime.

Section 110502—House section 3031 recedes to Senate section 402, second conviction for using or carrying explosives.

Section 110503—House recedes to Senate section 403, new offense for smuggling firearms.

Section 110504—House section 3032 recedes to Senate section 404, new offense for theft of guns and explosives moving in interstate commerce.

Section 110505—House recedes to Senate section 405, revocation of supervised release, with modifications. Senate section 2403, supervised release after imprisonment, recedes to House as incorporated in Senate section 405.

Section 110506—House recedes to Senate section 406, revocation of probation, with modifications.

Section 110507—House recedes to Senate section 407, knowingly making false material statement on a gun application.

Section 110508—House section 3033 recedes to Senate section 408, felon possessing explosives.

Section 110509—House recedes to Senate section 409, explosives destruction.

Section 110510—House recedes to Senate section 410, technical correction regarding parole.

Section 110511—House recedes to Senate section 411, prohibition against transactions involving stolen firearms or stolen guns.

Section 110512—House recedes to Senate section 412, using firearm in commission of forgery.

Section 110513—House recedes to Senate section 413, firearm possession by violent felons and serious drug offenders.

Section 110514—House recedes to Senate section 414, receipt of firearms by non-resident.

Section 110515—House section 3034 recedes to Senate section 417, stealing guns or explosives from a licensee.

Section 110516—House section 3035 recedes to Senate section 418, disposing of explosives to prohibited person.

Section 110517—House recedes to Senate section 420, interstate gun trafficking.

Section 110518—House recedes to Senate section 415, firearms conspiracy, with modification.

Section 110519—House recedes to Senate section 5168, Definition of Armor Piercing Ammunition, with modification.

Senate section 416, study of incendiary ammunition, recedes to House.

Senate section 419 recedes to House.

TITLE XII—TERRORISM

In carrying out directions from the Congress, the United States Sentencing Commission shall assure reasonable consistency with other guidelines, avoid duplicative punishment for substantially the same offense, and take into account any mitigating circumstances which might justify exceptions. The Commission shall also carry out such directions in light of the factors set forth in subsection 3553(a) of title 18, United States Code.

Section 120001—House recedes to Senate section 717, extension of statute of limitations, with modifications.

Section 120002—House recedes to Senate section 715, jurisdiction over crimes against U.S. nationals.

Section 120003—House recedes to Senate section 721, counterfeiting currency abroad, with modification to increase penalty.

Section 120004—House recedes to Senate section 724, Terrorist Felonies.

Section 120005—House recedes to Senate section 726, material support to terrorists, with modification.

Senate section 718, FBI access to telephone subscriber information, is deleted because already enacted.

Senate section 720, preventing acts of terrorism, recedes to House.

Senate section 722, economic terrorism task force, recedes to House.

Senate section 713, extension of territorial sea, recedes to House.

Senate section 714, assimilated crimes in extended territorial sea, recedes to House.

TITLE XIII—CRIMINAL ALIENS AND IMMIGRATION ENFORCEMENT

Section 130001—House recedes to Senate section 5005, enhancing penalties for failure to depart, with modification to delete subsection (c) regarding collateral review.

Section 130002—House recedes to Senate section 5007, criminal alien tracking center, with modification to conform to current law.

Section 130003—House recedes to Senate section 725, Protection of Recipients in Counter-Terrorism Rewards Program, with modifications to incorporate this section into Senate section 5117, and other modifications.

Section 130004—House recedes to Senate section 5002, deportation procedures for certain criminal aliens, with modifications.

Section 130005—Senate section 5158, expedited deportation for asylum applicants, recedes to House section 2411 with modification to clarify that asylum applicants have no right to work in the United States.

Section 130006—Senate section 5159, improving border controls, recedes to House section 2412 with modifications regarding report requirement and to incorporate House section 2421.

Section 130007—House section 2413, special deportation proceedings, recedes to Senate section 5160 with modifications. Senate section 5161, construction of INS processing centers, recedes to House section 2414, which is incorporated into Senate section 5160, with modifications. The Conferees intend that the Attorney General should consider the availability of legal assistance in an area in determining where to locate the facilities.

Section 130008—Senate recedes to House section 2402, authority of the Attorney General to accept assistance in deporting criminal aliens, with modifications.

The Conferees note that many States and localities are burdened with the financial costs of housing and processing deportable aliens who are unlawfully within the United States and who are arrested for violating criminal statutes. The Immigration and Naturalization Service is not permitted under current law to accept State and local assistance in carrying out its deportation responsibilities. This section is intended to aid communities with criminal alien populations to expedite the removal of deportable aliens who are arrested for the violation of criminal statutes by providing transportation-related services or property to the Immigration and Naturalization Service.

Section 130009—Senate section 712 recedes to House section 2431 with modification increasing the penalty for employment document fraud to five years. Senate section 5124 is deleted as duplicative.

This section is intended to target persons who commit document fraud for the purpose of commercial advantage, or to facilitate drug trafficking or international terrorism. The Conferees intend that the Attorney General implement these provisions so as not to prosecute bona fide applicants for asylum.

Section 130010—House recedes to Senate section 5131, asylum, which is modified to a Sense of the Senate, with other modifications.

Senate section 5006, miscellaneous and technical changes regarding alien deportation, recedes to House.

Senate section 5102, prohibition on payment of Federal benefits to illegal aliens, recedes to House.

Senate section 5119, State and local cooperation with INS, recedes to House.

Senate section 5110, removal of alien terrorists, recedes to House.

House section 2401, Congressional findings regarding criminal aliens, recedes to Senate.

Senate section 5144, authority to release confidential information regarding aliens, recedes to House.

Senate section 5001, aggravated felony, recedes to House.

Senate section 5003, judicial deportation, recedes to House.

Senate section 5004 recedes to House.

Senate section 5157, Extradition, recedes to House.

TITLE XIV—YOUTH VIOLENCE

Sections 140001-03—Senate section 651 recedes to House section 1101 regarding adult prosecution of juveniles with modification to delete section 1101(b).

Section 140004—House recedes to Senate section 641 with modification to correct typographical error regarding the age for the bindover of juveniles.

Section 140005—House recedes to Senate section 618 with modifications.

Section 140006—House recedes to Senate section 615, increased penalties for employing children to distribute drugs near schools and playgrounds, with modification.

Section 140007—House recedes to Senate section 2906, increased penalties for travel act violations. Senate section 617 deleted as duplicative.

Section 140008—House recedes to Senate section 5130, solicitation of minor to commit crime.

TITLE XV—CRIMINAL STREET GANGS

Section 150001—House recedes to Senate section 611 with an amendment to provide increased penalties for Federal gang crimes.

Section 150002—House recedes to Senate section 614 with modification to delete simple drug possession as basis of adult prosecution of juveniles.

Section 150003—House recedes to Senate section 619 to authorize use of Byrne funds for programs relating to gangs.

Section 150006—House recedes to Senate proposal regarding mentoring program guidelines.

Section 150007—House recedes to Senate section 5167.

Section 150008—House recedes to Senate section 622, Gang Investigation Coordination and Information Collection.

Section 150009—Senate section 624 recedes to House section 1098, Multijurisdictional Gang Task Forces.

Senate section 612 recedes to House regarding use of minors as RICO predicate.

Senate section 613 recedes to House.

Senate section 623 is deleted because already enacted.

TITLE XVI—CHILD PORNOGRAPHY

Sections 160001-02—House sections 1201-02 recede to Senate sections 824-25, child pornography.

Section 160003—House section 3083 recedes to Senate section 2410, Confirmation of intent of Congress in enacting sections 2252 and 2256 of title 18, United States Code.

TITLE XVII—CRIMES AGAINST CHILDREN

SUBTITLE A—JACOB WETTERLING CRIMES AGAINST CHILDREN AND SEXUALLY VIOLENT OFFENDER REGISTRATION ACT

Section 170101—Senate sections 821-23, Jacob Wetterling Crimes Against Children Registration Act, recede to House section 1301 with modification to include the program contained in Senate sections 841-44 and other modifications.

SUBTITLE B—ASSAULTS AGAINST CHILDREN

Section 170201—Senate recedes to House section 301, assaults against children, with technical and conforming modifications.

SUBTITLE C—MISSING AND EXPLOITED CHILDREN

Sections 170301-03—House recedes to Senate sections 4301-04, Missing and Exploited Children, with modifications. The Conferees note Congress finds with regard to this program that the victimization of children in our nation has reached epidemic proportions; recent Department of Justice figures show that 4,600 children were abducted by non-family members; two-thirds of the abductions of children by non-family members involve sexual assault; more than 354,000 children were abducted by family members; and 451,000 children ran away; while some local law enforcement officials have been successful in the investigation and resolution of such crimes, most local agencies lack the personnel and resources necessary to give this problem the full attention it requires; a majority of the nation's 17,000 police departments have 10 or fewer officers; and locating missing children requires a coordinated law enforcement effort; supplementing local law enforcement agencies with a team of assigned active Federal agents will allow Federal agents to pool their resources and expertise in order to assist local agents in the investigation of the nation's most difficult cases involving missing children.

Senate section 5129, Parent Locator Service, recedes to House.

Senate section 2701, International Parental Kidnapping, is deleted because already enacted.

TITLE XVIII—RURAL CRIME

Sections 180101-201—House sections 2501-21 recede to Senate sections 1401-21 with modification regarding the structure of rural drug task forces, the placement of section 1421 in the Violence Against Women title, and other modifications.

Section 180301—Senate recedes to House section 2531, Sense of Congress Regarding Funding for Rural Areas.

TITLE XIX—FEDERAL LAW ENFORCEMENT

Section 190001—House section 3016 recedes to Senate section 5132, Federal judiciary, with modifications to incorporate section 621, additional Federal prosecutors for the prosecution of violent youth gangs, and other modifications.

TITLE XX—POLICE CORPS AND LAW ENFORCEMENT OFFICERS TRAINING AND EDUCATION

House sections 2701-39 recede to Senate sections 1121-50 with modification to delete Senate sections 1124 (b) and (c) with regard to the appointment of a Director.

TITLE XXI—STATE AND LOCAL LAW ENFORCEMENT

SUBTITLE A—BYRNE PROGRAM

Section 210101—Senate recedes to House section 1098A, extension of Byrne grant funding, with modification to authorize specified funds.

SUBTITLE B—LAW ENFORCEMENT FAMILY SUPPORT

Section 210201—House recedes to Senate section 1101, Law Enforcement Family Support, with modification to designate the Attorney General as the responsible official, and other minor modifications.

SUBTITLE C—DNA IDENTIFICATION

Sections 210301-06—House sections 1501-06 recede to Senate sections 1001-6, DNA Identification, with modification to ensure the establishment of a blind proficiency testing program for DNA analysis.

DNA Advisory Board

The Act requires the Director of the Federal Bureau of Investigation to appoint an advisory board on DNA quality assurance methods. The Conferees intend that, in making appointments to the advisory board, the Director of the FBI shall adhere strictly to all applicable conflict of interest and ethics laws. In particular, the FBI Director will ensure that no member of the board will have a commercial or proprietary interest in matters addressed by the board. To that end, the Director may obtain disclosure statements from nominees to the board. The Conferees expect that a review of any potential conflict of interest or ethical considerations will be conducted with the assistance of the Bureau's Legal Counsel Division, with the FBI Director retaining final authority regarding appointments to the board.

Proficiency Testing Program

The Conferees, in adopting the DNA Identification Act, recognize the significance of the development of a blind external proficiency testing program for DNA analyses. A blind external proficiency test means a test that is presented to a forensic laboratory through a second agency and appears to the analysts to involve routine evidence.

Under this Act, the Director of the National Institute of Justice is directed to study this issue and certify to Congress within one year that (1) the NIJ has undertaken steps to ensure that an appropriate entity or entities will establish a blind external proficiency testing program for DNA analyses, which shall be available to public and private laboratories performing forensic DNA analyses; (2) that a blind proficiency testing program for DNA analyses is already available; or (3) that it is not feasible to have a DNA blind proficiency testing program.

The Conferees fully expect that NIJ will report either that there are one or more existing DNA blind proficiency testing programs or that it has undertaken steps to ensure the establishment of one. There are many private DNA testing laboratories and commercial manufacturers of DNA testing products that have the technical expertise, individually or through professional and trade associations, necessary to establish the aforementioned program.

If the NIJ study determines blind external proficiency testing is feasible, neither State nor local DNA laboratories covered by the Act (i.e., those participating in the national DNA index or receiving grants), will be required by the Act to subscribe to such a blind testing program. The FBI Laboratory will not be required by the Act to subscribe to a particular blind testing program identified by NIJ. Participation by State and local governments should be voluntary and at their own discretion—although participation in such a program will be an important element of demonstrating quality control for purposes of having DNA evidence introduced into evidence.

SUBTITLE D—POLICE PATTERN OR PRACTICE

Sections 210401-02—House recedes to Senate sections 1111-12, Police Pattern or Practice, with modification to section 1112.

SUBTITLE E—IMPROVED TRAINING AND TECHNICAL AUTOMATION

Section 210501—House recedes to Senate section 1031, improved training and technical automation, with technical and conforming modifications. The Conferees believe one appropriate use of this program would be to ensure that States, Indian tribal governments, and local governments are made aware of advanced law enforcement technologies.

SUBTITLE F—OTHER STATE AND LOCAL AID

Section 210601—Senate recedes to House proposal to reauthorize the Office of Justice Programs.

Section 210602—House recedes to Senate section 5137, assistance to ease the increased burdens on State court systems, with modifications.

Section 210603—Senate recedes to House proposal to make money from the Violent Crime Reduction Trust Fund available to fund activities authorized by the Brady Handgun Violence Prevention Act and the National Child Protection Act of 1993.

Section 103(k) of the "Brady Bill" authorizes "such sums as are necessary" for the Attorney General to establish a "national instant criminal background check system." Section 106(b) of "Brady" authorizes $200 million for grants to States for the improvement of criminal records. Section 4(b) of the National Child Protection Act of 1993 authorizes $20 million for grants to States for the improvement of criminal records regarding child abuse. The Conference Report provides that a total of $150 million may be appropriated from the Trust Fund for these purposes.

TITLE XXII—MOTOR VEHICLE THEFT PREVENTION

House recedes to Senate sections 1901-03, motor vehicle theft prevention.

TITLE XXIII—VICTIMS OF CRIME

Senate sections 901-02, 912-17, crime victims, recede to House sections 101-21, with the following modifications: allocations of funds are changed to 48.5%, 48.5%, and 3%; the report on battered women's syndrome is moved to title IV, Violence Against Women. House section 101, with a conforming amendment, is enacted pursuant to the Rules Enabling Act. House recedes to Senate section 903, Sense of the Senate regarding Rights to Victims Allocation, with conforming modification. Senate section 3264 is deleted as duplicative. Senate section 911 is deleted because already enacted. House recedes to Senate proposal to amend 10603(a)(5)(B) of title 42, United States Code.

TITLE XXIV—PROTECTION FOR THE ELDERLY

Section 240001—House recedes to Senate section 2001, Missing Alzheimer's Disease Patient Alert Program.

Section 240002—House recedes to Senate section 2002, crimes against the elderly.

TITLE XXV—SENIOR CITIZENS AGAINST MARKETING SCAMS

Sections 250001-05, 250008—House recedes to Senate sections 3901-03, 3905-07 and 3910, Senior Citizens Against Marketing Scams

(SCAMS), with modifications. Senate section 3904 recedes to House.

Section 250006—House recedes to Senate section 2103, mail fraud. Senate section 3908 is deleted as duplicative.

Section 250007—House recedes to Senate section 2102, Consumer Protection Against Credit Card Fraud Act. Senate section 3909 is deleted as duplicative.

The Conferees note that Congress has found with regard to this issue the following: Unprecedented Federal law enforcement investigations have uncovered a national network of illicit telemarketing operations; most of the telemarketing industry is legitimate, employing over 3,000,000 people through direct and indirect means; illicit telemarketers, however, are an increasing problem which victimizes our nation's senior citizens in disproportionate numbers; interstate telemarketing fraud has become a problem of such magnitude that the resources of the Department of Justice are not sufficient to ensure that there is adequate investigation of, and protection from, such fraud; telemarketing differs from other sales activities in that it can be carried out by sellers across State lines without direct contact; telemarketers can also be very mobile, easily moving from State to State; it is estimated that victims lose billions of dollars a year as a result of telemarketing fraud; consequently, this legislation is intended to enhance Federal law enforcement resources, ensure adequate punishment for telemarketing fraud, and educate the public.

TITLE XXVI—COMMISSION MEMBERSHIP AND APPOINTMENT

Senate sections 1721–30 recede to House sections 3026–27, Commission to Support Law Enforcement, with modifications.

TITLE XXVII—PRESIDENTIAL SUMMIT ON VIOLENCE AND NATIONAL COMMISSION ON CRIME PREVENTION AND CONTROL

House sections 1643–51 and 2601–07 recede to Senate sections 1701–18, 1741–49 and 3241–49 with a modification to establish a National Commission on Crime Prevention and Control charged with developing a comprehensive proposal for preventing and controlling crime and violence in America. This Commission must establish committees or task forces for the following specific purposes: one to focus on crime and violence generally, one to focus on the causes of the demand for drugs, one to focus on violence in schools, and one to focus on violence against women. House recedes to Senate sections 1731–32, Presidential Summit on Violence, with modification.

TITLE XXVIII—SENTENCING PROVISIONS

Section 280001—House recedes to Senate section 2401, imposition of a sentence.

Section 280002—House recedes to Senate section 2402, technical amendment to mandatory conditions of probation.

Section 280003—House section 1701 recedes to Senate section 2409, Hate Crime Sentencing.

Section 280004—House recedes to Senate section 2501, authorization of probation for petty offenses in certain cases.

Section 280005—House recedes to Senate section 5152 with modifications to create three full-time vice chairs of the U.S. Sentencing Commission, and to specify that of the three vice chairs, no more than two shall be of the same political party.

Section 280006—Senate recedes to House section 3092, Cocaine Penalty Study.

Senate section 2405, mandatory minimums for use or possession of firearm during a State crime, recedes to House.

Senate section 2502, trial by a magistrate in petty cases, recedes to House.

TITLE XXIX—COMPUTER CRIME

House recedes to Senate section 2601, computer crime, with minor modifications.

TITLE XXX—PROTECTION OF PRIVACY INFORMATION IN STATE MOTOR VEHICLE RECORDS

Senate sections 3101–03, Driver's Privacy Protection Act, recede to House sections 2901–03 with modifications.

This title prohibits the release and use of certain personal information except under certain circumstances. One of these exceptions, found in subsection (b)(3), permits disclosures where a person or entity is seeking correct information about an individual who presented false information or information that is no longer correct, "but only for the purpose of preventing fraud by, pursuing legal remedies against, or recovering on a debt or security interest against, the individual."

Some State motor vehicle departments may require requestors seeking to use this exception to certify or state the purpose for which the information is being sought. While in most cases this practice by the State will not give rise to further concern, it could pose a problem for debt collectors covered under the Fair Debt Collection Practices Act (FDCPA). Section 804 of the FDCPA provides: "Any debt collector communicating with any person other than the consumer for the purpose of acquiring location information about the consumer shall . . . (2) not state that such consumer owes any debt."

The interaction of section 804(2) of the FDCPA and subsection (b)(3) of the Driver's Privacy Protection Act could be interpreted as barring a covered debt collector from indicating to a State DMV that it was seeking information for a permitted purpose, thereby barring the debt collector from receiving information crucial to collecting a debt.

This was clearly not the intention of the drafters of the legislation and it is not the intention of the Conferees. To the contrary, the drafters of the legislation and the Conferees intend for debt collectors to be able to obtain motor vehicle record information without violating section 804(2) of the FDCPA. In this case, the purpose of disclosing the existence of a debt is solely to establish the basis for receiving DMV data, not to harass the debtor. Therefore, the Conferees believe that a statement that the information is being sought for the purposes of recovering on a debt would not violate section 804(2). In addition, the Conferees believe it would be adequate for debt collectors under (b)(3) to state that they are "pursuing legal remedies against . . . the individual," as provided in (b)(3), without stating that the legal remedies related to a debt. The Conferees believe that such a statement would not violate section 804 of the FDCPA, which is intended to prevent debt collectors from harassing a consumer by telling third parties that the consumer owes a debt. The Conferees believe that a collector is in no way harassing a consumer by telling a State DMV that information is sought in connection with "pursuing legal remedies."

The opportunity to prohibit disclosure of personal information under (b)(11) and (b)(12) does not have to be provided each time a request for such information is made. Instead, the opportunity to prohibit these disclosures should be provided at the time an individual registers for or renews his or her driver's license, title registration or identity card and at any other time an individual contacts the State on his or her own initiative to prohibit such disclosures.

Under subsection (b)(13), any requestor may obtain access to an individual's personal information if the requestor has obtained written consent from the individual whose personal information is sought. The Conferees intend that each State must provide that the requestor's demonstration include a written consent that has been notarized.

TITLE XXXI—VIOLENT CRIME REDUCTION TRUST FUND

Sections 310001–02—House recedes to Senate sections 1352–54 with modifications as follows: (1) the trust fund covers fiscal years 1995–2000 and totals $30.210 billion; (2) annual outlays from trust fund appropriations are subject to limits enforceable through sequestration procedures similar to those applied under the Balanced Budget and Emergency Deficit Control Act of 1985 to appropriations in the regular budget process; and (3) the limitations on the number of total Federal Government personnel is deleted because it has already been enacted into law (Federal Workforce Restructuring Act of 1994, P.L. 103–226).

Section 310003—Senate recedes to House proposal to provide for the extension of authorizations of appropriations.

This section is an "authorization extender" provision intended to assure the complete and efficient use of all authorizations contained in the Report and all monies transferred into the Violent Crime Reduction Trust Fund. Under this provision, if the amount appropriated from the Trust Fund for a given program in a particular fiscal year is less than the amount authorized for that program in that year, the unused portion of the authorization remains available for use for that program in later fiscal years.

For example, if $100 million is authorized for program "A" for fiscal year 1996 but only $75 million is actually appropriated, the remaining $25 million will be available for appropriations from the Trust Fund in fiscal years 1997 and beyond for that program. The $25 million in authorizations "extended" beyond fiscal year 1996 need not all be used in fiscal year 1997; it remains available until funds are appropriated for such authorizations.

Section 310004—Senate recedes to House proposal to provide for flexibility in making appropriations.

This Section provides "transfer authority" to give the Appropriations Committees some flexibility in allocating appropriations from the Trust Fund among the programs included within each of three specified functional categories. Under these provisions, the $30.2 billion in authorizations contained in the Report is divided into the following categories: (1) State and Local Law Enforcement, (2) Federal Law Enforcement and (3) Prevention. Within each of these categories, the Appropriations Committees will, in any fiscal year, be permitted to transfer up to 10 percent of the authorization for a particular program to any other program within the same category.

For example, within the "Federal law enforcement" category, the Appropriations Committees could decrease the fiscal year 1996 authorization for program "A" by up to 10 percent and transfer that money to program "B" by increasing the authorization for "B" by the dollar amount subtracted from "A".

The transfer authority provided in the Conference Report is subject to three additional limitations (1) the aggregate amount

of authorizations transferred away from a program over the life of the Trust Fund may not exceed 10 percent of the program's total authorization; (2) transfer authority may not be used to increase total authorizations for any of the three categories for any fiscal year above the level authorized for that category by the Report; and (3) no transfers between categories are permitted, *e.g.*, authorizations for "Prevention" programs may not be transferred to "Federal Law Enforcement" programs.

The following is a list of the programs included in each of the three broad functional categories:

FEDERAL LAW ENFORCEMENT

(1) Authorization of Additional Appropriations for the Federal Judiciary, Section 190001(a)

(2) Authorization of Additional Appropriations for the Department of Justice, Section 190001 (b)

(3) Authorization of Additional Appropriations for the Federal Bureau of Investigation, Section 190001 (c)

(4) Authorization of Additional Appropriations for United States Attorneys, Section 190001 (d)

(5) Authorization of Additional Appropriations for the Department of the Treasury, Section 190001 (e)

(6) National Center for Criminal Justice Research and Education, Section 320925

(7) Gang Investigation Coordination and Information Collection, Section 150008

(8) Motor Vehicle Theft Prevention, Section 220002

(9) Criminal Alien Tracking Center, Section 130002

(10) Expeditious Deportation for Denied Asylum Applicants, Section 130005

(11) Improving Border Controls, Section 130006

(12) Expanded Special Deportation Proceedings, Section 130007

(13) FBI and U.S. Attorney activities regarding Senior Citizens Against Marketing Scams, Section 250005

(14) FBI Activities Regarding DNA, Sections 210303–210306

(15) Agents for the Drug Enforcement Administration, Section 180104

(16) Presidential Summit on Violence and National Commission on Crime Prevention and Control, Section 270009

STATE AND LOCAL LAW ENFORCEMENT

(1) Public Safety and Policing, Sections 10001–10003

(2) Law Enforcement Family Support, Section 210201

(3) Availability of Violent Crime Reduction Trust Fund to fund activities authorized by the Brady Handgun Violence Protection Act and the National Child Protection Act of 1993, Section 210603

(4) Rural Law Enforcement Agencies, Section 180101

(5) Rural Drug Enforcement Training, Section 180103

(6) Community-based Justice Grants for Prosecutors, Sections 31701–31708

(7) Federal assistance to State court systems, Section 210602

(8) Police Recruitment, Sections 30801–30802

(9) DNA Grants to States, Section 210302

(10) Improved training and technical automation, Section 210501

(11) Extension of Byrne Grant Program, Section 210101

(12) Criminal Justice and Substance Abuse Treatment Training, Section 320930

(13) Violent Offender Incarceration and Truth-in-Sentencing Incentive Grants, Sections 20101–20109

(14) Incarceration of Undocumented Criminal Aliens, Section 20301

(15) Prevention, Diagnosis, and Treatment of Tuberculosis in Correctional Institutions, Section 32201

(16) Certainty of Punishment for Young Offenders, Section 20201

PREVENTION

(1) Drug Courts, Section 50001

(2) Ounce of Prevention, Sections 30101–30104

(3) Youth Employment and Skills Crime Prevention, Section 30201

(4) Model Intensive Grants, Sections 30301–30307

(5) Family and Community Endeavor Schools Grant Program and Community Schools Youth Services and Supervision Grant Program, Sections 30401–30403

(6) Police Partnerships for Children and Grants for Police Residence in High Crime Areas, Sections 30501–30505

(7) Midnight Sports, Section 30601

(8) Assistance for Delinquent and At-Risk Youth, Sections 30701–30702

(9) National Triad Program, Sections 30901–30906

(10) Local Partnership Act, Sections 31001–31002

(11) National Community Economic Partnership, Sections 31101–31133

(12) Gang Prevention Services for Boys and Girls, Sections 31201–31207

(13) Olympic Youth Development Centers, Section 31301

(14) Anti-Crime Youth Councils, Sections 31401–31405

(15) Urban Recreation and At-Risk Youth, Sections 31501–31505

(16) Boys and Girls Clubs in Public Housing, Sections 31601–31603

(17) Child Safety, Sections 31801–31808

(18) Family Unity Demonstration Project, Sections 31901–31922

(19) Substance Abuse Treatment in Federal Prisons, Section 32001

(20) Substance Abuse Treatment for State Prisoners, Section 32101

(21) Hope in Youth Program, Sections 32301–32307

(22) Gang Resistance Education and Training, Section 32401

(23) Federal Victim's Counselors, Section 40114

(24) Grants to Combat Violent Crimes Against Women, Section 40121

(25) Education and Prevention Grants to Reduce Sexual Assaults Against Women, Section 40151

(26) Training Programs, Section 40152

(27) Education and Prevention Grants to Reduce Sexual Abuse of Runaway, Homeless, and Street Youth, Section 40155

(28) Victims of Child Abuse Programs, Section 40156

(29) National Domestic Violence Hotline, Section 40211

(30) Encouraging Arrest Policies in Domestic Violence Cases, Section 40231

(31) Battered Women Shelters, Section 40241

(32) Youth Education and Domestic Violence, Section 40251

(33) Community Programs on Domestic Violence, Section 40261

(34) Study on State Databases, Section 40292

(35) Study on Number and Cost of Domestic Violence Injuries, Section 40293

(36) Rural Domestic Violence and Child Abuse Enforcement Assistance, Section 40295

(37) Education and Training for Judges and Court Personnel in State Courts, Sections 40411–40414

(38) Education and Training for Judges and Court Personnel in Federal Courts, Sections 40421–40422

(39) National Baseline Study on Campus Sexual Assault, Section 40506

(40) National Stalker and Domestic Violence Reduction, Sections 40601–40611

(41) Juvenile Drug Trafficking and Gang Prevention Grants, Section 150004

(42) Grants for Youth Development Centers, Section 150005

(43) Missing Alzheimer's Disease Patient Alert Program, Section 240001

(44) Safe Senior Corridors Grants, Section 240003

TITLE XXXII—MISCELLANEOUS

SUBTITLE A—INCREASES IN PENALTIES

Section 320101—House recedes to Senate section 2901, increased penalties for assault.

Section 320102—House recedes to Senate section 2902, increased penalties for manslaughter.

Section 320103—House recedes to Senate section 2903, increased penalties for civil rights violations.

Section 320104—Senate section 2904(a) recedes to House section 3051, Penalties for Trafficking in Counterfeit Goods and Services; House recedes to Senate section 2904(b), laundering monetary instruments.

Section 320105—House recedes to Senate section 2905, penalty for committing murder for hire.

Section 320106—House recedes to Senate section 2907, increased penalties for arson, with modifications to delete mandatory minimum and increase the maximum penalty range.

Section 320107—House recedes to Senate section 616, increased penalties for drug trafficking near public housing. Senate section 1503 is deleted as duplicative.

Section 320108—House recedes to Senate section 5105, penalties for nonindigenous species, with modifications.

Section 320109—Senate recedes to House section 3056, military medals and decorations.

Senate section 2967, balance in the criminal justice system, recedes to House.

SUBTITLE B—EXTENSION OF PROTECTION OF CIVIL RIGHTS STATUTES

Section 320201—House recedes to Senate section 2911, extension of civil rights statutes.

SUBTITLE C—AUDIT AND REPORT

Sections 320301–02—House recedes to Senate sections 2921–22, audit and report.

SUBTITLE D—COORDINATION

Section 320401—House recedes to Senate section 5166, coordination of treatment and prevention programs.

SUBTITLE E—GAMBLING

Section 320501—House recedes to Senate section 2932, clarifying amendment regarding scope of prohibition against gambling on ships in international waters, with technical modifications.

Senate section 2931, enforcement of laws relating to gaming, recedes to House.

SUBTITLE F—WHITE COLLAR CRIME AMENDMENTS

Section 320601—House recedes to Senate section 2941, receiving proceeds of extortion or kidnapping.

Section 320602—House recedes to Senate section 2942, receiving the proceeds of a postal robbery.

Sections 320603–04—Senate section 2101 recedes to House sections 401–02, Insurance Fraud.

Sections 320605-06—House recedes to Senate sections 2201-03, Financial Institution Fraud.

Section 320607—House recedes to Senate section 2944, addition of predicate offenses.

Section 320608—House recedes to Senate section 2945, definition of savings & loan.

Section 320609—House recedes to Senate section 2946, definition of 1-year sentence.

Senate section 2943 recedes to House.

Senate sections 3801-21, enhanced penalties for health care fraud enforcement efforts, recede to House.

Senate section 2301, savings and loan task force, recedes to House.

Senate sections 4401-04, public corruption, recede to House.

Senate section 2204 recedes to House.

Senate section 5146, Bankruptcy, recedes to House.

SUBTITLE G—SAFER STREETS AND NEIGHBORHOODS

Sections 320701-02—House recedes to Senate sections 2951-52, Safer Streets and Neighborhoods, with technical modifications.

SUBTITLE H—RECREATIONAL HUNTING SAFETY

No use recedes to Senate sections 4601-08, Recreational Hunting Safety, with modifications.

The conference report contains a modified version of Title XLVI of the Senate amendment, the Recreational Hunting Safety and Preservation Act of 1994. The purpose of this subtitle is to protect the safety and rights of persons to lawfully engage in hunting and fishing activities on Federal land.

In fashioning the provisions of this subtitle, the Conferees took care to not infringe on the first amendment right of free speech. The civil penalty provisions of this subtitle only apply to intentional physical conduct that significantly hinders a lawful hunt. Conduct is defined to exclude any activity protected by the first amendment. None of the provisions of this subtitle are intended to affect or limit in any way first amendment rights. Nor does the subtitle affect Federal land managers' existing authority to subject speech to reasonable regulation as to time, place and manner to the extent it is Constitutionally permissible.

In the interest of clarity, the Conferees have adopted a concise standard of violation, defined as intentional physical conduct that significantly hinders a lawful hunt. The Conferees intend that the physical conduct and the hinderance by considered as unitary; that is, both must be intentional. In other words, the conduct must be intentional, and must be done with the intention of significantly hindering a lawful hunt. A violation only occurs if the hinderance is significant; that is, it must have a negative influence or effect. The Conferees intend this to mean that incidental conduct which has *de minimis* effect on a hunt would not violate this subtitle.

With the principles described above in mind, examples of violations of this subtitle would include, but not be limited to, driving or disturbing wildlife; blocking or impeding hunters; using visual, aural, olfactory, or physical stimuli to affect wildlife behavior; erecting barriers to deny ingress or egress to areas where a lawful hunt takes place; placing a person or object in the line of fire; taking, disturbing or damaging property, such as a hunting blind; abusing a hunting dog; or other conduct intended to slow or make difficult the progress of a lawful hunt.

SUBTITLE I—OTHER PROVISIONS

Section 320901—House recedes to Senate section 2965, wiretaps, with technical modification.

Section 320902—House recedes to Senate section 2966, theft of major artwork, with modifications.

Section 320903—House recedes to Senate section 2969, addition of attempted robbery, kidnapping, smuggling and property damage offenses.

Section 320904—House recedes to Senate section 2972, to include findings with respect to the gun-free school zone provisions of the Crime Control Act of 1990.

Section 320905—House recedes to Senate section 5109, interstate wagering.

Section 320906—Senate recedes to House section 3005 with technical modifications. The Conferees note that Congress finds with regard to this section that there are 8,000,000 workers in the trucking industry in the United States, some working for large carriers and some for small carriers, some for private carriers and some owner operators, all assisting the free flow of commerce by transporting all types of commodities that enter, leave, or move within this country. Unemployment, crime, and drug use have contributed to an increase of violence against commercial truckers, an increase that has gone unrecognized by the public at large. As few state or local authorities report violent crimes against truckers as such to the Federal Bureau of Investigation, statistics do not reflect this fast-growing and increasingly violent segment of crime. The Federal Bureau of Investigation investigated 282 truck hijackings involving crimes of violence in 1993, not including attempted crimes and crimes addressed by State, county, and local authorities. The Federal Government in large measure finances the highway system the trucking industry uses, collecting large sums in taxes from the industry and licenses, and regulates the industry and its drivers, entailing a concomitant responsibility to protect them against crime. Federal law provides protections to truckers in, among others, sections 33 and 1951 of title 18, United States Code, but currently Federal prosecutions are not undertaken unless certain monetary thresholds of loss are met.

Section 320907—House recedes to Senate section 5148 with technical modifications. The Conferees note the Senate finds with regard to this section that: (1) the National Center for Health Statistics has reported that the out-of-wedlock birth rate reached 29.5 percent in 1991 (66.3 percent in Washington DC., 71.0 percent in Detroit); (2) the out-of-wedlock birth rate has increased without interruption since 1970, and, as pointed out recently by George Will, "the rate of increase is not slowing even at extraordinary levels"; (3) Dr. Lee Rainwater of Harvard University predicts that the rate will reach 40 percent within 7 years; (4) Professor James Q. Wilson has described the erosion of the family structure in the United States and Western nations as "a major cultural convulsion" that is inextricably associated with the rise of violent urban crime; (5) President Clinton has stated on the national television program "Meet the Press" that there is "absolutely" a correlation between crime and drugs and the breakdown of the family.

Section 320908—House recedes to Senate section 5106 with technical modifications. The Conferees note the Senate finds with regard to this section that (1) international criminal activity has increased dramatically over the past decade and has been facilitated by modern developments in transportation and communications, relaxed travel restrictions, and the greatly increased volume of international trade; (2) The expansion of international criminal activity is reflected in the growth of requests for mutual legal assistance and extradition made between the United States and other countries, the number of such requests having increased from 535 in 1984 to 2,238 in 1992; (3) The global reach of organized crime constitutes a serious threat to the security and stability of sovereign nations; (4) the expanding scope of international organized crime necessitates greater cooperation among nations to prosecute and eliminate organized criminal groups; (5) there is an urgent need for new approaches to allow the international law enforcement community to pursue international criminals across national boundaries; (6) The United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances has helped bring about improved international cooperation with respect to narcotics; (7) The current role of the United Nations with respect to international organized crime is limited by the lack of a binding international convention dealing with the broad range of organized criminal activity beyond narcotics; (8) The United Nations Commission on Crime Prevention and Criminal Justice has successfully facilitated the negotiation and implementation of mutual legal assistance and extradition treaties between certain nations, and has helped train nations to effectively execute the terms of such treaties; (9) The United Nations Commission on Crime Prevention and Criminal Justice currently has limited authority and resources.

Section 320909—House recedes to Senate section 2961, optional venue for espionage.

Section 320910—House recedes to Senate section 2962, undercover operations.

Section 320911—House recedes to Senate section 2968, misuse of DEA initials.

Section 320912—House recedes to Senate section 2970, definition of livestock, with modification.

Section 320913—House recedes to Senate section 5155, asset forfeiture.

Section 320914—House recedes to Senate section 5156, clarification of court.

Section 320915—House recedes to Senate section 5164. The Conferees note that the Senate has found regarding this provision that we are losing control of our streets and our neighborhoods to gangs, drugs and violent crime; Americans tolerate a level of violence 5 times that of Canada and 10 times that of England; this bill establishes a Violent Crime Reduction Trust Fund. The conference report authorizes the revenues to fund the Trust Fund be derived from savings resulting from a reduction in Federal personnel; and the Federal law enforcement agencies charged with carrying out the provisions of this Act will require substantial manpower to implement the Act.

Section 320916—Senate recedes to House section 3041, traveler protection.

Section 320917—House recedes to Senate section 2971, extension of statute of limitations for arson, with modifications.

Section 320918—House recedes to Senate section 1603, Sense of Congress concerning child custody and visitation rights.

Section 320919—Senate recedes to House section 3048, Edward Byrne Memorial Formula Grant Program.

Section 320920—House recedes to Senate section 5127, Law Day USA with modification. The Conferees note that the Senate has found with regard to this program that the first day of May each year has been designated as "Law Day U.S.A." and set aside as a special day to advance equality and justice under law, to encourage citizens' support for law enforcement and law observance, and to foster respect for law and an understanding of the essential place of law in

the life of every citizen of the United States; each day police officers and other law enforcement personnel perform their duties unflinchingly and without hesitation; each year tens of thousands of law enforcement personnel are injured or assaulted in the course of duty and many are killed; law enforcement personnel are devoted to their jobs, are underpaid for their efforts and are tireless in their work; and law enforcement personnel perform their duties without adequate recognition.

Section 320921—House recedes to Senate section 5154 with modifications. This section ensures that a defendant convicted for the first time will attend an appropriate rehabilitation program. The Conferees intend that the courts ensure that defendants who may suffer from organic brain damage or severe mental illness are referred to the most appropriate rehabilitative care addressing their specific needs. Further, any rehabilitation program may refer the defendant back to the court if it determines that its program is inappropriate for the defendant.

Section 320922—Senate recedes to House section 3001, Display of Flags at Half Staff.

Section 320923—Senate recedes to House section 3011, Financial Institution Fraud.

Section 320924—House recedes to Senate section 5114, definition of parent.

Section 320926—House recedes to Senate section 5123, Hate Crime Statistics Act.

Section 320927—Senate recedes to House proposal exempting return of handgun to owner from Brady background check requirement.

Section 320928—House recedes to Senate sections 811-16, Protection of Children, the Elderly, and Individuals with Disabilities, with modifications to delete already enacted provisions and with other modifications.

Section 320929—Senate recedes to House proposal regarding Tennessee Valley Authority Law Enforcement.

Section 320932—House recedes to Senate section 5162, Assistant United States Attorney Residency, with modification to 25 miles.

Section 320933—Senate recedes to House section 3086 with modifications.

Section 320934—Senate recedes to House proposal regarding non-dischargeability.

Section 320935—House recedes to Senate section 831 with modifications.

Senate section 5128, treatment of Indian tribes, recedes to House because Indian tribal governments are incorporated throughout the bill.

Senate section 5133, Control and Prevention of Crime in Indian Country, recedes to House because Indian Tribes are incorporated throughout the bill.

Senate section 5151, Supreme Court marshals and police, deleted because already enacted.

Senate section 5116, parental accountability, recedes to House.

Senate section 5108, Report on Success of Royal Hong Kong Police Recruiting, recedes to House.

Senate section 5147 recedes to House. The Conferees note that the substance of this provision is included in the provisions for alternative punishment for young offenders.

Senate section 5145, Children and Youth Utilizing Federal Land, recedes to House.

Senate section 5104 recedes to House.

Senate section 5134, extension of RTC statute of limitations, recedes to House.

House sections 3061-62, Age Discrimination in Employment, recede to Senate.

House section 1098B, Benefit for Chaplains, recedes to Senate because Senate budget point of order lies against this section.

Senate sections 2801-03, Safe Schools, are deleted because already enacted.

Senate sections 1011-12, community substance abuse prevention, recede to House.

House section 1605 recedes to Senate.

TITLE XXXIII—TECHNICAL CORRECTIONS

Sections 330001-025—Senate sections 3001-13 recede to the technical corrections found in H.R. 3131 with conforming changes and additional technical corrections.

JACK BROOKS,
DON EDWARDS,
BILL HUGHES,
CHARLES SCHUMER,
JOHN CONYERS,
PAT SCHROEDER,
BARNEY FRANK,
MICHAEL N. CASTLE,

As additional conferees from the Committee on Agriculture, for consideration of sections 4601-08, 5105, and 5145 of the Senate amendment, and modifications committed to conference:

E DE LA GARZA,
CHARLIE ROSE,
CHARLIE STENHOLM,
PAT ROBERTS,
RICHARD POMBO,

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of sections 2201-04, 2301, and 4901-33 of the Senate amendment, and sections 1031(b), 1038, and 1099AA-1099CC of the House amendment, and modifications committed to conference:

HENRY GONZALEZ,
STEPHEN NEAL,
BRUCE F. VENTO,

As additional conferees from the Committee on Education and Labor, for consideration of sections 631-33, 662(e), 662(f), 811-16, 921-28, 1121-50, 1331, 2801-03, 3261, 3263, 3311, 3341, 3351, 3361, 3381-83, 3501, 3707, 4001-09, 4301-04, 4701-02, 4801-09, 4901-33, 5120, 5122, 5135, 5140, 5142-43, and 5147 of the Senate amendment, and sections 1010-26, 1030-34, 1038, 1051-52, 1065-71, 1081-96, 1099A-1099G, 1099H-1099O, 1099P-1099T, 1606, 1610, 1653-54, 1902(e), 1902(f), 2201-02, 2701-39, 3061-62, 3089-90, of the House amendment, and modifications committed to conference:

WILLIAM D. FORD,
DALE E. KILDEE,

As additional conferees from the Committee on Energy and Commerce, for consideration of sections 1503-04, 1511-23, 1532, 1534-35, 1537, 1902(e), 3101-03, 3261, and 5166 of the Senate amendment, and sections 1010-26, 1041-44, 1606, 2901-03, and 3086 of the House Amendment, and modifications committed to conference:

JOHN D. DINGELL,
HENRY A. WAXMAN,
CARDISS COLLINS,

As additional conferees from the Committee on Government Operations, for consideration of sections 1353-54, 1535, and 5150 of the Senate amendment, and sections 1075-76 of the House amendment, and modifications committed to conference:

Provided, Mr. Spratt and Mr. Kyl are appointed in lieu of Mr. Waxman and Mr. Clinger solely for the consideration of sections 1535 and 5150 of the Senate amendment.

JOHN M. SPRATT, Jr.,

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of sections 713-15, 4601-08, 5105, and 5145 of the Senate amendment, and modifications committed to conference:

GARY E. STUDDS,
GEORGE HOCHBRUECKNER,

As additional conferees from the Committee on Natural Resources, for consideration of sections 3232-33, 4601-08, and 5145 of the Senate amndment and sections 1099U-1099Z of the House amendment, and modifications committed to conference:

GEORGE MILLER,
BRUCE VENTO,
KAREN SHEPHERD,
DON YOUNG,

Provided, Ms. English of Arizona is appointed in lieu of Ms. Shepherd solely for the consideration of sections 4601-08 of the Senate amendment.

KARAN ENGLISH,

Provided, Mr. Hinchey is appointed in lieu of Ms. Shepherd solely for the consideration of sections 1099U-1099Z of the House amendment.

MAURICE HINCHEY,

As additional conferees from the Committee on Post Office and Civil Service, for consideration of sections 1352 and 3371 of the Senate amendment, and modifications committed to conference:

WILLIAM CLAY,
FRANK MCCLOSKEY,
ELEANOR H. NORTON,
CONSTANCE MORELLA,

As additional conferees from the Committee on Public Works and Transportation, for consideration of sections 1533, 1536, and 3231 of the Senate amendment, and section 1801 of the House amendment and modifications committeed to conference:

NORMAN Y. MINETA,
NICK RAHALL,
BUD SHUSTER,
THOMAS E. PETRI,

As additional conferees from the Committee on Rules, for consideration of sections 1353-54 of the Senate amendment, and modifications committed to conference:

BUTLER DERRICK,

As additional conferees from the Committee on Ways and Means, for consideration of sections 311(b), 1502, 1515-16, 1802, 4702(e)(1), 5102, and 5113 of the Senate amendment, and modifications committed to conference:

DAN ROSTENKOWSKI,
SAM GIBBONS,
J.J. PICKLE,

Managers on the Part of the House.

JOSEPH R. BIDEN, Jr.,
TED KENNEDY,
HOWARD METZENBAUM,
DENNIS DECONCINI,
PAT LEAHY,

Managers on the Part of the Senate.

CONFERENCE REPORT ON S. 1587, FEDERAL ACQUISITION STREAMLINING ACT OF 1994

Mr. CONYERS submitted the following conference report and statement on the Senate bill (S. 1587) to revise and streamline the acquisition laws of the Federal Government, and for other purposes:

CONFERENCE REPORT (H. REPT. 103-712)

[To accompany S. 1587]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1587), to revise and streamline the acquisition laws of the Federal Government, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and

agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Acquisition Streamlining 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.

TITLE I—CONTRACT FORMATION

Subtitle A—Competition Statutes

PART I—ARMED SERVICES ACQUISITIONS

SUBPART A—COMPETITION REQUIREMENTS

Sec. 1001. References to Federal Acquisition Regulation.
Sec. 1002. Establishment or maintenance of alternative sources of supply.
Sec. 1003. Clarification of approval authority for use of procedures other than full and open competition.
Sec. 1004. Task and delivery order contracts.
Sec. 1005. Acquisition of expert services.

SUBPART B—PLANNING, SOLICITATION, EVALUATION, AND AWARD

Sec. 1011. Source selection factors.
Sec. 1012. Solicitation provision regarding evaluation of purchase options.
Sec. 1013. Prompt notice of award.
Sec. 1014. Post-award debriefings.
Sec. 1015. Protest file.
Sec. 1016. Agency actions on protests.

SUBPART C—KINDS OF CONTRACTS

Sec. 1021. Repeal of requirement for Secretarial determination regarding use of cost type or incentive contract.
Sec. 1022. Revision and reorganization of multiyear contracting authority.

SUBPART D—MISCELLANEOUS

Sec. 1031. Repeal of requirement for annual report by advocates for competition.

PART II—CIVILIAN AGENCY ACQUISITIONS

SUBPART A—COMPETITION REQUIREMENTS

Sec. 1051. References to Federal Acquisition Regulation.
Sec. 1052. Establishment or maintenance of alternative sources of supply.
Sec. 1053. Clarification of approval authority for use of procedures other than full and open competition.
Sec. 1054. Task and delivery order contracts.
Sec. 1055. Acquisition of expert services.

SUBPART B—PLANNING, SOLICITATION, EVALUATION, AND AWARD

Sec. 1061. Solicitation, evaluation, and award.
Sec. 1062. Solicitation provision regarding evaluation of purchase options.
Sec. 1063. Prompt notice of award.
Sec. 1064. Post-award debriefings.
Sec. 1065. Protest file.
Sec. 1066. Agency actions on protests.

SUBPART C—KINDS OF CONTRACTS

Sec. 1071. Repeal of agency head determination regarding use of cost type or incentive contract.
Sec. 1072. Multiyear contracting authority.
Sec. 1073. Severable services contracts crossing fiscal years.
Sec. 1074. Economy Act purchases.

PART III—ACQUISITIONS GENERALLY

Sec. 1091. Policy regarding consideration of contractor past performance.
Sec. 1092. Repeal of requirement for annual report on competition.
Sec. 1093. Discouragement of nonstandard contract clauses.

Subtitle B—Truth in Negotiations

PART I—ARMED SERVICES ACQUISITIONS

Sec. 1201. Stabilization of dollar threshold of applicability.
Sec. 1202. Exceptions to cost or pricing data requirements.
Sec. 1203. Restrictions on additional authority to require cost or pricing data or other information.
Sec. 1204. Additional special rules for commercial items.
Sec. 1205. Right of United States to examine contractor records.
Sec. 1206. Required regulations.
Sec. 1207. Consistency of time references.
Sec. 1208. Exception for transfers between divisions, subsidiaries, and affiliates.
Sec. 1209. Coverage of Coast Guard and NASA for interest and payments on certain overpayments.
Sec. 1210. Repeal of superseded provision.

PART II—CIVILIAN AGENCY ACQUISITIONS

Sec. 1251. Revision of civilian agency provisions to ensure uniform treatment of cost or pricing data.
Sec. 1252. Repeal of obsolete provision.

Subtitle C—Research and Development

Sec. 1301. Research projects.

Subtitle D—Procurement Protests

PART I—PROTESTS TO THE COMPTROLLER GENERAL

Sec. 1401. Protest defined.
Sec. 1402. Review of protests and effect on contracts pending decision.
Sec. 1403. Decisions on protests.
Sec. 1404. Regulations.

PART II—PROTESTS IN PROCUREMENTS OF AUTOMATIC DATA PROCESSING

Sec. 1431. Revocation of delegations of procurement authority.
Sec. 1432. Authority of the General Services Administration Board of Contract Appeals.
Sec. 1433. Periods for certain actions.
Sec. 1434. Dismissals of protests.
Sec. 1435. Award of costs.
Sec. 1436. Dismissal agreements.
Sec. 1437. Matters to be covered in regulations.
Sec. 1438. Definition of protest.
Sec. 1439. Oversight of acquisition of automatic data processing equipment by Federal agencies.

Subtitle E—Policy, Definitions, and Other Matters

PART I—ARMED SERVICES ACQUISITIONS

Sec. 1501. Repeal of policy statement.
Sec. 1502. Definitions.
Sec. 1503. Delegation of procurement functions.
Sec. 1504. Determinations and decisions.
Sec. 1505. Restrictions on undefinitized contractual actions.
Sec. 1506. Repeal of requirement relating to production special tooling and production special test equipment.
Sec. 1507. Regulations for bids.

PART II—CIVILIAN AGENCY ACQUISITIONS

Sec. 1551. Definitions.
Sec. 1552. Delegation of procurement functions.
Sec. 1553. Determinations and decisions.
Sec. 1554. Repeal of preference for recycled toner cartridges.
Sec. 1555. Cooperative purchasing.

TITLE II—CONTRACT ADMINISTRATION

Subtitle A—Contract Payment

PART I—ARMED SERVICES ACQUISITIONS

Sec. 2001. Contract financing.
Sec. 2002. Repeal of vouchering procedures section.

PART II—CIVILIAN AGENCY ACQUISITIONS

Sec. 2051. Contract financing.

PART III—ACQUISITIONS GENERALLY

Sec. 2091. Government-wide application of payment protections for subcontractors and suppliers.

Subtitle B—Cost Principles

PART I—ARMED SERVICES ACQUISITIONS

Sec. 2101. Allowable contract costs.
Sec. 2102. Repeal of authority for contract profit controls during emergency periods.

PART II—CIVILIAN AGENCY ACQUISITIONS

Sec. 2151. Allowable contract costs.

PART III—ACQUISITIONS GENERALLY

Sec. 2191. Travel expenses of Government contractors.
Sec. 2192. Revision of cost principle relating to entertainment, gift, and recreation costs for contractor employees.

Subtitle C—Audit and Access to Records

PART I—ARMED SERVICES ACQUISITIONS

Sec. 2201. Consolidation and revision of authority to examine records of contractors.

PART II—CIVILIAN AGENCY ACQUISITIONS

Sec. 2251. Authority to examine records of contractors.

Subtitle D—Claims and Disputes

PART I—ARMED SERVICES ACQUISITIONS

Sec. 2301. Certification of contract claims.
Sec. 2302. Shipbuilding claims.

PART II—ACQUISITIONS GENERALLY

Sec. 2351. Contract Disputes Act improvements.
Sec. 2352. Extension of alternative dispute resolution authority.
Sec. 2353. Expedited resolution of contract administration matters.
Sec. 2354. Authority for district courts to obtain advisory opinions from boards of contract appeals in certain cases.

Subtitle E—Miscellaneous

PART I—ARMED SERVICES ACQUISITIONS

Sec. 2401. Clarification of provision relating to quality control of certain spare parts.
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TITLE I—CONTRACT FORMATION

Subtitle A—Competition Statutes

PART I—ARMED SERVICES ACQUISITIONS

Subpart A—Competition Requirements

SEC. 1001. REFERENCES TO FEDERAL ACQUISITION REGULATION.

Section 2304 of title 10, United States Code, is amended—

(1) in subsection (a)(1)(A), by striking out "modifications" and all that follows through "note)" and inserting in lieu thereof "Federal Acquisition Regulation"; and

(2) in subsection (g)(1), by striking out "regulations modified" and all that follows through "note)" and inserting in lieu thereof "Federal Acquisition Regulation".

SEC. 1002. ESTABLISHMENT OR MAINTENANCE OF ALTERNATIVE SOURCES OF SUPPLY.

(a) ADDITIONAL JUSTIFICATION FOR ESTABLISHING OR MAINTAINING ALTERNATIVE SOURCES.—Section 2304(b)(1) of such title is amended—

(1) by striking out "or" at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new subparagraphs:

"(D) would ensure the continuous availability of a reliable source of supply of such property or service;

"(E) would satisfy projected needs for such property or service determined on the basis of a history of high demand for the property or service; or

"(F) in the case of medical supplies, safety supplies, or emergency supplies, would satisfy a critical need for such supplies.".

(b) PROHIBITION ON USE OF CLASSES OF PURCHASES OR CONTRACTS.—Section 2304(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(4) A determination under paragraph (1) may not be made for a class of purchases or contracts.".

SEC. 1003. CLARIFICATION OF APPROVAL AUTHORITY FOR USE OF PROCEDURES OTHER THAN FULL AND OPEN COMPETITION.

Section 2304(f)(1)(B)(i) of title 10, United States Code, is amended by inserting before the semicolon at the end the following: "or by an official referred to in clause (ii), (iii), or (iv)".

SEC. 1004. TASK AND DELIVERY ORDER CONTRACTS.

(a) AUTHORITY.—(1) Chapter 137 of title 10, United States Code, is amended by inserting after section 2304 the following new sections:

"§2304a. Task and delivery order contracts: general authority

"(a) AUTHORITY TO AWARD.—Subject to the requirements of this section, section 2304c of this title, and other applicable law, the head of an agency may enter into a task or delivery order contract (as defined in section 2304d of this title) for procurement of services or property.

"(b) SOLICITATION.—The solicitation for a task or delivery order contract shall include the following:

"(1) The period of the contract, including the number of options to extend the contract and the period for which the contract may be extended under each option, if any.

"(2) The maximum quantity or dollar value of the services or property to be procured under the contract.

"(3) A statement of work, specifications, or other description that reasonably describes the general scope, nature, complexity, and purposes of the services or property to be procured under the contract.

"(c) APPLICABILITY OF RESTRICTION ON USE OF NONCOMPETITIVE PROCEDURES.—The head of an agency may use procedures other than competitive procedures to enter into a task or delivery order contract under this section only if an exception in subsection (c) of section 2304 of this title applies to the contract and the use of such procedures is approved in accordance with subsection (f) of such section.

"(d) SINGLE AND MULTIPLE CONTRACT AWARDS.—(1) The head of an agency may exercise the authority provided in this section—

"(A) to award a single task or delivery order contract; or

"(B) if the solicitation states that the head of the agency has the option to do so, to award separate task or delivery order contracts for the same or similar services or property to two or more sources.

"(2) No determination under section 2304(b) of this title is required for award of multiple task or delivery order contracts under paragraph (1)(B).

"(3) The regulations implementing this subsection shall—

"(A) establish a preference for awarding, to the maximum extent practicable, multiple task or delivery order contracts for the same or similar services or property under the authority of paragraph (1)(B); and

"(B) establish criteria for determining when award of multiple task or delivery order contracts would not be in the best interest of the Federal Government.

"(e) CONTRACT MODIFICATIONS.—A task or delivery order may not increase the scope, period, or maximum value of the task or delivery order contract under which the order is issued. The scope, period, or maximum value of the contract may be increased only by modification of the contract.

"(f) INAPPLICABILITY TO CONTRACTS FOR ADVISORY AND ASSISTANCE SERVICES.—Except as otherwise specifically provided in section 2304b of this title, this section does not apply to a task or delivery order contract for the procurement of advisory and assistance services (as defined in section 1105(g) of title 31).

"(g) RELATIONSHIP TO OTHER CONTRACTING AUTHORITY.—Nothing in this section may be construed to limit or expand any authority of the head of an agency or the Administrator of General Services to enter into schedule, multiple award, or task or delivery order contracts under any other provision of law.

"§2304b. Task order contracts: advisory and assistance services

"(a) AUTHORITY TO AWARD.—(1) Subject to the requirements of this section, section 2304c of this title, and other applicable law, the head of an agency may enter into a task order contract (as defined in section 2304d of this title) for procurement of advisory and assistance services.

"(2) The head of an agency may enter into a task order contract for procurement of advisory and assistance services only under the authority of this section.

"(b) LIMITATION ON CONTRACT PERIOD.—The period of a task order contract entered into under this section, including all periods of extensions of the contract under options, modifications, or otherwise, may not exceed five years unless a longer period is specifically authorized in a law that is applicable to such contract.

"(c) CONTENT OF NOTICE.—The notice required by section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act (15 U.S.C. 637(e)) shall reasonably and fairly describe the general scope, magnitude, and duration of the proposed task order contract in a manner that would reasonably enable a potential offeror to decide whether to request the solicitation and consider submitting an offer.

"(d) REQUIRED CONTENT OF SOLICITATION AND CONTRACT.—(1) The solicitation for the proposed task order contract shall include the information (regarding services) described in section 2304a(b) of this title.

"(2) A task order contract entered into under this section shall contain the same information that is required by paragraph (1) to be included in the solicitation of offers for that contract.

"(e) MULTIPLE AWARDS.—(1) The head of an agency may, on the basis of one solicitation, award separate task order contracts under this section for the same or similar services to two or more sources if the solicitation states that the head of the agency has the option to do so.

"(2) If, in the case of a task order contract for advisory and assistance services to be entered into under this section, the contract period is to exceed three years and the contract amount is estimated to exceed $10,000,000 (including all options), the solicitation shall—

"(A) provide for a multiple award authorized under paragraph (1); and

"(B) include a statement that the head of the agency may also elect to award only one task order contract if the head of the agency determines in writing that only one of the offerers is capable of providing the services required at the level of quality required.

"(3) Paragraph (2) does not apply in the case of a solicitation for which the head of the agency concerned determines in writing that, because the services required under the task order contract are unique or highly specialized, it is not practicable to award more than one contract.

"(f) CONTRACT MODIFICATIONS.—(1) A task order may not increase the scope, period, or maximum value of the task order contract under which the order is issued. The scope, period, or maximum value of the contract may be increased only by modification of the contract.

"(2) Unless use of procedures other than competitive procedures is authorized by an exception in subsection (c) of section 2304 of this title and approved in accordance with subsection (f) of such section, competitive procedures shall be used for making such a modification.

"(3) Notice regarding the modification shall be provided in accordance with section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act (15 U.S.C. 637(e)).

"(g) CONTRACT EXTENSIONS.—(1) Notwithstanding the limitation on the contract period set forth in subsection (b) or in a solicitation or contract pursuant to subsection (e), a task order contract entered into by the head of an agency under this section may be extended on a sole-source basis for a period not exceeding six months if the head of such agency determines that—

"(A) the award of a follow-on contract has been delayed by circumstances that were not reasonably foreseeable at the time the initial contract was entered into; and

"(B) the extension is necessary in order to ensure continuity of the receipt of services pending the award of, and commencement of performance under, the follow-on contract.

"(2) A task order contract may be extended under the authority of paragraph (1) only once and only in accordance with the limitations and requirements of this subsection.

"(h) INAPPLICABILITY TO CERTAIN CONTRACTS.—This section does not apply to a contract for the acquisition of property or services that includes acquisition of advisory and assistance services if the head of an agency entering into such contract determines that, under the contract, advisory and assistance services are necessarily incident to, and not a significant component of, the contract.

"(i) ADVISORY AND ASSISTANCE SERVICES DEFINED.—In this section, the term 'advisory and assistance services' has the meaning given such term in section 1105(g) of title 31.

"§2304c. Task and delivery order contracts: orders

"(a) ISSUANCE OF ORDERS.—The following actions are not required for issuance of a task or delivery order under a task or delivery order contract:

"(1) A separate notice for such order under section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) or section 8(e) of the Small Business Act (15 U.S.C. 637(e)).

"(2) Except as provided in subsection (b), a competition (or a waiver of competition approved in accordance with section 2304(f) of this title) that is separate from that used for entering into the contract.

"(b) MULTIPLE AWARD CONTRACTS.—When multiple task or delivery order contracts are awarded under section 2304a(d)(1)(B) or 2304b(e) of this title, all contractors awarded such contracts shall be provided a fair opportunity to be considered, pursuant to procedures set forth in the contracts, for each task or delivery order in excess of $2,500 that is to be issued under any of the contracts unless—

"(1) the agency's need for the services or property ordered is of such unusual urgency that providing such opportunity to all such contractors would result in unacceptable delays in fulfilling that need;

"(2) only one such contractor is capable of providing the services or property required at the level of quality required because the services or property ordered are unique or highly specialized;

"(3) the task or delivery order should be issued on a sole-source basis in the interest of economy and efficiency because it is a logical follow-on to a task or delivery order already issued on a competitive basis; or

"(4) it is necessary to place the order with a particular contractor in order to satisfy a minimum guarantee.

"(c) STATEMENT OF WORK.—A task or delivery order shall include a statement of work that clearly specifies all tasks to be performed or property to be delivered under the order.

"(d) PROTESTS.—A protest is not authorized in connection with the issuance or proposed issuance of a task or delivery order except for a protest on the ground that the order increases the scope, period, or maximum value of the contract under which the order is issued.

"(e) TASK AND DELIVERY ORDER OMBUDSMAN.—Each head of an agency who awards multiple task or delivery order contracts pursuant to section 2304a(d)(1)(B) or 2304b(e) of this title shall appoint or designate a task and delivery order ombudsman who shall be responsible for reviewing complaints from the contractors on such contracts and ensuring that all of the contractors are afforded a fair opportunity to be considered for task or delivery orders when required under subsection (b). The task and delivery order ombudsman shall be a senior agency official who is independent of the contracting officer for the contracts and may be the agency's competition advocate.

"(f) APPLICABILITY.—This section applies to task and delivery order contracts entered into under sections 2304a and 2304b of this title.

"§2304d. Task and delivery order contracts: definitions

"In sections 2304a, 2304b, and 2304c of this title:

"(1) The term 'task order contract' means a contract for services that does not procure or specify a firm quantity of services (other than a minimum or maximum quantity) and that provides for the issuance of orders for the performance of tasks during the period of the contract.

"(2) The term 'delivery order contract' means a contract for property that does not procure or specify a firm quantity of property (other than a minimum or maximum quantity) and that provides for the issuance of orders for the delivery of property during the period of the contract.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2304 the following new items:

"2304a. Task and delivery order contracts: general authority.
"2304b. Task order contracts: advisory and assistance services.
"2304c. Task and delivery order contracts: orders.
"2304d. Task and delivery order contracts: definitions.".

(b) REPEAL OF SUPERSEDED PROVISION.—Section 2304 of title 10, United States Code, is amended by striking out subsection (j).

(c) CONFORMING AMENDMENT FOR PROFESSIONAL AND TECHNICAL SERVICES.—Section 2331 of title 10, United States Code, is amended by striking out subsection (c).

(d) PROVISIONS NOT AFFECTED.—Nothing in section 2304a, 2304b, 2304c, or 2304d of title 10, United States Code, as added by subsection (a), and nothing in the amendments made by subsections (b) and (c), shall be construed as modifying or superseding, or as intended to impair or restrict, authorities or responsibilities under—

(1) the Brooks Automatic Data Processing Act (section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759)); and

(2) the Brooks Architect-Engineers Act (title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 et seq.)).

SEC. 1005. ACQUISITION OF EXPERT SERVICES.

Section 2304(c)(3) of title 10, United States Code, is amended—

(1) by striking out "or (B)" and inserting in lieu thereof "(B)"; and

(2) by inserting before the semicolon at the end the following: ", or (C) to procure the services of an expert for use, in any litigation or dispute (including any reasonably foreseeable litigation or dispute) involving the Federal Government, in any trial, hearing, or proceeding before any court, administrative tribunal, or agency, or in any part of an alternative dispute resolution process, whether or not the expert is expected to testify".

Subpart B—Planning, Solicitation, Evaluation, and Award

SEC. 1011. SOURCE SELECTION FACTORS.

(a) CONTENT OF SOLICITATION.—Paragraph (2) of section 2305(a) of title 10, United States Code, is amended—

(1) in subparagraph (A)(i)—

(A) by striking out "(and significant subfactors)" and inserting in lieu thereof "and significant subfactors"; and

(B) by striking out "cost- or price-related factors, and noncost- or nonprice-related factors" and inserting in lieu thereof "cost-related or price-related factors and subfactors, and noncost-related or nonprice-related factors and subfactors";

(2) in subparagraph (A)(ii), by striking out "(and subfactors)" and inserting "and subfactors"; and

(3) in subparagraph (B)(ii), by amending subclause (I) to read as follows:

"(I) either a statement that the proposals are intended to be evaluated with, and award made after, discussions with the offerors, or a statement that the proposals are intended to be evaluated, and award made, without discussions with the offerors (other than discussions conducted for the purpose of minor clarification) unless discussions are determined to be necessary; and".

(b) EVALUATION FACTORS.—Such section is further amended by striking out paragraph (3) and inserting in lieu thereof the following:

"(3)(A) In prescribing the evaluation factors to be included in each solicitation for competitive proposals, the head of an agency—

"(i) shall clearly establish the relative importance assigned to the evaluation factors and subfactors, including the quality of the product or services to be provided (including technical capability, management capability, prior experience, and past performance of the offeror);

"(ii) shall include cost or price to the Federal Government as an evaluation factor that must be considered in the evaluation of proposals; and

"(iii) shall disclose to offerors whether all evaluation factors other than cost or price, when combined, are—

"(I) significantly more important than cost or price;

"(II) approximately equal in importance to cost or price; or

"(III) significantly less important than cost or price.

"(B) The regulations implementing clause (iii) of subparagraph (A) may not define the terms 'significantly more important' and 'significantly less important' as specific numeric weights that would be applied uniformly to all solicitations or a class of solicitations.

"(4) Nothing in this subsection prohibits an agency from—

"(A) providing additional information in a solicitation, including numeric weights for all evaluation factors and subfactors on a case-by-case basis; or

"(B) stating in a solicitation that award will be made to the offeror that meets the solicitation's mandatory requirements at the lowest cost or price.".

SEC. 1012. SOLICITATION PROVISION REGARDING EVALUATION OF PURCHASE OPTIONS.

Subsection (a) of section 2305 of title 10, United States Code, as amended by section 1011, is further amended by adding at the end the following new paragraph:

"(5) The head of an agency, in issuing a solicitation for a contract to be awarded using sealed bid procedures, may not include in such solicitation a clause providing for the evaluation of prices for options to purchase additional property or services under the contract unless the head of the agency has determined that there is a reasonable likelihood that the options will be exercised.".

SEC. 1013. PROMPT NOTICE OF AWARD.

(a) SEALED BID PROCEDURES.—Paragraph (3) of section 2305(b) of title 10, United States Code, is amended—

(1) in the last sentence, by striking out "transmitting written notice" and inserting in lieu thereof "transmitting, in writing or by electronic means, notice"; and

(2) by adding at the end the following: "Within three days after the date of contract award, the head of the agency shall notify, in writing or by electronic means, each bidder not awarded the contract that the contract has been awarded.".

(b) COMPETITIVE PROPOSALS PROCEDURES.—Paragraph (4)(B) of such section is amended in the second sentence—

(1) by striking out "transmitting written notice" and inserting in lieu thereof "transmitting, in writing or by electronic means, notice"; and

(2) by striking out "shall promptly notify" and inserting in lieu thereof ", within three days after the date of contract award, shall notify, in writing or by electronic means,".

SEC. 1014. POST-AWARD DEBRIEFINGS.

Section 2305(b) of title 10, United States Code, is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

(2) by inserting after paragraph (4) the following new paragraph (5):

"(5)(A) When a contract is awarded by the head of an agency on the basis of competitive proposals, an unsuccessful offeror, upon written request received by the agency within 3 days after the date on which the unsuccessful offeror receives the notification of the contract award, shall be debriefed and furnished the basis for the selection decision and contract award. The head of the agency shall debrief the offeror

within, to the maximum extent practicable, five days after receipt of the request by the agency.

"(B) The debriefing shall include, at a minimum—

"(i) the agency's evaluation of the significant weak or deficient factors in the offeror's offer;

"(ii) the overall evaluated cost and technical rating of the offer of the contractor awarded the contract and the overall evaluated cost and technical rating of the offer of the debriefed offeror;

"(iii) the overall ranking of all offers;

"(iv) a summary of the rationale for the award;

"(v) in the case of a proposal that includes a commercial item that is an end item under the contract, the make and model of the item being provided in accordance with the offer of the contractor awarded the contract; and

"(vi) reasonable responses to relevant questions posed by the debriefed offeror as to whether source selection procedures set forth in the solicitation, applicable regulations, and other applicable authorities were followed by the agency.

"(C) The debriefing may not include point-by-point comparisons of the debriefed offeror's offer with other offers and may not disclose any information that is exempt from disclosure under section 552(b) of title 5.

"(D) Each solicitation for competitive proposals shall include a statement that information described in subparagraph (B) may be disclosed in post-award debriefings.

"(E) If, within one year after the date of the contract award and as a result of a successful procurement protest, the agency seeks to fulfill the requirement under the protested contract either on the basis of a new solicitation of offers or on the basis of new best and final offers requested for that contract, the agency shall make available to all offerors—

"(i) the information provided in debriefings under this paragraph regarding the offer of the contractor awarded the contract; and

"(ii) the same information that would have been provided to the original offerors.

"(F) The contracting officer shall include a summary of the debriefing in the contract file.".

SEC. 1015. PROTEST FILE.

Section 2305 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e) PROTEST FILE.—(1) If, in the case of a solicitation for a contract issued by, or an award or proposed award of a contract by, the head of an agency, a protest is filed pursuant to the procedures in subchapter V of chapter 35 of title 31 and an actual or prospective offeror so requests, a file of the protest shall be established by the procuring activity and reasonable access shall be provided to actual or prospective offerors.

"(2) Information exempt from disclosure under section 552 of title 5 may be redacted in a file established pursuant to paragraph (1) unless an applicable protective order provides otherwise.

"(3) Regulations implementing this subsection shall be consistent with the regulations regarding the preparation and submission of an agency's protest file (the so-called 'rule 4 file') for protests to the General Services Board of Contract Appeals under section 111 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 759).".

SEC. 1016. AGENCY ACTIONS ON PROTESTS.

Section 2305 of title 10, United States Code, as amended by section 1015, is further amended by adding at the end the following new subsection:

"(f) AGENCY ACTIONS ON PROTESTS.—If, in connection with a protest, the head of an agency determines that a solicitation, proposed award, or award does not comply with the requirements of law or regulation, the head of the agency—

"(1) may take any action set out in subparagraphs (A) through (F) of subsection (b)(1) of section 3554 of title 31; and

"(2) may pay costs described in paragraph (1) of section 3554(c) of title 31 within the limits referred to in paragraph (2) of such section.".

Subpart C—Kinds of Contracts

SEC. 1021. REPEAL OF REQUIREMENT FOR SECRETARIAL DETERMINATION REGARDING USE OF COST TYPE OR INCENTIVE CONTRACT.

Subsection (c) of section 2306 of title 10, United States Code, is repealed.

SEC. 1022. REVISION AND REORGANIZATION OF MULTIYEAR CONTRACTING AUTHORITY.

(a) IN GENERAL.—(1) Chapter 137 of title 10, United States Code, is amended by inserting after section 2306a the following new section:

"§2306b. Multiyear contracts

"(a) IN GENERAL.—To the extent that funds are otherwise available for obligation, the head of an agency may enter into multiyear contracts for the purchase of property whenever the head of that agency finds—

"(1) that the use of such a contract will result in substantial savings of the total anticipated costs of carrying out the program through annual contracts;

"(2) that the minimum need for the property to be purchased is expected to remain substantially unchanged during the contemplated contract period in terms of production rate, procurement rate, and total quantities;

"(3) that there is a reasonable expectation that throughout the contemplated contract period the head of the agency will request funding for the contract at the level required to avoid contract cancellation;

"(4) that there is a stable design for the property to be acquired and that the technical risks associated with such property are not excessive;

"(5) that the estimates of both the cost of the contract and the anticipated cost avoidance through the use of a multiyear contract are realistic; and

"(6) in the case of a purchase by the Department of Defense, that the use of such a contract will promote the national security of the United States.

"(b) REGULATIONS.—(1) Each official named in paragraph (2) shall prescribe acquisition regulations for the agency or agencies under the jurisdiction of such official to promote the use of multiyear contracting as authorized by subsection (a) in a manner that will allow the most efficient use of multiyear contracting.

"(2)(A) The Secretary of Defense shall prescribe the regulations applicable to the Department of Defense.

"(B) The Secretary of Transportation shall prescribe the regulations applicable to the Coast Guard, except that the regulations prescribed by the Secretary of Defense shall apply to the Coast Guard when it is operating as a service in the Navy.

"(C) The Administrator of the National Aeronautics and Space Administration shall prescribe the regulations applicable to the National Aeronautics and Space Administration.

"(c) CONTRACT CANCELLATIONS.—The regulations may provide for cancellation provisions in multiyear contracts to the extent that such provisions are necessary and in the best interests of the United States. The cancellation provisions may include consideration of both recurring and nonrecurring costs of the contractor associated with the production of the items to be delivered under the contract.

"(d) PARTICIPATION BY SUBCONTRACTORS, VENDORS, AND SUPPLIERS.—In order to broaden the defense industrial base, the regulations shall provide that, to the extent practicable—

"(1) multiyear contracting under paragraph (1) shall be used in such a manner as to seek, retain, and promote the use under such contracts of companies that are subcontractors, vendors, or suppliers; and

"(2) upon accrual of any payment or other benefit under such a multiyear contract to any subcontractor, vendor, or supplier company participating in such contract, such payment or benefit shall be delivered to such company in the most expeditious manner practicable.

"(e) PROTECTION OF EXISTING AUTHORITY.—The regulations shall provide that, to the extent practicable, the administration of this section, and of the regulations prescribed under this section, shall not be carried out in a manner to preclude or curtail the existing ability of an agency—

"(1) to provide for competition in the production of items to be delivered under such a contract; or

"(2) to provide for termination of a prime contract the performance of which is deficient with respect to cost, quality, or schedule.

"(f) CANCELLATION OR TERMINATION FOR INSUFFICIENT FUNDING.—In the event funds are not made available for the continuation of a contract made under this section into a subsequent fiscal year, the contract shall be canceled or terminated. The costs of cancellation or termination may be paid from—

"(1) appropriations originally available for the performance of the contract concerned;

"(2) appropriations currently available for procurement of the type of property concerned, and not otherwise obligated; or

"(3) funds appropriated for those payments.

"(g) CONTRACT CANCELLATION CEILINGS EXCEEDING $100,000,000.—Before any contract described in subsection (a) that contains a clause setting forth a cancellation ceiling in excess of $100,000,000 may be awarded, the head of the agency concerned shall give written notification of the proposed contract and of the proposed cancellation ceiling for that contract to the Committees on Armed Services and on Appropriations of the Senate and House of Representatives, and such contract may not then be awarded until the end of a period of 30 days beginning on the date of such notification.

"(h) DEFENSE ACQUISITIONS OF WEAPON SYSTEMS.—In the case of the Department of Defense, the authority under subsection (a) includes authority to enter into the following multiyear contracts in accordance with this section:

"(1) A multiyear contract for the purchase of a weapon system, items and services associated with a weapon system, and logistics support for a weapon system.

"(2) A multiyear contract for advance procurement of components, parts, and materials necessary to the manufacture of a weapon system, including a multiyear contract for such advance procurement that is entered into in order to achieve economic-lot purchases and more efficient production rates.

"(i) DEFENSE ACQUISITIONS SPECIFICALLY AUTHORIZED BY LAW.—(1) A multiyear contract may not be entered into for any fiscal year under this section for a defense acquisition program that has been specifically authorized by law to be carried out using multiyear contract authority unless each of the following conditions is satisfied:

"(A) The Secretary of Defense certifies to Congress that the current five-year defense program fully funds the support costs associated with the multiyear program.

"(B) The proposed multiyear contract provides for production at not less than minimum economic rates given the existing tooling and facilities.

"(2) If for any fiscal year a multiyear contract to be entered into under this section is authorized by law for a particular procurement program and that authorization is subject to certain conditions established by law (including a

condition as to cost savings to be achieved under the multiyear contract in comparison to specified other contracts) and if it appears (after negotiations with contractors) that such savings cannot be achieved, but that substantial savings could nevertheless be achieved through the use of a multiyear contract rather than specified other contracts, the President may submit to Congress a request for relief from the specified cost savings that must be achieved through multiyear contracting for that program. Any such request by the President shall include details about the request for a multiyear contract, including details about the negotiated contract terms and conditions.

"(j) DEFENSE CONTRACT OPTIONS FOR VARYING QUANTITIES.—The Secretary of Defense may instruct the Secretary of the military department concerned to incorporate into a proposed multiyear contract negotiated priced options for varying the quantities of end items to be procured over the period of the contract.

"(k) INAPPLICABILITY TO AUTOMATIC DATA PROCESSING CONTRACTS.—This section does not apply to contracts for the purchase of property to which section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) applies.

"(l) MULTIYEAR CONTRACT DEFINED.—For the purposes of this subsection, a multiyear contract is a contract for the purchase of property or services for more than one, but not more than five, program years. Such a contract may provide that performance under the contract during the second and subsequent years of the contract is contingent upon the appropriation of funds and (if it does so provide) may provide for a cancellation payment to be made to the contractor if such appropriations are not made.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2306a the following:

"2306b. Multiyear contracts.".

(b) CONFORMING CROSS REFERENCE.—Subsection (h) of section 2306 of title 10, United States Code, is amended to read as follows:

"(h) Multiyear contracting authority is provided in section 2306b of this title.".

Subpart D—Miscellaneous

SEC. 1031. REPEAL OF REQUIREMENT FOR ANNUAL REPORT BY ADVOCATES FOR COMPETITION.

Subsection (c) of section 2318 of title 10, United States Code, is repealed.

PART II—CIVILIAN AGENCY ACQUISITIONS

Subpart A—Competition Requirements

SEC. 1051. REFERENCES TO FEDERAL ACQUISITION REGULATION.

Section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253) is amended—

(1) in subsection (a)(1)(A), by striking out "modifications" and all that follows through "of 1984" and inserting in lieu thereof "Federal Acquisition Regulation"; and

(2) in subsection (g)(1), by striking out "regulations modified" and all that follows through "of 1984," and inserting in lieu thereof "Federal Acquisition Regulation".

SEC. 1052. ESTABLISHMENT OR MAINTENANCE OF ALTERNATIVE SOURCES OF SUPPLY.

(a) ADDITIONAL JUSTIFICATION FOR ESTABLISHING OR MAINTAINING ALTERNATIVE SOURCES.—Section 303(b)(1) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(b)(1)) is amended—

(1) by striking out "or" at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new subparagraphs:

"(D) would ensure the continuous availability of a reliable source of supply of such property or service;

"(E) would satisfy projected needs for such property or service determined on the basis of a history of high demand for the property or service; or

"(F) in the case of medical supplies, safety supplies, or emergency supplies, would satisfy a critical need for such supplies.".

(b) PROHIBITION ON USE OF CLASSES OF PURCHASES OR CONTRACTS.—Section 303(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(b)) is amended by adding at the end the following:

"(4) A determination under paragraph (1) may not be made for a class of purchases or contracts.".

SEC. 1053. CLARIFICATION OF APPROVAL AUTHORITY FOR USE OF PROCEDURES OTHER THAN FULL AND OPEN COMPETITION.

Section 303(f)(1)(B)(i) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(f)(1)(B)(i)) is amended by inserting before the semicolon at the end the following: "or by an official referred to in clause (ii), (iii), or (iv)".

SEC. 1054. TASK AND DELIVERY ORDER CONTRACTS.

(a) AUTHORITY.—Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended by inserting after section 303G the following new sections:

"SEC. 303H. TASK AND DELIVERY ORDER CONTRACTS: GENERAL AUTHORITY.

"(a) AUTHORITY TO AWARD.—Subject to the requirements of this section, section 303J, and other applicable law, the head of an executive agency may enter into a task or delivery order contract (as defined in section 303K) for procurement of services or property.

"(b) SOLICITATION.—The solicitation for a task or delivery order contract shall include the following:

"(1) The period of the contract, including the number of options to extend the contract and the period for which the contract may be extended under each option, if any.

"(2) The maximum quantity or dollar value of the services or property to be procured under the contract.

"(3) A statement of work, specifications, or other description that reasonably describes the general scope, nature, complexity, and purposes of the services or property to be procured under the contract.

"(c) APPLICABILITY OF RESTRICTION ON USE OF NONCOMPETITIVE PROCEDURES.—The head of an executive agency may use procedures other than competitive procedures to enter into a task or delivery order contract under this section only if an exception in subsection (c) of section 303 applies to the contract and the use of such procedures is approved in accordance with subsection (f) of such section.

"(d) SINGLE AND MULTIPLE CONTRACT AWARDS.—(1) The head of an executive agency may exercise the authority provided in this section—

"(A) to award a single task or delivery order contract; or

"(B) if the solicitation states that the head of the executive agency has the option to do so, to award separate task or delivery order contracts for the same or similar services or property to two or more sources.

"(2) No determination under section 303(b) is required for an award of multiple task or delivery order contracts under paragraph (1)(B).

"(3) The regulations implementing this subsection shall—

"(A) establish a preference for awarding, to the maximum extent practicable, multiple task or delivery order contracts for the same or similar services or property under the authority of paragraph (1)(B); and

"(B) establish criteria for determining when award of multiple task or delivery order contracts would not be in the best interest of the Federal Government.

"(e) CONTRACT MODIFICATIONS.—A task or delivery order may not increase the scope, period, or maximum value of the task or delivery order contract under which the order is issued. The scope, period, or maximum value of the contract may be increased only by modification of the contract.

"(f) INAPPLICABILITY TO CONTRACTS FOR ADVISORY AND ASSISTANCE SERVICES.—Except as otherwise specifically provided in section 303I, this section does not apply to a task or delivery order contract for the acquisition of advisory and assistance services (as defined in section 1105(g) of title 31, United States Code).

"(g) RELATIONSHIP TO OTHER CONTRACTING AUTHORITY.—Nothing in this section may be construed to limit or expand any authority of the head of an executive agency or the Administrator of General Services to enter into schedule, multiple award, or task or delivery order contracts under any other provision of law.

"SEC. 303I. TASK ORDER CONTRACTS: ADVISORY AND ASSISTANCE SERVICES.

"(a) AUTHORITY TO AWARD.—(1) Subject to the requirements of this section, section 303J, and other applicable law, the head of an executive agency may enter into a task order contract (as defined in section 303K) for procurement of advisory and assistance services.

"(2) The head of an executive agency may enter into a task order contract for advisory and assistance services only under the authority of this section.

"(b) LIMITATION ON CONTRACT PERIOD.—The period of a task order contract entered into under this section, including all periods of extensions of the contract under options, modifications, or otherwise, may not exceed five years unless a longer period is specifically authorized in a law that is applicable to such contract.

"(c) CONTENT OF NOTICE.—The notice required by section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act (15 U.S.C. 637(e)) shall reasonably and fairly describe the general scope, magnitude, and duration of the proposed task order contract in a manner that would reasonably enable a potential offeror to decide whether to request the solicitation and consider submitting an offer.

"(d) REQUIRED CONTENT OF SOLICITATION AND CONTRACT.—(1) The solicitation shall include the information (regarding services) described in section 303H(b).

"(2) A task order contract entered into under this section shall contain the same information that is required by paragraph (1) to be included in the solicitation of offers for that contract.

"(e) MULTIPLE AWARDS.—(1) The head of an executive agency may, on the basis of one solicitation, award separate task order contracts under this section for the same or similar services to two or more sources if the solicitation states that the head of the executive agency has the option to do so.

"(2) If, in the case of a task order contract for advisory and assistance services to be entered into under the authority of this section, the contract period is to exceed three years and the contract amount is estimated to exceed $10,000,000 (including all options), the solicitation shall—

"(A) provide for a multiple award authorized under paragraph (1); and

"(B) include a statement that the head of the executive agency may also elect to award only one task order contract if the head of the executive agency determines in writing that only one

of the offerers is capable of providing the services required at the level of quality required.

"(3) Paragraph (2) does not apply in the case of a solicitation for which the head of the executive agency concerned determines in writing that, because the services required under the contract are unique or highly specialized, it is not practicable to award more than one contract.

"(f) CONTRACT MODIFICATIONS.—(1) A task order may not increase the scope, period, or maximum value of the task order contract under which the order is issued. The scope, period, or maximum value of the contract may be increased only by modification of the contract.

"(2) Unless use of procedures other than competitive procedures is authorized by an exception in subsection (c) of section 303 and approved in accordance with subsection (f) of such section, competitive procedures shall be used for making such a modification.

"(3) Notice regarding the modification shall be provided in accordance with section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act (15 U.S.C. 637(e)).

"(g) CONTRACT EXTENSIONS.—(1) Notwithstanding the limitation on the contract period set forth in subsection (b) or in a solicitation or contract pursuant to subsection (e), a contract entered into by the head of an executive agency under this section may be extended on a sole-source basis for a period not exceeding six months if the head of such executive agency determines that—

"(A) the award of a follow-on contract has been delayed by circumstances that were not reasonably foreseeable at the time the initial contract was entered into; and

"(B) the extension is necessary in order to ensure continuity of the receipt of services pending the award of, and commencement of performance under, the follow-on contract.

"(2) A task order contract may be extended under the authority of paragraph (1) only once and only in accordance with the limitations and requirements of this subsection.

"(h) INAPPLICABILITY TO CERTAIN CONTRACTS.—This section does not apply to a contract for the acquisition of property or services that includes acquisition of advisory and assistance services if the head of the executive agency entering into such contract determines that, under the contract, advisory and assistance services are necessarily incident to, and not a significant component of, the contract.

"(i) ADVISORY AND ASSISTANCE SERVICES DEFINED.—In this section, the term 'advisory and assistance services' has the meaning given such term in section 1105(g) of title 31, United States Code.

"SEC. 303J. TASK AND DELIVERY ORDER CONTRACTS: ORDERS.

"(a) ISSUANCE OF ORDERS.—The following actions are not required for issuance of a task or delivery order under a task or delivery order contract:

"(1) A separate notice for such order under section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) or section 8(e) of the Small Business Act (15 U.S.C. 637(e)).

"(2) Except as provided in subsection (b), a competition (or a waiver of competition approved in accordance with section 303(f)) that is separate from that used for entering into the contract.

"(b) MULTIPLE AWARD CONTRACTS.—When multiple contracts are awarded under section 303H(d)(1)(B) or 303I(e), all contractors awarded such contracts shall be provided a fair opportunity to be considered, pursuant to procedures set forth in the contracts, for each task or delivery order in excess of $2,500 that is to be issued under any of the contracts unless—

"(1) the executive agency's need for the services or property ordered is of such unusual urgency that providing such opportunity to all such contractors would result in unacceptable delays in fulfilling that need;

"(2) only one such contractor is capable of providing the services or property required at the level of quality required because the services or property ordered are unique or highly specialized;

"(3) the task or delivery order should be issued on a sole-source basis in the interest of economy and efficiency because it is a logical follow-on to a task or delivery order already issued on a competitive basis; or

"(4) it is necessary to place the order with a particular contractor in order to satisfy a minimum guarantee.

"(c) STATEMENT OF WORK.—A task or delivery order shall include a statement of work that clearly specifies all tasks to be performed or property to be delivered under the order.

"(d) PROTESTS.—A protest is not authorized in connection with the issuance or proposed issuance of a task or delivery order except for a protest on the ground that the order increases the scope, period, or maximum value of the contract under which the order is issued.

"(e) TASK AND DELIVERY ORDER OMBUDSMAN.—The head of each executive agency who awards multiple task or delivery order contracts pursuant to section 303H(d)(1)(B) or 303I(e) shall appoint or designate a task and delivery order ombudsman who shall be responsible for reviewing complaints from the contractors on such contracts and ensuring that all of the contractors are afforded a fair opportunity to be considered for task or delivery orders when required under subsection (b). The task and delivery order ombudsman shall be a senior agency official who is independent of the contracting officer for the contracts and may be the executive agency's competition advocate.

"(f) APPLICABILITY.—This section applies to task and delivery order contracts entered into under sections 303H and 303I.

"SEC. 303K. TASK AND DELIVERY ORDER CONTRACTS: DEFINITIONS.

"In sections 303H, 303I, and 303J:

"(1) The term 'task order contract' means a contract for services that does not procure or specify a firm quantity of services (other than a minimum or maximum quantity) and that provides for the issuance of orders for the performance of tasks during the period of the contract.

"(2) The term 'delivery order contract' means a contract for property that does not procure or specify a firm quantity of property (other than a minimum or maximum quantity) and that provides for the issuance of orders for the delivery of property during the period of the contract.".

(b) PROVISIONS NOT AFFECTED.—Nothing in section 303H, 303I, 303J, or 303K of the Federal Property and Administrative Services Act of 1949, as added by subsection (a), shall be construed as modifying or superseding, or as intended to impair or restrict, authorities or responsibilities under—

(1) the Brooks Automatic Data Processing Act (section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759)); and

(2) the Brooks Architect-Engineers Act (title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 et seq.)).

SEC. 1055. ACQUISITION OF EXPERT SERVICES.

(a) EXCEPTION TO REQUIREMENT FOR USE OF COMPETITIVE PROCEDURES.—Section 303(c)(3) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)) is amended—

(1) by striking out "or (B)" and inserting in lieu thereof "(B)"; and

(2) by inserting before the semicolon at the end the following: ", or (C) to procure the services of an expert for use, in any litigation or dispute (including any reasonably foreseeable litigation or dispute) involving the Federal Government, in any trial, hearing, or proceeding before any court, administrative tribunal, or agency, or in any part of an alternative dispute resolution process, whether or not the expert is expected to testify".

(b) PROCUREMENT NOTICE.—(1) Section 18(c)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(c)) is amended—

(A) by striking out "or" at the end of subparagraph (D);

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

(C) by adding at the end the following:

"(F) the procurement is for the services of an expert for use in any litigation or dispute (including any reasonably foreseeable litigation or dispute) involving the Federal Government in any trial, hearing, or proceeding before any court, administrative tribunal, or agency, or in any part of an alternative dispute resolution process, whether or not the expert is expected to testify.".

(2) Section 8(g)(1) of the Small Business Act (15 U.S.C. 637(c)) is amended—

(A) by striking out "or" at the end of subparagraph (D);

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

(C) by adding at the end the following:

"(F) the procurement is for the services of an expert for use in any litigation or dispute (including preparation for any foreseeable litigation or dispute) that involves or could involve the Federal Government in any trial, hearing, or proceeding before any court, administrative tribunal, or agency, or in any part of an alternative dispute resolution process, whether or not the expert is expected to testify.".

(c) REPEAL OF AMENDMENTS TO UNCODIFIED TITLE.—The following provisions of law are repealed:

(1) Section 532 of Public Law 101-509 (104 Stat. 1470) and the provision of law set out in quotes in that section.

(2) Section 529 of Public Law 102-393 (106 Stat. 1761) and the matters inserted and added by that section.

Subpart B—Planning, Solicitation, Evaluation, and Award

SEC. 1061. SOLICITATION, EVALUATION, AND AWARD.

(a) CONTENT OF SOLICITATION.—Subsection (b) of section 303A of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253a) is amended—

(1) in paragraph (1)—

(A) by amending subparagraph (A) to read as follows:

"(A) all significant factors and significant subfactors which the executive agency reasonably expects to consider in evaluating sealed bids (including price) or competitive proposals (including cost or price, cost-related or price-related factors and subfactors, and noncost-related or nonprice-related factors and subfactors); and"; and

(B) in subparagraph (B), by inserting "and subfactors" after "factors"; and

(2) in paragraph (2)(B), by amending clause (i) to read as follows:

"(i) either a statement that the proposals are intended to be evaluated with, and award made after, discussions with the offerors, or a statement that the proposals are intended to be evaluated, and award made, without discussions with the offerors (other than discussions conducted for the purpose of minor clarification) unless discussions are determined to be necessary; and".

(b) EVALUATION FACTORS.—Such section is further amended by adding at the end the following new subsections:

"(c)(1) In prescribing the evaluation factors to be included in each solicitation for competitive proposals, an executive agency—

"(A) shall clearly establish the relative importance assigned to the evaluation factors and subfactors, including the quality of the product or services to be provided (including technical capability, management capability, prior experience, and past performance of the offeror);

"(B) shall include cost or price to the Federal Government as an evaluation factor that must be considered in the evaluation of proposals; and

"(C) shall disclose to offerors whether all evaluation factors other than cost or price, when combined, are—

"(i) significantly more important than cost or price;

"(ii) approximately equal in importance to cost or price; or

"(iii) significantly less important than cost or price.

"(2) The regulations implementing subparagraph (C) of paragraph (1) may not define the terms 'significantly more important' and 'significantly less important' as specific numeric weights that would be applied uniformly to all solicitations or a class of solicitations.

"(d) Nothing in this section prohibits an executive agency from—

"(1) providing additional information in a solicitation, including numeric weights for all evaluation factors and subfactors on a case-by-case basis; or

"(2) stating in a solicitation that award will be made to the offeror that meets the solicitation's mandatory requirements at the lowest cost or price.".

(c) EVALUATION AND AWARD.—Section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b) is amended—

(1) in subsection (a), by inserting ", and award a contract," after "competitive proposals";

(2) in subsection (c), by inserting "in accordance with subsection (a)" in the second sentence after "shall evaluate the bids"; and

(3) in subsection (d)—

(A) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) An executive agency shall evaluate competitive proposals in accordance with subsection (a) and may award a contract—

"(A) after discussions with the offerors, provided that written or oral discussions have been conducted with all responsible offerors who submit proposals within the competitive range; or

"(B) based on the proposals received and without discussions with the offerors (other than discussions conducted for the purpose of minor clarification), if, as required by section 303A(b)(2)(B)(i), the solicitation included a statement that proposals are intended to be evaluated, and award made, without discussions, unless discussions are determined to be necessary.";

(B) by striking out paragraphs (2) and (3) and by redesignating paragraph (4) as paragraph (2); and

(C) in paragraph (2), as redesignated by subparagraph (B), by inserting "cost or" before "price" in the first sentence.

SEC. 1062. SOLICITATION PROVISION REGARDING EVALUATION OF PURCHASE OPTIONS.

Section 303A of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253a), as amended by section 1061, is further amended by adding at the end the following new subsection:

"(e) An executive agency, in issuing a solicitation for a contract to be awarded using sealed bid procedures, may not include in such solicitation a clause providing for the evaluation of prices for options to purchase additional property or services under the contract unless the executive agency has determined that there is a reasonable likelihood that the options will be exercised.".

SEC. 1063. PROMPT NOTICE OF AWARD.

(a) SEALED BID PROCEDURES.—Subsection (c) of section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b) is amended—

(1) in the last sentence, by striking out "transmitting written notice" and inserting in lieu thereof "transmitting, in writing or by electronic means, notice"; and

(2) by adding at the end the following: "Within 3 days after the date of contract award, the executive agency shall notify, in writing or by electronic means, each bidder not awarded the contract that the contract has been awarded.".

(b) COMPETITIVE PROPOSALS PROCEDURES.—Paragraph (2) of subsection (d) of such section, as redesignated by section 1061(c)(3)(B), is amended in the second sentence—

(1) by striking out "transmitting written notice" and inserting in lieu thereof "transmitting, in writing or by electronic means, notice"; and

(2) by striking out "shall promptly notify" and inserting in lieu thereof ", within 3 days after the date of contract award, shall notify, in writing or by electronic means,".

SEC. 1064. POST-AWARD DEBRIEFINGS.

Section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b) is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(2) by inserting after subsection (d) the following new subsection (e):

"(e)(1) When a contract is awarded by the head of an executive agency on the basis of competitive proposals, an unsuccessful offeror, upon written request received by the agency within 3 days after the date on which the unsuccessful offeror receives the notification of the contract award, shall be debriefed and furnished the basis for the selection decision and contract award. The executive agency shall debrief the offeror within, to the maximum extent practicable, 5 days after receipt of the request by the executive agency.

"(2) The debriefing shall include, at a minimum—

"(A) the executive agency's evaluation of the significant weak or deficient factors in the offeror's offer;

"(B) the overall evaluated cost and technical rating of the offer of the contractor awarded the contract and the overall evaluated cost and technical rating of the offer of the debriefed offeror;

"(C) the overall ranking of all offers;

"(D) a summary of the rationale for the award;

"(E) in the case of a proposal that includes a commercial item that is an end item under the contract, the make and model of the item being provided in accordance with the offer of the contractor awarded the contract; and

"(F) reasonable responses to relevant questions posed by the debriefed offeror as to whether source selection procedures set forth in the solicitation, applicable regulations, and other applicable authorities were followed by the executive agency.

"(3) The debriefing may not include point-by-point comparisons of the debriefed offeror's offer with other offers and may not disclose any information that is exempt from disclosure under section 552(b) of title 5, United States Code.

"(4) Each solicitation for competitive proposals shall include a statement that information described in paragraph (2) may be disclosed in post-award debriefings.

"(5) If, within one year after the date of the contract award and as a result of a successful procurement protest, the executive agency seeks to fulfill the requirement under the protested contract either on the basis of a new solicitation of offers or on the basis of new best and final offers requested for that contract, the head of such executive agency shall make available to all offerors—

"(A) the information provided in debriefings under this subsection regarding the offer of the contractor awarded the contract; and

"(B) the same information that would have been provided to the original offerors.

"(6) The contracting officer shall include a summary of the debriefing in the contract file.".

SEC. 1065. PROTEST FILE.

Section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b), as amended by section 1064(1), is further amended by adding at the end the following:

"(h) PROTEST FILE.—(1) If, in the case of a solicitation for a contract issued by, or an award or proposed award of a contract by, the head of an executive agency, a protest is filed pursuant to the procedures in subchapter V of chapter 35 of title 31, United States Code, and an actual or prospective offeror so requests, a file of the protest shall be established by the procuring activity and reasonable access shall be provided to actual or prospective offerors.

"(2) Information exempt from disclosure under section 552 of title 5, United States Code, may be redacted in a file established pursuant to paragraph (1) unless an applicable protective order provides otherwise.

"(3) Regulations implementing this subsection shall be consistent with the regulations regarding the preparation and submission of an agency's protest file (the so-called 'rule 4 file') for protests to the General Services Board of Contract Appeals under section 111 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 759).".

SEC. 1066. AGENCY ACTIONS ON PROTESTS.

Section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b), as amended by section 1065, is further amended by adding at the end the following new subsection:

"(i) AGENCY ACTIONS ON PROTESTS.—If, in connection with a protest, the head of an executive agency determines that a solicitation, proposed award, or award does not comply with the requirements of law or regulation, the head of such executive agency—

"(1) may take any action set out in subparagraphs (A) through (F) of subsection (b)(1) of section 3554 of title 31, United States Code; and

"(2) may pay costs described in paragraph (1) of section 3554(c) of such title within the limits referred to in paragraph (2) of such section.".

Subpart C—Kinds of Contracts

SEC. 1071. REPEAL OF AGENCY HEAD DETERMINATION REGARDING USE OF COST TYPE OR INCENTIVE CONTRACT.

Section 304(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(b)) is amended by striking out the second sentence.

SEC. 1072. MULTIYEAR CONTRACTING AUTHORITY.

Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended by inserting after section 304 the following new section:

"SEC. 304B. MULTIYEAR CONTRACTS.

"(a) AUTHORITY.—An executive agency may enter into a multiyear contract for the acquisition of property or services if—

"(1) funds are available and obligated for such contract, for the full period of the contract

or for the first fiscal year in which the contract is in effect, and for the estimated costs associated with any necessary termination of such contract; and

"(2) the executive agency determines that—

"(A) the need for the property or services is reasonably firm and continuing over the period of the contract; and

"(B) a multiyear contract will serve the best interests of the United States by encouraging full and open competition or promoting economy in administration, performance, and operation of the agency's programs.

"(b) TERMINATION CLAUSE.—A multiyear contract entered into under the authority of this section shall include a clause that provides that the contract shall be terminated if funds are not made available for the continuation of such contract in any fiscal year covered by the contract. Amounts available for paying termination costs shall remain available for such purpose until the costs associated with termination of the contract are paid.

"(c) CANCELLATION CEILING NOTICE.—Before any contract described in subsection (a) that contains a clause setting forth a cancellation ceiling in excess of $10,000,000 may be awarded, the executive agency shall give written notification of the proposed contract and of the proposed cancellation ceiling for that contract to the Congress, and such contract may not then be awarded until the end of a period of 30 days beginning on the date of such notification.

"(d) MULTIYEAR CONTRACT DEFINED.—For the purposes of this section, a multiyear contract is a contract for the purchase of property or services for more than one, but not more than five, program years. Such a contract may provide that performance under the contract during the second and subsequent years of the contract is contingent upon the appropriation of funds and (if it does so provide) may provide for a cancellation payment to be made to the contractor if such appropriations are not made.

"(e) RULE OF CONSTRUCTION.—Nothing in this section is intended to modify or affect any other provision of law that authorizes multiyear contracts.".

SEC. 1073. SEVERABLE SERVICES CONTRACTS CROSSING FISCAL YEARS.

Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), as amended by section 1054, is further amended by inserting after section 303I the following new section:

"SEC. 303L. SEVERABLE SERVICES CONTRACTS FOR PERIODS CROSSING FISCAL YEARS.

"(a) AUTHORITY.—The head of an executive agency may enter into a contract for procurement of severable services for a period that begins in one fiscal year and ends in the next fiscal year if (without regard to any option to extend the period of the contract) the contract period does not exceed one year.

"(b) OBLIGATION OF FUNDS.—Funds made available for a fiscal year may be obligated for the total amount of a contract entered into under the authority of subsection (a).".

SEC. 1074. ECONOMY ACT PURCHASES.

(a) REGULATIONS REQUIRED.—The Federal Acquisition Regulation shall be revised to include regulations governing the exercise of the authority under section 1535 of title 31, United States Code, for Federal agencies to purchase goods and services under contracts entered into or administered by other agencies.

(b) CONTENT OF REGULATIONS.—The regulations prescribed pursuant to subsection (a) shall—

(1) require that each purchase described in subsection (a) be approved in advance by a contracting officer of the ordering agency with authority to contract for the goods or services to be purchased or by another official in a position specifically designated by regulation to approve such purchase;

(2) provide that such a purchase of goods or services may be made only if—

(A) the purchase is appropriately made under a contract that the agency filling the purchase order entered into, before the purchase order, in order to meet the requirements of such agency for the same or similar goods or services;

(B) the agency filling the purchase order is better qualified to enter into or administer the contract for such goods or services by reason of capabilities or expertise that is not available within the ordering agency; or

(C) the agency or unit filling the order is specifically authorized by law or regulations to purchase such goods or services on behalf of other agencies;

(3) prohibit any such purchase under a contract or other agreement entered into or administered by an agency not covered by the provisions of chapter 137 of title 10, United States Code, or title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) and not covered by the Federal Acquisition Regulation unless the purchase is approved in advance by the senior procurement official responsible for purchasing by the ordering agency; and

(4) prohibit any payment to the agency filling a purchase order of any fee that exceeds the actual cost or, if the actual cost is not known, the estimated cost of entering into and administering the contract or other agreement under which the order is filled.

(c) MONITORING SYSTEM REQUIRED.—The Administrator for Federal Procurement Policy shall ensure that, not later than one year after the date of the enactment of this Act, systems for collecting and evaluating procurement data are capable of collecting and evaluating appropriate data on procurements conducted under the regulations prescribed pursuant to subsection (a).

(d) TERMINATION.—This section shall cease to be effective one year after the date on which final regulations prescribed pursuant to subsection (a) take effect.

PART III—ACQUISITIONS GENERALLY

SEC. 1091. POLICY REGARDING CONSIDERATION OF CONTRACTOR PAST PERFORMANCE.

(a) POLICY.—Section 2 of the Office of Federal Procurement Policy Act (41 U.S.C. 401) is amended—

(1) by striking out "and" at the end of paragraph (12);

(2) by striking out the period at the end of paragraph (13) and inserting in lieu thereof "; and"; and

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

"(14) establishing policies and procedures that encourage the consideration of the offerors' past performance in the selection of contractors.".

(b) GUIDANCE REQUIRED.—(1) Congress makes the following findings:

(A) Past contract performance of an offeror is one of the relevant factors that a contracting official of an executive agency should consider in awarding a contract.

(B) It is appropriate for a contracting official to consider past contract performance of an offeror as an indicator of the likelihood that the offeror will successfully perform a contract to be awarded by that official.

(2) Section 6 of the Office of Federal Procurement Policy Act (41 U.S.C. 405) is amended by adding at the end the following:

"(j)(1) The Administrator shall prescribe for executive agencies guidance regarding consideration of the past contract performance of offerors in awarding contracts. The guidance shall include—

"(A) standards for evaluating past performance with respect to cost (when appropriate), schedule, compliance with technical or functional specifications, and other relevant performance factors that facilitate consistent and fair evaluation by all executive agencies;

"(B) policies for the collection and maintenance of information on past contract performance that, to the maximum extent practicable, facilitate automated collection, maintenance, and dissemination of information and provide for ease of collection, maintenance, and dissemination of information by other methods, as necessary;

"(C) policies for ensuring that—

"(i) offerors are afforded an opportunity to submit relevant information on past contract performance, including performance under contracts entered into by the executive agency concerned, contracts entered into by other departments and agencies of the Federal Government, contracts entered into by agencies of State and local governments, and contracts entered into by commercial customers; and

"(ii) such information submitted by offerors is considered; and

"(D) the period for which information on past performance of offerors may be maintained and considered.

"(2) In the case of an offeror with respect to which there is no information on past contract performance or with respect to which information on past contract performance is not available, the offeror may not be evaluated favorably or unfavorably on the factor of past contract performance.".

SEC. 1092. REPEAL OF REQUIREMENT FOR ANNUAL REPORT ON COMPETITION.

Section 23 of the Office of Federal Procurement Policy Act (41 U.S.C. 419) is repealed.

SEC. 1093. DISCOURAGEMENT OF NONSTANDARD CONTRACT CLAUSES.

The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended by adding at the end the following new section:

"SEC. 29. NONSTANDARD CONTRACT CLAUSES.

"The Federal Acquisition Regulatory Council shall promulgate regulations to discourage the use of a nonstandard contract clause on a repetitive basis. The regulations shall include provisions that—

"(1) clearly define what types of contract clauses are to be treated as nonstandard clauses; and

"(2) require prior approval for the use of a nonstandard clause on a repetitive basis by an official at a level of responsibility above the contracting officer.".

Subtitle B—Truth in Negotiations

PART I—ARMED SERVICES ACQUISITIONS

SEC. 1201. STABILIZATION OF DOLLAR THRESHOLD OF APPLICABILITY.

(a) REPEAL OF REVERSION TO LOWER THRESHOLD.—Paragraph (1)(A) of section 2306a(a) of title 10, United States Code, is amended—

(1) in clause (i), by striking out "and before January 1, 1996,"; and

(2) in clause (ii), by striking out "or after December 31, 1995,".

(b) ADJUSTMENTS FOR CHANGES IN DOLLAR VALUES.—Section 2306a(a) of such title is amended by adding at the end the following new subparagraph:

"(7) Effective on October 1 of each year that is divisible by 5, each amount set forth in paragraph (1) shall be adjusted to the amount that is equal to the fiscal year 1994 constant dollar value of the amount set forth. Any amount, as so adjusted, that is not evenly divisible by $50,000 shall be rounded to the nearest multiple of $50,000. In the case of an amount that is evenly divisible by $25,000 but not evenly divisible by $50,000, the amount shall be rounded to the next higher multiple of $50,000.".

(c) REPEAL.—Paragraph (6) of section 2306a(a) of such title is amended—

(1) by striking out "(A)"; and

(2) by striking out subparagraph (B).

SEC. 1202. EXCEPTIONS TO COST OR PRICING DATA REQUIREMENTS.

(a) EXCEPTIONS STATED.—Subsection (b) of section 2306a of title 10, United States Code, is amended to read as follows:

"(b) EXCEPTIONS.—

"(1) IN GENERAL.—Submission of cost or pricing data shall not be required under subsection (a) in the case of a contract, a subcontract, or modification of a contract or subcontract—

"(A) for which the price agreed upon is based on—

"(i) adequate price competition;

"(ii) established catalog or market prices of commercial items that are sold in substantial quantities to the general public; or

"(iii) prices set by law or regulation; or

"(B) in an exceptional case when the head of the procuring activity, without delegation, determines that the requirements of this section may be waived and justifies in writing the reasons for such determination.

"(2) MODIFICATIONS OF CONTRACTS AND SUBCONTRACTS FOR COMMERCIAL ITEMS.—In the case of a modification of a contract or subcontract for a commercial item that is not covered by the prohibition on the submission of cost or pricing data in paragraph (1)(A), submission of cost or pricing data shall not be required under subsection (a) if—

"(A) the contract or subcontract being modified is a contract or subcontract for which submission of cost or pricing data may not be required by reason of paragraph (1)(A); and

"(B) the modification would not change the contract or subcontract, as the case may be, from a contract or subcontract for the acquisition of a commercial item to a contract or subcontract for the acquisition of an item other than a commercial item.".

"(3) FAR STANDARDS.— The Federal Acquisition Regulation shall provide clear standards for determining whether the exceptions provided in paragraph (1)(A) apply. In the case of the exception provided in paragraph (1)(A)(i), the regulations shall specify the criteria to be used to determine whether adequate price competition exists. In the case of the exception provided in paragraph (1)(A)(ii), the regulations shall provide that the exception applies to items that are sold in substantial quantities to the general public, without regard to the quantity of items that may be sold to the Federal Government.".

(b) CONFORMING AMENDMENT TO REFERENCE.—Subsection (a)(5) of such section is amended by striking out "subsection (b)(2)" and inserting in lieu thereof "subsection (b)(1)(B)".

SEC. 1203. RESTRICTIONS ON ADDITIONAL AUTHORITY TO REQUIRE COST OR PRICING DATA OR OTHER INFORMATION.

Subsection (c) of section 2306a of title 10, United States Code, is amended to read as follows:

"(c) RESTRICTIONS ON ADDITIONAL AUTHORITY TO REQUIRE COST OR PRICING DATA OR OTHER INFORMATION.—

"(1) AUTHORITY TO REQUIRE COST OR PRICING DATA ON BELOW-THRESHOLD CONTRACTS.—(A) Subject to subparagraph (B), when cost or pricing data are not required to be submitted by subsection (a) for a contract, subcontract, or modification of a contract or subcontract, such data may nevertheless be required to be submitted by the head of the procuring activity, but only if the head of the procuring activity determines that such data are necessary for the evaluation by the agency of the reasonableness of the price of the contract, subcontract, or modification of a contract or subcontract. In any case in which the head of the procuring activity requires such data to be submitted under this subsection, the head of the procuring activity shall justify in writing the reason for such requirement.

"(B) The head of the procuring activity may not require certified cost or pricing data to be submitted under this paragraph for any contract or subcontract, or modification of a contract or subcontract, covered by the exceptions in subsection (b)(1)(A).

"(C) The head of a procuring activity may not delegate functions under this paragraph.

"(2) AUTHORITY TO REQUIRE INFORMATION OTHER THAN CERTIFIED COST OR PRICING DATA.—When certified cost or pricing data are not required to be submitted under this section for a contract, subcontract, or modification of a contract or subcontract, the head of the procuring activity may require submission of data other than certified cost or pricing data to the extent necessary to determine the reasonableness of the price of the contract, subcontract, or modification of the contract or subcontract.".

SEC. 1204. ADDITIONAL SPECIAL RULES FOR COMMERCIAL ITEMS.

Section 2306a of title 10, United States Code, is amended—

(1) by redesignating subsections (d), (e), (f), and (g) as subsections (e), (f), (g), and (i), respectively; and

(2) by inserting after subsection (c) the following new subsection (d):

"(d) ADDITIONAL EXCEPTION PROVISIONS REGARDING COMMERCIAL ITEMS.—

"(1) PROCUREMENTS BASED ON ADEQUATE PRICE COMPETITION.—To the maximum extent practicable, the head of an agency shall conduct procurements of commercial items on a competitive basis. In any procurement of a commercial item conducted on a competitive basis and based upon adequate price competition, the head of the agency conducting the procurement shall not require cost or pricing data to be submitted under subsection (a) for the contract, subcontract, or modification of the contract or subcontract under the procurement. If additional information is necessary to determine the reasonableness of the price of the contract, subcontract, or modification, the head of the agency shall, to the maximum extent practicable, obtain the additional information from sources other than the offeror.

"(2) PROCUREMENTS NOT BASED ON ADEQUATE PRICE COMPETITION.—(A)(i) In any case in which it is not practicable to conduct a procurement of a commercial item covered by subsection (a) on a competitive basis, and the procurement is not covered by an exception in subsection (b), the contracting officer shall seek to obtain from the offeror or contractor information described in clause (ii). When such information is not available from that source, the contracting officer shall seek to obtain such information from another source or sources.

"(ii) The information referred in clause (i) is information on prices at which the same item or similar items have been sold in the commercial market that is adequate for evaluating, through price analysis, the reasonableness of the price of the contract, subcontract, or modification of the contract or subcontract under the procurement.

"(B) The contracting officer shall exempt a contract, subcontract, or modification of a contract or subcontract under the procurement from the requirements of subsection (a) if the contracting officer obtains the information described in subparagraph (A)(ii) in accordance with standards and procedures set forth in the Federal Acquisition Regulation.

"(C) A contracting officer may require submission of cost or pricing data under subsection (a) only if the contracting officer makes a written determination that the agency is unable to obtain the information described in subparagraph (A)(ii).

"(3) AUTHORITY TO AUDIT.—(A) In accordance with procedures prescribed in the Federal Acquisition Regulation, the head of an agency is authorized to examine all information provided by an offeror, contractor, or subcontractor pursuant to paragraph (2)(A) and all books and records of such offeror, contractor, or subcontractor that directly relate to such information in order to determine whether the agency is receiving accurate information required under this subsection.

"(B) The right under subparagraph (A) shall expire 2 years after the date of award of the contract, or 2 years after the date of the modification of the contract, with respect to which the information was provided.

"(4) LIMITATIONS ON REQUESTS FOR DATA.—The Federal Acquisition Regulation shall include reasonable limitations on requests under this section for sales data relating to commercial items.

"(5) FORM OF INFORMATION.—In requesting information from an offeror under this subsection, a contracting officer shall, to the maximum extent practicable, limit the scope of the request to include only information that is in the form regularly maintained by the offeror in commercial operations.

"(6) CONFIDENTIALITY.—Any information received under this subsection that is exempt from disclosure under section 552(b) of title 5 shall not be disclosed by the Federal Government.".

SEC. 1205. RIGHT OF UNITED STATES TO EXAMINE CONTRACTOR RECORDS.

Section 2306a of title 10, United States Code, is amended by striking out subsection (g), as redesignated by section 1204(1), and inserting in lieu thereof the following:

"(g) RIGHT OF UNITED STATES TO EXAMINE CONTRACTOR RECORDS.—For the purpose of evaluating the accuracy, completeness, and currency of cost or pricing data required to be submitted by this section, the head of an agency shall have the authority provided by section 2313(a)(2) of this title.".

SEC. 1206. REQUIRED REGULATIONS.

Section 2306a of title 10, United States Code, as amended by sections 1204 and 1205, is further amended by inserting after subsection (g) the following new subsection:

"(h) REQUIRED REGULATIONS.—The Federal Acquisition Regulation shall contain provisions concerning the types of information that offerors must submit for a contracting officer to consider in determining whether the price of a procurement to the Government is fair and reasonable when certified cost or pricing data are not required to be submitted under this section because the price of the procurement to the United States is not expected to exceed the applicable threshold amount set forth in subsection (a) (as adjusted pursuant to paragraph (7) of such subsection). Such information, at a minimum, shall include appropriate information on the prices at which the same item or similar items have previously been sold that is adequate for evaluating the reasonableness of the price of the proposed contract or subcontract for the procurement.".

SEC. 1207. CONSISTENCY OF TIME REFERENCES.

Section 2306a of title 10, United States Code, as amended by section 1204(1), is further amended in subparagraphs (A)(ii) and (B)(ii) of subsection (e)(4), by inserting "or, if applicable consistent with paragraph (1)(B), another date agreed upon between the parties," after "(or price of the modification)".

SEC. 1208. EXCEPTION FOR TRANSFERS BETWEEN DIVISIONS, SUBSIDIARIES, AND AFFILIATES.

Subsection (i) of section 2306a of title 10, United States Code, as redesignated by section 1204(1), is amended to read as follows:

"(i) DEFINITIONS.—In this section:

"(1) COST OR PRICING DATA.—The term 'cost or pricing data' means all facts that, as of the date of agreement on the price of a contract (or the price of a contract modification), or, if applicable consistent with subsection (e)(1)(B), another date agreed upon between the parties, a prudent buyer or seller would reasonably expect to affect price negotiations significantly. Such term does not include information that is judgmental, but does include the factual information from which a judgment was derived.

"(2) SUBCONTRACT.—The term 'subcontract' includes a transfer of commercial items between divisions, subsidiaries, or affiliates of a contractor or a subcontractor.

"(3) COMMERCIAL ITEM.—The term 'commercial item' has the meaning provided such term in section 4(12) of the Office of Federal Procurement Policy Act.".

SEC. 1209. COVERAGE OF COAST GUARD AND NASA FOR INTEREST AND PAYMENTS ON CERTAIN OVERPAYMENTS.

Paragraph (1) of subsection (f) of section 2306a of title 10, United States Code, as redesignated by section 1204(1), is amended by striking out "with the Department of Defense" in the matter preceding subparagraph (A).

SEC. 1210. REPEAL OF SUPERSEDED PROVISION.

Subsections (b) and (c) of section 803 of Public Law 101-510 (10 U.S.C. 2306a note) are repealed.

PART II—CIVILIAN AGENCY ACQUISITIONS

SEC. 1251. REVISION OF CIVILIAN AGENCY PROVISIONS TO ENSURE UNIFORM TREATMENT OF COST OR PRICING DATA.

(a) REVISION.—Title III of the Federal Property and Administrative Services Act of 1949 is amended—

(1) in section 304 (41 U.S.C. 254), by striking out subsection (d); and

(2) by inserting before section 304B, as added by section 1072, the following new section:

"SEC. 304A. COST OR PRICING DATA: TRUTH IN NEGOTIATIONS.

"(a) REQUIRED COST OR PRICING DATA AND CERTIFICATION.—(1) The head of an executive agency shall require offerors, contractors, and subcontractors to make cost or pricing data available as follows:

"(A) An offeror for a prime contract under this title to be entered into using procedures other than sealed-bid procedures shall be required to submit cost or pricing data before the award of a contract if—

"(i) in the case of a prime contract entered into after the date of the enactment of the Federal Acquisition Streamlining Act of 1994, the price of the contract to the United States is expected to exceed $500,000; and

"(ii) in the case of a prime contract entered into on or before the date of the enactment of the Federal Acquisition Streamlining Act of 1994, the price of the contract to the United States is expected to exceed $100,000.

"(B) The contractor for a prime contract under this title shall be required to submit cost or pricing data before the pricing of a change or modification to the contract if—

"(i) in the case of a change or modification made to a prime contract referred to in subparagraph (A)(i), the price adjustment is expected to exceed $500,000;

"(ii) in the case of a change or modification made to a prime contract that was entered into on or before the date of the enactment of the Federal Acquisition Streamlining Act of 1994, and that has been modified pursuant to paragraph (6), the price adjustment is expected to exceed $500,000; and

"(iii) in the case of a change or modification not covered by clause (i) or (ii), the price adjustment is expected to exceed $100,000.

"(C) An offeror for a subcontract (at any tier) of a contract under this title shall be required to submit cost or pricing data before the award of the subcontract if the prime contractor and each higher-tier subcontractor have been required to make available cost or pricing data under this section and—

"(i) in the case of a subcontract under a prime contract referred to in subparagraph (A)(i), the price of the subcontract is expected to exceed $500,000;

"(ii) in the case of a subcontract entered into under a prime contract that was entered into on or before the date of the enactment of the Federal Acquisition Streamlining Act of 1994, and that has been modified pursuant to paragraph (6), the price of the subcontract is expected to exceed $500,000; and

"(iii) in the case of a subcontract not covered by clause (i) or (ii), the price of the subcontract is expected to exceed $100,000.

"(D) The subcontractor for a subcontract covered by subparagraph (C) shall be required to submit cost or pricing data before the pricing of a change or modification to the subcontract if—

"(i) in the case of a change or modification to a subcontract referred to in subparagraph (C)(i) or (C)(ii), the price adjustment is expected to exceed $500,000; and

"(ii) in the case of a change or modification to a subcontract referred to in subparagraph (C)(iii), the price adjustment is expected to exceed $100,000.

"(2) A person required, as an offeror, contractor, or subcontractor, to submit cost or pricing data under paragraph (1) (or required by the head of the procuring activity concerned to submit such data under subsection (c)) shall be required to certify that, to the best of the person's knowledge and belief, the cost or pricing data submitted are accurate, complete, and current.

"(3) Cost or pricing data required to be submitted under paragraph (1) (or under subsection (c)), and a certification required to be submitted under paragraph (2), shall be submitted—

"(A) in the case of a submission by a prime contractor (or an offeror for a prime contract), to the contracting officer for the contract (or to a designated representative of the contracting officer); or

"(B) in the case of a submission by a subcontractor (or an offeror for a subcontract), to the prime contractor.

"(4) Except as provided under subsection (b), this section applies to contracts entered into by the head of an executive agency on behalf of a foreign government.

"(5) For purposes of paragraph (1)(C), a contractor or subcontractor granted a waiver under subsection (b)(1)(B) shall be considered as having been required to make available cost or pricing data under this section.

"(6) Upon the request of a contractor that was required to submit cost or pricing data under paragraph (1) in connection with a prime contract entered into on or before the date of the enactment of the Federal Acquisition Streamlining Act of 1994, the head of the executive agency that entered into such contract shall modify the contract to reflect subparagraphs (B)(ii) and (C)(ii) of paragraph (1). All such modifications shall be made without requiring consideration.

"(7) Effective on October 1 of each year that is divisible by 5, each amount set forth in paragraph (1) shall be adjusted to the amount that is equal to the fiscal year 1994 constant dollar value of the amount set forth. Any amount, as so adjusted, that is not evenly divisible by $50,000 shall be rounded to the nearest multiple of $50,000. In the case of an amount that is evenly divisible by $25,000 but not evenly divisible by $50,000, the amount shall be rounded to the next higher multiple of $50,000.

"(b) EXCEPTIONS.—

"(1) IN GENERAL.—Submission of cost or pricing data shall not be required under subsection (a) in the case of a contract, a subcontract, or a modification of a contract or subcontract—

"(A) for which the price agreed upon is based on—

"(i) adequate price competition;

"(ii) established catalog or market prices of commercial items that are sold in substantial quantities to the general public; or

"(iii) prices set by law or regulation; or

"(B) in an exceptional case when the head of the procuring activity, without delegation, determines that the requirements of this section may be waived and justifies in writing the reasons for such determination.

"(2) MODIFICATIONS OF CONTRACTS AND SUBCONTRACTS FOR COMMERCIAL ITEMS.—In the case of a modification of a contract or subcontract for a commercial item that is not covered by the prohibition on the submission of cost or pricing data in paragraph (1)(A), submission of cost or pricing data shall not be required under subsection (a) if—

"(A) the contract or subcontract being modified is a contract or subcontract for which submission of cost or pricing data may not be required by reason of paragraph (1)(A); and

"(B) the modification would not change the contract or subcontract, as the case may be, from a contract or subcontract for the acquisition of a commercial item to a contract or subcontract for the acquisition of an item other than a commercial item.

"(3) FAR STANDARDS.—The Federal Acquisition Regulation shall provide clear standards for determining whether the exceptions provided in paragraph (1)(A) apply. In the case of the exception provided in paragraph (1)(A)(i), the regulations shall specify the criteria to be used to determine whether adequate price competition exists. In the case of the exception provided in paragraph (1)(A)(ii), the regulations shall provide that the exception applies to items that are sold in substantial quantities to the general public, without regard to the quantity of items that may be sold to the Federal Government.

"(c) RESTRICTIONS ON ADDITIONAL AUTHORITY TO REQUIRE COST OR PRICING DATA OR OTHER INFORMATION.—

"(1) AUTHORITY TO REQUIRE COST OR PRICING DATA ON BELOW-THRESHOLD CONTRACTS.—(A) Subject to subparagraph (B), when cost or pricing data are not required to be submitted by subsection (a) for a contract, subcontract, or modification of a contract or subcontract, such data may nevertheless be required to be submitted by the head of the procuring activity, but only if the head of the procuring activity determines that such data are necessary for the evaluation by the agency of the reasonableness of the price of the contract, subcontract, or modification of a contract or subcontract. In any case in which the head of the procuring activity requires such data to be submitted under this subsection, the head of the procuring activity shall justify in writing the reason for such requirement.

"(B) The head of the procuring activity may not require certified cost or pricing data to be submitted under this paragraph for any contract or subcontract, or modification of a contract or subcontract, covered by the exceptions in subsection (b)(1)(A).

"(C) The head of a procuring activity may not delegate the functions under this paragraph.

"(2) AUTHORITY TO REQUIRE INFORMATION OTHER THAN CERTIFIED COST OR PRICING DATA.—When certified cost or pricing data are not required to be submitted under this section for a contract, subcontract, or modification of a contract or subcontract, the head of the procuring activity may require submission of data other than certified cost or pricing data to the extent necessary to determine the reasonableness of the price of the contract, subcontract, or modification of the contract or subcontract.

"(d) ADDITIONAL EXCEPTION PROVISIONS REGARDING COMMERCIAL ITEMS.—

"(1) PROCUREMENTS BASED ON ADEQUATE PRICE COMPETITION.—To the maximum extent practicable, the head of an executive agency shall conduct procurements of commercial items on a competitive basis. In any procurement of a commercial item conducted on a competitive basis and based upon adequate price competition, the head of the executive agency conducting the procurement shall not require cost or pricing data to be submitted under subsection (a) for the contract, subcontract, or modification of the contract or subcontract under the procurement. If additional information is necessary to determine the reasonableness of the price of the contract, subcontract, or modification of the contract or subcontract, the head of the executive agency shall, to the maximum extent practicable, obtain the additional information from sources other than the offeror.

"(2) PROCUREMENTS NOT BASED ON ADEQUATE PRICE COMPETITION.—(A)(i) In any case in which it is not practicable to conduct a procurement of a commercial item covered by subsection (a) on a competitive basis, and the procurement is not covered by an exception in subsection (b), the contracting officer shall seek to obtain from the offeror or contractor information described in clause (ii). When such information is not available from that source, the contracting officer shall seek to obtain such information from another source or sources.

"(ii) The information referred in clause (i) is information on prices at which the same item or similar items have been sold in the commercial market that is adequate for evaluating, through price analysis, the reasonableness of the price of the contract, subcontract, or modification of the contract or subcontract under the procurement.

"(B) The contracting officer shall exempt a contract, subcontract, or modification of a contract or subcontract under the procurement from the requirements of subsection (a) if the contracting officer obtains the information described in subparagraph (A)(ii) in accordance with standards and procedures set forth in the Federal Acquisition Regulation.

"(C) A contracting officer may require submission of cost or pricing data under subsection (a) only if the contracting officer makes a written determination that the agency is unable to obtain the information described in subparagraph (A)(ii).

"(3) AUTHORITY TO AUDIT.—(A) In accordance with procedures prescribed in the Federal Acquisition Regulation, the head of an executive agency is authorized to examine all information provided by an offeror, contractor, or subcontractor pursuant to paragraph (2)(A) and all books and records of such offeror, contractor, or subcontractor that directly relate to such information in order to determine whether the agency is receiving accurate information required under this section.

"(B) The right under subparagraph (A) shall expire 2 years after the date of award of the contract, or 2 years after the date of the modification of the contract, with respect to which the information was provided.

"(4) LIMITATIONS ON REQUESTS FOR DATA.—The Federal Acquisition Regulation shall include reasonable limitations on requests under this subsection for sales data relating to commercial items.

"(5) FORM OF INFORMATION.—In requesting information from an offeror under this subsection, a contracting officer shall, to the maximum extent practicable, limit the scope of the request to include only information that is in the form regularly maintained by the offeror in commercial operations.

"(6) CONFIDENTIALITY.—Any information received under this subsection that is exempt from disclosure under section 552(b) of title 5 shall not be disclosed by the Federal Government.

"(e) PRICE REDUCTIONS FOR DEFECTIVE COST OR PRICING DATA.—(1)(A) A prime contract (or change or modification to a prime contract) under which a certificate under subsection (a)(2) is required shall contain a provision that the price of the contract to the United States, including profit or fee, shall be adjusted to exclude any significant amount by which it may be determined by the head of the executive agency that such price was increased because the contractor (or any subcontractor required to make available such a certificate) submitted defective cost or pricing data.

"(B) For the purposes of this section, defective cost or pricing data are cost or pricing data which, as of the date of agreement on the price of the contract (or another date agreed upon between the parties), were inaccurate, incomplete, or noncurrent. If for purposes of the preceding sentence the parties agree upon a date other than the date of agreement on the price of the contract, the date agreed upon by the parties shall be as close to the date of agreement on the price of the contract as is practicable.

"(2) In determining for purposes of a contract price adjustment under a contract provision required by paragraph (1) whether, and to what extent, a contract price was increased because the contractor (or a subcontractor) submitted defective cost or pricing data, it shall be a defense that the United States did not rely on the defective data submitted by the contractor or subcontractor.

"(3) It is not a defense to an adjustment of the price of a contract under a contract provision required by paragraph (1) that—

"(A) the price of the contract would not have been modified even if accurate, complete, and current cost or pricing data had been submitted by the contractor or subcontractor because the contractor or subcontractor—

"(i) was the sole source of the property or services procured; or

"(ii) otherwise was in a superior bargaining position with respect to the property or services procured;

"(B) the contracting officer should have known that the cost or pricing data in issue were defective even though the contractor or subcontractor took no affirmative action to bring the character of the data to the attention of the contracting officer;

"(C) the contract was based on an agreement between the contractor and the United States about the total cost of the contract and there was no agreement about the cost of each item procured under such contract; or

"(D) the prime contractor or subcontractor did not submit a certification of cost or pricing data relating to the contract as required under subsection (a)(2).

"(4)(A) A contractor shall be allowed to offset an amount against the amount of a contract price adjustment under a contract provision required by paragraph (1) if—

"(i) the contractor certifies to the contracting officer (or to a designated representative of the contracting officer) that, to the best of the contractor's knowledge and belief, the contractor is entitled to the offset; and

"(ii) the contractor proves that the cost or pricing data were available before the date of agreement on the price of the contract (or price of the modification), or, if applicable consistent with paragraph (1)(B), another date agreed upon between the parties, and that the data were not submitted as specified in subsection (a)(3) before such date.

"(B) A contractor shall not be allowed to offset an amount otherwise authorized to be offset under subparagraph (A) if—

"(i) the certification under subsection (a)(2) with respect to the cost or pricing data involved was known to be false when signed; or

"(ii) the United States proves that, had the cost or pricing data referred to in subparagraph (A)(ii) been submitted to the United States before the date of agreement on the price of the contract (or price of the modification) or, if applicable under paragraph (1)(B), another date agreed upon between the parties, the submission of such cost or pricing data would not have resulted in an increase in that price in the amount to be offset.

"(f) INTEREST AND PENALTIES FOR CERTAIN OVERPAYMENTS.—(1) If the United States makes an overpayment to a contractor under a contract with an executive agency subject to this section and the overpayment was due to the submission by the contractor of defective cost or pricing data, the contractor shall be liable to the United States—

"(A) for interest on the amount of such overpayment, to be computed—

"(i) for the period beginning on the date the overpayment was made to the contractor and ending on the date the contractor repays the amount of such overpayment to the United States; and

"(ii) at the current rate prescribed by the Secretary of the Treasury under section 6621 of the Internal Revenue Code of 1986; and

"(B) if the submission of such defective data was a knowing submission, for an additional amount equal to the amount of the overpayment.

"(2) Any liability under this subsection of a contractor that submits cost or pricing data but refuses to submit the certification required by subsection (a)(2) with respect to the cost or pricing data shall not be affected by the refusal to submit such certification.

"(g) RIGHT OF UNITED STATES TO EXAMINE CONTRACTOR RECORDS.—For the purpose of evaluating the accuracy, completeness, and currency of cost or pricing data required to be submitted by this section, an executive agency shall have the authority provided by section 304C(a)(2).

"(h) REQUIRED REGULATIONS.—The Federal Acquisition Regulation shall include regulations concerning the types of information that offerors must submit for a contracting officer to consider in determining whether the price of a procurement to the Government is fair and reasonable when certified cost or pricing data are not required to be submitted under this section because the price of the procurement to the United States is not expected to exceed the applicable threshold amount set forth in subsection (a) (as adjusted pursuant to paragraph (7) of such subsection). Such information, at a minimum, shall include appropriate information on the prices at which the same item or similar items have previously been sold that is adequate for evaluating the reasonableness of the price of a proposed contract or subcontract for the procurement.

"(i) DEFINITIONS.—In this section:

"(1) COST OR PRICING DATA.—The term 'cost or pricing data' means all facts that, as of the date of agreement on the price of a contract (or the price of a contract modification) or, if applicable consistent with subsection (e)(1)(B), another date agreed upon between the parties, a prudent buyer or seller would reasonably expect to affect price negotiations significantly. Such term does not include information that is judgmental, but does include the factual information from which a judgment was derived.

"(2) SUBCONTRACT.—The term 'subcontract' includes a transfer of commercial items between divisions, subsidiaries, or affiliates of a contractor or a subcontractor.

"(3) COMMERCIAL ITEM.—The term 'commercial item' has the meaning provided such term by section 4(12) of the Office of Federal Procurement Policy Act.".

(b) APPLICABILITY.—Subsection (a) of section 304A of the Office of Federal Procurement Policy Act, as added by subsection (a), shall apply according to the provisions thereof on and after the date of the enactment of this Act, notwithstanding section 10001(b).

SEC. 1252. REPEAL OF OBSOLETE PROVISION.

Section 303E of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253e) is repealed.

Subtitle C—Research and Development

SEC. 1301. RESEARCH PROJECTS.

(a) GENERAL AUTHORITY.—Section 2358 of title 10, United States Code, is amended to read as follows:

"§2358. Research and development projects

"(a) AUTHORITY.—The Secretary of Defense or the Secretary of a military department may engage in basic research, applied research, advanced research, and development projects that—

"(1) are necessary to the responsibilities of such Secretary's department in the field of research and development; and

"(2) either—

"(A) relate to weapon systems and other military needs; or

"(B) are of potential interest to the Department of Defense.

"(b) AUTHORIZED MEANS.—The Secretary of Defense or the Secretary of a military department may perform research and development projects—

"(1) by contract, cooperative agreement, or grant, in accordance with chapter 63 of title 31;

"(2) through one or more military departments;

"(3) by using employees and consultants of the Department of Defense; or

"(4) by mutual agreement with the head of any other department or agency of the Federal Government.

"(c) REQUIREMENT OF POTENTIAL DEPARTMENT OF DEFENSE INTEREST.—Funds appropriated to the Department of Defense or to a military department may not be used to finance any research project or study unless the project or study is, in the opinion of the Secretary of Defense or the Secretary of that military department, respectively, of potential interest to the Department of Defense or to such military department, respectively.

"(d) ADDITIONAL PROVISIONS APPLICABLE TO COOPERATIVE AGREEMENTS.—Additional authorities, conditions, and requirements relating to certain cooperative agreements authorized by this section are provided in section 2371 of this title.".

(b) TRANSACTIONS OTHER THAN CONTRACTS AND GRANTS.—Section 2371 of such title is amended to read as follows:

"§2371. Research projects: transactions other than contracts and grants

"(a) ADDITIONAL FORMS OF TRANSACTIONS AUTHORIZED.—The Secretary of Defense and the Secretary of each military department may enter into transactions (other than contracts, cooperative agreements, and grants) under the authority of this subsection in carrying out basic, applied, and advanced research projects. The authority under this subsection is in addition to the authority provided in section 2358 of this title to use contracts, cooperative agreements, and grants in carrying out such projects.

"(b) EXERCISE OF AUTHORITY BY SECRETARY OF DEFENSE.—In any exercise of the authority in subsection (a), the Secretary of Defense shall act through the Advanced Research Projects Agency or any other element of the Department of Defense that the Secretary may designate.

"(c) ADVANCE PAYMENTS.—The authority provided under subsection (a) may be exercised without regard to section 3324 of title 31.

"(d) RECOVERY OF FUNDS.—(1) A cooperative agreement for performance of basic, applied, or advanced research authorized by section 2358 of this title and a transaction authorized by subsection (a) may include a clause that requires a person or other entity to make payments to the Department of Defense or any other department or agency of the Federal Government as a condition for receiving support under the agreement or other transaction.

"(2) The amount of any payment received by the Federal Government pursuant to a requirement imposed under paragraph (1) may be credited, to the extent authorized by the Secretary of Defense, to the appropriate account established under subsection (f). Amounts so credited shall be merged with other funds in the account and shall be available for the same purposes and the same period for which other funds in such account are available.

"(e) CONDITIONS.—The Secretary of Defense shall ensure that—

"(1) to the maximum extent practicable, no cooperative agreement containing a clause under subsection (d) and no transaction entered into under subsection (a) provides for research that duplicates research being conducted under existing programs carried out by the Department of Defense;

"(2) to the extent that the Secretary determines practicable, the funds provided by the Government under a cooperative agreement containing a clause under subsection (d) or a transaction authorized by subsection (a) do not exceed the total amount provided by other parties to the cooperative agreement or other transaction; and

"(3) a cooperative agreement containing a clause under subsection (d) or a transaction authorized under subsection (a) is used for a research project only when the use of a standard contract, grant, or cooperative agreement for such project is not feasible or appropriate.

"(f) SUPPORT ACCOUNTS.—There is hereby established on the books of the Treasury separate accounts for each of the military departments and the Advanced Research Projects Agency for support of research projects and development projects provided for in cooperative agreements containing a clause under subsection (d) and research projects provided for in transactions entered into under subsection (a). Funds in those accounts shall be available for the payment of such support.

"(g) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out this section.

"(h) ANNUAL REPORT.—Not later than 60 days after the end of each fiscal year, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on all cooperative agreements entered into under section 2358 of this title during such fiscal year that contain a clause authorized by subsection (d) and on all transactions entered into under subsection (a) during such fiscal year. The report shall contain, with respect to each such cooperative agreement and transaction, the following:

"(1) A general description of the cooperative agreement or other transaction (as the case may be), including the technologies for which research is provided for under such agreement or transaction.

"(2) The potential military and, if any, commercial utility of such technologies.

"(3) The reasons for not using a contract or grant to provide support for such research.

"(4) The amount of the payments, if any, that were received by the Federal Government during the fiscal year covered by the report pursuant to a clause included in such cooperative agreement or other transaction pursuant to subsection (d).

"(5) The amount of the payments reported under paragraph (4), if any, that were credited to each account established under subsection (f).

"(i) COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS UNDER STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980.—The Secretary of Defense, in carrying out research projects through the Advanced Research Projects Agency, and the Secretary of each military department, in carrying out research projects, may permit the director of any federally funded research and development center to enter into cooperative research and development agreements with any person, any agency or instrumentality of the United States, any unit of State or local government, and any other entity under the authority granted by section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a). Technology may be transferred to a non-Federal party to such an agreement consistent with the provisions of sections 11 and 12 of such Act (15 U.S.C. 3710, 3710a).".

(c) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 139 of such title is amended—

(1) by striking out the item relating to section 2358 and inserting in lieu thereof the following:

"2358. Research and development projects.";

and

(2) by striking out the item relating to section 2371 and inserting in lieu thereof the following:

"2371. Research projects: transactions other than contracts and grants.".

Subtitle D—Procurement Protests

PART I—PROTESTS TO THE COMPTROLLER GENERAL

SEC. 1401. PROTEST DEFINED.

(a) IN GENERAL.—Paragraph (1) of section 3551 of title 31, United States Code, is amended to read as follows:

"(1) The term 'protest' means a written objection by an interested party to any of the following:

"(A) A solicitation or other request by a Federal agency for offers for a contract for the procurement of property or services.

"(B) The cancellation of such a solicitation or other request.

"(C) An award or proposed award of such a contract.

"(D) A termination or cancellation of an award of such a contract, if the written objection contains an allegation that the termination or cancellation is based in whole or in part on improprieties concerning the award of the contract.".

(b) TECHNICAL AMENDMENTS.—Section 3551 of such title is further amended—

(1) in paragraph (2)—

(A) by inserting "The term" after "(2)"; and

(B) by striking out "; and" and inserting in lieu thereof a period; and

(2) in paragraph (3), by inserting "The term" after "(3)".

SEC. 1402. REVIEW OF PROTESTS AND EFFECT ON CONTRACTS PENDING DECISION.

(a) PERIODS FOR CERTAIN ACTIONS.—Section 3553 of title 31, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking out "one working day of" and inserting in lieu thereof "one day after"; and

(B) in paragraph (2)—

(i) in subparagraph (A), by striking out "25 working days from" and inserting in lieu thereof "35 days after"; and

(ii) in subparagraph (C), by striking out "10 working days from" and inserting in lieu thereof "20 days after"; and

(2) in subsection (c)(3), by striking out "thereafter" and inserting in lieu thereof "after the making of such finding".

(b) SUSPENSION OF PERFORMANCE.—Subsection (d) of such section is amended to read as follows:

"(d)(1) A contractor awarded a Federal agency contract may, during the period described in paragraph (4), begin performance of the contract and engage in any related activities that result in obligations being incurred by the United States under the contract unless the contracting officer responsible for the award of the contract withholds authorization to proceed with performance of the contract.

"(2) The contracting officer may withhold an authorization to proceed with performance of the contract during the period described in paragraph (4) if the contracting officer determines in writing that—

"(A) a protest is likely to be filed; and

"(B) the immediate performance of the contract is not in the best interests of the United States.

"(3)(A) If the Federal agency awarding the contract receives notice of a protest in accordance with this section during the period described in paragraph (4)—

"(i) the contracting officer may not authorize performance of the contract to begin while the protest is pending; or

"(ii) if authorization for contract performance to proceed was not withheld in accordance with paragraph (2) before receipt of the notice, the contracting officer shall immediately direct the contractor to cease performance under the contract and to suspend any related activities that may result in additional obligations being incurred by the United States under that contract.

"(B) Performance and related activities suspended pursuant to subparagraph (A)(ii) by reason of a protest may not be resumed while the protest is pending.

"(C) The head of the procuring activity may authorize the performance of the contract (notwithstanding a protest of which the Federal agency has notice under this section)—

"(i) upon a written finding that—

"(I) performance of the contract is in the best interests of the United States; or

"(II) urgent and compelling circumstances that significantly affect interests of the United States will not permit waiting for the decision of the Comptroller General concerning the protest; and

"(ii) after the Comptroller General is notified of that finding.

"(4) The period referred to in paragraphs (2) and (3)(A), with respect to a contract, is the period beginning on the date of the contract award and ending on the later of—

"(A) the date that is 10 days after the date of the contract award; or

"(B) the date that is 5 days after the debriefing date offered to an unsuccessful offeror for any debriefing that is requested and, when requested, is required.".

SEC. 1403. DECISIONS ON PROTESTS.

(a) PERIODS FOR CERTAIN ACTIONS.—Section 3554(a) of title 31, United States Code, is amended—

(1) in paragraph (1), by striking out "90 working days from" and inserting in lieu thereof "125 days after";

(2) in paragraph (2), by striking out "45 calendar days from" and inserting "65 days after";

(3) by redesignating paragraph (3) as paragraph (4); and

(4) by inserting after paragraph (2) the following new paragraph (3):

"(3) An amendment to a protest that adds a new ground of protest, if timely made, should be resolved, to the maximum extent practicable, within the time limit established under paragraph (1) of this subsection for final decision of the initial protest. If an amended protest cannot be resolved within such time limit, the Comptroller General may resolve the amended protest through the express option under paragraph (2) of this subsection.".

(b) GAO RECOMMENDATIONS ON PROTESTS.—(1) Section 3554 of title 31, United States Code, is amended in subsection (b) by adding at the end the following new paragraph:

"(3) If the Federal agency fails to implement fully the recommendations of the Comptroller General under this subsection with respect to a solicitation for a contract or an award or proposed award of a contract within 60 days after receiving the recommendations, the head of the procuring activity responsible for that contract shall report such failure to the Comptroller General not later than 5 days after the end of such 60-day period.".

(2) Subsection (c) of such section is amended to read as follows:

"(c)(1) If the Comptroller General determines that a solicitation for a contract or a proposed award or the award of a contract does not comply with a statute or regulation, the Comptroller General may recommend that the Federal agency conducting the procurement pay to an appropriate interested party the costs of—

"(A) filing and pursuing the protest, including reasonable attorneys' fees and consultant and expert witness fees; and

"(B) bid and proposal preparation.

"(2) No party (other than a small business concern (within the meaning of section 3(a) of the Small Business Act)) may be paid, pursuant to a recommendation made under the authority of paragraph (1)—

"(A) costs for consultant and expert witness fees that exceed the highest rate of compensation for expert witnesses paid by the Federal Government; or

"(B) costs for attorneys' fees that exceed $150 per hour unless the agency determines, based on the recommendation of the Comptroller General on a case by case basis, that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for the proceedings involved, justifies a higher fee.

"(3) If the Comptroller General recommends under paragraph (1) that a Federal agency pay costs to an interested party, the Federal agency shall—

"(A) pay the costs promptly; or

"(B) if the Federal agency does not make such payment, promptly report to the Comptroller General the reasons for the failure to follow the Comptroller General's recommendation.

"(4) If the Comptroller General recommends under paragraph (1) that a Federal agency pay costs to an interested party, the Federal agency and the interested party shall attempt to reach an agreement on the amount of the costs to be paid. If the Federal agency and the interested party are unable to agree on the amount to be paid, the Comptroller General may, upon the request of the interested party, recommend to the Federal agency the amount of the costs that the Federal agency should pay.".

(3) Subsection (e) of such section is amended to read as follows:

"(e)(1) The Comptroller General shall report promptly to the Committee on Governmental Affairs and the Committee on Appropriations of the Senate and to the Committee on Government Operations and the Committee on Appropriations of the House of Representatives any case in which a Federal agency fails to implement fully a recommendation of the Comptroller General under subsection (b) or (c). The report shall include—

"(A) a comprehensive review of the pertinent procurement, including the circumstances of the failure of the Federal agency to implement a recommendation of the Comptroller General; and

"(B) a recommendation regarding whether, in order to correct an inequity or to preserve the integrity of the procurement process, the Congress should consider—

"(i) private relief legislation;

"(ii) legislative rescission or cancellation of funds;

"(iii) further investigation by Congress; or

"(iv) other action.

"(2) Not later than January 31 of each year, the Comptroller General shall transmit to the Congress a report containing a summary of each instance in which a Federal agency did not fully implement a recommendation of the Comptroller General under subsection (b) or (c) during the preceding year. The report shall also describe each instance in which a final decision in a protest was not rendered within 125 days after the date the protest is submitted to the Comptroller General.".

(4) Costs to which the Comptroller General declared an interested party to be entitled under section 3554 of title 31, United States Code, as in effect immediately before the enactment of this Act, shall, if not paid or otherwise satisfied by the Federal agency concerned before the date of the enactment of this Act, be paid promptly.

(c) RESTRICTION ON ACCESS TO CERTAIN INFORMATION.—Section 3553(f) of title 31, United States Code, is amended—

(1) by inserting "(1)" after "(f)"; and

(2) by adding at the end the following:

"(2)(A) The Comptroller General may issue protective orders which establish terms, conditions, and restrictions for the provision of any document to a person under paragraph (1), that prohibit or restrict the disclosure by the person of information described in subparagraph (C) that is contained in such a document.

"(B) Information referred to in subparagraph (A) is procurement sensitive information, trade secrets, or other proprietary or confidential research, development, or commercial information.

"(C) A protective order under this paragraph shall not be considered to authorize the withholding of any document or information from Congress or an executive agency.".

SEC. 1404. REGULATIONS.

(a) COMPUTATION OF PERIODS.—Section 3555 of title 31, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (d); and

(2) by inserting after subsection (a) the following new subsection (b):

"(b) The procedures shall provide that, in the computation of any period described in this subchapter—

"(1) the day of the act, event, or default from which the designated period of time begins to run not be included; and

"(2) the last day after such act, event, or default be included, unless—

"(A) such last day is a Saturday, a Sunday, or a legal holiday; or

"(B) in the case of a filing of a paper at the General Accounting Office or a Federal agency, such last day is a day on which weather or other conditions cause the closing of the General Accounting Office or Federal agency, in which event the next day that is not a Saturday, Sunday, or legal holiday shall be included.".

(b) ELECTRONIC FILINGS AND DISSEMINATIONS.—Such section, as amended by subsection (a), is further amended by inserting after subsection (b) the following new subsection:

"(c) The Comptroller General may prescribe procedures for the electronic filing and dissemination of documents and information required under this subchapter. In prescribing such procedures, the Comptroller General shall consider the ability of all parties to achieve electronic access to such documents and records.".

(c) REPEAL OF OBSOLETE DEADLINE.—Subsection (a) of such section is amended by striking out "Not later than January 15, 1985, the" and inserting in lieu thereof "The".

PART II—PROTESTS IN PROCUREMENTS OF AUTOMATIC DATA PROCESSING

SEC. 1431. REVOCATION OF DELEGATIONS OF PROCUREMENT AUTHORITY.

Section 111(b)(3) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(b)(3)) is amended by inserting before the period at the end of the third sentence the following: ", including the authority to revoke a delegation of authority with respect to a particular contract after award of the contract, except that the Administrator may revoke a delegation of authority after the contract is awarded only when there is a finding of a violation of law or regulation in connection with the contract award.".

SEC. 1432. AUTHORITY OF THE GENERAL SERVICES ADMINISTRATION BOARD OF CONTRACT APPEALS.

The first sentence of section 111(f)(1) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)(1)) is amended to read as follows: "Upon request of an interested party in connection with any procurement that is subject to this section (including any such procurement that is subject to delegation of procurement authority), the board of contract appeals of the General Services Administration (hereafter in this subsection referred to as the 'board') shall review, as provided in this subsection, any decision by a contracting officer that is alleged to violate a statute, a regulation, or the conditions of a delegation of procurement authority.".

SEC. 1433. PERIODS FOR CERTAIN ACTIONS.

(a) SUSPENSION OF PROCUREMENT AUTHORITY.—Section 111(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)) is amended—

(1) in paragraph (2)(B)—

(A) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively;

(B) by inserting "(i)" after "(B)"; and

(C) by adding at the end the following:

"(ii) A suspension under this subparagraph shall not preclude the Federal agency concerned from continuing the procurement process up to but not including award of the contract unless the board determines such action is not in the best interests of the United States."; and

(2) in paragraph (3), by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A)(i) If, with respect to an award of a contract, the board receives notice of a protest under this subsection within the period described in clause (ii), the board shall, at the request of an interested party, hold a hearing to determine whether the board should suspend the procurement authority of the Administrator or the Administrator's delegation of procurement authority for the protested procurement on an interim basis until the board can decide the protest.

"(ii) The period referred to in clause (i) is the period beginning on the date on which the contract is awarded and ending at the end of the later of—

"(I) the tenth day after the date of contract award; or

"(II) the fifth day after the debriefing date offered to an unsuccessful offeror for any debriefing that is requested and, when requested, is required.

"(iii) The board shall hold the requested hearing within 5 days after the date of the filing of the protest or, in the case of a request for debriefing under the provisions of section 2305(b)(5) of title 10, United States Code, or section 303B(e) of this Act, within 5 days after the later of the date of the filing of the protest or the date of the debriefing.".

(b) FINAL DECISION.—Paragraph (4)(B) of such section 111(f) is amended—

(1) by striking out "45 working days" and inserting in lieu thereof "65 days"; and

(2) by adding at the end the following: "An amendment which adds a new ground of protest should be resolved, to the maximum extent practicable, within the time limits established for resolution of the initial protest.".

SEC. 1434. DISMISSALS OF PROTESTS.

Section 111(f)(4) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)(4)) is amended by striking out subparagraph (C) and inserting in lieu thereof the following:

"(C) The board may dismiss a protest that the board determines—

"(i) is frivolous;

"(ii) has been brought or pursued in bad faith; or

"(iii) does not state on its face a valid basis for protest.".

SEC. 1435. AWARD OF COSTS.

(a) AWARD.—Section 111(f)(5) of the Federal Property and Administration Services Act of 1949 (40 U.S.C. 759(f)(5)) is amended by striking out subparagraph (C) and inserting in lieu thereof the following:

"(C) Whenever the board makes such a determination, it may, in accordance with section 1304 of title 31, United States Code, further declare an appropriate prevailing party to be entitled to the cost of filing and pursuing the protest (including reasonable attorneys' fees and consultant and expert witness fees), and bid and proposal preparation. However, no party (other than a small business concern (within the meaning of section 3(a) of the Small Business Act)) may be declared entitled to costs for consultants and expert witness fees that exceed the highest rate of compensation for expert witnesses paid by the Federal Government, and no party may be declared entitled to attorneys' fees that exceed $150 per hour unless the board, on a case by case basis, determines that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for the proceedings involved, justifies a higher fee.".

(b) DEFINITION OF PREVAILING PARTY.—Section 111(f)(9) of such Act (40 U.S.C. 759(f)(9)) is amended by adding at the end the following:

"(C) The term 'prevailing party', with respect to a determination of the board under paragraph (5)(B) that a challenged action of a Federal agency violates a statute or regulation or the conditions of a delegation of procurement authority issued pursuant to this section, means a party that demonstrated such violation.".

SEC. 1436. DISMISSAL AGREEMENTS.

Section 111(f)(5) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)(5)), as amended by section 1435, is further amended by adding at the end the following new subparagraphs:

"(D) Any agreement that provides for the dismissal of a protest and involves a direct or indirect expenditure of appropriated funds shall be submitted to the board and shall be made a part of the public record (subject to any protective order considered appropriate by the board) before dismissal of the protest. If a Federal agency is a party to a settlement agreement, the submission of the agreement to the board shall include a memorandum, signed by the contracting officer concerned, that describes in detail the procurement, the grounds for protest, the Federal Government's position regarding the grounds for protest, the terms of the settlement, and the agency's position regarding the propriety of the award or proposed award of the contract at issue in the protest.

"(E) Payment of amounts due from an agency under subparagraph (C) or under the terms of a settlement agreement under subparagraph (D) shall be made from the appropriation made by section 1304 of title 31, United States Code, for the payment of judgments. The Federal agency concerned shall reimburse that appropriation account out of funds available for the procurement.".

SEC. 1437. MATTERS TO BE COVERED IN REGULATIONS.

Section 111(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)) is further amended—

(1) by inserting after paragraph (6) the following:

"(7)(A) The board shall adopt and issue such rules and procedures as may be necessary to the expeditious disposition of protests filed under the authority of this subsection.

"(B) The procedures shall provide that, in the computation of any period described in this subsection—

"(i) the day of the act, event, or default from which the designated period of time begins to run not be included; and

"(ii) the last day after such act, event, or default be included, unless—

"(I) such last day is a Saturday, a Sunday, or a legal holiday; or

"(II) in the case of a filing of a paper at the board, such last day is a day on which weather or other conditions cause the closing of the board in which event the next day that is not a Saturday, Sunday, or legal holiday shall be included.

"(C) The procedures may provide for electronic filing and dissemination of documents and information required under this subsection and in so providing shall consider the ability of all parties to achieve electronic access to such documents and records.

"(D) The procedures shall provide that if the board expressly finds that a protest or a portion of a protest is frivolous or has been brought or pursued in bad faith, or that any person has willfully abused the board's process during the course of a protest, the board may impose appropriate procedural sanctions, including dismissal of the protest."; and

(2) by striking out paragraph (8).

SEC. 1438. DEFINITION OF PROTEST.

Section 111(f)(9) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)(9)) is amended—

(1) by striking out "subsection—" and inserting in lieu thereof "subsection:";

(2) by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A) The term 'protest' means a written objection by an interested party to any of the following:

"(i) A solicitation or other request by a Federal agency for offers for a contract for the procurement of property or services.

"(ii) The cancellation of such a solicitation or other request.

"(iii) An award or proposed award of such a contract.

"(iv) A termination or cancellation of an award of such a contract, if the written objection contains an allegation that the termination or cancellation is based in whole or in part on improprieties concerning the award of the contract."; and

(3) by capitalizing the first letter of the first word in subparagraph (B).

SEC. 1439. OVERSIGHT OF ACQUISITION OF AUTOMATIC DATA PROCESSING EQUIPMENT BY FEDERAL AGENCIES.

Section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) is amended by adding at the end the following new subsection:

"(h) DATA COLLECTION.—(1) The Administrator shall collect and compile data regarding the procurement of automatic data processing equipment under this section. The data collected and compiled shall include, at a minimum, with

regard to each contract for such a procurement, the following:

"(A) The procuring agency.

"(B) The contractor.

"(C) The automatic data processing equipment and services procured.

"(D) The manufacturer of the equipment procured.

"(E) The amount of the contract, to the extent that the amount is not proprietary information.

"(F) The type of contract used.

"(G) The extent of competition for award.

"(H) Whether compatibility restrictions were used in awarding the contract.

"(I) Significant modifications of the contract.

"(J) Contract price, to the extent that the price is not proprietary information.

"(2) The head of each Federal agency shall report to the Administrator in accordance with regulations issued by the Administrator all information that the Administrator determines necessary in order to satisfy the requirements in paragraph (1).

"(3) The Administrator—

"(A) shall carry out a systematic, periodic review of information received under this subsection;

"(B) shall use such information, as appropriate, to determine the compliance of Federal agencies with the requirements of this section; and

"(C) may take appropriate corrective action regarding an agency's authority to lease and purchase automatic data processing equipment upon any substantial failure by the head of the agency to report to the Administrator in accordance with this subsection.

"(4) The Administrator shall take appropriate corrective action upon failure of a Federal agency to comply with the terms of any delegation of authority to lease or purchase automatic data processing equipment or failure to comply with any applicable law or regulation.

"(5) The Administrator shall require in the regulations implementing this subsection that (A) data collected pursuant to this subsection be drawn from existing Federal agency information; and (B) no new or additional information reporting requirements may be imposed on offerors or contractors to collect such data.".

Subtitle E—Policy, Definitions, and Other Matters

PART I—ARMED SERVICES ACQUISITIONS

SEC. 1501. REPEAL OF POLICY STATEMENT.

(a) REPEAL.—Section 2301 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 137 of such title is amended by striking out the item relating to section 2301.

SEC. 1502. DEFINITIONS.

Section 2302 of title 10, United States Code, is amended—

(1) by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) The following terms have the meanings provided such terms in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403):

"(A) The term 'procurement'.

"(B) The term 'procurement system'.

"(C) The term 'standards'.

"(D) The term 'full and open competition'.

"(E) The term 'responsible source'.

"(F) The term 'item'.

"(G) The term 'item of supply'.

"(H) The term 'supplies'.

"(I) The term 'commercial item'.

"(J) The term 'nondevelopmental item'.

"(K) The term 'commercial component'

"(L) The term 'component'."; and

(2) by striking out paragraph (7) and inserting in lieu thereof the following new paragraph (7):

"(7) The term 'simplified acquisition threshold' has the meaning provided that term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403), except that, in the case of any contract to be awarded and performed, or purchase to be made, outside the United States in support of a contingency operation, the term means an amount equal to two times the amount specified for that term in section 4 of such Act.".

SEC. 1503. DELEGATION OF PROCUREMENT FUNCTIONS.

(a) CONSOLIDATION OF DELEGATION AUTHORITY.—(1) Section 2311 of title 10, United States Code, is amended to read as follows:

"§2311. Assignment and delegation of procurement functions and responsibilities

"(a) IN GENERAL.—Except to the extent expressly prohibited by another provision of law, the head of an agency may delegate, subject to his direction, to any other officer or official of that agency, any power under this chapter.

"(b) PROCUREMENTS FOR OR WITH OTHER AGENCIES.—Subject to subsection (a), to facilitate the procurement of property and services covered by this chapter by each agency named in section 2303 of this title for any other agency, and to facilitate joint procurement by those agencies—

"(1) the head of an agency may delegate functions and assign responsibilities relating to procurement to any officer or employee within such agency;

"(2) the heads of two or more agencies may by agreement delegate procurement functions and assign procurement responsibilities from one agency to another of those agencies or to an officer or civilian employee of another of those agencies; and

"(3) the heads of two or more agencies may create joint or combined offices to exercise procurement functions and responsibilities.

"(c) APPROVAL OF TERMINATIONS AND REDUCTIONS OF JOINT ACQUISITION PROGRAMS.—(1) The Secretary of Defense shall prescribe regulations that prohibit each military department participating in a joint acquisition program approved by the Under Secretary of Defense for Acquisition and Technology from terminating or substantially reducing its participation in such program without the approval of the Under Secretary.

"(2) The regulations shall include the following provisions:

"(A) A requirement that, before any such termination or substantial reduction in participation is approved, the proposed termination or reduction be reviewed by the Joint Requirements Oversight Council of the Department of Defense.

"(B) A provision that authorizes the Under Secretary of Defense for Acquisition and Technology to require a military department whose participation in a joint acquisition program has been approved for termination or substantial reduction to continue to provide some or all of the funding necessary for the acquisition program to be continued in an efficient manner.".

(2) The table of sections at the beginning of chapter 137 of such title is amended by striking out the item relating to section 2311 and inserting in lieu thereof the following:

"2311. Assignment and delegation of procurement functions and responsibilities.".

(b) CONFORMING REPEAL.—(1) Section 2308 of title 10, United States Code, is repealed.

(2) The table of sections at the beginning of chapter 137 of such title is amended by striking out the item related to section 2308.

SEC. 1504. DETERMINATIONS AND DECISIONS.

Section 2310 of title 10, United States Code, is amended to read as follows:

"§2310. Determinations and decisions

"(a) INDIVIDUAL OR CLASS DETERMINATIONS AND DECISIONS AUTHORIZED.—Determinations and decisions required to be made under this chapter by the head of an agency may be made for an individual purchase or contract or, except to the extent expressly prohibited by another provision of law, for a class of purchases or contracts. Such determinations and decisions are final.

"(b) WRITTEN FINDINGS REQUIRED.—(1) Each determination or decision under section 2306(g)(1), 2307(d), or 2313(c)(2)(B) of this title shall be based on a written finding by the person making the determination or decision. The finding shall set out facts and circumstances that support the determination or decision.

"(2) Each finding referred to in paragraph (1) is final. The head of the agency making such finding shall maintain a copy of the finding for not less than 6 years after the date of the determination or decision.".

SEC. 1505. RESTRICTIONS ON UNDEFINITIZED CONTRACTUAL ACTIONS.

(a) CLARIFICATION OF LIMITATION.—Subsection (b) of section 2326 of title 10, United States Code, is amended—

(1) in the subsection heading, by striking out "AND EXPENDITURE";

(2) in paragraph (1)(B), by striking out "or expended";

(3) in paragraph (2), by striking out "expend" and inserting in lieu thereof "obligate"; and

(4) in paragraph (3)—

(A) by striking out "expended" and inserting in lieu thereof "obligated"; and

(B) by striking out "expend" and inserting in lieu thereof "obligate".

(b) WAIVER AUTHORITY.—Such subsection is further amended—

(1) by redesignating paragraph (4) as paragraph (5); and

(2) by inserting after paragraph (3) the following new paragraph (4):

"(4) The head of an agency may waive the provisions of this subsection with respect to a contract of that agency if such head of an agency determines that the waiver is necessary in order to support a contingency operation.".

(c) INAPPLICABILITY OF RESTRICTIONS TO CONTRACTS WITHIN THE SIMPLIFIED ACQUISITION THRESHOLD.—Subsection (g)(1)(B) of such section is amended by striking out "small purchase threshold" and inserting in lieu thereof "simplified acquisition threshold".

SEC. 1506. REPEAL OF REQUIREMENT RELATING TO PRODUCTION SPECIAL TOOLING AND PRODUCTION SPECIAL TEST EQUIPMENT.

(a) REPEAL.—Section 2329 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 137 of such title is amended by striking out the item related to section 2329.

SEC. 1507. REGULATIONS FOR BIDS.

Section 2381(a) of title 10, United States Code, is amended by striking out "(a) The Secretary" and all that follows through the end of paragraph (1) and inserting in lieu thereof the following:

"(a) The Secretary of Defense may—

"(1) prescribe regulations for the preparation, submission, and opening of bids for contracts; and".

PART II—CIVILIAN AGENCY ACQUISITIONS

SEC. 1551. DEFINITIONS.

Section 309 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 259) is amended by striking out subsection (c) and inserting in lieu thereof the following:

"(c) The following terms have the meanings provided such terms in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403):

"(1) The term 'procurement'.

"(2) The term 'procurement system'.

"(3) The term 'standards'.

"(4) The term 'full and open competition'.

"(5) The term 'responsible source'.
"(6) The term 'technical data'.
"(7) The term 'major system'.
"(8) The term 'item'.
"(9) The term 'item of supply'.
"(10) The term 'supplies'.
"(11) The term 'commercial item'.
"(12) The term 'nondevelopmental item'.
"(13) The term 'commercial component'
"(14) The term 'component'.

"(d) The term 'simplified acquisition threshold' has the meaning provided that term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403), except that, in the case of any contract to be awarded and performed, or purchase to be made, outside the United States in support of a contingency operation, the term means an amount equal to two times the amount specified for that term in section 4 of such Act.

"(e) The term 'Federal Acquisition Regulation' means the Federal Acquisition Regulation issued pursuant to section 25(c)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)(1)).".

SEC. 1552. DELEGATION OF PROCUREMENT FUNCTIONS.

Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended by adding at the end the following new section:

"SEC. 311. ASSIGNMENT AND DELEGATION OF PROCUREMENT FUNCTIONS AND RESPONSIBILITIES.

"(a) IN GENERAL.—Except to the extent expressly prohibited by another provision of law, the head of an executive agency may delegate to any other officer or official of that agency, any power under this title.

"(b) PROCUREMENTS FOR OR WITH OTHER AGENCIES.—Subject to subsection (a), to facilitate the procurement of property and services covered by this title by each executive agency for any other executive agency, and to facilitate joint procurement by those executive agencies—

"(1) the head of an executive agency may delegate functions and assign responsibilities relating to procurement to any officer or employee within such agency;

"(2) the heads of two or more executive agencies may by agreement delegate procurement functions and assign procurement responsibilities, consistent with section 1535 of title 31, United States Code, and regulations issued under section 1074 of the Federal Acquisition Streamlining Act of 1994, from one executive agency to another of those executive agencies or to an officer or civilian employee of another of those executive agencies; and

"(3) the heads of two or more executive agencies may establish joint or combined offices to exercise procurement functions and responsibilities.".

SEC. 1553. DETERMINATIONS AND DECISIONS.

Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), as amended by section 1552, is further amended by adding at the end the following new section:

"SEC. 312. DETERMINATIONS AND DECISIONS.

"(a) INDIVIDUAL OR CLASS DETERMINATIONS AND DECISIONS AUTHORIZED.—Determinations and decisions required to be made under this title by the head of an executive agency may be made for an individual purchase or contract or, except to the extent expressly prohibited by another provision of law, for a class of purchases or contracts. Such determinations and decisions are final.

"(b) WRITTEN FINDINGS REQUIRED.—(1) Each determination under section 305(d) or section 304C(c)(2)(B) shall be based on a written finding by the person making the determination or decision. The finding shall set out facts and circumstances that support the determination or decision.

"(2) Each finding referred to in paragraph (1) is final.

"(3) The head of an executive agency shall maintain for a period of not less than 6 years a copy of each finding referred to in paragraph (1) that is made by a person in that executive agency. The period begins on the date of the determination or decision to which the finding relates.".

SEC. 1554. REPEAL OF PREFERENCE FOR RECYCLED TONER CARTRIDGES.

The following provisions of law, relating to a preference for procurement of recycled toner cartridges, are repealed:

(1) Section 630 of Public Law 102-393 (106 Stat. 1773) and the provision of law enclosed in quotation marks in that section (42 U.S.C. 6962(j)).

(2) Section 401 of Public Law 103-123 (107 Stat. 1238; 42 U.S.C. 6962 note).

SEC. 1555. COOPERATIVE PURCHASING.

Subsection (b) of section 201 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481), is amended to read as follows:

"(b)(1) The Administrator shall, as far as practicable, provide any of the services specified in subsection (a) of this section to any other Federal agency, mixed-ownership Government corporation (as defined in section 9101 of title 31, United States Code), or the District of Columbia, upon its request.

"(2)(A) The Administrator may provide for the use of Federal supply schedules of the General Services Administration by any of the following entities upon request:

"(i) A State, any department or agency of a State, and any political subdivision of a State, including a local government.

"(ii) The Commonwealth of Puerto Rico.

"(iii) The government of an Indian tribe (as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e))).

"(B) Subparagraph (A) may not be construed to authorize an entity referred to in that subparagraph to order existing stock or inventory from federally owned and operated, or federally owned and contractor operated, supply depots, warehouses, or similar facilities.

"(C) In any case in which an entity listed in subparagraph (A) uses a Federal supply schedule, the Administrator may require the entity to reimburse the General Services Administration for any administrative costs of using the schedule.

"(3)(A) Upon the request of a qualified nonprofit agency for the blind or other severely handicapped that is to provide a commodity or service to the Federal Government under the Javits-Wagner-O'Day Act (41 U.S.C. 46 et seq.), the Administrator may provide any of the services specified in subsection (a) to such agency to the extent practicable.

"(B) A nonprofit agency receiving services under the authority of subparagraph (A) shall use the services directly in making or providing an approved commodity or approved service to the Federal Government.

"(C) In this paragraph:

"(i) The term 'qualified nonprofit agency for the blind or other severely handicapped' means—

"(I) a qualified nonprofit agency for the blind, as defined in section 5(3) of the Javits-Wagner-O'Day Act (41 U.S.C. 48b(3)); and

"(II) a qualified nonprofit agency for other severely handicapped, as defined in section 5(4) of such Act (41 U.S.C. 48b(4)).

"(ii) The terms 'approved commodity' and 'approved service' mean a commodity and a service, respectively, that has been determined by the Committee for Purchase from the Blind and Other Severely Handicapped under section 2 of the Javits-Wagner-O'Day Act (41 U.S.C. 47) to be suitable for procurement by the Federal Government.".

TITLE II—CONTRACT ADMINISTRATION

Subtitle A—Contract Payment

PART I—ARMED SERVICES ACQUISITIONS

SEC. 2001. CONTRACT FINANCING.

(a) REORGANIZATION OF PRINCIPAL AUTHORITY PROVISION.—Section 2307 of title 10, United States Code, is amended—

(1) by striking out the section heading and inserting in lieu thereof the following:

"§2307. Contract financing";

(2) by inserting "PAYMENT AUTHORITY.—" after "(a)" in subsection (a);

(3) by inserting "PAYMENT AMOUNT.—" after "(b)" in subsection (b);

(4) by inserting "SECURITY FOR ADVANCE PAYMENTS.—" after "(c)" in subsection (c);

(5) by inserting "CONDITIONS FOR PROGRESS PAYMENTS.—" after "(d)" in subsection (d);

(6) by inserting "ACTION IN CASE OF FRAUD.—" after "(e)" in subsection (e); and

(7) by redesignating subsections (b), (c), (d), and (e) as subsections (c), (d), (e), and (h), respectively.

(b) PERFORMANCE-BASED PAYMENTS.—Such section, as amended by subsection (a), is further amended by inserting after subsection (a) the following new subsection (b):

"(b) PERFORMANCE-BASED PAYMENTS.—Whenever practicable, payments under subsection (a) shall be made on any of the following bases:

"(1) Performance measured by objective, quantifiable methods such as delivery of acceptable items, work measurement, or statistical process controls.

"(2) Accomplishment of events defined in the program management plan.

"(3) Other quantifiable measures of results.".

(c) TERMINOLOGY CORRECTION.—Subsection (a)(2) of such section is amended by striking out "bid".

(d) EFFECTIVE DATE OF LIEN RELATED TO ADVANCE PAYMENTS.—Such section, as amended by subsection (a)(7), is further amended in subsection (d) by inserting before the period at the end of the third sentence the following: "and is effective immediately upon the first advancement of funds without filing, notice, or any other action by the United States".

(e) CONDITIONS FOR PROGRESS PAYMENTS.—Such section, as amended by subsection (a)(7), is further amended in subsection (e)—

(1) in the first sentence of paragraph (1), by striking out "work, which" and all that follows through "accomplished" and inserting in lieu thereof "work accomplished that meets standards established under the contract"; and

(2) by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) This subsection applies to any contract in an amount greater than $25,000.".

(f) CONDITIONS FOR PAYMENTS FOR COMMERCIAL ITEMS.—Such section, as amended by subsection (a)(7), is further amended by inserting after subsection (e) the following new subsection (f):

"(f) CONDITIONS FOR PAYMENTS FOR COMMERCIAL ITEMS.—(1) Payments under subsection (a) for commercial items may be made under such terms and conditions as the head of the agency determines are appropriate or customary in the commercial marketplace and are in the best interests of the United States. The head of the agency shall obtain adequate security for such payments. If the security is in the form of a lien in favor of the United States, such lien is paramount to all other liens and is effective immediately upon the first payment, without filing, notice, or other action by the United States.

"(2) Advance payments made under subsection (a) for commercial items may include payments, in a total amount of not more than 15

percent of the contract price, in advance of any performance of work under the contract.

"(3) The conditions of subsections (d) and (e) need not be applied if they would be inconsistent, as determined by the head of the agency, with commercial terms and conditions pursuant to paragraphs (1) and (2).".

(g) NAVY CONTRACTS.—Such section, as amended by subsection (f), is further amended by inserting after subsection (f) the following new subsection (g):

"(g) CERTAIN NAVY CONTRACTS.—(1) The Secretary of the Navy shall provide that the rate for progress payments on any contract awarded by the Secretary for repair, maintenance, or overhaul of a naval vessel shall be not less than—

"(A) 95 percent, in the case of a firm considered to be a small business; and

"(B) 90 percent, in the case of any other firm.

"(2) The Secretary of the Navy may advance to private salvage companies such funds as the Secretary considers necessary to provide for the immediate financing of salvage operations. Advances under this paragraph shall be made on terms that the Secretary considers adequate for the protection of the United States.

"(3) The Secretary of the Navy shall provide, in each contract for construction or conversion of a naval vessel, that, when partial, progress, or other payments are made under such contract, the United States is secured by a lien upon work in progress and on property acquired for performance of the contract on account of all payments so made. The lien is paramount to all other liens.".

(h) RELATIONSHIP TO PROMPT PAYMENT REQUIREMENTS.—The amendments made by this section are not intended to impair or modify procedures required by the provisions of chapter 39 of title 31, United States Code, and the regulations issued pursuant to such provisions of law (as such procedures are in effect on the date of the enactment of this Act), except that the Government may accept payment terms offered by a contractor offering a commercial item.

(i) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 137 of title 10, United States Code, is amended by striking out the item relating to section 2307 and inserting in lieu thereof the following:

"2307. Contract financing.".

(j) REPEAL OF SUPERSEDED PROVISIONS.—(1) Sections 7312, 7364, and 7521 of title 10, United States Code, are repealed.

(2) Section 7522 of such title is amended—

(A) by striking out subsection (b); and

(B) by redesignating subsection (c) as subsection (b).

(3) Chapters 633, 637, and 645 of such title are amended by striking out items in the tables of sections for such chapters as follows:

(A) For chapter 633, the item relating to section 7312.

(B) For chapter 637, the item relating to section 7364.

(C) For chapter 645, the item relating to section 7521.

SEC. 2002. REPEAL OF VOUCHERING PROCEDURES SECTION.

(a) REPEAL.—Section 2355 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 139 of such title is amended by striking out the item relating to section 2355.

PART II—CIVILIAN AGENCY ACQUISITIONS

SEC. 2051. CONTRACT FINANCING.

(a) REORGANIZATION OF PRINCIPAL AUTHORITY PROVISION.—Section 305 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 255) is amended—

(1) by striking out the section heading and the section designation and inserting in lieu thereof the following:

"SEC. 305. CONTRACT FINANCING.";

(2) by inserting "PAYMENT AUTHORITY.—" after "(a)" in subsection (a);

(3) by inserting "PAYMENT AMOUNT.—" after "(b)" in subsection (b);

(4) by inserting "SECURITY FOR ADVANCE PAYMENTS.—" after "(c)" in subsection (c); and

(5) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively.

(b) PERFORMANCE-BASED PAYMENTS.—Such section, as amended by subsection (a), is further amended by inserting after subsection (a) the following new subsection (b):

"(b) PERFORMANCE-BASED PAYMENTS.—Whenever practicable, payments under subsection (a) shall be made on any of the following bases:

"(1) Performance measured by objective, quantifiable methods such as delivery of acceptable items, work measurement, or statistical process controls.

"(2) Accomplishment of events defined in the program management plan.

"(3) Other quantifiable measures of results.".

(c) TERMINOLOGY CORRECTION.—Subsection (a)(2) of such section is amended by striking out "bid".

(d) EFFECTIVE DATE OF LIEN RELATED TO ADVANCE PAYMENTS.—Such section, as amended by subsection (a)(5), is further amended in subsection (d) by inserting before the period at the end of the third sentence the following: "and is effective immediately upon the first advancement of funds without filing, notice, or any other action by the United States".

(e) REVISION OF CIVILIAN AGENCY PROVISION TO ENSURE UNIFORM REQUIREMENTS FOR PROGRESS PAYMENTS.—Such section is further amended by adding at the end the following new subsections:

"(e) CONDITIONS FOR PROGRESS PAYMENTS.—(1) The executive agency shall ensure that any payment for work in progress (including materials, labor, and other items) under a contract of an executive agency that provides for such payments is commensurate with the work accomplished that meets standards established under the contract. The contractor shall provide such information and evidence as the executive agency determines necessary to permit the executive agency to carry out the preceding sentence.

"(2) The executive agency shall ensure that progress payments referred to in paragraph (1) are not made for more than 80 percent of the work accomplished under the contract so long as the executive agency has not made the contractual terms, specifications, and price definite.

"(3) This subsection applies to any contract in an amount greater than $25,000.

"(f) CONDITIONS FOR PAYMENTS FOR COMMERCIAL ITEMS.—(1) Payments under subsection (a) for commercial items may be made under such terms and conditions as the head of the executive agency determines are appropriate or customary in the commercial marketplace and are in the best interests of the United States. The head of the executive agency shall obtain adequate security for such payments. If the security is in the form of a lien in favor of the United States, such lien is paramount to all other liens and is effective immediately upon the first payment, without filing, notice, or other action by the United States.

"(2) Advance payments made under subsection (a) for commercial items may include payments, in a total amount of not more than 15 percent of the contract price, in advance of any performance of work under the contract.

"(3) The conditions of subsections (d) and (e) need not be applied if they would be inconsistent, as determined by the head of the executive agency, with commercial terms and conditions pursuant to paragraphs (1) and (2).".

"(g) ACTION IN CASE OF FRAUD.—(1) In any case in which the remedy coordination official of an executive agency finds that there is substantial evidence that the request of a contractor for advance, partial, or progress payment under a contract awarded by that executive agency is based on fraud, the remedy coordination official shall recommend that the executive agency reduce or suspend further payments to such contractor.

"(2) The head of an executive agency receiving a recommendation under paragraph (1) in the case of a contractor's request for payment under a contract shall determine whether there is substantial evidence that the request is based on fraud. Upon making such a determination, the head of the executive agency may reduce or suspend further payments to the contractor under such contract.

"(3) The extent of any reduction or suspension of payments by an executive agency under paragraph (2) on the basis of fraud shall be reasonably commensurate with the anticipated loss to the United States resulting from the fraud.

"(4) A written justification for each decision of the head of an executive agency whether to reduce or suspend payments under paragraph (2), and for each recommendation received by the executive agency in connection with such decision, shall be prepared and be retained in the files of the executive agency.

"(5) The head of each executive agency shall prescribe procedures to ensure that, before the head of the executive agency decides to reduce or suspend payments in the case of a contractor under paragraph (2), the contractor is afforded notice of the proposed reduction or suspension and an opportunity to submit matters to the executive agency in response to such proposed reduction or suspension.

"(6) Not later than 180 days after the date on which the head of an executive agency reduces or suspends payments to a contractor under paragraph (2), the remedy coordination official of the executive agency shall—

"(A) review the determination of fraud on which the reduction or suspension is based; and

"(B) transmit a recommendation to the head of such executive agency whether the suspension or reduction should continue.

"(7) The head of each executive agency who receives recommendations made by a remedy coordination official of the executive agency to reduce or suspend payments under paragraph (2) during a fiscal year shall prepare for such year a report that contains the recommendations, the actions taken on the recommendations and the reasons for such actions, and an assessment of the effects of such actions on the Federal Government. Any such report shall be available to any Member of Congress upon request.

"(8) The head of an executive agency may not delegate responsibilities under this subsection to any person in a position below level IV of the Executive Schedule.

"(9) In this subsection, the term 'remedy coordination official', with respect to an executive agency, means the person or entity in that executive agency who coordinates within that executive agency the administration of criminal, civil, administrative, and contractual remedies resulting from investigations of fraud or corruption related to procurement activities.".

(f) RELATIONSHIP TO PROMPT PAYMENT REQUIREMENTS.—The amendments made by this section are not intended to impair or modify procedures required by the provisions of chapter 39 of title 31, United States Code, and the regulations issued pursuant to such provisions of law (as such procedures are in effect on the date of the enactment of this Act), except that the Government may accept payment terms offered by a contractor offering a commercial item.

PART III—ACQUISITIONS GENERALLY

SEC. 2091. GOVERNMENT-WIDE APPLICATION OF PAYMENT PROTECTIONS FOR SUBCONTRACTORS AND SUPPLIERS.

Section 806 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102-190; 10 U.S.C. 2301 note) is amended by striking out subsection (c) and inserting in lieu thereof the following:

"(c) GOVERNMENT-WIDE APPLICABILITY.—The Federal Acquisition Regulatory Council (established by section 25(a) of the Office of Federal Procurement Policy Act) shall modify the Federal Acquisition Regulation (issued pursuant to section 25(c)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)(1)) to apply Government-wide the requirements that the Secretary is required under subsection (a) to prescribe in regulations applicable with respect to the Department of Defense contracts.".

Subtitle B—Cost Principles

PART I—ARMED SERVICES ACQUISITIONS

SEC. 2101. ALLOWABLE CONTRACT COSTS.

(a) EXTENSION OF COVERAGE TO COAST GUARD AND NASA; OTHER MISCELLANEOUS AMENDMENTS.—Section 2324 of title 10, United States Code, is amended as follows:

(1) Subsection (a) is amended—

(A) by inserting after "(a)" the following: "INDIRECT COST THAT VIOLATES A FAR COST PRINCIPLE.—";

(B) by striking out "Secretary of Defense" and inserting in lieu thereof "head of an agency";

(C) by striking out "Department of Defense" and inserting in lieu thereof "agency"; and

(D) by striking out "the Department of Defense Supplement" and inserting in lieu thereof "applicable agency supplement".

(2) Subsection (b) is amended—

(A) by inserting after "(b)" the following: "PENALTY FOR VIOLATION OF COST PRINCIPLE.—";

(B) in subparagraph (B) of paragraph (1) by striking out "regulations issued by the Secretary" and inserting in lieu thereof "provisions in the Federal Acquisition Regulation"; and

(C) by striking out "Secretary" each place it appears and inserting in lieu thereof "head of the agency".

(3) Subsection (c) is amended—

(A) by inserting after "(c)" the following: "WAIVER OF PENALTY.—"; and

(B) by striking out "The Secretary shall prescribe regulations providing" in the first sentence and inserting in lieu thereof "The Federal Acquisition Regulation shall provide".

(4) Subsection (d) is amended—

(A) by inserting after "(d)" the following: "APPLICABILITY OF CONTRACT DISPUTES PROCEDURE TO DISALLOWANCE OF COST AND ASSESSMENT OF PENALTY.—"; and

(B) by striking out "the Secretary" and inserting in lieu thereof "the head of an agency".

(5) Subsection (e) is amended—

(A) by inserting after "(e)" the following: "SPECIFIC COSTS NOT ALLOWABLE.—";

(B) in subparagraph (D) of paragraph (1), by striking out "regulations of the Secretary of Defense" and inserting in lieu thereof "provisions of the Federal Acquisition Regulation";

(C) in subparagraph (M) of paragraph (1), by striking out "regulations prescribed by the Secretary of Defense" and inserting in lieu thereof "the Federal Acquisition Regulation";

(D) in subparagraph (A) of paragraph (2), by inserting "of Defense" after "Secretary" the first place it occurs;

(E) in subparagraph (C) of paragraph (2), by striking out "head of the agency" in the first sentence and inserting in lieu thereof "Secretary of Defense";

(F) in subparagraph (A) of paragraph (3), by striking out "regulations prescribed by the Secretary" and inserting in lieu thereof "the Federal Acquisition Regulation"; and

(G) by amending paragraph (4) to read as follows:

"(4) The provisions of the Federal Acquisition Regulation implementing this section may establish appropriate definitions, exclusions, limitations, and qualifications.".

(6) Subsection (f) is amended—

(A) in paragraph (1)—

(i) by striking out "(1)" and all that follows through "The amendments" and inserting in lieu thereof the following: "REQUIRED REGULATIONS.—(1) The Federal Acquisition Regulation shall contain provisions on the allowability of contractor costs. Such provisions", and

(ii) by striking out "These regulations" and inserting in lieu thereof "The regulations"; and

(B) in paragraphs (2), (3), and (4)—

(i) by striking out "defense" before "contract auditor" each place it appears, and

(ii) by striking out "regulation" each place it appears and inserting in lieu thereof "Federal Acquisition Regulation".

(7) Subsection (g) is amended to read as follows:

"(g) APPLICABILITY OF REGULATIONS TO SUBCONTRACTORS.—The regulations referred to in subsections (e) and (f)(1) shall require prime contractors of a covered contract, to the maximum extent practicable, to apply the provisions of such regulations to all subcontractors of the covered contract.".

(8) Subsection (h) is amended—

(A) by inserting after "(h)" the following: "CONTRACTOR CERTIFICATION REQUIRED.—";

(B) by striking out "by the Secretary" in paragraph (1) and inserting in lieu thereof "in the Federal Acquisition Regulation"; and

(C) by striking out "Secretary of Defense" in paragraph (2) and inserting in lieu thereof "head of the agency".

(9) Subsection (i) is amended by striking out "The submission to the Department of Defense" and inserting in lieu thereof "PENALTIES FOR SUBMISSION OF COST KNOWN AS NOT ALLOWABLE.—The submission to an agency".

(10) Subsection (j) is amended—

(A) by inserting after "(j)" the following: "CONTRACTOR TO HAVE BURDEN OF PROOF.—"; and

(B) by striking out "United States Claims Court" and inserting in lieu thereof "United States Court of Federal Claims".

(11) Subsection (k) is amended—

(A) by inserting after "(k)" the following: "PROCEEDING COSTS NOT ALLOWABLE.—";

(B) in paragraph (2), by striking out "decision by the Department of Defense—" and inserting in lieu thereof "decision—"; and

(C) in paragraph (4)—

(i) by inserting after "head of the agency" the following: "or Secretary of the military department concerned",

(ii) by striking out "under regulations prescribed by such agency head" and inserting in lieu thereof "in accordance with the Federal Acquisition Regulation",

(iii) by inserting "or Secretary" after "agency head", and

(iv) by inserting before the period at the end the following: "or military department".

(b) UNALLOWABILITY OF COSTS TO INFLUENCE LOCAL LEGISLATIVE BODIES.—Subsection (e)(1)(B) of section 2324 of title 10, United States Code, is amended by striking out "or a State legislature" and inserting in lieu thereof ", a State legislature, or a legislative body of a political subdivision of a State".

(c) CLARIFICATION OF COST PRINCIPLES.—Subsection (f)(1) of such section is amended by adding at the end the following:

"(Q) Conventions.".

(d) COVERED CONTRACT DEFINED.—Such section is further amended by striking out subsections (l) and (m) and inserting in lieu thereof the following:

"(l) DEFINITIONS.—In this section:

"(1)(A) The term 'covered contract' means a contract for an amount in excess of $500,000 that is entered into by the head of an agency, except that such term does not include a fixed-price contract without cost incentives or any firm fixed-price contract for the purchase of commercial items.

"(B) Effective on October 1 of each year that is divisible by five, the amount set forth in subparagraph (A) shall be adjusted to the equivalent amount in constant fiscal year 1994 dollars. An amount, as so adjusted, that is not evenly divisible by $50,000 shall be rounded to the nearest multiple of $50,000. In the case of an amount that is evenly divisible by $25,000 but is not evenly divisible by $50,000, the amount shall be rounded to the next higher multiple of $50,000.

"(2) The term 'head of the agency' or 'agency head' does not include the Secretary of a military department.

"(3) The term 'agency' means the Department of Defense, the Coast Guard, and the National Aeronautics and Space Administration.".

(e) REGULATIONS.—The regulations of the Secretary of Defense implementing section 2324 of title 10, United States Code, shall remain in effect until the Federal Acquisition Regulation is revised to implement the amendments made by this section.

SEC. 2102. REPEAL OF AUTHORITY FOR CONTRACT PROFIT CONTROLS DURING EMERGENCY PERIODS.

(a) REPEAL.—Section 2382 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 141 of such title is amended by striking out the item relating to section 2382.

PART II—CIVILIAN AGENCY ACQUISITIONS

SEC. 2151. ALLOWABLE CONTRACT COSTS.

Section 306 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 256) is amended to read as follows:

"SEC. 306. ALLOWABLE COSTS.

"(a) INDIRECT COST THAT VIOLATES A FAR COST PRINCIPLE.—An executive agency shall require that a covered contract provide that if the contractor submits to the executive agency a proposal for settlement of indirect costs incurred by the contractor for any period after such costs have been accrued and if that proposal includes the submission of a cost which is unallowable because the cost violates a cost principle in the Federal Acquisition Regulation (referred to in section 25(c)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)(1)) or an executive agency supplement to the Federal Acquisition Regulation, the cost shall be disallowed.

"(b) PENALTY FOR VIOLATION OF COST PRINCIPLE.—(1) If the executive agency determines that a cost submitted by a contractor in its proposal for settlement is expressly unallowable under a cost principle referred to in subsection (a) that defines the allowability of specific selected costs, the executive agency shall assess a penalty against the contractor in an amount equal to—

"(A) the amount of the disallowed cost allocated to covered contracts for which a proposal for settlement of indirect costs has been submitted; plus

"(B) interest (to be computed based on provisions in the Federal Acquisition Regulation) to compensate the United States for the use of any funds which a contractor has been paid in excess of the amount to which the contractor was entitled.

"(2) If the executive agency determines that a proposal for settlement of indirect costs submitted by a contractor includes a cost determined to be unallowable in the case of such contractor

before the submission of such proposal, the executive agency shall assess a penalty against the contractor in an amount equal to two times the amount of the disallowed cost allocated to covered contracts for which a proposal for settlement of indirect costs has been submitted.

"(c) WAIVER OF PENALTY.—The Federal Acquisition Regulation shall provide for a penalty under subsection (b) to be waived in the case of a contractor's proposal for settlement of indirect costs when—

"(1) the contractor withdraws the proposal before the formal initiation of an audit of the proposal by the Federal Government and resubmits a revised proposal;

"(2) the amount of unallowable costs subject to the penalty is insignificant; or

"(3) the contractor demonstrates, to the contracting officer's satisfaction, that—

"(A) it has established appropriate policies and personnel training and an internal control and review system that provide assurances that unallowable costs subject to penalties are precluded from being included in the contractor's proposal for settlement of indirect costs; and

"(B) the unallowable costs subject to the penalty were inadvertently incorporated into the proposal.

"(d) APPLICABILITY OF CONTRACT DISPUTES PROCEDURE TO DISALLOWANCE OF COST AND ASSESSMENT OF PENALTY.—An action of an executive agency under subsection (a) or (b)—

"(1) shall be considered a final decision for the purposes of section 6 of the Contract Disputes Act of 1978 (41 U.S.C. 605); and

"(2) is appealable in the manner provided in section 7 of such Act (41 U.S.C. 606).

"(e) SPECIFIC COSTS NOT ALLOWABLE.—(1) The following costs are not allowable under a covered contract:

"(A) Costs of entertainment, including amusement, diversion, and social activities, and any costs directly associated with such costs (such as tickets to shows or sports events, meals, lodging, rentals, transportation, and gratuities).

"(B) Costs incurred to influence (directly or indirectly) legislative action on any matter pending before Congress, a State legislature, or a legislative body of a political subdivision of a State.

"(C) Costs incurred in defense of any civil or criminal fraud proceeding or similar proceeding (including filing of any false certification) brought by the United States where the contractor is found liable or had pleaded nolo contendere to a charge of fraud or similar proceeding (including filing of a false certification).

"(D) Payments of fines and penalties resulting from violations of, or failure to comply with, Federal, State, local, or foreign laws and regulations, except when incurred as a result of compliance with specific terms and conditions of the contract or specific written instructions from the contracting officer authorizing in advance such payments in accordance with applicable provisions of the Federal Acquisition Regulation.

"(E) Costs of membership in any social, dining, or country club or organization.

"(F) Costs of alcoholic beverages.

"(G) Contributions or donations, regardless of the recipient.

"(H) Costs of advertising designed to promote the contractor or its products.

"(I) Costs of promotional items and memorabilia, including models, gifts, and souvenirs.

"(J) Costs for travel by commercial aircraft which exceed the amount of the standard commercial fare.

"(K) Costs incurred in making any payment (commonly known as a 'golden parachute payment') which is—

"(i) in an amount in excess of the normal severance pay paid by the contractor to an employee upon termination of employment; and

"(ii) is paid to the employee contingent upon, and following, a change in management control over, or ownership of, the contractor or a substantial portion of the contractor's assets.

"(L) Costs of commercial insurance that protects against the costs of the contractor for correction of the contractor's own defects in materials or workmanship.

"(M) Costs of severance pay paid by the contractor to foreign nationals employed by the contractor under a service contract performed outside the United States, to the extent that the amount of severance pay paid in any case exceeds the amount paid in the industry involved under the customary or prevailing practice for firms in that industry providing similar services in the United States, as determined under the Federal Acquisition Regulation.

"(N) Costs of severance pay paid by the contractor to a foreign national employed by the contractor under a service contract performed in a foreign country if the termination of the employment of the foreign national is the result of the closing of, or the curtailment of activities at, a United States facility in that country at the request of the government of that country.

"(O) Costs incurred by a contractor in connection with any criminal, civil, or administrative proceeding commenced by the United States or a State, to the extent provided in subsection (k).

"(2)(A) Pursuant to the Federal Acquisition Regulation and subject to the availability of appropriations, an executive agency, in awarding a covered contract, may waive the application of the provisions of paragraphs (1)(M) and (1)(N) to that contract if the executive agency determines that—

"(i) the application of such provisions to the contract would adversely affect the continuation of a program, project, or activity that provides significant support services for employees of the executive agency posted outside the United States;

"(ii) the contractor has taken (or has established plans to take) appropriate actions within the contractor's control to minimize the amount and number of incidents of the payment of severance pay by the contractor to employees under the contract who are foreign nationals; and

"(iii) the payment of severance pay is necessary in order to comply with a law that is generally applicable to a significant number of businesses in the country in which the foreign national receiving the payment performed services under the contract or is necessary to comply with a collective bargaining agreement.

"(B) An executive agency shall include in the solicitation for a covered contract a statement indicating—

"(i) that a waiver has been granted under subparagraph (A) for the contract; or

"(ii) whether the executive agency will consider granting such a waiver, and, if the executive agency will consider granting a waiver, the criteria to be used in granting the waiver.

"(C) An executive agency shall make the final determination regarding whether to grant a waiver under subparagraph (A) with respect to a covered contract before award of the contract.

"(3) The provisions of the Federal Acquisition Regulation implementing this section may establish appropriate definitions, exclusions, limitations, and qualifications. Any submission by a contractor of costs which are incurred by the contractor and which are claimed to be allowable under Department of Energy management and operating contracts shall be considered a 'proposal for settlement of indirect costs incurred by the contractor for any period after such costs have been accrued', as used in this section.

"(f) REQUIRED REGULATIONS.—(1) The Federal Acquisition Regulation shall contain provisions on the allowability of contractor costs. Such provisions shall define in detail and in specific terms those costs which are unallowable, in whole or in part, under covered contracts. The regulations shall, at a minimum, clarify the cost principles applicable to contractor costs of the following:

"(A) Air shows.

"(B) Membership in civic, community, and professional organizations.

"(C) Recruitment.

"(D) Employee morale and welfare.

"(E) Actions to influence (directly or indirectly) executive branch action on regulatory and contract matters (other than costs incurred in regard to contract proposals pursuant to solicited or unsolicited bids).

"(F) Community relations.

"(G) Dining facilities.

"(H) Professional and consulting services, including legal services.

"(I) Compensation.

"(J) Selling and marketing.

"(K) Travel.

"(L) Public relations.

"(M) Hotel and meal expenses.

"(N) Expense of corporate aircraft.

"(O) Company-furnished automobiles.

"(P) Advertising.

"(Q) Conventions.

"(2) The Federal Acquisition Regulation shall require that a contracting officer not resolve any questioned costs until the contracting officer has obtained—

"(A) adequate documentation with respect to such costs; and

"(B) the opinion of the contract auditor on the allowability of such costs.

"(3) The Federal Acquisition Regulation shall provide that, to the maximum extent practicable, a contract auditor be present at any negotiation or meeting with the contractor regarding a determination of the allowability of indirect costs of the contractor.

"(4) The Federal Acquisition Regulation shall require that all categories of costs designated in the report of a contract auditor as questioned with respect to a proposal for settlement be resolved in such a manner that the amount of the individual questioned costs that are paid will be reflected in the settlement.

"(g) APPLICABILITY OF REGULATIONS TO SUBCONTRACTORS.—The regulations referred to in subsections (e) and (f)(1) shall require prime contractors of a covered contract, to the maximum extent practicable, to apply the provisions of such regulations to all subcontractors of the covered contract.

"(h) CONTRACTOR CERTIFICATION REQUIRED.—(1) A proposal for settlement of indirect costs applicable to a covered contract shall include a certification by an official of the contractor that, to the best of the certifying official's knowledge and belief, all indirect costs included in the proposal are allowable. Any such certification shall be in a form prescribed in the Federal Acquisition Regulation.

"(2) An executive agency may, in an exceptional case, waive the requirement for certification under paragraph (1) in the case of any contract if the agency—

"(A) determines in such case that it would be in the interest of the United States to waive such certification; and

"(B) states in writing the reasons for that determination and makes such determination available to the public.

"(i) PENALTIES FOR SUBMISSION OF COST KNOWN AS NOT ALLOWABLE.—The submission to an executive agency of a proposal for settlement of costs for any period after such costs have been accrued that includes a cost that is expressly specified by statute or regulation as being unallowable, with the knowledge that

such cost is unallowable, shall be subject to the provisions of section 287 of title 18, United States Code, and section 3729 of title 31, United States Code.

"(j) CONTRACTOR TO HAVE BURDEN OF PROOF.—In a proceeding before a board of contract appeals, the United States Court of Federal Claims, or any other Federal court in which the reasonableness of indirect costs for which a contractor seeks reimbursement from the United States is in issue, the burden of proof shall be upon the contractor to establish that those costs are reasonable.

"(k) PROCEEDING COSTS NOT ALLOWABLE.—(1) Except as otherwise provided in this subsection, costs incurred by a contractor in connection with any criminal, civil, or administrative proceeding commenced by the United States or a State are not allowable as reimbursable costs under a covered contract if the proceeding (A) relates to a violation of, or failure to comply with, a Federal or State statute or regulation, and (B) results in a disposition described in paragraph (2).

"(2) A disposition referred to in paragraph (1)(B) is any of the following:

"(A) In the case of a criminal proceeding, a conviction (including a conviction pursuant to a plea of nolo contendere) by reason of the violation or failure referred to in paragraph (1).

"(B) In the case of a civil or administrative proceeding involving an allegation of fraud or similar misconduct, a determination of contractor liability on the basis of the violation or failure referred to in paragraph (1).

"(C) In the case of any civil or administrative proceeding, the imposition of a monetary penalty by reason of the violation or failure referred to in paragraph (1).

"(D) A final decision—

"(i) to debar or suspend the contractor,

"(ii) to rescind or void the contract, or

"(iii) to terminate the contract for default,

by reason of the violation or failure referred to in paragraph (1).

"(E) A disposition of the proceeding by consent or compromise if such action could have resulted in a disposition described in subparagraph (A), (B), (C), or (D).

"(3) In the case of a proceeding referred to in paragraph (1) that is commenced by the United States and is resolved by consent or compromise pursuant to an agreement entered into by a contractor and the United States, the costs incurred by the contractor in connection with such proceeding that are otherwise not allowable as reimbursable costs under such paragraph may be allowed to the extent specifically provided in such agreement.

"(4) In the case of a proceeding referred to in paragraph (1) that is commenced by a State, the executive agency that awarded the covered contract involved in the proceeding may allow the costs incurred by the contractor in connection with such proceeding as reimbursable costs if the executive agency determines, in accordance with the Federal Acquisition Regulation, that the costs were incurred as a result of (A) a specific term or condition of the contract, or (B) specific written instructions of the executive agency.

"(5)(A) Except as provided in subparagraph (C), costs incurred by a contractor in connection with a criminal, civil, or administrative proceeding commenced by the United States or a State in connection with a covered contract may be allowed as reimbursable costs under the contract if such costs are not disallowable under paragraph (1), but only to the extent provided in subparagraph (B).

"(B)(i) The amount of the costs allowable under subparagraph (A) in any case may not exceed the amount equal to 80 percent of the amount of the costs incurred, to the extent that such costs are determined to be otherwise allowable and allocable under the Federal Acquisition Regulation.

"(ii) Regulations issued for the purpose of clause (i) shall provide for appropriate consideration of the complexity of procurement litigation, generally accepted principles governing the award of legal fees in civil actions involving the United States as a party, and such other factors as may be appropriate.

"(C) In the case of a proceeding referred to in subparagraph (A), contractor costs otherwise allowable as reimbursable costs under this paragraph are not allowable if (i) such proceeding involves the same contractor misconduct alleged as the basis of another criminal, civil, or administrative proceeding, and (ii) the costs of such other proceeding are not allowable under paragraph (1).

"(6) In this subsection:

"(A) The term 'proceeding' includes an investigation.

"(B) The term 'costs', with respect to a proceeding—

"(i) means all costs incurred by a contractor, whether before or after the commencement of any such proceeding; and

"(ii) includes—

"(I) administrative and clerical expenses;

"(II) the cost of legal services, including legal services performed by an employee of the contractor;

"(III) the cost of the services of accountants and consultants retained by the contractor; and

"(IV) the pay of directors, officers, and employees of the contractor for time devoted by such directors, officers, and employees to such proceeding.

"(C) The term 'penalty' does not include restitution, reimbursement, or compensatory damages.

"(l) COVERED CONTRACT DEFINED.—(1) In this section, the term 'covered contract' means a contract for an amount in excess of $500,000 that is entered into by an executive agency, except that such term does not include a fixed-price contract without cost incentives or any firm, fixed price contract for the purchase of commercial items.

"(2) Effective on October 1 of each year that is divisible by five, the amount set forth in paragraph (1) shall be adjusted to the equivalent amount in constant fiscal year 1994 dollars. An amount, as so adjusted, that is not evenly divisible by $50,000 shall be rounded to the nearest multiple of $50,000. In the case of an amount that is evenly divisible by $25,000 but is not evenly divisible by $50,000, the amount shall be rounded to the next higher multiple of $50,000.".

PART III—ACQUISITIONS GENERALLY

SEC. 2191. TRAVEL EXPENSES OF GOVERNMENT CONTRACTORS.

Section 24 of the Office of Federal Procurement Policy Act (41 U.S.C. 420) is repealed.

SEC. 2192. REVISION OF COST PRINCIPLE RELATING TO ENTERTAINMENT, GIFT, AND RECREATION COSTS FOR CONTRACTOR EMPLOYEES.

(a) COSTS NOT ALLOWABLE.—(1) The costs of gifts or recreation for employees of a contractor or members of their families that are provided by the contractor to improve employee morale or performance or for any other purpose are not allowable under a covered contract unless, within 120 days after the date of the enactment of this Act, the Federal Acquisition Regulatory Council prescribes amendments to the Federal Acquisition Regulation specifying circumstances under which such costs are allowable under a covered contract.

(2) Not later than 90 days after the date of the enactment of this Act, the Federal Acquisition Regulatory Council shall amend the cost principle in the Federal Acquisition Regulation that is set out in section 31.205-14 of title 48, Code of Federal Regulations, relating to unallowability of entertainment costs—

(A) by inserting in the cost principle a statement that costs made specifically unallowable under that cost principle are not allowable under any other cost principle; and

(B) by striking out "(but see 31.205-1 and 31.205-13)".

(b) DEFINITIONS.—In this section:

(1) The term "employee" includes officers and directors of a contractor.

(2) The term "covered contract" has the meaning given such term in section 2324(l) of title 10, United States Code (as amended by section 2101(c)), and section 306(l) of the Federal Property and Administrative Services Act of 1949 (as added by section 2151).

(c) EFFECTIVE DATE.—Any amendments to the Federal Acquisition Regulation made pursuant to subsection (a) shall apply with respect to costs incurred after the date on which the amendments made by section 2101 apply (as provided in section 10001) or the date on which the amendments made by section 2151 apply (as provided in section 10001), whichever is later.

Subtitle C—Audit and Access to Records

PART I—ARMED SERVICES ACQUISITIONS

SEC. 2201. CONSOLIDATION AND REVISION OF AUTHORITY TO EXAMINE RECORDS OF CONTRACTORS.

(a) AUTHORITY.—(1) Section 2313 of title 10, United States Code, is amended to read as follows:

"§2313. Examination of records of contractor

"(a) AGENCY AUTHORITY.—(1) The head of an agency, acting through an authorized representative, is authorized to inspect the plant and audit the records of—

"(A) a contractor performing a cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable contract, or any combination of such contracts, made by that agency under this chapter; and

"(B) a subcontractor performing any cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable subcontract or any combination of such subcontracts under a contract referred to in subparagraph (A).

"(2) The head of an agency, acting through an authorized representative, is authorized, for the purpose of evaluating the accuracy, completeness, and currency of certified cost or pricing data required to be submitted pursuant to section 2306a of this title with respect to a contract or subcontract, to examine all records of the contractor or subcontractor related to—

"(A) the proposal for the contract or subcontract;

"(B) the discussions conducted on the proposal;

"(C) pricing of the contract or subcontract; or

"(D) performance of the contract or subcontract.

"(b) DCAA SUBPOENA AUTHORITY.—(1) The Director of the Defense Contract Audit Agency (or any successor agency) may require by subpoena the production of any records of a contractor that the Secretary of Defense is authorized to audit or examine under subsection (a).

"(2) Any such subpoena, in the case of contumacy or refusal to obey, shall be enforceable by order of an appropriate United States district court.

"(3) The authority provided by paragraph (1) may not be redelegated.

"(4) The Director (or any successor official) shall submit an annual report to the Secretary of Defense on the exercise of such authority during the preceding year and the reasons why such authority was exercised in any instance. The Secretary shall forward a copy of each such report to the Committees on Armed Services of the Senate and House of Representatives.

"(c) COMPTROLLER GENERAL AUTHORITY.—(1) Except as provided in paragraph (2), each contract awarded after using procedures other than sealed bid procedures shall provide that the Comptroller General and his representatives are authorized to examine any records of the contractor, or any of its subcontractors, that directly pertain to, and involve transactions relating to, the contract or subcontract.

"(2) Paragraph (1) does not apply to a contract or subcontract with a foreign contractor or foreign subcontractor if the head of the agency concerned determines, with the concurrence of the Comptroller General or his designee, that the application of that paragraph to the contract or subcontract would not be in the public interest. However, the concurrence of the Comptroller General or his designee is not required—

"(A) where the contractor or subcontractor is a foreign government or agency thereof or is precluded by the laws of the country involved from making its records available for examination; and

"(B) where the head of the agency determines, after taking into account the price and availability of the property and services from United States sources, that the public interest would be best served by not applying paragraph (1).

"(3) Paragraph (1) may not be construed to require a contractor or subcontractor to create or maintain any record that the contractor or subcontractor does not maintain in the ordinary course of business or pursuant to another provision of law.

"(d) LIMITATION ON PREAWARD AUDITS RELATING TO INDIRECT COSTS.—The head of an agency may not perform a preaward audit to evaluate proposed indirect costs under any contract, subcontract, or modification to be entered into in accordance with this chapter in any case in which the contracting officer determines that the objectives of the audit can reasonably be met by accepting the results of an audit conducted by any other department or agency of the Federal Government within one year preceding the date of the contracting officer's determination.

"(e) LIMITATION.—The authority of the head of an agency under subsection (a), and the authority of the Comptroller General under subsection (c), with respect to a contract or subcontract shall expire three years after final payment under such contract or subcontract.

"(f) INAPPLICABILITY TO CERTAIN CONTRACTS.—This section does not apply to the following contracts:

"(1) Contracts for utility services at rates not exceeding those established to apply uniformly to the public, plus any applicable reasonable connection charge.

"(g) FORMS OF ORIGINAL RECORD STORAGE.—Nothing in this section shall be construed to preclude a contractor from duplicating or storing original records in electronic form.

"(h) USE OF IMAGES OF ORIGINAL RECORDS.—The head of an agency shall not require a contractor or subcontractor to provide original records in an audit carried out pursuant to this section if the contractor or subcontractor provides photographic or electronic images of the original records and meets the following requirements:

"(1) The contractor or subcontractor has established procedures to ensure that the imaging process preserves the integrity, reliability, and security of the original records.

"(2) The contractor or subcontractor maintains an effective indexing system to permit timely and convenient access to the imaged records.

"(3) The contractor or subcontractor retains the original records for a minimum of one year after imaging to permit periodic validation of the imaging systems.

"(i) RECORDS DEFINED.—In this section, the term 'records' includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.".

(2) The item relating to such section in the table of sections at the beginning of chapter 137 of title 10, United States Code, is amended to read as follows:

"2313. Examination of records of contractor.".

(b) REPEAL OF SUPERSEDED PROVISION.—(1) Section 2406 of title 10, United States Code, is repealed.

(2) The table of sections at the beginning of chapter 141 of such title is amended by striking out the item relating to section 2406.

PART II—CIVILIAN AGENCY ACQUISITIONS

SEC. 2251. AUTHORITY TO EXAMINE RECORDS OF CONTRACTORS.

(a) AUTHORITY.—Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), as amended by sections 1072 and 1251(a), is further amended by inserting after section 304B the following new section:

"SEC. 304C. EXAMINATION OF RECORDS OF CONTRACTOR.

"(a) AGENCY AUTHORITY.—(1) The head of an executive agency, acting through an authorized representative, is authorized to inspect the plant and audit the records of—

"(A) a contractor performing a cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable contract, or any combination of such contracts, made by that executive agency under this title; and

"(B) a subcontractor performing any cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable subcontract or any combination of such subcontracts under a contract referred to in subparagraph (A).

"(2) The head of an executive agency, acting through an authorized representative, is authorized, for the purpose of evaluating the accuracy, completeness, and currency of certified cost or pricing data required to be submitted pursuant to section 304B with respect to a contract or subcontract, to examine all records of the contractor or subcontractor related to—

"(A) the proposal for the contract or subcontract;

"(B) the discussions conducted on the proposal;

"(C) pricing of the contract or subcontract; or

"(D) performance of the contract or subcontract.

"(b) SUBPOENA POWER.—(1) The Inspector General of an executive agency appointed under section 3 or 8G of the Inspector General Act of 1978 (5 U.S.C. App.) or, upon request of the head of an executive agency, the Director of the Defense Contract Audit Agency (or any successor agency) of the Department of Defense or the Inspector General of the General Services Administration may require by subpoena the production of records of a contractor, access to which is provided for that executive agency by subsection (a).

"(2) Any such subpoena, in the case of contumacy or refusal to obey, shall be enforceable by order of an appropriate United States district court.

"(3) The authority provided by paragraph (1) may not be delegated.

"(4) In the year following a year in which authority provided in paragraph (1) is exercised for an executive agency, the head of the executive agency shall submit to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives a report on the exercise of such authority during such preceding year and the reasons why such authority was exercised in any instance.

"(c) COMPTROLLER GENERAL AUTHORITY.—(1) Except as provided in paragraph (2), each contract awarded after using procedures other than sealed bid procedures shall provide that the Comptroller General and his representatives are authorized to examine any records of the contractor, or any of its subcontractors, that directly pertain to, and involve transactions relating to, the contract or subcontract.

"(2) Paragraph (1) does not apply to a contract or subcontract with a foreign contractor or foreign subcontractor if the executive agency concerned determines, with the concurrence of the Comptroller General or his designee, that the application of that paragraph to the contract or subcontract would not be in the public interest. However, the concurrence of the Comptroller General or his designee is not required—

"(A) where the contractor or subcontractor is a foreign government or agency thereof or is precluded by the laws of the country involved from making its records available for examination; and

"(B) where the executive agency determines, after taking into account the price and availability of the property and services from United States sources, that the public interest would be best served by not applying paragraph (1).

"(3) Paragraph (1) may not be construed to require a contractor or subcontractor to create or maintain any record that the contractor or subcontractor does not maintain in the ordinary course of business or pursuant to another provision of law.

"(d) LIMITATION ON PREAWARD AUDITS RELATING TO INDIRECT COSTS.—An executive agency may not perform a preaward audit to evaluate proposed indirect costs under any contract, subcontract, or modification to be entered into in accordance with this title in any case in which the contracting officer determines that the objectives of the audit can reasonably be met by accepting the results of an audit conducted by any other department or agency of the Federal Government within one year preceding the date of the contracting officer's determination.

"(e) LIMITATION.—The authority of an executive agency under subsection (a), and the authority of the Comptroller General under subsection (c), with respect to a contract or subcontract shall expire three years after final payment under such contract or subcontract.

"(f) INAPPLICABILITY TO CERTAIN CONTRACTS.—This section does not apply to the following contracts:

"(1) Contracts for utility services at rates not exceeding those established to apply uniformly to the public, plus any applicable reasonable connection charge.

"(g) FORM OF ORIGINAL RECORD STORAGE.—Nothing in this section shall be construed to preclude a contractor from duplicating or storing original records in electronic form.

"(h) USE OF IMAGES OF ORIGINAL RECORDS.—An executive agency shall not require a contractor or subcontractor to provide original records in an audit carried out pursuant to this section if the contractor or subcontractor provides photographic or electronic images of the original records and meets the following requirements:

"(1) The contractor or subcontractor has established procedures to ensure that the imaging process preserves the integrity, reliability, and security of the original records.

"(2) The contractor or subcontractor maintains an effective indexing system to permit timely and convenient access to the imaged records.

"(3) The contractor or subcontractor retains the original records for a minimum of one year after imaging to permit periodic validation of the imaging systems.

"(i) RECORDS DEFINED.—In this section, the term 'records' includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of

whether such items are in written form, in the form of computer data, or in any other form.".

(b) REPEAL OF SUPERSEDED PROVISION.—Section 304 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254) is amended by striking out subsection (c).

Subtitle D—Claims and Disputes

PART I—ARMED SERVICES ACQUISITIONS

SEC. 2301. CERTIFICATION OF CONTRACT CLAIMS.

(a) IN GENERAL.—Chapter 141 of title 10, United States Code, is amended by inserting after section 2409a the following new section 2410:

"§2410. Requests for equitable adjustment or other relief: certification

"(a) CERTIFICATION REQUIREMENT.—A request for equitable adjustment to contract terms or request for relief under Public Law 85-804 (50 U.S.C. 1431 et seq.) that exceeds the simplified acquisition threshold may not be paid unless a person authorized to certify the request on behalf of the contractor certifies, at the time the request is submitted, that—

"(1) the request is made in good faith, and

"(2) the supporting data are accurate and complete to the best of that person's knowledge and belief.

"(b) RESTRICTION ON LEGISLATIVE PAYMENT OF CLAIMS.—In the case of a contract of an agency named in section 2303(a) of this title, no provision of a law enacted after September 30, 1994, that directs the payment of a particular claim under such contract, a particular request for equitable adjustment to any term of such contract, or a particular request for relief under Public Law 85-804 (50 U.S.C. 1431 et seq.) regarding such contract may be implemented unless such provision of law—

"(1) specifically refers to this subsection; and

"(2) specifically states that this subsection does not apply with respect to the payment directed by that provision of law.

"(c) DEFINITION.—In this section, the term 'simplified acquisition threshold' has the meaning given that term in section 4(11) of the Office of Federal Procurement Policy Act.".

(b) REPEAL OF RELATED PROVISION.—Section 2410e of title 10, United States Code, is repealed.

(c) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 141 of such title is amended—

(A) by striking out the items relating to sections 2410 and 2410e; and

(B) by inserting after the item relating to section 2409a the following:

"2410. Requests for equitable adjustment or other relief: certification.".

SEC. 2302. SHIPBUILDING CLAIMS.

(a) INCREASE IN TIME PERIOD DURING WHICH ADJUSTMENTS TO SHIPBUILDING CLAIMS MAY BE MADE.—Section 2405 of title 10, United States Code, is amended in subsection (a)—

(1) by striking out "entered into after December 7, 1983,"; and

(2) by striking out "occurring more than 18 months before the submission of the claim, request, or demand." and inserting in lieu thereof the following: "that—

"(1) in the case of a contract entered into after December 7, 1983, and before the date of the enactment of the Federal Acquisition Streamlining Act of 1994, occurred more than 18 months before the submission of the claim, request, or demand; and

"(2) in the case of a contract entered into on or after the date of the enactment of the Federal Acquisition Streamlining Act of 1994, occurred more than 6 years before the submission of the claim, request, or demand.".

(b) RESUBMISSION WITH CORRECTED CERTIFICATION.—Subsection (c) of such section is amended by adding at the end the following:

"(4) This subsection applies only with respect to a claim, request, or demand submitted before the effective date of this paragraph.".

(c) APPLICABILITY.—Paragraphs (1) and (2) of section 2405(a) of title 10, United States Code, as added by subsection (a)(2), shall apply according to the provisions thereof on and after the date of the enactment of this Act, notwithstanding section 10001(b).

PART II—ACQUISITIONS GENERALLY

SEC. 2351. CONTRACT DISPUTES ACT IMPROVEMENTS.

(a) PERIOD FOR FILING CLAIMS.—Section 6 of the Contract Disputes Act of 1978 (41 U.S.C. 605) is amended in subsection (a) by inserting after the second sentence the following: "Each claim by a contractor against the government relating to a contract and each claim by the government against a contractor relating to a contract shall be submitted within 6 years after the accrual of the claim. The preceding sentence does not apply to a claim by the government against a contractor that is based on a claim by the contractor involving fraud.".

(2) Notwithstanding the third sentence of section 6(a) of the Contract Disputes Act of 1978, as added by paragraph (1), if a contract in existence on the date of the enactment of this Act requires that a claim referred to in that sentence be submitted earlier than 6 years after the accrual of the claim, then the claim shall be submitted within the period required by the contract. The preceding sentence does not apply to a claim by the Federal Government against a contractor that is based on a claim by the contractor involving fraud.

(b) INCREASED THRESHOLD FOR CERTIFICATION, DECISION, AND NOTIFICATION REQUIREMENTS.—Subsection (c) of such section is amended by striking out "$50,000" each place it appears and inserting in lieu thereof "$100,000".

(c) INCREASED MAXIMUM FOR APPLICABILITY OF ACCELERATED PROCEDURES.—Section 8(f) of the Contract Disputes Act of 1978 (41 U.S.C. 607(f)) is amended by striking out "$50,000" in the first sentence and inserting in lieu thereof "$100,000".

(d) INCREASED MAXIMUM FOR APPLICABILITY OF SMALL CLAIMS PROCEDURE.—Section 9(a) of the Contract Disputes Act of 1978 (41 U.S.C. 608(a)) is amended by striking out "$10,000" in the first sentence and inserting in lieu thereof "$50,000".

(e) REQUESTS FOR ISSUANCE OF DECISIONS.—Paragraph (4) of section 6(c) of the Contract Disputes Act of 1978 (41 U.S.C. 605(c)) is amended—

(1) by striking out "agency board of contract appeals" and inserting in lieu thereof "tribunal concerned"; and

(2) by striking out "board," and inserting in lieu thereof "tribunal concerned,".

SEC. 2352. EXTENSION OF ALTERNATIVE DISPUTE RESOLUTION AUTHORITY.

(a) EXTENSION OF AUTHORITY.—Section 6(e) of the Contracts Disputes Act of 1978 (41 U.S.C. 605(e)) is amended by striking out "October 1, 1995" and inserting in lieu thereof "October 1, 1999".

(b) AVAILABILITY OF PROCEDURES TO SMALL BUSINESS GOVERNMENT CONTRACTORS.—Section 6(e) of such Act is amended by inserting after the first sentence the following: "In any case in which the contracting officer rejects a contractor's request for alternative dispute resolution proceedings, the contracting officer shall provide the contractor with a written explanation, citing one or more of the conditions in section 572(b) of title 5, United States Code, or such other specific reasons that alternative dispute resolution procedures are inappropriate for the resolution of the dispute. In any case in which a contractor rejects a request of an agency for alternative dispute resolution proceedings, the contractor shall inform the agency in writing of the contractor's specific reasons for rejecting the request.".

SEC. 2353. EXPEDITED RESOLUTION OF CONTRACT ADMINISTRATION MATTERS.

(a) REGULATIONS REQUIRED.—(1) The Federal Acquisition Regulation shall include provisions that require a contracting officer—

(A) to make every reasonable effort to respond in writing within 30 days to any written request made to a contracting officer with respect to a matter relating to the administration of a contract that is received from a small business concern; and

(B) in the event that the contracting officer is unable to reply within the 30-day period, to transmit to the contractor within such period a written notification of a specific date by which the contracting officer expects to respond.

(2) The provisions shall not apply to a request for a contracting officer's decision under the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.).

(b) RULE OF CONSTRUCTION.—Nothing in this section shall be considered as creating any rights under the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.).

(c) DEFINITION.—In this section, the term "small business concern" means a business concern that meets the requirements of section 3(a) of the Small Business Act (15 U.S.C. 632(a)) and the regulations promulgated pursuant to that section.

SEC. 2354. AUTHORITY FOR DISTRICT COURTS TO OBTAIN ADVISORY OPINIONS FROM BOARDS OF CONTRACT APPEALS IN CERTAIN CASES.

Section 10 of the Contract Disputes Act of 1978 (41 U.S.C. 609) is amended by adding at the end the following new paragraph:

"(f)(1) Whenever an action involving an issue described in paragraph (2) is pending in a district court of the United States, the district court may request a board of contract appeals to provide the court with an advisory opinion on the matters of contract interpretation at issue.

"(2) An issue referred to in paragraph (1) is any issue that could be the proper subject of a final decision of a contracting officer appealable under this Act.

"(3) A district court shall direct any request under paragraph (1) to the board of contract appeals having jurisdiction under this Act to adjudicate appeals of contract claims under the contract or contracts being interpreted by the court.

"(4) After receiving a request for an advisory opinion under paragraph (1), a board of contract appeals shall provide the advisory opinion in a timely manner to the district court making the request.".

Subtitle E—Miscellaneous

PART I—ARMED SERVICES ACQUISITIONS

SEC. 2401. CLARIFICATION OF PROVISION RELATING TO QUALITY CONTROL OF CERTAIN SPARE PARTS.

The second sentence of subsection (a) of section 2383 of title 10, United States Code, is amended to read as follows: "In establishing the appropriate qualification requirements, the Secretary of Defense shall use the Department of Defense qualification requirements that were used to qualify the original production part unless the Secretary determines in writing—

"(1) that there are other requirements sufficiently similar to those requirements that should be used instead; or

"(2) that any or all such requirements are unnecessary.".

SEC. 2402. CONTRACTOR GUARANTEES REGARDING WEAPON SYSTEMS.

(a) REPEAL OF REQUIREMENT FOR REPORT ON WAIVERS.—Subsection (e) of section 2403 of title 10, United States Code, is amended—

(1) by striking out "(1)"; and

(2) by striking out paragraph (2).

(b) PROVISIONS TO BE ADDRESSED BY REGULATIONS.—Subsection (h) of such section is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following new paragraph (2):

"(2) The regulations shall include the following:

"(A) Guidelines for negotiating contractor guarantees that are reasonable and cost effective, as determined on the basis of the likelihood of defects and the estimated cost of correcting such defects.

"(B) Procedures for administering contractor guarantees.

"(C) Guidelines for determining the cases in which it may be appropriate to waive the requirements of this section.".

PART II—ACQUISITIONS GENERALLY

SEC. 2451. SECTION 3737 OF THE REVISED STATUTES: EXPANSION OF AUTHORITY TO PROHIBIT SETOFFS AGAINST ASSIGNEES; REORGANIZATION OF SECTION; REVISION OF OBSOLETE PROVISIONS.

Section 3737 of the Revised Statutes (41 U.S.C. 15) is amended to read as follows:

"SEC. 3737. (a) No contract or order, or any interest therein, shall be transferred by the party to whom such contract or order is given to any other party, and any such transfer shall cause the annulment of the contract or order transferred, so far as the United States is concerned. All rights of action, however, for any breach of such contract by the contracting parties, are reserved to the United States.

"(b) The provisions of subsection (a) shall not apply in any case in which the moneys due or to become due from the United States or from any agency or department thereof, under a contract providing for payments aggregating $1,000 or more, are assigned to a bank, trust company, or other financing institution, including any Federal lending agency, provided:

"(1) That, in the case of any contract entered into after October 9, 1940, no claim shall be assigned if it arises under a contract which forbids such assignment.

"(2) That, unless otherwise expressly permitted by such contract, any such assignment shall cover all amounts payable under such contract and not already paid, shall not be made to more than one party, and shall not be subject to further assignment, except that any such assignment may be made to one party as agent or trustee for two or more parties participating in such financing.

"(3) That, in the event of any such assignment, the assignee thereof shall file written notice of the assignment together with a true copy of the instrument of the assignment with—

"(A) the contracting officer or the head of his department or agency;

"(B) the surety or sureties upon the bond or bonds, if any, in connection with such contract; and

"(C) the disbursing officer, if any, designated in such contract to make payment.

"(c) Notwithstanding any law to the contrary governing the validity of assignments, any assignment pursuant to this section shall constitute a valid assignment for all purposes.

"(d) In any case in which moneys due or to become due under any contract are or have been assigned pursuant to this section, no liability of any nature of the assignor to the United States or any department or agency thereof, whether arising from or independently of such contract, shall create or impose any liability on the part of the assignee to make restitution, refund, or repayment to the United States of any amount heretofore since July 1, 1950, or hereafter received under the assignment.

"(e) Any contract of the Department of Defense, the General Services Administration, the Department of Energy, or any other department or agency of the United States designated by the President, except any such contract under which full payment has been made, may, upon a determination of need by the President, provide or be amended without consideration to provide that payments to be made to the assignee of any moneys due or to become due under such contract shall not be subject to reduction or setoff. Each such determination of need shall be published in the Federal Register.

"(f) If a provision described in subsection (e) or a provision to the same general effect has been at any time heretofore or is hereafter included or inserted in any such contract, payments to be made thereafter to an assignee of any moneys due or to become due under such contract shall not be subject to reduction or setoff for any liability of any nature of the assignor to the United States or any department or agency thereof which arises independently of such contract, or hereafter for any liability of the assignor on account of—

"(1) renegotiation under any renegotiation statute or under any statutory renegotiation article in the contract;

"(2) fines;

"(3) penalties (which term does not include amounts which may be collected or withheld from the assignor in accordance with or for failure to comply with the terms of the contract); or

"(4) taxes, social security contributions, or the withholding or non withholding of taxes or social security contributions, whether arising from or independently of such contract.

"(g) Except as herein otherwise provided, nothing in this section shall be deemed to affect or impair rights of obligations heretofore accrued.".

SEC. 2452. REPEAL OF REQUIREMENT FOR DEPOSIT OF CONTRACTS WITH GAO.

Section 3743 of the Revised Statutes (41 U.S.C. 20) is repealed.

SEC. 2453. REPEAL OF OBSOLETE DEADLINE REGARDING PROCEDURAL REGULATIONS FOR THE COST ACCOUNTING STANDARDS BOARD.

Section 26(f)(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 422(f)(3)) is amended in the first sentence by striking out "Not later than 180 days after the date of the enactment of this section, the Administrator" and inserting in lieu thereof "The Administrator".

SEC. 2454. CODIFICATION OF ACCOUNTING REQUIREMENT FOR CONTRACTED ADVISORY AND ASSISTANCE SERVICES.

(a) FUNDING TO BE IDENTIFIED IN BUDGET.—Section 1105 of title 31, United States Code, is amended by adding at the end the following new subsection:

"(g)(1) The Director of the Office of Management and Budget shall establish the funding for advisory and assistance services for each department and agency as a separate object class in each budget annually submitted to the Congress under this section.

"(2)(A) In paragraph (1), except as provided in subparagraph (B), the term 'advisory and assistance services' means the following services when provided by nongovernmental sources:

"(i) Management and professional support services.

"(ii) Studies, analyses, and evaluations.

"(iii) Engineering and technical services.

"(B) In paragraph (1), the term 'advisory and assistance services' does not include the following services:

"(i) Routine automated data processing and telecommunications services unless such services are an integral part of a contract for the procurement of advisory and assistance services.

"(ii) Architectural and engineering services, as defined in section 901 of the Brooks Architect-Engineers Act (40 U.S.C. 541).

"(iii) Research on basic mathematics or medical, biological, physical, social, psychological, or other phenomena.".

(b) REPEAL OF SOURCE LAW.—Section 512 of Public Law 102-394 (106 Stat. 1826) is repealed.

(c) REPEAL OF SUPERSEDED PROVISIONS.—(1) Section 2212 of title 10, United States Code, is repealed.

(2) Section 1114 of title 31, United States Code, is repealed.

(3)(A) The table of sections at the beginning of chapter 131 of title 10, United States Code, is amended by striking out the item relating to section 2212.

(B) The table of sections at the beginning of chapter 11 of title 31, United States Code, is amended by striking out the item relating to section 1114.

SEC. 2455. UNIFORM SUSPENSION AND DEBARMENT.

(a) REQUIREMENT FOR REGULATIONS.—Regulations shall be issued providing that provisions for the debarment, suspension, or other exclusion of a participant in a procurement activity under the Federal Acquisition Regulation, or in a nonprocurement activity under regulations issued pursuant to Executive Order No. 12549, shall have government-wide effect. No agency shall allow a party to participate in any procurement or nonprocurement activity if any agency has debarred, suspended, or otherwise excluded (to the extent specified in the exclusion agreement) that party from participation in a procurement or nonprocurement activity.

(b) AUTHORITY TO GRANT EXCEPTION.—The regulations issued pursuant to subsection (a) shall provide that an agency may grant an exception permitting a debarred, suspended, or otherwise excluded party to participate in procurement activities of that agency to the extent exceptions are authorized under the Federal Acquisition Regulation, or to participate in nonprocurement activities of that agency to the extent exceptions are authorized under regulations issued pursuant to Executive Order No. 12549.

(c) DEFINITIONS.—In this section:

(1) The term "procurement activities" means all acquisition programs and activities of the Federal Government, as defined in the Federal Acquisition Regulation.

(2) The term "nonprocurement activities" means all programs and activities involving Federal financial and nonfinancial assistance and benefits, as covered by Executive Order No. 12549 and the Office of Management and Budget guidelines implementing that order.

(3) The term "agency" means an Executive agency as defined in section 103 of title 5, United States Code.

TITLE III—SERVICE SPECIFIC AND MAJOR SYSTEMS STATUTES

Subtitle A—Major Systems Statutes

SEC. 3001. WEAPON DEVELOPMENT AND PROCUREMENT SCHEDULES.

(a) DEADLINE AND PURPOSE.—Subsection (a) of section 2431 of title 10, United States Code, is amended—

(1) in the first sentence—

(A) by striking out "at the same time" and inserting in lieu thereof "not later than 45 days after"; and

(B) by striking out "a written report" and inserting in lieu thereof "budget justification documents"; and

(2) in the second and third sentences, by striking out "report" and inserting in lieu thereof "documents".

(b) ADDITIONAL MATTERS TO BE INCLUDED.—Subsection (b) of such section is amended—

(1) by striking out "include—" and inserting in lieu thereof "include each of the following:";

(2) by capitalizing the first letter of the first word in each of paragraphs (1), (2), and (3);

(3) by striking out the semicolon at the end of paragraphs (1) and (2) and inserting in lieu thereof a period;

(4) by striking out "; and" at the end of paragraph (3) and inserting in lieu thereof a period; and

(5) by amending paragraph (4) to read as follows:

"(4)(A) The most efficient production rate, the most efficient acquisition rate, and the minimum sustaining rate, consistent with the program priority established for such weapon system by the Secretary concerned.

"(B) In this paragraph:

"(i) The term 'most efficient production rate' means the maximum rate for each budget year at which the weapon system can be produced with existing or planned plant capacity and tooling, with one shift a day running for eight hours a day and five days a week.

"(ii) The term 'minimum sustaining rate' means the production rate for each budget year that is necessary to keep production lines open while maintaining a base of responsive vendors and suppliers.".

SEC. 3002. SELECTED ACQUISITION REPORT REQUIREMENT.

(a) DEFINITION OF PROCUREMENT UNIT COST.—(1) Paragraph (2) of section 2432(a) of title 10, United States Code, is amended—

(A) in clause (A), by striking out "for a fiscal year" and all that follows through "such program in such fiscal year";

(B) in clause (B), by striking out "with such funds during such fiscal year." and inserting in lieu thereof a period; and

(C) by striking out the last sentence.

(2) Section 2433 of such title is amended—

(A) in subparagraph (B) of subsection (c)(1), by striking out "current" before "procurement unit cost";

(B) in subsection (d), by striking out "current" before "procurement unit cost" each place it appears; and

(C) in subsection (e), by striking out "current" before "procurement unit cost" both places it appears.

(b) EXCLUSION OF FIRM, FIXED-PRICE CONTRACTS.—Subsection (a) of section 2432 of such title is amended in paragraph (3) by inserting before the period at the end the following: "and that is not a firm, fixed-price contract".

(c) DEFINITION OF FULL LIFE-CYCLE COST.—Such subsection is further amended in paragraph (4) by striking out "has the meaning" and all that follows through the end of the paragraph and inserting in lieu thereof the following: "means all costs of development, procurement, military construction, and operations and support, without regard to funding source or management control.".

(d) NOTICE OF PROPOSED CHANGES IN SAR.—Subsection (c) of such section is amended in paragraph (2) by striking out the second sentence and inserting in lieu thereof the following: "Whenever the Secretary of Defense proposes to make changes in the content of a Selected Acquisition Report, the Secretary shall submit a notice of the proposed changes to such committees. The changes shall be considered approved by the Secretary, and may be incorporated into the report, only after the end of the 60-day period beginning on the date on which the notice is received by those committees.".

(e) ELIMINATION OF CERTAIN SAR REQUIREMENTS.—Such subsection is further amended in paragraph (3) by striking out subparagraph (C).

(f) UNIFORM IMPLEMENTATION OF LIFE-CYCLE COST ANALYSIS.—Such subsection is further amended—

(1) by striking out paragraph (5); and

(2) by adding at the end of subparagraph (A) of paragraph (3) the following: "The Secretary of Defense shall ensure that this subparagraph is implemented in a uniform manner, to the extent practicable, throughout the Department of Defense.".

(g) ELIMINATION OF PRELIMINARY REPORT.—Subsection (f) of such section is amended by striking out the second sentence.

(h) TERMINOLOGY CORRECTIONS.—Such section is further amended as follows:

(1) Subsection (b)(3)(A) is amended by striking out "full-scale development or" in clause (i).

(2) Subsection (c)(3) is amended by striking out "full-scale engineering" in subparagraph (A) and inserting in lieu thereof "engineering and manufacturing".

(3) Subsection (h)(1) is amended by striking out "full-scale engineering" both places it appears and inserting in lieu thereof "engineering and manufacturing".

SEC. 3003. UNIT COST REPORT REQUIREMENT.

(a) REVISION OF BASELINE REPORT DEFINITIONS.—(1) Section 2433(a) of title 10, United States Code, is amended—

(A) in paragraph (2)—

(i) by striking out "Baseline Selected Acquisition Report" and inserting in lieu thereof "Baseline Estimate"; and

(ii) by striking out "Selected Acquisition Report in which" and all that follows through the end of the paragraph and inserting in lieu thereof "cost estimate included in the baseline description for the program under section 2435 of this title."; and

(B) by striking out paragraph (4).

(2) Section 2433 of such title is further amended—

(A) in subsection (c)(1), by striking out "Baseline Report" in subparagraphs (A) and (B) and inserting in lieu thereof "Baseline Estimate"; and

(B) in subsection (d), by striking out "Baseline Report" in paragraphs (1) and (2) and inserting in lieu thereof "Baseline Estimate".

(b) CONTENTS OF UNIT COST REPORT.—Section 2433(b) of such title is amended in paragraph (3) by striking out "Baseline Report was submitted." and inserting in lieu thereof "contract was entered into.".

(c) ELIMINATION OF CERTAIN UNIT COST REPORT REQUIREMENT.—Section 2433(c) of such title, as amended by subsection (a), is further amended—

(1) by striking out paragraph (2);

(2) by striking out "(1)" after "(c)"; and

(3) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively.

(d) CONSTANT BASE YEAR DOLLARS.—Section 2433(f) of such title is amended by striking out "include expected inflation" and inserting in lieu thereof "be stated in terms of constant base year dollars (as described in section 2430 of this title)".

(e) CONTENTS OF SAR.—Subparagraph (I) of section 2433(g)(1) of such title is amended to read as follows:

"(I) The type of the Baseline Estimate that was included in the baseline description under section 2435 of this title and the date of the Baseline Estimate.".

SEC. 3004. REQUIREMENT FOR INDEPENDENT COST ESTIMATE AND MANPOWER ESTIMATE BEFORE DEVELOPMENT OR PRODUCTION.

(a) CONTENT AND SUBMISSION OF ESTIMATES.—Subsection (b) of section 2434 of title 10, United States Code, is amended to read as follows:

"(b) REGULATIONS.—The Secretary of Defense shall prescribe regulations governing the content and submission of the estimates required by subsection (a). The regulations shall require—

"(1) that the independent estimate of the full life-cycle cost of a program—

"(A) be prepared by an office or other entity that is not under the supervision, direction, or control of the military department, Defense Agency, or other component of the Department of Defense that is directly responsible for carrying out the development or acquisition of the program; and

"(B) include all costs of development, procurement, military construction, and operations and support, without regard to funding source or management control; and

"(2) that the manpower estimate include an estimate of the total number of personnel required—

"(A) to operate, maintain, and support the program upon full operational deployment; and

"(B) to train personnel to carry out the activities referred to in subparagraph (A).".

(b) TERMINOLOGY CORRECTION, ETC.—Subsection (a) of such section is amended—

(1) by striking out "full-scale engineering development" and inserting in lieu thereof "engineering and manufacturing development"; and

(2) by striking out "cost of the program, together with a manpower estimate, has" and inserting in lieu thereof "full life-cycle cost of the program and a manpower estimate for the program have".

SEC. 3005. BASELINE DESCRIPTION.

(a) IN GENERAL.—Section 2435 of title 10, United States Code, is amended to read as follows:

"§2435. Baseline description

"(a) BASELINE DESCRIPTION REQUIREMENT.—(1) The Secretary of a military department shall establish a baseline description for each major defense acquisition program under the jurisdiction of such Secretary.

"(2) The baseline shall include sufficient parameters to describe the cost estimate (referred to as the 'Baseline Estimate' in section 2433 of this title), schedule, performance, support ability, and any other factor of such major defense acquisition program.

"(b) FUNDING LIMIT.—No amount appropriated or otherwise made available to the Department of Defense for carrying out a major defense acquisition program may be obligated after the program enters engineering and manufacturing development without an approved baseline description unless such obligation is specifically approved by the Under Secretary of Defense for Acquisition and Technology.

"(c) SCHEDULE.—A baseline description for a major defense acquisition program shall be prepared under this section—

"(1) before the program enters demonstration and validation;

"(2) before the program enters engineering and manufacturing development; and

"(3) before the program enters production and deployment.

"(d) REGULATIONS.—The Secretary of Defense shall prescribe regulations governing the following:

"(1) The content of baseline descriptions under this section.

"(2) The submission to the Secretary of the military department concerned and the Under Secretary of Defense for Acquisition and Technology by the program manager for a program for which there is an approved baseline description under this section of reports of deviations from the baseline of the cost, schedule, performance, supportability, or any other factor of the program.

"(3) Procedures for review of such deviation reports within the Department of Defense.

"(4) Procedures for submission to, and approval by, the Secretary of Defense of revised baseline descriptions.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 144 of such title is amended by amending the item relating to section 2435 to read as follows:

"2435. Baseline description.".

SEC. 3006. REPEAL OF REQUIREMENT FOR COMPETITIVE PROTOTYPING FOR MAJOR PROGRAMS.

(a) REPEAL.—Section 2438 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 144 of such title is amended by striking out the item relating to section 2438.

SEC. 3007. REPEAL OF REQUIREMENT FOR COMPETITIVE ALTERNATIVE SOURCES FOR MAJOR PROGRAMS.

(a) REPEAL.—Section 2439 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 144 of such title is amended by striking out the item relating to section 2439.

Subtitle B—Testing Statutes

SEC. 3011. AUTHORITY OF DIRECTOR OF OPERATIONAL TEST AND EVALUATION TO COMMUNICATE VIEWS DIRECTLY TO SECRETARY OF DEFENSE.

Section 139(c) of title 10, United States Code, is amended by inserting after "(c)" the following: "The Director may communicate views on matters within the responsibility of the Director directly to the Secretary of Defense and the Deputy Secretary of Defense without obtaining the approval or concurrence of any other official within the Department of Defense.".

SEC. 3012. RESPONSIBILITY OF DIRECTOR OF OPERATIONAL TEST AND EVALUATION FOR LIVE FIRE TESTING.

(a) OVERSIGHT OF LIVE FIRE TESTING.—Subsection (b) of section 139 of title 10, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (4);

(2) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; and"; and

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

"(6) monitor and review the live fire testing activities of the Department of Defense provided for under section 2366 of this title.".

(b) ANNUAL REPORT ON LIVE FIRE TESTING.—Subsection (f) of such section is amended by inserting "(including live fire testing activities)" in the first sentence after "operational test and evaluation activities".

SEC. 3013. REQUIREMENT FOR UNCLASSIFIED VERSION OF ANNUAL REPORT ON OPERATIONAL TEST AND EVALUATION.

Section 139(f) of title 10, United States Code, is amended by inserting after the second sentence the following new sentence: "If the Director submits the report to Congress in a classified form, the Director shall concurrently submit an unclassified version of the report to Congress.".

SEC. 3014. SURVIVABILITY AND LETHALITY TESTING.

(a) IN GENERAL.—Section 2366(c) of title 10, United States Code, is amended—

(1) by redesignating paragraph (2) as paragraph (4);

(2) by designating the second sentence of paragraph (1) as paragraph (3) and in that paragraph by striking out "such certification" and inserting in lieu thereof "certification under paragraph (1) or (2)"; and

(3) by inserting before paragraph (3) (as so designated) the following new paragraph:

"(2) In the case of a covered system (or covered product improvement program for a covered system), the Secretary may waive the application of the survivability and lethality tests of this section to such system or program and instead allow testing of the system or program in combat by firing munitions likely to be encountered in combat at components, subsystems, and subassemblies, together with performing design analyses, modeling and simulation, and analysis of combat data. Such alternative testing may not be carried out in the case of any covered system (or covered product improvement program for a covered system) unless the Secretary certifies to Congress, before the system or program enters engineering and manufacturing development, that the survivability and lethality testing of such system or program otherwise required by this section would be unreasonably expensive and impracticable.".

(b) TERMINOLOGY CORRECTION.—Section 2366(c)(1) of such title is amended by striking out "full-scale engineering development" in the first sentence and inserting in lieu thereof "engineering and manufacturing development".

SEC. 3015. LIMITATION ON QUANTITIES TO BE PROCURED FOR LOW-RATE INITIAL PRODUCTION.

Section 2400(a) of title 10, United States Code, is amended—

(1) in paragraph (2)—

(A) by striking out "paragraph (1)" and inserting in lieu thereof "this section"; and

(B) by striking out "full-scale engineering development" and inserting in lieu thereof "engineering and manufacturing development";

(2) by redesignating paragraph (4) as paragraph (5) and in that paragraph by inserting after the first sentence the following: "If the quantity exceeds 10 percent of the total number of articles to be produced, as determined at the milestone II decision with respect to that system, the Secretary shall include in the statement the reasons for such quantity."; and

(3) by inserting after paragraph (3) the following new paragraph (4):

"(4) The quantity of articles of a major system that may be procured for low-rate initial production may not be less than one operationally configured production unit unless another quantity is established at the milestone II decision.".

Subtitle C—Service Specific Laws

SEC. 3021. GRATUITOUS SERVICES OF OFFICERS OF CERTAIN RESERVE COMPONENTS.

(a) ACCEPTANCE BY SECRETARY OF DEFENSE.—Section 10212 of title 10, United States Code, is amended—

(1) by designating the text as subsection (b); and

(2) by inserting before such subsection the following new subsection:

"(a) Notwithstanding section 1342 of title 31, the Secretary of Defense may accept the gratuitous services of an officer of a reserve component (other than an officer of the Army National Guard of the United States or the Air National Guard of the United States) in consultation upon matters relating to the armed forces.".

(b) EFFECTIVE DATE.—Notwithstanding section 10001, the amendments made by subsection (a) shall take effect on December 1, 1994, immediately after the amendments made by the Reserve Officer Personnel Management Act.

SEC. 3022. AUTHORITY TO RENT SAMPLES, DRAWINGS, AND OTHER INFORMATION TO OTHERS.

Subsection (a) of section 2539b of title 10, United States Code, as redesignated by section 1070(a)(13)(A) of the National Defense Authorization Act for Fiscal Year 1995, is amended by inserting "rent," after "sell," each place it appears in paragraphs (1) and (2).

SEC. 3023. REPEAL OF APPLICATION OF PUBLIC CONTRACTS ACT TO CERTAIN NAVAL VESSEL CONTRACTS.

(a) REPEAL.—Section 7299 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 633 of such title is amended by striking out the item relating to section 7299.

SEC. 3024. REPEAL OF REQUIREMENT FOR CONSTRUCTION OF VESSELS ON PACIFIC COAST.

(a) REPEAL.—Section 7302 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 633 of such title is amended by striking out the item relating to section 7302.

SEC. 3025. SCIENTIFIC INVESTIGATION AND RESEARCH FOR THE NAVY.

(a) REPEAL.—Section 7203 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 631 of such title is amended by striking out the item relating to section 7203.

Subtitle D—Civil Reserve Air Fleet

SEC. 3031. DEFINITIONS.

(a) CONTRACTOR DEFINED.—Section 9511(8) of title 10, United States Code, is amended—

(1) in clause (A)—

(A) by inserting "under section 9512 of this title" after "and who contracts with the Secretary"; and

(B) by striking out "or" at the end; and

(2) by inserting before the period at the end the following: ", or (C) who owns or controls, or will own or control, new or existing aircraft and who, by contract, commits some or all of such aircraft to the Civil Reserve Air Fleet".

(b) OTHER DEFINITIONS.—Section 9511 of such title is further amended—

(1) in paragraph (1)—

(A) by inserting "'civil aircraft'," before "'person',";

(B) by striking out "meaning" and inserting in lieu thereof "meanings"; and

(C) by striking out "section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301)" and inserting in lieu thereof "section 40102 of title 49";

(2) by striking out paragraph (6);

(3) by redesignating paragraphs (7), (8), (9), (10), (11), and (12) as paragraphs (6), (7), (8), (9), (10), and (11), respectively; and

(4) in paragraph (11), as so redesignated—

(A) by striking out "interoperability" and inserting in lieu thereof "compatibility"; and

(B) by inserting "an aeromedical aircraft or" before "a cargo-convertible,".

(c) TECHNICAL CORRECTION.—Such section is amended by striking out "In this subchapter:" and inserting in lieu thereof "In this chapter:".

SEC. 3032. CONSOLIDATION OF PROVISIONS RELATING TO CONTRACTUAL COMMITMENT OF AIRCRAFT.

Chapter 931 of title 10, United States Code, is amended—

(1) in subsection (a) of section 9512, by inserting "AUTHORITY TO CONTRACT.—" after "(a)";

(2) in subsection (c) of section 9512, by striking out "(c)" and inserting in lieu thereof "(d) AUTHORITY TO CONTRACT AND PAY DIRECTLY.—";

(3) in subsection (b) of section 9512, by striking out "(b)" and inserting in lieu thereof "(c) TERMS AND REQUIRED REPAYMENT.—";

(4) by redesignating subsection (a) of section 9513 as subsection (b), transferring such subsection (as so redesignated) to section 9512, and inserting such subsection after subsection (a);

(5) by redesignating subsection (b) of section 9513 as subsection (e) and transferring such subsection (as so redesignated) to the end of section 9512;

(6) in subsection (b) of section 9512, as redesignated and transferred to such section by paragraph (4)—

(A) by striking out "under section 9512 of this title" and inserting in lieu thereof "entered into under this section"; and

(B) by inserting "COMMITMENT TO CIVIL RESERVE AIR FLEET.—" after "(b)";

(7) in subsection (c) of section 9512, as redesignated by paragraph (3), by striking out "the terms required by section 9513 of this title and";

(8) in subsection (e) of section 9512, as redesignated and transferred to such section by paragraph (5)—

(A) by striking out "under section 9512 of this title" and inserting in lieu thereof "entered into under this section"; and

(B) by inserting "EXCLUSIVITY OF COMMITMENT TO CIVIL RESERVE AIR FLEET.—" after "(e)"; and

(9) by striking out the heading of section 9513.

SEC. 3033. USE OF MILITARY INSTALLATIONS BY CONTRACTORS.

(a) AUTHORITY.—Chapter 931 of title 10, United States Code, as amended by section 3022, is further amended by adding at the end the following new section 9513:

"§9513. Use of military installations by Civil Reserve Air Fleet contractors

"(a) CONTRACT AUTHORITY.—(1) The Secretary of the Air Force—

"(A) may, by contract entered into with any contractor, authorize such contractor to use one or more Air Force installations designated by the Secretary; and

"(B) with the consent of the Secretary of another military department, may, by contract entered into with any contractor, authorize the contractor to use one or more installations, designated by the Secretary of the Air Force, that is under the jurisdiction of the Secretary of such other military department.

"(2) The Secretary of the Air Force may include in the contract such terms and conditions as the Secretary determines appropriate to promote the national defense or to protect the interests of the United States.

"(b) PURPOSES OF USE.—A contract entered into under subsection (a) may authorize use of a designated installation as a weather alternate, as a technical stop not involving the enplaning or deplaning of passengers or cargo, or, in the case of an installation within the United States, for other commercial purposes. Notwithstanding any other provision of the law, the Secretary may establish different levels and types of uses for different installations for commercial operations not required by the Department of Defense and may provide in contracts under subsection (a) for different levels and types of uses by different contractors.

"(c) DISPOSITION OF PAYMENTS FOR USE.—Notwithstanding any other provision of law, amounts collected from the contractor for landing fees, services, supplies, or other charges authorized to be collected under the contract shall be credited to the appropriations of the armed forces having jurisdiction over the military installation to which the contract pertains. Amounts so credited to an appropriation shall be available for obligation for the same period as the appropriation to which credited.

"(d) HOLD HARMLESS REQUIREMENT.—A contract entered into under subsection (a) shall provide that the contractor agrees to indemnify and hold harmless the United States from any action, suit, or claim of any sort resulting from, relating to, or arising out of any activities conducted, or services or supplies furnished, in connection with the contract.

"(e) RESERVATION OF RIGHT TO EXCLUDE CONTRACTOR.—A contract entered into under subsection (a) shall provide that the Secretary concerned may, without providing prior notice, deny access to an installation designated under the contract when the Secretary determines that it is necessary to do so in order to meet military exigencies.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by striking out the item relating to section 9513 and inserting in lieu thereof the following:

"9513. Use of military installations by Civil Reserve Air Fleet contractors.".

Subtitle E—Miscellaneous

SEC. 3061. REGULATIONS ON PROCUREMENT, PRODUCTION, WAREHOUSING, AND SUPPLY DISTRIBUTION FUNCTIONS.

(a) IN GENERAL.—Section 2202 of title 10, United States Code, is amended to read as follows:

"§2202. Regulations on procurement, production, warehousing, and supply distribution functions

"The Secretary of Defense shall prescribe regulations governing the performance within the Department of Defense of the procurement, production, warehousing, and supply distribution functions, and related functions, of the Department of Defense.".

(b) CLERICAL AMENDMENT.—The item relating to section 2202 in the table of sections at the beginning of chapter 131 of such title is amended to read as follows:

"2202. Regulations on procurement, production, warehousing, and supply distribution functions.".

SEC. 3062. REPEAL OF REQUIREMENTS REGARDING PRODUCT EVALUATION ACTIVITIES.

(a) REPEAL.—Section 2369 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 139 of such title is amended by striking out the item related to section 2369.

SEC. 3063. DEPARTMENT OF DEFENSE ACQUISITION OF INTELLECTUAL PROPERTY RIGHTS.

Section 2386 of title 10, United States Code, is amended by striking out paragraphs (3) and (4) and inserting in lieu thereof the following:

"(3) Technical data and computer software.

"(4) Releases for past infringement of patents or copyrights or for unauthorized use of technical data or computer software.".

SEC. 3064. LIQUID FUELS AND NATURAL GAS: CONTRACTS FOR STORAGE, HANDLING, OR DISTRIBUTION.

Section 2388(a) of title 10, United States Code, is amended by striking out "liquid fuels and natural gas" and inserting in lieu thereof "liquid fuels or natural gas".

SEC. 3065. CODIFICATION AND REVISION OF LIMITATION ON LEASE OF VESSELS, AIRCRAFT, AND VEHICLES.

(a) LIMITATION.—(1) Chapter 141 of title 10, United States Code, is amended by inserting after section 2401 the following new section:

"§2401a. Lease of vessels, aircraft, and vehicles

"The Secretary of Defense or the Secretary of a military department may not enter into any contract with a term of 18 months or more, or extend or renew any contract for a term of 18 months or more, for any vessel, aircraft, or vehicle, through a lease, charter, or similar agreement, unless the Secretary has considered all costs of such contract (including estimated termination liability) and has determined in writing that the contract is in the best interest of the Government.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2401 the following new item:

"2401a. Lease of vessels, aircraft, and vehicles.".

(b) REPEAL OF SUPERSEDED PROVISION.—Section 9081 of Public Law 101–165 (103 Stat. 1147; 10 U.S.C. 2401 note) is repealed.

SEC. 3066. SOFT DRINK SUPPLIES.

Section 2424 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c) Paragraphs (1) and (2) of subsection (b) do not apply to contracts for the procurement of soft drinks that are manufactured in the United States. The Secretary of Defense shall prescribe in regulations the standards and procedures for determining whether a particular drink is a soft drink and whether the drink was manufactured in the United States.".

SEC. 3067. DISBURSEMENT OF FUNDS OF MILITARY DEPARTMENT TO COVER OBLIGATIONS OF ANOTHER AGENCY OF DEPARTMENT OF DEFENSE.

Subsection (c)(2) of section 3321 of title 31, United States Code, is amended by striking out "military departments of the" and inserting in lieu thereof "The".

TITLE IV—SIMPLIFIED ACQUISITION THRESHOLD

Subtitle A—Establishment of Threshold

SEC. 4001. SIMPLIFIED ACQUISITION THRESHOLD DEFINED.

Section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)) is amended to read as follows:

"(11) The term 'simplified acquisition threshold' means $100,000.".

SEC. 4002. ESTABLISHMENT OF SIMPLIFIED ACQUISITION THRESHOLD FOR ARMED SERVICES.

(a) ESTABLISHMENT IN TITLE 10.—Chapter 137 of title 10, United States Code, is amended by inserting after section 2302 the following new sections:

"§2302a. Simplified acquisition threshold

"(a) SIMPLIFIED ACQUISITION THRESHOLD.—For purposes of acquisitions by agencies named in section 2303 of this title, the simplified acquisition threshold is as specified in section 4(11) of the Office of Federal Procurement Policy Act.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2302 the following new item:

"2302a. Simplified acquisition threshold.".

SEC. 4003. ESTABLISHMENT OF SIMPLIFIED ACQUISITION THRESHOLD FOR CIVILIAN AGENCIES.

Title III of the Federal Property and Administrative Services Act of 1949 is amended by inserting after section 302 the following new section:

"SEC. 302A. SIMPLIFIED ACQUISITION THRESHOLD.

"(a) SIMPLIFIED ACQUISITION THRESHOLD.—For purposes of acquisitions by executive agencies, the simplified acquisition threshold is as specified in section 4(11) of the Office of Federal Procurement Policy Act.".

SEC. 4004. SMALL BUSINESS RESERVATION.

Section 15(j) of the Small Business Act (15 U.S.C. 644(j)) is amended to read as follows:

"(j)(1) Each contract for the purchase of goods and services that has an anticipated value greater than $2,500 but not greater than $100,000 shall be reserved exclusively for small business concerns unless the contracting officer is unable to obtain offers from two or more small business concerns that are competitive with market prices and are competitive with regard to the quality and delivery of the goods or services being purchased.

"(2) In carrying out paragraph (1), a contracting officer shall consider a responsive offer timely received from an eligible small business offeror.

"(3) Nothing in paragraph (1) shall be construed as precluding an award of a contract with a value not greater than $100,000 under the authority of subsection (a) of section 8 of this Act, section 2323 of title 10, United States Code, section 712 of the Business Opportunity Development Reform Act of 1988 (Public Law 100–656; 15 U.S.C. 644 note), or section 7102 of the Federal Acquisition Streamlining Act of 1994.".

Subtitle B—Inapplicability of Laws to Acquisitions at or Below the Simplified Acquisition Threshold

SEC. 4101. LIST OF INAPPLICABLE LAWS IN FEDERAL ACQUISITION REGULATION.

The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended by adding at the end the following new section:

"SEC. 33. LIST OF LAWS INAPPLICABLE TO CONTRACTS NOT GREATER THAN THE SIMPLIFIED ACQUISITION THRESHOLD IN FEDERAL ACQUISITION REGULATION.

"(a) LIST OF INAPPLICABLE PROVISIONS OF LAW.—(1) The Federal Acquisition Regulation shall include a list of provisions of law that are inapplicable to contracts or subcontracts in amounts not greater than the simplified acquisition threshold. A provision of law that is properly included on the list pursuant to paragraph (2) may not be construed as applicable to such contracts or subcontracts (as the case may be) by an executive agency. Nothing in this section shall be construed to render inapplicable to contracts and subcontracts in amounts not greater than the simplified acquisition threshold any provision of law that is not included on such list.

"(2) A provision of law described in subsection (c) that is enacted after the date of the enactment of the Federal Acquisition Streamlining Act of 1994 shall be included on the list of inapplicable provisions of law required by paragraph (1), unless the Federal Acquisition Regulatory Council makes a written determination that it would not be in the best interest of the Federal Government to exempt contracts or subcontracts in amounts not greater than the simplified acquisition threshold from the applicability of the provision.

"(b) COVERED LAW.—A provision of law referred to in subsection (a) is any provision of law that, as determined by the Federal Acquisition Regulatory Council, sets forth policies, procedures, requirements, or restrictions for the procurement of property or services by the Federal Government, except for a provision of law that—

"(1) provides for criminal or civil penalties; or

"(2) specifically refers to this section and provides that, notwithstanding this section, it shall be applicable to contracts or subcontracts in amounts not greater than the simplified acquisition threshold.

"(c) PETITION.—In the event that a provision of law described in subsection (b) is not included on the list of inapplicable provisions of law as required by subsection (a), and no written determination has been made by the Federal Acquisition Regulatory Council pursuant to subsection (a)(2), a person may petition the Administrator for Federal Procurement Policy to take appropriate action. The Administrator shall revise the Federal Acquisition Regulation to include the provision on the list of inapplicable provisions of law unless the Federal Acquisition Regulatory Council makes a determination pursuant to subsection (a)(2) within 60 days after the date on which the petition is received.".

SEC. 4102. ARMED SERVICES ACQUISITIONS.

(a) LIST OF INAPPLICABLE LAWS IN FAR.—Section 2302a of title 10, United States Code, as added by section 4002, is amended by adding at the end the following:

"(b) INAPPLICABLE LAWS.—No law properly listed in the Federal Acquisition Regulation pursuant to section 33 of the Office of Federal Procurement Policy Act shall apply to or with respect to a contract or subcontract that is not greater than the simplified acquisition threshold.".

(b) INAPPLICABILITY OF REQUIREMENT FOR CONTRACT CLAUSE REGARDING CONTINGENT FEES.—Section 2306(b) of title 10, United States Code, is amended by adding at the end the following: "This subsection does not apply to a contract that is for an amount not greater than the simplified acquisition threshold.".

(c) INAPPLICABILITY OF AUTHORITY TO EXAMINE BOOKS AND RECORDS OF CONTRACTORS.—Section 2313 of title 10, United States Code, as amended by section 2201, is further amended by adding at the end of subsection (f) the following:

"(2) A contract or subcontract that is for an amount not greater than the simplified acquisition threshold.".

(d) INAPPLICABILITY OF REQUIREMENT TO IDENTIFY SUPPLIERS AND SOURCES OF SUPPLIES.—Section 2384(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(3) The regulations prescribed pursuant to paragraph (1) do not apply to a contract for an amount not greater than the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))).".

(e) INAPPLICABILITY OF PROHIBITION AGAINST DOING BUSINESS WITH CERTAIN OFFERORS OR CONTRACTORS.—Section 2393(d) of title 10, United States Code, is amended in the second sentence by striking out "above" and all that follows and inserting in lieu thereof "greater than the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))).".

(f) INAPPLICABILITY OF PROHIBITION ON LIMITING SUBCONTRACTOR DIRECT SALES TO THE UNITED STATES.—Section 2402 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c) This section does not apply to a contract that is for an amount not greater than the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))).".

(g) INAPPLICABILITY OF PROHIBITION ON PERSONS CONVICTED OF DEFENSE-RELATED FELONIES.—Section 2408(a) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(4) The prohibition in paragraph (1) does not apply with respect to the following:

"(A) A contract referred to in subparagraph (A), (B), (C), or (D) of such paragraph that is not greater than the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))).

"(C) A subcontract referred to in such subparagraph that is under a contract described in subparagraph (A).".

(h) INAPPLICABILITY OF CONTRACTOR INVENTORY ACCOUNTING SYSTEM STANDARDS.—Section 2410b of title 10, United States Code, is amended—

(1) by inserting "(a)" before "The Secretary"; and

(2) by adding at the end the following:

"(b) The regulations prescribed pursuant to subsection (a) shall not apply to a contract that is for an amount not greater than the simplified acquisition threshold.".

(i) INAPPLICABILITY OF MISCELLANEOUS PROCUREMENT LIMITATIONS.—Section 2534 of title 10, United States Code, is amended by adding at the end the following:

"(g) INAPPLICABILITY TO CONTRACTS UNDER SIMPLIFIED ACQUISITION THRESHOLD.—This section does not apply to a contract or subcontract for an amount that does not exceed the simplified acquisition threshold.".

SEC. 4103. CIVILIAN AGENCY ACQUISITIONS.

(a) LIST OF INAPPLICABLE LAWS IN FAR.—Section 302A of the Federal Property and Administrative Services Act of 1949, as added by section 4003, is amended by adding at the end the following:

"(b) INAPPLICABLE LAWS.—No law properly listed in the Federal Acquisition Regulation pursuant to section 33 of the Office of Federal Procurement Policy Act shall apply to or with respect to a contract or subcontract that is not greater than the simplified acquisition threshold.".

(b) INAPPLICABILITY OF PROHIBITION ON LIMITING SUBCONTRACTOR DIRECT SALES TO THE UNITED STATES.—Section 303G of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253g) is amended by adding at the end the following new subsection:

"(c) This section does not apply to a contract for an amount that is not greater than the simplified acquisition threshold.".

(c) INAPPLICABILITY OF REQUIREMENT FOR CONTRACT CLAUSE REGARDING CONTINGENT FEES.—Section 304(a) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(a)) is amended by adding at the end the following: "The preceding sentence does not apply to a contract for an amount that is not greater than the simplified acquisition threshold.".

(d) AUTHORITY TO EXAMINE BOOKS AND RECORDS OF CONTRACTORS.—Section 304C of the Federal Property and Administrative Services Act of 1949, as added by section 2251(a), is amended by adding at the end of subsection (f) the following:

"(2) A contract or subcontract that is not greater than the simplified acquisition threshold.".

SEC. 4104. ACQUISITIONS GENERALLY.

(a) REQUIREMENT FOR CONTRACT CLAUSE RELATING TO KICKBACKS.—Section 7 of the Anti-Kickback Act of 1986 (41 U.S.C. 57) is amended by adding at the end the following new subsections:

"(d) Subsections (a) and (b) do not apply to a prime contract that is not greater than $100,000.

"(e) Notwithstanding subsection (d), a prime contractor shall cooperate fully with any Federal Government agency investigating a violation of section 3.".

(b) MILLER ACT.—(1)(A) The Miller Act is amended by adding at the end the following new section:

"SEC. 5. This Act does not apply to a contract in an amount that is not greater than $100,000.".

(B) Subsection (a) of the first section of such Act is amended by striking out ", exceeding $25,000 in amount,".

(2)(A) The Federal Acquisition Regulation shall provide alternatives to payment bonds as payment protections for suppliers of labor and materials under contracts referred to in subparagraph (C).

(B) The contracting officer for a contract shall—

(i) select, from among the payment protections provided for in the Federal Acquisition Regulation pursuant to subparagraph (A), one or more payment protections which the offeror awarded the contract is to submit to the Federal Government for the protection of suppliers of labor and materials for such contract; and

(ii) specify in the solicitation of offers for such contract the payment protection or protections so selected.

(C) The regulations required under subparagraph (A) and the requirements of subparagraph (B) apply with respect to contracts referred to in subsection (a) of the first section of the Miller Act that are greater than $25,000 but not greater than $100,000.

(c) CONTRACT WORK HOURS AND SAFETY STANDARDS ACT.—(1) Section 103 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 329) is amended by adding at the end the following new subsection:

"(c) This title does not apply to a contract in an amount that is not greater than $100,000.".

(2) Section 107(a) of such Act (40 U.S.C. 333(a)) is amended by inserting after "It shall be a condition of each contract" the following: "(other than a contract referred to in section 103(c))".

(d) DRUG-FREE WORKPLACE ACT OF 1988.—Section 5152(a)(1) of the Drug-Free Workplace Act of 1988 (subtitle D of title V of the Anti-

Drug Abuse Act of 1988; Public Law 100–690; 41 U.S.C. 701(a)(1)) is amended by striking out "of $25,000 or more from any Federal agency" and inserting in lieu thereof "greater than the simplified acquisition threshold (as defined in section 4(11) of such Act (41 U.S.C. 403(11))) by any Federal agency".

(e) SOLID WASTE DISPOSAL ACT.—Paragraph (3) of section 6002(c) of the Solid Waste Disposal Act (42 U.S.C. 6962(c)) is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(2) by inserting "(A)" after "(3)"; and

(4) by adding at the end the following new subparagraph:

"(B) Clause (ii) of subparagraph (A) applies only to a contract in an amount greater than $100,000.".

Subtitle C—Simplified Acquisition Procedures

SEC. 4201. SIMPLIFIED ACQUISITION PROCEDURES.

(a) REQUIREMENT FOR SIMPLIFIED PROCEDURES IN FAR.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is further amended by inserting before section 33, as added by section 4101, the following new section:

"SEC. 31. SIMPLIFIED ACQUISITION PROCEDURES.

"(a) REQUIREMENT.—In order to promote efficiency and economy in contracting and to avoid unnecessary burdens for agencies and contractors, the Federal Acquisition Regulation shall provide for special simplified procedures for contracts for acquisition of property and services that are not greater than the simplified acquisition threshold.

"(b) PROHIBITION ON DIVIDING PURCHASES.—A proposed purchase or contract for an amount above the simplified acquisition threshold may not be divided into several purchases or contracts for lesser amounts in order to use the simplified acquisition procedures required by subsection (a).

"(c) PROMOTION OF COMPETITION REQUIRED.—In using simplified acquisition procedures, the head of an executive agency shall promote competition to the maximum extent practicable.

"(d) CONSIDERATION OF OFFERS TIMELY RECEIVED.—The simplified acquisition procedures contained in the Federal Acquisition Regulation shall include a requirement that a contracting officer consider each responsive offer timely received from an eligible offeror.

"(e) SPECIAL RULES FOR USE OF SIMPLIFIED ACQUISITION PROCEDURES.—

"(1) EFFECT OF INTERIM FACNET CAPABILITY.—The simplified acquisition procedures provided in the Federal Acquisition Regulation pursuant to this section may not be used by a procuring activity of an agency for contracts in amounts greater than $50,000 and not greater than the simplified acquisition threshold until a certification has been made pursuant to section 30A(a)(1) that the procuring activity has implemented an interim FACNET capability.

"(2) EFFECT OF FULL FACNET CAPABILITY.—(A)(i) In the case of a procuring activity described in clause (ii), the simplified acquisition procedures provided in the Federal Acquisition Regulation pursuant to this section may be used by the activity for contracts in amounts greater than $50,000 and not greater than the simplified acquisition threshold.

"(ii) Clause (i) applies to any procuring activity—

"(I) that has not certified, pursuant to section 30A(a)(1), that it has implemented interim FACNET capability; and

"(II) that is in an agency that has excluded the procuring activity from the agency's full FACNET certification under section 30A(a)(2) on the basis that implementation of full FACNET capability would not be cost effective or practicable in that activity.

"(B) The simplified acquisition procedures provided in the Federal Acquisition Regulation pursuant to this section may not be used by an agency after December 31, 1999, for contracts in amounts greater than $50,000 and not greater than the simplified acquisition threshold until a certification has been made pursuant to section 30A(a)(2) that the agency has implemented a full FACNET capability.

"(f) INTERIM REPORTING RULE.—Until October 1, 1999, procuring activities shall continue to report under section 19(d) procurement awards with a dollar value of at least $25,000, but less than $100,000, in conformity with the procedures for the reporting of a contract award greater than $25,000 that were in effect on October 1, 1992.".

(b) OPPORTUNITY FOR ALL RESPONSIBLE POTENTIAL OFFERORS.—Subsection (a) of section 18 of such Act is amended by adding at the end the following:

"(4) An executive agency intending to solicit offers for a contract for which a notice of solicitation is required to be posted under paragraph (1)(B) shall ensure that contracting officers consider each responsive offer timely received from an offeror.".

(c) ESTABLISHMENT OF DEADLINE FOR SUBMISSION OF OFFERS.—Subsection (a) of section 18 of such Act is further amended by adding after paragraph (4), as added by subsection (b), the following new paragraph:

"(5) An executive agency shall establish a deadline for the submission of all bids or proposals in response to a solicitation with respect to which no such deadline is provided by statute. Each deadline for the submission of offers shall afford potential offerors a reasonable opportunity to respond.".

SEC. 4202. PROCUREMENT NOTICE.

(a) CONTINUATION OF EXISTING NOTICE THRESHOLDS.—Subsection (a) of section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) is amended—

(1) in paragraph (1), by striking out "the small purchase threshold" each place it appears and inserting in lieu thereof "$25,000"; and

(2) in paragraph (3)(B), by inserting after "(B)" the following: "in the case of a contract or order expected to be greater than the simplified acquisition threshold,".

(b) CONTENT OF NOTICE.—Subsection (b) of such section is amended—

(1) by striking out "and" at the end of paragraph (4);

(2) by striking out the period at the end of paragraph (5) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following:

"(6) in the case of a contract in an amount estimated to be greater than $25,000 but not greater than the simplified acquisition threshold—

"(A) a description of the procedures to be used in awarding the contract; and

"(B) a statement specifying the periods for prospective offerors and the contracting officer to take the necessary preaward and award actions.".

(c) NOTICE NOT REQUIRED FOR PROCUREMENT MADE THROUGH FACNET.—Subsection (c)(1) of such section, as amended by section 1055(b), is further amended—

(1) by redesignating subparagraphs (A), (B), (C), (D), (E), and (F) as subparagraphs (C), (D), (E), (F), (G), and (H), respectively; and

(2) by inserting before subparagraph (C), as so redesignated, the following new subparagraphs:

"(A) the proposed procurement is for an amount not greater than the simplified acquisition threshold and is to be made through a system with interim FACNET capability certified pursuant to section 30A(a)(1) or with full FACNET capability certified pursuant to section 30A(a)(2);

"(B)(i) the proposed procurement is for an amount not greater than $250,000 and is to be made through a system with full FACNET capability certified pursuant to section 30A(a)(2); and

"(ii) a certification has been made pursuant to section 30A(b) that Government-wide FACNET capability has been implemented;".

(d) NOTICE UNDER THE SMALL BUSINESS ACT.—

(1) CONTINUATION OF EXISTING NOTICE THRESHOLDS.—Subsection (e) of section 8 of the Small Business Act (15 U.S.C. 637) is amended—

(A) in paragraph (1), by striking out "the small purchase threshold" each place it appears and inserting in lieu thereof "$25,000"; and

(B) in paragraph (3)(B), by inserting after "(B)" the following: "in the case of a contract or order estimated to be greater than the simplified acquisition threshold,".

(2) CONTENT OF NOTICE.—Subsection (f) of such section is amended—

(A) by striking out "and" at the end of paragraph (4);

(B) by striking out the period at the end of paragraph (5) and inserting in lieu thereof a semicolon; and

(C) by adding at the end the following:

"(6) in the case of a contract in an amount estimated to be greater than $25,000 but not greater than the simplified acquisition threshold—

"(A) a description of the procedures to be used in awarding the contract; and

"(B) a statement specifying the periods for prospective offerors and the contracting officer to take the necessary preaward and award actions.".

(3) NOTICE NOT REQUIRED FOR PROCUREMENT MADE THROUGH FACNET.—Subsection (g)(1) of such section is amended—

(A) by redesignating subparagraphs (A), (B), (C), (D), (E), and (F) as subparagraphs (C), (D), (E), (F), (G), and (H), respectively; and

(B) by inserting before subparagraph (C), as so redesignated, the following new subparagraphs:

"(A) the proposed procurement is for an amount not greater than the simplified acquisition threshold and is to be made through a system with interim FACNET capability certified pursuant to section 30A(a)(1) of the Office of Federal Procurement Policy Act or with full FACNET capability certified pursuant to section 30A(a)(2) of such Act;

"(B)(i) the proposed procurement is for an amount not greater than $250,000 and is to be made through a system with full FACNET capability certified pursuant to section 30A(a)(2) of the Office of Federal Procurement Policy Act; and

"(ii) a certification has been made pursuant to section 30A(b) of such Act that Government-wide FACNET capability has been implemented;".

SEC. 4203. IMPLEMENTATION OF SIMPLIFIED ACQUISITION PROCEDURES.

(a) IMPLEMENTATION IN TITLE 10.—(1) Chapter 137 of title 10, United States Code, is amended by inserting after section 2302a, as added by section 4002(a), the following new section:

"§2302b. Implementation of simplified acquisition procedures

"The simplified acquisition procedures contained in the Federal Acquisition Regulation pursuant to section 31 of the Office of Federal Procurement Policy Act shall apply as provided in such section to the agencies named in section 2303(a) of this title.".

(2) The table of sections at the beginning of chapter 137 of such title is amended by inserting after the item relating to section 2302a, as added by section 4002(b), the following new item:

"2302b. Implementation of simplified acquisition procedures.".

(b) IMPLEMENTATION IN CIVILIAN AGENCIES.—Title III of the Federal Property and Administrative Services Act of 1949 is amended by inserting after section 302A, as added by section 4003 and amended by section 4103, the following new section:

"SEC. 302B. IMPLEMENTATION OF SIMPLIFIED ACQUISITION PROCEDURES.

"The simplified acquisition procedures contained in the Federal Acquisition Regulation pursuant to section 31 of the Office of Federal Procurement Policy Act shall apply in executive agencies as provided in such section.".

Subtitle D—Micro-Purchase Procedures

SEC. 4301. PROCEDURES FOR PURCHASES BELOW MICRO-PURCHASE THRESHOLD.

(a) PROCEDURES.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended by adding after section 31, as added by section 4201, the following new section:

"SEC. 32. PROCEDURES APPLICABLE TO PURCHASES BELOW MICRO-PURCHASE THRESHOLD.

"(a) REQUIREMENTS.—(1) The head of each executive agency shall ensure that procuring activities of that agency, in awarding a contract with a price exceeding the micro-purchase threshold, comply with the requirements of section 8(a) of the Small Business Act (15 U.S.C. 637(a)), section 2323 of title 10, United States Code, and section 7102 of the Federal Acquisition Streamlining Act of 1994.

"(2) The authority under part 13.106(a)(1) of the Federal Acquisition Regulation (48 C.F.R. 13.106(a)(1)), as in effect on November 18, 1993, to make purchases without securing competitive quotations does not apply to any purchases with a price exceeding the micro-purchase threshold.

"(b) EXCLUSION FOR MICRO-PURCHASES.—A purchase by an executive agency with an anticipated value of the micro-purchase threshold or less is not subject to section 15(j) of the Small Business Act (15 U.S.C. 644(j)) and the Buy American Act (41 U.S.C. 10a–10c).

"(c) APPLICABILITY OF CERTAIN PROVISIONS.—For purposes of section 27, an officer or employee of an executive agency, or a member of the Armed Forces of the United States, shall not be considered a procurement official if—

"(1) the contracting authority of the officer, employee, or member does not exceed $2,500; and

"(2) the head of the contracting activity concerned (or a designee of the head of the contracting activity concerned) determines that the duties of the position of that officer, employee, or member are such that is it unlikely that the officer, employee, or member will be required to conduct procurements in a total amount greater than $20,000 in any 12-month period.

"(d) PURCHASES WITHOUT COMPETITIVE QUOTATIONS.—A purchase not greater than $2,500 may be made without obtaining competitive quotations if the contracting officer determines that the price for the purchase is reasonable.

"(e) EQUITABLE DISTRIBUTION.—Purchases not greater than $2,500 shall be distributed equitably among qualified suppliers.

"(f) IMPLEMENTATION THROUGH FAR.—This section shall be implemented through the Federal Acquisition Regulation.

"(g) MICRO-PURCHASE THRESHOLD DEFINED.—For purposes of this section, the micro-purchase threshold is the amount of $2,500.".

(b) EXCEPTION TO BUY AMERICAN ACT FOR MICRO-PURCHASES.—Section 2 of the Buy American Act (41 U.S.C. 10a) is amended by adding at the end the following: "This section shall not apply to manufactured articles, materials, or supplies procured under any contract the award value of which is less than or equal to the micro-purchase threshold under section 32 of the Office of Federal Procurement Policy Act.".

(c) EFFECTIVE DATE.—Notwithstanding any other provision of law—

(1) section 32 of the Office of Federal Procurement Policy Act, as added by subsection (a); and

(2) the amendment made by subsection (b);

shall take effect on the date of the enactment of this Act and shall be implemented in the Federal Acquisition Regulation not later than 60 days after such date of enactment.

Subtitle E—Conforming Amendments

SEC. 4401. ARMED SERVICES ACQUISITIONS.

(a) SIMPLIFIED ACQUISITION PROCEDURES.—Section 2304(g) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking out "small purchases of property and services" and inserting in lieu thereof "purchases of property and services for amounts not greater than the simplified acquisition threshold";

(2) by striking out paragraph (2);

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

(4) in paragraph (2), as so redesignated—

(A) by striking out "small purchase threshold" and inserting in lieu thereof "simplified acquisition threshold"; and

(B) by striking out "small purchase procedures" and inserting in lieu thereof "simplified procedures"; and

(5) in paragraph (3), as redesignated by paragraph (3), by striking out "small purchase procedures" and inserting in lieu thereof "simplified procedures".

(b) SOLICITATION CONTENT REQUIREMENT.—Section 2305(a)(2) of such title is amended by striking out "small purchases)" in the matter preceding subparagraph (A) and inserting in lieu thereof "a purchase for an amount not greater than the simplified acquisition threshold)".

(c) COST TYPE CONTRACTS.—Section 2306(e)(2)(A) of such title is amended by striking out "small purchase threshold" and inserting in lieu thereof "simplified acquisition threshold".

(d) REPORTS OF EMPLOYEES OR FORMER EMPLOYEES OF DEFENSE CONTRACTORS.—Subsection (a)(1) of section 2397 of title 10, United States Code, is amended by striking out "small purchase threshold (as defined in section 2302(7) of this title)" and inserting in lieu thereof "simplified acquisition threshold".

(e) CROSS REFERENCE AMENDMENT.—Section 9005 of Public Law 102–396 (10 U.S.C. 2441 note) is amended in the first sentence by striking out "small purchases covered by section 2304(g)" and inserting in lieu thereof "purchases for amounts not greater than the simplified acquisition threshold covered by section 2304(g)".

SEC. 4402. CIVILIAN AGENCY ACQUISITIONS.

(a) SIMPLIFIED ACQUISITION PROCEDURES.—Section 303(g) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)) is amended—

(1) in paragraph (1)—

(A) by striking out "small purchases of property and services" and inserting in lieu thereof "purchases of property and services for amounts not greater than the simplified acquisition threshold", and

(B) by striking out "regulations modified, in accordance with section 2752 of the Competition in Contracting Act of 1984," and inserting in lieu thereof "Federal Acquisition Regulation";

(2) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2)(A) The Administrator of General Services shall prescribe regulations that provide special simplified procedures for acquisitions of leasehold interests in real property at rental rates that do not exceed the simplified acquisition threshold.

"(B) For purposes of subparagraph (A), the rental rate or rates under a multiyear lease do not exceed the simplified acquisition threshold if the average annual amount of the rent payable for the period of the lease does not exceed the simplified acquisition threshold.";

(3) in paragraph (3)—

(A) by striking out "small purchase threshold" and inserting in lieu thereof "simplified acquisition threshold"; and

(B) by striking out "small purchase procedures" and inserting in lieu thereof "simplified procedures";

(4) in paragraph (4), by striking out "small purchase procedures" and inserting in lieu thereof "the simplified procedures"; and

(5) by striking out paragraph (5).

(b) SOLICITATION CONTENT REQUIREMENT.—Section 303A(b) of such Act (41 U.S.C. 253a(b)) is amended by striking out "small purchases)" in the matter preceding paragraph (1) and inserting in lieu thereof "a purchase for an amount not greater than the simplified acquisition threshold)".

(c) COST TYPE CONTRACTS.—Section 304(b) of such Act (41 U.S.C. 254(b)) is amended in the sentence beginning with "All cost and cost-plus-a-fixed-fee" by striking out "either $25,000" and inserting in lieu thereof "either the simplified acquisition threshold".

SEC. 4403. OFFICE OF FEDERAL PROCUREMENT POLICY ACT.

Section 19(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 417(a)) is amended by striking out "procurements, other than small purchases," and inserting in lieu thereof "procurements greater than the simplified acquisition threshold".

SEC. 4404. SMALL BUSINESS ACT.

(a) DEFINITION.—Section 3(m) of the Small Business Act (15 U.S.C. 632(m)) is amended by striking out "'small purchase threshold'" and inserting in lieu thereof "'simplified acquisition threshold'".

(b) USE OF SIMPLIFIED ACQUISITION THRESHOLD TERM.—Section 8(d)(2)(A) of the Small Business Act (15 U.S.C. 637(d)(2)(A)) is amended by striking out "small purchase threshold" and inserting in lieu thereof "simplified acquisition threshold".

TITLE V—ACQUISITION MANAGEMENT

Subtitle A—Armed Services Acquisitions

SEC. 5001. PERFORMANCE BASED MANAGEMENT.

(a) POLICY AND GOALS FOR PERFORMANCE BASED MANAGEMENT OF PROGRAMS.—(1) Chapter 131 of title 10, United States Code, is amended by adding at the end the following new section:

"§2220. Performance based management: acquisition programs

"(a) ESTABLISHMENT OF GOALS.—(1) The Secretary of Defense shall approve or define the cost, performance, and schedule goals for major defense acquisition programs of the Department of Defense and for each phase of the acquisition cycle of such programs.

"(2) The Comptroller of the Department of Defense shall evaluate the cost goals proposed for each major defense acquisition program of the Department.

"(b) ANNUAL REPORTING REQUIREMENT.—The Secretary of Defense shall include in the annual report submitted to Congress pursuant to section 113(c) of this title an assessment of whether major and nonmajor acquisition programs of the Department of Defense are achieving, on average, 90 percent of cost, performance, and schedule goals established pursuant to subsection (a) and whether the average period for converting emerging technology into operational capability has decreased by 50 percent or more from the average period required for such conversion as of the date of the enactment of the Federal Acquisition Streamlining Act of 1994. The Secretary shall use data from existing management systems in making the assessment.

"(c) PERFORMANCE EVALUATION.—Whenever the Secretary of Defense, in the assessment required by subsection (b), determines that major defense acquisition programs of the Department of Defense are not achieving, on average, 90 percent of cost, performance, and schedule goals established pursuant to subsection (a), the Secretary shall ensure that there is a timely review of major defense acquisition programs and other programs as appropriate. In conducting the review, the Secretary shall—

"(1) determine whether there is a continuing need for programs that are significantly behind schedule, over budget, or not in compliance with performance or capability requirements; and

"(2) identify suitable actions to be taken, including termination, with respect to such programs.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2220. Performance based management: acquisition programs.".

(b) ENHANCED SYSTEM OF PERFORMANCE INCENTIVES.—Within one year after the date of the enactment of this Act, the Secretary of Defense shall review the incentives and personnel actions available to the Secretary of Defense for encouraging excellence in the management of defense acquisition programs and provide an enhanced system of incentives to facilitate the achievement of goals approved or defined pursuant to section 2220(a) of title 10, United States Code. The enhanced system of incentives shall, to the maximum extent consistent with applicable law—

(1) relate pay to performance (including the extent to which the performance of personnel in such programs contributes to achieving the cost goals, performance goals, and schedule goals established for acquisition programs of the Department of Defense pursuant to section 2220(a) of title 10, United States Code as added by subsection (a)); and

(2) provide for consideration, in personnel evaluations and promotion decisions, of the extent to which the performance of personnel in such programs contributes to achieving the cost goals, performance goals, and schedule goals established for acquisition programs of the Department of Defense pursuant to section 2220(a) of title 10, United States Code, as added by subsection (a).

(c) RECOMMENDED LEGISLATION.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress any recommended legislation that the Secretary considers necessary to carry out section 2220 of title 10, United States Code, as added by subsection (a), and otherwise to facilitate and enhance management of Department of Defense acquisition programs on the basis of performance.

SEC. 5002. REVIEW OF ACQUISITION PROGRAM CYCLE.

(a) REVIEW.—The Secretary of Defense shall review the regulations of the Department of Defense to ensure that acquisition program cycle procedures are focused on achieving the goals that are consistent with the program baseline description established pursuant to section 2435 of title 10, United States Code.

(b) REPEALS.—Sections 835 and 836 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 107 Stat. 1717) are hereby repealed.

Subtitle B—Civilian Agency Acquisitions

SEC. 5051. PERFORMANCE BASED MANAGEMENT.

(a) POLICY AND GOALS FOR PERFORMANCE BASED MANAGEMENT OF PROGRAMS.—Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 301 et seq.), as amended by sections 1552 and 1553, is further amended by adding at the end the following new section:

"SEC. 313. PERFORMANCE BASED MANAGEMENT: ACQUISITION PROGRAMS.

"(a) CONGRESSIONAL POLICY.—It is the policy of Congress that the head of each executive agency should achieve, on average, 90 percent of the cost and schedule goals established for major and nonmajor acquisition programs of the agency without reducing the performance or capabilities of the items being acquired.

"(b) ESTABLISHMENT OF GOALS.—(1) The head of each executive agency shall approve or define the cost, performance, and schedule goals for major acquisition programs of the agency.

"(2) The chief financial officer of an executive agency shall evaluate the cost goals proposed for each major acquisition program of the agency.

"(c) IDENTIFICATION OF NONCOMPLIANT PROGRAMS.—Whenever it is necessary to do so in order to implement the policy set out in subsection (a), the head of an executive agency shall—

"(1) determine whether there is a continuing need for programs that are significantly behind schedule, over budget, or not in compliance with performance or capability requirements; and

"(2) identify suitable actions to be taken, including termination, with respect to such programs.".

(b) ANNUAL REPORTING REQUIREMENT.—Section 6 of the Office of Federal Procurement Policy Act (41 U.S.C. 405), as amended by section 1091, is further amended by adding at the end the following new subsection:

"(k) The Administrator shall submit to Congress, on an annual basis, an assessment of the progress made in executive agencies in implementing the policy stated in section 313(a) of the Federal Property and Administrative Services Act of 1949. The Administrator shall use data from existing management systems in making the assessment.".

(c) ENHANCED SYSTEM OF PERFORMANCE INCENTIVES.—Within one year after the date of the enactment of this Act, the Deputy Director for Management of the Office of Management and Budget, in consultation with appropriate officials in other departments and agencies of the Federal Government, shall, to the maximum extent consistent with applicable law—

(1) establish policies and procedures for the heads of such departments and agencies to designate acquisition positions and manage employees (including the accession, education, training and career development of employees) in the designated acquisition positions; and

(2) review the incentives and personnel actions available to the heads of departments and agencies of the Federal Government for encouraging excellence in the acquisition workforce of the Federal Government and provide an enhanced system of incentives for the encouragement of excellence in such workforce which—

(A) relates pay to performance (including the extent to which the performance of personnel in such workforce contributes to achieving the cost goals, schedule goals, and performance goals established for acquisition programs pursuant to section 313(b) of the Federal Property and Administrative Services Act of 1949, as added by subsection (a)); and

(B) provides for consideration, in personnel evaluations and promotion decisions, of the extent to which the performance of personnel in such workforce contributes to achieving such cost goals, schedule goals, and performance goals.

(d) RECOMMENDED LEGISLATION.—Not later than one year after the date of the enactment of this Act, the Administrator for Federal Procurement Policy shall submit to Congress any recommended legislation that the Secretary considers necessary to carry out section 313 of the Federal Property and Administrative Services Act of 1949, as added by subsection (a), and otherwise to facilitate and enhance management of Federal Government acquisition programs and the acquisition workforce of the Federal Government on the basis of performance.

SEC. 5052. RESULTS-ORIENTED ACQUISITION PROCESS.

(a) DEVELOPMENT OF PROCESS REQUIRED.—The Administrator for Federal Procurement Policy, in consultation with the heads of appropriate Federal agencies, shall develop results-oriented acquisition process guidelines for implementation by agencies in acquisitions of property and services by the Federal agencies. The process guidelines shall include the identification of quantitative measures and standards for determining the extent to which an acquisition of items other than commercial items by a Federal agency satisfies the needs for which the items are being acquired.

(b) INAPPLICABILITY OF PROCESS TO DEPARTMENT OF DEFENSE.—The process guidelines developed pursuant to subsection (a) may not be applied to the Department of Defense.

Subtitle C—Pilot Programs

SEC. 5061. OFPP TEST PROGRAM FOR EXECUTIVE AGENCIES.

(a) IN GENERAL.—The Administrator for Federal Procurement Policy (in this section referred to as the "Administrator") may conduct a program of tests of alternative and innovative procurement procedures. To the extent consistent with this section, such program shall be conducted consistent with section 15 of the Office of Federal Procurement Policy Act (41 U.S.C. 413). No more than 6 such tests shall be conducted under the authority of this subsection, and not more than 1 such test shall be conducted under such authority in an agency.

(b) DESIGNATION OF AGENCIES.—Each test conducted pursuant to subsection (a) shall be carried out in not more than 2 specific procuring activities in an agency designated by the Administrator. Each agency so designated shall select the procuring activities participating in the test with the approval of the Administrator and shall designate a procurement testing official who shall be responsible for the conduct and evaluation of tests within that agency.

(c) TEST REQUIREMENTS AND LIMITATIONS.—(1) Each test conducted under subsection (a)—

(A) shall be developed and structured by the Administrator or by the agency senior procurement executive designated pursuant to section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3)) in close coordination with the Administrator; and

(B) shall be limited to specific programs of agencies or specific acquisitions.

(2) The total estimated life-cycle cost to the Federal Government for each test conducted under subsection (a) may not exceed $100,000,000.

(3)(A) Except as provided in subparagraph (B), each contract awarded in conducting the tests under subsection (a) (including the cost of options if all options were to be exercised) may not exceed $5,000,000.

(B) For one of the tests conducted under subsection (a), the amount of each contract awarded in conducting the test (including options) may exceed $5,000,000.

(4) The program of tests conducted under subsection (a) shall include, either as a test or as part of a test, the use of the Federal acquisition computer network ("FACNET") capability required by section 30 of the Office of Federal Procurement Policy Act (as added by section 9001) for procurement actions in amounts greater than the simplified acquisition threshold.

(d) LIMITATION ON TOTAL VALUE OF CONTRACTS UNDER PROGRAM.—(1) The Administrator shall ensure that the total amount obligated under contracts awarded pursuant to the program under this section does not exceed

$600,000,000. In calculating such amount, the Administrator shall not include any contract awarded for the test conducted by the National Aeronautics and Space Administration pursuant to section 5062 of this Act.

(2) The Administrator shall monitor the value of contracts awarded pursuant to the program under this section.

(3) No contract may be awarded under the program under this section if the award of the contract would result in obligation of more than $600,000,000 under contracts awarded pursuant to the program under this section.

(e) PROCEDURES AUTHORIZED.—Tests conducted under this section may include any of the following procedures:

(1) Publication of agency needs before drafting of a solicitation.

(2) Issuance of draft solicitations for comment.

(3) Streamlined solicitations that specify as the evaluation factors the minimum factors necessary, require sources to submit the minimum information necessary, provide abbreviated periods for submission of offers, and specify page limitations for offers.

(4) Limitation of source selection factors to—

(A) cost to the Federal Government;

(B) past experience and performance; and

(C) quality of the content of the offer.

(5) Evaluation of proposals by small teams of highly qualified people over a period not greater than 30 days.

(6) Restriction of competitions to sources determined capable in a precompetition screening process, provided that the screening process affords all interested sources a fair opportunity to be considered.

(7) Restriction of competitions to sources of preevaluated products, provided that the preevaluation process affords all interested sources a fair opportunity to be considered.

(8) Alternative notice and publication requirements.

(9) A process in which—

(A) the competitive process is initiated by publication in the Commerce Business Daily, or by dissemination through FACNET, of a notice that—

(i) contains a synopsis of the functional and performance needs of the executive agency conducting the test, and, for purposes of guidance only, other specifications; and

(ii) invites any interested source to submit information or samples showing the suitability of its product for meeting those needs, together with a price quotation, or, if appropriate, showing the source's technical capability, past performance, product supportability, or other qualifications (including, as appropriate, information regarding rates and other cost-related factors);

(B) contracting officials develop a request for proposals (including appropriate specifications and evaluation criteria) after reviewing the submissions of interested sources and, if the officials determine necessary, after consultation with those sources; and

(C) a contract is awarded after a streamlined competition that is limited to all sources that timely provided product information in response to the notice or, if appropriate, to those sources determined most capable based on the qualification-based factors included in an invitation to submit information pursuant to subparagraph (A).

(f) MEASURABLE TEST CRITERIA.—The Administrator shall require each agency conducting a test pursuant to subsection (a) to establish, to the maximum extent practicable, measurable criteria for evaluation of the effects of the procedure or technique to be tested.

(g) TEST PLAN.—At least 270 days before a test may be conducted under this section, the Administrator shall—

(1) provide a detailed test plan, including lists of any regulations that are to be waived, and any written determination under subsection (h)(1)(B) to the Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate;

(2) provide a copy of the plan to the appropriate authorization and appropriations committees of the House of Representatives and the Senate; and

(3) publish the plan in the Federal Register and provide an opportunity for public comment.

(h) WAIVER OF PROCUREMENT REGULATIONS.—(1) For purposes of a test conducted under subsection (a), the Administrator may waive—

(A) any provision of the Federal Acquisition Regulation that is not required by statute; and

(B) any provision of the Federal Acquisition Regulation that is required by a provision of law described in paragraph (2), the waiver of which the Administrator determines in writing to be necessary to conduct any test of any of the procedures described in subsection (e).

(2) The provisions of law referred to in paragraph (1) are as follows:

(A) The following provisions of title 10, United States Code:

(i) Section 2304.

(ii) Section 2305.

(iii) Section 2319.

(B) Subsections (e), (f), and (g) of section 8 of the Small Business Act (15 U.S.C. 637).

(C) The following provisions of the Revised Statutes:

(i) Section 3709 (41 U.S.C. 5).

(ii) Section 3710 (41 U.S.C. 8).

(iii) Section 3735 (41 U.S.C. 13).

(D) The following provisions of the Federal Property and Administrative Services Act of 1949:

(i) Section 303 (41 U.S.C. 253).

(ii) Section 303A (41 U.S.C. 253a).

(iii) Section 303B (41 U.S.C. 253b).

(iv) Section 303C (41 U.S.C. 253c).

(v) Section 310 (41 U.S.C. 260).

(E) The following provisions of the Office of Federal Procurement Policy Act:

(i) Section 4(6) (41 U.S.C. 403(6)).

(ii) Section 18 (41 U.S.C. 416).

(3) If the Administrator determines that the conduct of a test requires the waiver of a law not listed in paragraph (2) or requires approval of an estimated dollar amount not permitted under subsection (c)(4), the Administrator may propose legislation to authorize the waiver or grant the approval. Before proposing such legislation, the Administrator may provide and publish a test plan as described in subsection (g).

(i) REPORT.—Not later than 6 months after completion of a test conducted under subsection (a), the Comptroller General shall submit to Congress a report for the test setting forth in detail the results of the test, including such recommendations as the Comptroller General considers appropriate.

(j) COMMENCEMENT AND EXPIRATION OF AUTHORITY.—(1) The Administrator may not exercise the authority to conduct a test under subsection (a) in an agency and to award contracts under such a test before the date on which the head of the agency certifies to Congress under section 30A(a)(2) of the Office of Federal Procurement Policy Act that the agency has implemented a full FACNET capability.

(2) The authority to conduct a test under subsection (a) in an agency and to award contracts under such a test shall expire 4 years after the date on which the head of the agency makes the certification referred to in paragraph (1). Contracts entered into before such authority expires in an agency pursuant to a test shall remain in effect, notwithstanding the expiration of the authority to conduct the test under this section.

(k) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as authorizing the appropriation or obligation of funds for the tests conducted pursuant to subsection (a).

SEC. 5062. NASA MID-RANGE PROCUREMENT TEST PROGRAM.

(a) IN GENERAL.—The Administrator of the National Aeronautics and Space Administration (in this section referred to as the "Administrator") may conduct a test of alternative notice and publication requirements for procurements conducted by the National Aeronautics and Space Administration. To the extent consistent with this section, such program shall be conducted consistent with section 15 of the Office of Federal Procurement Policy Act (41 U.S.C. 413).

(b) APPLICABILITY.—The test conducted under subsection (a) shall apply to acquisitions with an estimated annual total obligation of funds of $500,000 or less.

(c) LIMITATION ON TOTAL COST.—The total estimated life-cycle cost to the Federal Government for the test conducted under subsection (a) may not exceed $100,000,000.

(d) WAIVER OF PROCUREMENT REGULATIONS.—(1) In conducting the test under this section, the Administrator, with the approval of the Administrator for Federal Procurement Policy, may waive—

(A) any provision of the Federal Acquisition Regulation that is not required by statute; and

(B) any provision of the Federal Acquisition Regulation that is required by a provision of law described in paragraph (2), the waiver of which the Administrator determines in writing to be necessary to conduct the test.

(2) The provisions of law referred to in paragraph (1) are as follows:

(A) Subsections (e), (f), and (g) of section 8 of the Small Business Act (15 U.S.C. 637).

(B) Section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416).

(e) REPORT.—Not later than 6 months after completion of the test conducted under subsection (a), the Comptroller General shall submit to Congress a report for the test setting forth in detail the results of the test, including such recommendations as the Comptroller General considers appropriate.

(f) EXPIRATION OF AUTHORITY.—The authority to conduct the test under subsection (a) and to award contracts under such test shall expire 4 years after the date of the enactment of this Act. Contracts entered into before such authority expires shall remain in effect, notwithstanding the expiration of the authority to conduct the test under this section.

(g) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as authorizing the appropriation or obligation of funds for the test conducted pursuant to subsection (a).

SEC. 5063. FEDERAL AVIATION ADMINISTRATION ACQUISITION PILOT PROGRAM.

(a) AUTHORITY.—The Secretary of Transportation may conduct a test of alternative and innovative procurement procedures in carrying out acquisitions for one of the modernization programs under the Airway Capital Investment Plan prepared pursuant to section 44501(b) of title 49, United States Code. In conducting such test, the Secretary shall consult with the Administrator for Federal Procurement Policy.

(b) PILOT PROGRAM IMPLEMENTATION.—(1) The Secretary of Transportation should prescribe policies and procedures for the interaction of the program manager and the end user executive responsible for the requirement for the equipment acquired. Such policies and procedures should include provisions for enabling the end user executive to participate in acceptance testing.

(2) Not later than 45 days after the date of enactment of this Act, the Secretary of Transportation shall identify for the pilot program quantitative measures and goals for reducing acquisition management costs.

(3) The Secretary of Transportation shall establish for the pilot program a review process that provides senior acquisition officials with reports on the minimum necessary data items required to ensure the appropriate expenditure of funds appropriated for the program and that—

(A) contain essential information on program results at appropriate intervals, including the criteria to be used in measuring the success of the program; and

(B) reduce data requirements from the current program review reporting requirements.

(c) SPECIAL AUTHORITIES.—The authority provided by subsection (a) shall include authority for the Secretary of Transportation—

(1) to apply any amendment or repeal of a provision of law made in this Act to the pilot program before the effective date of such amendment or repeal; and

(2) to apply to a procurement of items other than commercial items under such program—

(A) any authority provided in this Act (or in an amendment made by a provision of this Act) to waive a provision of law in the case of commercial items, and

(B) any exception applicable under this Act (or an amendment made by a provision of this Act) in the case of commercial items,

before the effective date of such provision (or amendment) to the extent that the Secretary determines necessary to test the application of such waiver or exception to procurements of items other than commercial items.

(d) APPLICABILITY.—Subsection (c) applies with respect to—

(1) a contract that is awarded or modified after the date occurring 45 days after the date of the enactment of this Act; and

(2) a contract that is awarded before such date and is to be performed (or may be performed), in whole or in part, after such date.

(e) PROCEDURES AUTHORIZED.—The test conducted under this section may include any of the following procedures:

(1) Restriction of competitions to sources determined capable in a precompetition screening process, provided that the screening process affords all interested sources a fair opportunity to be considered.

(2) Restriction of competitions to sources of preevaluated products, provided that the preevaluation process affords all interested sources a fair opportunity to be considered.

(3) Alternative notice and publication requirements.

(4) A process in which—

(A) the competitive process is initiated by publication in the Commerce Business Daily, or by dissemination through FACNET, of a notice that—

(i) contains a synopsis of the functional and performance needs of the executive agency conducting the test, and, for purposes of guidance only, other specifications; and

(ii) invites any interested source to submit information or samples showing the suitability of its product for meeting those needs, together with a price quotation, or, if appropriate, showing the source's technical capability, past performance, product supportability, or other qualifications (including, as appropriate, information regarding rates and other cost-related factors);

(B) contracting officials develop a request for proposals (including appropriate specifications and evaluation criteria) after reviewing the submissions of interested sources and, if the officials determine necessary, after consultation with those sources; and

(C) a contract is awarded after a streamlined competition that is limited to all sources that timely provided product information in response to the notice or, if appropriate, to those sources determined most capable based on the qualification-based factors included in an invitation to submit information pursuant to subparagraph (A).

(f) WAIVER OF PROCUREMENT REGULATIONS.—(1) In conducting the test under this section, the Secretary of Transportation, with the approval of the Administrator for Federal Procurement Policy, may waive—

(A) any provision of the Federal Acquisition Regulation that is not required by statute; and

(B) any provision of the Federal Acquisition Regulation that is required by a provision of law described in paragraph (2), the waiver of which the Administrator determines in writing to be necessary to test procedures authorized by subsection (e).

(2) The provisions of law referred to in paragraph (1) are as follows:

(A) Subsections (e), (f), and (g) of section 8 of the Small Business Act (15 U.S.C. 637).

(B) The following provisions of the Federal Property and Administrative Services Act of 1949:

(i) Section 303 (41 U.S.C. 253).

(ii) Section 303A (41 U.S.C. 253a).

(iii) Section 303B (41 U.S.C. 253b).

(iv) Section 303C (41 U.S.C. 253c).

(C) The following provisions of the Office of Federal Procurement Policy Act:

(i) Section 4(6) (41 U.S.C. 403(6)).

(ii) Section 18 (41 U.S.C. 416).

(g) DEFINITION.—In this section, the term "commercial item" has the meaning provided that term in section 4(12) of the Office of Federal Procurement Policy Act.

(h) EXPIRATION OF AUTHORITY.—The authority to conduct the test under subsection (a) and to award contracts under such test shall expire 4 years after the date of the enactment of this Act. Contracts entered into before such authority expires shall remain in effect, notwithstanding the expiration of the authority to conduct the test under this section.

(i) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as authorizing the appropriation or obligation of funds for the test conducted pursuant to subsection (a).

SEC. 5064. DEPARTMENT OF DEFENSE ACQUISITION PILOT PROGRAMS.

(a) IN GENERAL.—The Secretary of Defense is authorized to designate the following defense acquisition programs for participation in the defense acquisition pilot program authorized by section 809 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2430 note):

(1) FIRE SUPPORT COMBINED ARMS TACTICAL TRAINER (FSCATT).—The Fire Support Combined Arms Tactical Trainer program with respect to all contracts directly related to the procurement of a training simulation system (including related hardware, software, and subsystems) to perform collective training of field artillery gunnery team components, with development of software as required to generate the training exercises and component interfaces.

(2) JOINT DIRECT ATTACK MUNITION (JDAM I).—The Joint Direct Attack Munition program with respect to all contracts directly related to the development and procurement of a strap-on guidance kit, using an inertially guided, Global Positioning System updated guidance kit to enhance the delivery accuracy of 1000-pound and 2000-pound bombs in inventory.

(3) JOINT PRIMARY AIRCRAFT TRAINING SYSTEM (JPATS).—The Joint Primary Aircraft Training System (JPATS) with respect to all contracts directly related to the acquisition of a new primary trainer aircraft to fulfill Air Force and Navy joint undergraduate aviation training requirements, and an associated ground-based training system consisting of air crew training devices (simulators), courseware, a Training Management System, and contractor support for the life of the system.

(4) COMMERCIAL-DERIVATIVE AIRCRAFT (CDA).—

(A) All contracts directly related to the acquisition or upgrading of commercial-derivative aircraft for use in meeting airlift and tanker requirements and the air vehicle component for airborne warning and control systems.

(B) For purposes of this paragraph, the term "commercial-derivative aircraft" means any of the following:

(i) Any aircraft (including spare parts, support services, support equipment, technical manuals, and data related thereto) that is or was of a type customarily used in the course of normal business operations for other than Federal Government purposes, that has been issued a type certificate by the Administrator of the Federal Aviation Administration, and that has been sold or leased for use in the commercial marketplace or that has been offered for sale or lease for use in the commercial marketplace.

(ii) Any aircraft that, but for modifications of a type customarily available in the commercial marketplace, or minor modifications made to meet Federal Government requirements, would satisfy or would have satisfied the criteria in subclause (I).

(iii) For purposes of a potential complement or alternative to the C–17 program, any nondevelopmental airlift aircraft, other than the C–17 or any aircraft derived from the C–17, shall be considered a commercial-derivative aircraft.

(5) COMMERCIAL-DERIVATIVE ENGINE (CDE).—The commercial derivative engine program with respect to all contracts directly related to the acquisition of (A) commercial derivative engines (including spare engines and upgrades), logistics support equipment, technical orders, management data, and spare parts, and (B) commercially derived engines for use in supporting the purchase of commercial-derivative aircraft for use in airlift and tanker requirements (including engine replacement and upgrades) and the air vehicle component for airborne warning and control systems. For purposes of a potential complement or alternative to the C–17 program, any nondevelopmental airlift aircraft engine shall be considered a commercial-derivative engine.

(b) PILOT PROGRAM IMPLEMENTATION.—(1) The text of section 833 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1716) is amended to read as follows:

"(a) MISSION-ORIENTED PROGRAM MANAGEMENT.—In the exercise of the authority provided in section 809 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2430 note), the Secretary of Defense should propose for one or more of the defense acquisition programs covered by the Defense Acquisition Pilot Program to utilize the concept of mission-oriented program management.

"(b) POLICIES AND PROCEDURES.—In the case of each defense acquisition program covered by the Defense Acquisition Pilot Program, the Secretary of Defense should prescribe policies and procedures for the interaction of the program manager and the commander of the operational command (or a representative) responsible for the requirement for the equipment acquired, and for the interaction with the commanders of the unified and specified combatant commands. Such policies and procedures should include provisions for enabling the user commands to participate in acceptance testing.".

(2) The text of section 837 of National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1718) is amended to read as follows:

"The Secretary of Defense shall take any additional actions that the Secretary considers necessary to waive regulations not required by statute that affect the efficiency of the contracting process within the Department of Defense.

Such actions shall include, in the Secretary's discretion, developing methods to streamline the procurement process, streamlining the period for entering into contracts, and defining alternative techniques to reduce reliance on military specifications and standards, in contracts for the defense acquisition programs participating in the Defense Acquisition Pilot Program.".

(3) The text of section 838 of National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1718) is amended to read as follows:

"For at least one participating defense acquisition program for which a determination is made to make payments for work in progress under the authority of section 2307 of title 10, United States Code, the Secretary of Defense should define payment milestones on the basis of quantitative measures of results.".

(4) Not later than 45 days after the date of the enactment of the Federal Acquisition Streamlining Act of 1994, the Secretary of Defense shall identify for each defense acquisition program participating in the pilot program quantitative measures and goals for reducing acquisition management costs.

(5) For each defense acquisition program participating in the pilot program, the Secretary of Defense shall establish a review process that provides senior acquisition officials with reports on the minimum necessary data items required to ensure the appropriate expenditure of funds appropriated for the program and that—

(A) contain essential information on program results at appropriate intervals, including the criteria to be used in measuring the success of the program; and

(B) reduce data requirements from the current program review reporting requirements.

(c) SPECIAL AUTHORITY.—The authority delegated under subsection (a) may include authority for the Secretary of Defense—

(1) to apply any amendment or repeal of a provision of law made in this Act to the pilot programs before the effective date of such amendment or repeal; and

(2) to apply to a procurement of items other than commercial items under such programs—

(A) any authority provided in this Act (or in an amendment made by a provision of this Act) to waive a provision of law in the case of commercial items, and

(B) any exception applicable under this Act (or an amendment made by a provision of this Act) in the case of commercial items,

before the effective date of such provision (or amendment) to the extent that the Secretary determines necessary to test the application of such waiver or exception to procurements of items other than commercial items.

(d) APPLICABILITY.—(1) Subsection (c) applies with respect to—

(A) a contract that is awarded or modified during the period described in paragraph (2); and

(B) a contract that is awarded before the beginning of such period and is to be performed (or may be performed), in whole or in part, during such period.

(2) The period referred to in paragraph (1) is the period that begins 45 days after the date of the enactment of this Act and ends on September 30, 1998.

(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as authorizing the appropriation or obligation of funds for the programs designated for participation in the defense acquisition pilot program under the authority of subsection (a).

Subtitle D—Miscellaneous

SEC. 5091. VENDOR AND EMPLOYEE EXCELLENCE AWARDS.

Section 6(d) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(d)) is amended—

(1) by striking out "and" at the end of paragraph (7);

(2) by redesignating paragraph (8) as paragraph (12); and

(3) by adding at the end the following new paragraphs:

"(8) providing for a Government-wide award to recognize and promote vendor excellence;

"(9) providing for a Government-wide award to recognize and promote excellence in officers and employees of the Federal Government serving in procurement-related positions;".

SEC. 5092. WAITING PERIOD FOR SIGNIFICANT CHANGES PROPOSED FOR ACQUISITION REGULATIONS.

(a) INCREASED PERIOD.—Section 22(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 418b) is amended—

(1) by striking out "30 days" and inserting in lieu thereof "60 days"; and

(2) by adding at the end the following: "Notwithstanding the preceding sentence, such a policy, regulation, procedure, or form may take effect earlier than 60 days after the publication date when there are compelling circumstances for the earlier effective date, but in no event may that effective date be less than 30 days after the publication date.".

(b) TECHNICAL AMENDMENT.—Section 22(d) of such Act is amended by designating the second sentence as paragraph (3).

SEC. 5093. SENSE OF CONGRESS ON NEGOTIATED RULEMAKING.

(a) FINDINGS.—The Congress finds the following:

(1) The use of negotiated rulemaking or similar policy discussion group techniques can be an appropriate tool for—

(A) fostering effective implementation of, and compliance with, laws and regulations;

(B) avoiding litigation; and

(C) achieving more productive and equitable relationships between the Federal Government and the regulated segments of the private sector.

(2) The use of negotiated rulemaking or similar techniques in Federal procurement regulations could be appropriate given the extreme complexity and intricate interactions between buyer and seller in Federal procurements.

(b) SENSE OF CONGRESS.—It is the sense of Congress that, in prescribing acquisition regulations, the Federal Acquisition Regulatory Council should consider using negotiated rulemaking procedures in appropriate circumstances in accordance with sections 561 through 570 of title 5, United States Code, or similar techniques intended to achieve the benefits described in subsection (a)(1).

TITLE VI—OTHER PROCUREMENT-RELATED MATTERS

SEC. 6001. POST-EMPLOYMENT RULES.

(a) REPEAL.—(1) Section 801 of title 37, United States Code, is repealed.

(2) The table of sections for chapter 15 of title 37, United States Code, is amended by striking out the item relating to section 801.

(b) SUSPENSION OF EFFECT OF CERTAIN PROVISION OF LAW.—Section 281 of title 18, United States Code, shall not be effective during the period beginning on the date of the enactment of this Act and ending at the end of December 31, 1996. Such section shall not apply after that date to any relationship otherwise punishable under such section that existed during such period.

SEC. 6002. CONTRACTING FUNCTIONS PERFORMED BY FEDERAL PERSONNEL.

(a) AMENDMENT OF OFPP ACT.—The Office of Federal Procurement Policy Act, as amended by section 1092, is further amended by inserting after section 22 the following new section 23:

"SEC. 23. CONTRACTING FUNCTIONS PERFORMED BY FEDERAL PERSONNEL.

"(a) LIMITATION ON PAYMENT FOR ADVISORY AND ASSISTANCE SERVICES.—(1) No person who is not a person described in subsection (b) may be paid by an executive agency for services to conduct evaluations or analyses of any aspect of a proposal submitted for an acquisition unless personnel described in subsection (b) with adequate training and capabilities to perform such evaluations and analyses are not readily available within the agency or another Federal agency, as determined in accordance with standards and procedures prescribed in the Federal Acquisition Regulation.

"(2) In the administration of this subsection, the head of each executive agency shall determine in accordance with the standards and procedures set forth in the Federal Acquisition Regulation whether—

"(A) a sufficient number of personnel described in subsection (b) within the agency or another Federal agency are readily available to perform a particular evaluation or analysis for the head of the executive agency making the determination; and

"(B) the readily available personnel have the training and capabilities necessary to perform the evaluation or analysis.

"(b) COVERED PERSONNEL.—For purposes of subsection (a), the personnel described in this subsection are as follows:

"(1) An employee, as defined in section 2105 of title 5, United States Code.

"(2) A member of the Armed Forces of the United States.

"(3) A person assigned to a Federal agency pursuant to subchapter VI of chapter 33 of title 5, United States Code.

"(c) RULE OF CONSTRUCTION.—Nothing in this section is intended to affect the relationship between the Federal Government and a federally funded research and development center.".

(b) REQUIREMENT FOR GUIDANCE AND REGULATIONS.—The Federal Acquisition Regulatory Council established by section 25(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(a)) shall—

(1) review part 37 of title 48 of the Code of Federal Regulations as it relates to the use of advisory and assistance services; and

(2) provide guidance and promulgate regulations regarding—

(A) what actions Federal agencies are required to take to determine whether expertise is readily available within the Federal Government before contracting for advisory and technical services to conduct acquisitions; and

(B) the manner in which personnel with expertise may be shared with agencies needing expertise for such acquisitions.

SEC. 6003. REPEAL OF EXECUTED REQUIREMENT FOR STUDY AND REPORT.

Section 17 of the Office of Federal Procurement Policy Act (41 U.S.C. 415) is repealed.

SEC. 6004. INTERESTS OF MEMBERS OF CONGRESS.

Section 3741 of the Revised Statutes (41 U.S.C. 22) is amended to read as follows:

"No member of Congress shall be admitted to any share or part of any contract or agreement made, entered into, or accepted by or on behalf of the United States, or to any benefit to arise thereupon.".

SEC. 6005. WHISTLEBLOWER PROTECTIONS FOR CONTRACTOR EMPLOYEES OF DEPARTMENT OF DEFENSE, COAST GUARD, AND NATIONAL AERONAUTICS AND SPACE ADMINISTRATION.

(a) WHISTLEBLOWER PROTECTIONS FOR CONTRACTOR EMPLOYEES.—Section 2409 of title 10, United States Code, is amended to read as follows:

"§2409. Contractor employees: protection from reprisal for disclosure of certain information

"(a) PROHIBITION OF REPRISALS.—An employee of a contractor may not be discharged,

demoted, or otherwise discriminated against as a reprisal for disclosing to a Member of Congress or an authorized official of an agency or the Department of Justice information relating to a substantial violation of law related to a contract (including the competition for or negotiation of a contract).

"(b) INVESTIGATION OF COMPLAINTS.—A person who believes that the person has been subjected to a reprisal prohibited by subsection (a) may submit a complaint to the Inspector General of an agency. Unless the Inspector General determines that the complaint is frivolous, the Inspector General shall investigate the complaint and, upon completion of such investigation, submit a report of the findings of the investigation to the person, the contractor concerned, and the head of the agency.

"(c) REMEDY AND ENFORCEMENT AUTHORITY.—(1) If the head of the agency determines that a contractor has subjected a person to a reprisal prohibited by subsection (a), the head of the agency may take one or more of the following actions:

"(A) Order the contractor to take affirmative action to abate the reprisal.

"(B) Order the contractor to reinstate the person to the position that the person held before the reprisal, together with the compensation (including back pay), employment benefits, and other terms and conditions of employment that would apply to the person in that position if the reprisal had not been taken.

"(C) Order the contractor to pay the complainant an amount equal to the aggregate amount of all costs and expenses (including attorneys' fees and expert witnesses' fees) that were reasonably incurred by the complainant for, or in connection with, bringing the complaint regarding the reprisal, as determined by the head of the agency.

"(2) Whenever a person fails to comply with an order issued under paragraph (1), the head of the agency shall file an action for enforcement of such order in the United States district court for a district in which the reprisal was found to have occurred. In any action brought under this paragraph, the court may grant appropriate relief, including injunctive relief and compensatory and exemplary damages.

"(3) Any person adversely affected or aggrieved by an order issued under paragraph (1) may obtain review of the order's conformance with this subsection, and any regulations issued to carry out this section, in the United States court of appeals for a circuit in which the reprisal is alleged in the order to have occurred. No petition seeking such review may be filed more than 60 days after issuance of the order by the head of the agency. Review shall conform to chapter 7 of title 5.

"(d) CONSTRUCTION.—Nothing in this section may be construed to authorize the discharge of, demotion of, or discrimination against an employee for a disclosure other than a disclosure protected by subsection (a) or to modify or derogate from a right or remedy otherwise available to the employee.

"(e) DEFINITIONS.—In this section:

"(1) The term 'agency' means an agency named in section 2303 of this title.

"(2) The term 'head of an agency' has the meaning provided by section 2302(1) of this title.

"(3) The term 'contract' means a contract awarded by the head of an agency.

"(4) The term 'contractor' means a person awarded a contract with an agency.

"(5) The term 'Inspector General' means an Inspector General appointed under the Inspector General Act of 1978.".

(b) RELATED LAW.—(1) Section 2409a of title 10, United States Code, is repealed.

(2) The table of sections at the beginning of chapter 141 of such title is amended by striking out the item relating to section 2409a.

SEC. 6006. WHISTLEBLOWER PROTECTIONS FOR CONTRACTOR EMPLOYEES OF CIVILIAN AGENCIES.

Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended by adding at the end the following new section:

"SEC. 315. CONTRACTOR EMPLOYEES: PROTECTION FROM REPRISAL FOR DISCLOSURE OF CERTAIN INFORMATION.

"(a) PROHIBITION OF REPRISALS.—An employee of a contractor may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a Member of Congress or an authorized official of an executive agency or the Department of Justice information relating to a substantial violation of law related to a contract (including the competition for or negotiation of a contract).

"(b) INVESTIGATION OF COMPLAINTS.—A person who believes that the person has been subjected to a reprisal prohibited by subsection (a) may submit a complaint to the Inspector General of the executive agency. Unless the Inspector General determines that the complaint is frivolous, the Inspector General shall investigate the complaint and, upon completion of such investigation, submit a report of the findings of the investigation to the person, the contractor concerned, and the head of the agency. In the case of an executive agency that does not have an inspector general, the duties of the inspector general under this section shall be performed by an official designated by the head of the executive agency.

"(c) REMEDY AND ENFORCEMENT AUTHORITY.—(1) If the head of an executive agency determines that a contractor has subjected a person to a reprisal prohibited by subsection (a), the head of the executive agency may take one or more of the following actions:

"(A) Order the contractor to take affirmative action to abate the reprisal.

"(B) Order the contractor to reinstate the person to the position that the person held before the reprisal, together with the compensation (including back pay), employment benefits, and other terms and conditions of employment that would apply to the person in that position if the reprisal had not been taken.

"(C) Order the contractor to pay the complainant an amount equal to the aggregate amount of all costs and expenses (including attorneys' fees and expert witnesses' fees) that were reasonably incurred by the complainant for, or in connection with, bringing the complaint regarding the reprisal, as determined by the head of the executive agency.

"(2) Whenever a person fails to comply with an order issued under paragraph (1), the head of the executive agency shall file an action for enforcement of such order in the United States district court for a district in which the reprisal was found to have occurred. In any action brought under this paragraph, the court may grant appropriate relief, including injunctive relief and compensatory and exemplary damages.

"(3) Any person adversely affected or aggrieved by an order issued under paragraph (1) may obtain review of the order's conformance with this subsection, and any regulations issued to carry out this section, in the United States court of appeals for a circuit in which the reprisal is alleged in the order to have occurred. No petition seeking such review may be filed more than 60 days after issuance of the order by the head of the agency. Review shall conform to chapter 7 of title 5, United States Code.

"(d) CONSTRUCTION.—Nothing in this section may be construed to authorize the discharge of, demotion of, or discrimination against an employee for a disclosure other than a disclosure protected by subsection (a) or to modify or derogate from a right or remedy otherwise available to the employee.

"(e) DEFINITIONS.—In this section:

"(1) The term 'contract' means a contract awarded by the head of an executive agency.

"(2) The term 'contractor' means a person awarded a contract with an executive agency.

"(3) The term 'Inspector General' means an Inspector General appointed under the Inspector General Act of 1978.".

SEC. 6007. COMPTROLLER GENERAL REVIEW OF THE PROVISION OF LEGAL ADVICE FOR INSPECTORS GENERAL.

(a) REVIEW AND REPORT REQUIRED.—Not later than March 1, 1995, the Comptroller General of the United States shall—

(1) conduct a review of the independence of the legal services being provided to Inspectors General appointed under the Inspector General Act of 1978; and

(2) submit to Congress a report on the results of the review.

(b) MATTERS REQUIRED FOR REPORT.—The report shall include the following matters:

(1) With respect to each department or agency of the Federal Government that has an Inspector General appointed in accordance with the Inspector General Act of 1978 whose only or principal source of legal advice is the general counsel or other chief legal officer of the department or agency, an assessment of the extent of the independence of the legal advisers providing advice to the Inspector General.

(2) A comparison of the findings under the assessment referred to in paragraph (1) with findings on the same matters with respect to each Inspector General whose source of legal advice is legal counsel accountable solely to the Inspector General.

SEC. 6008. COST SAVINGS FOR OFFICIAL TRAVEL.

(a) GUIDELINES.—The Administrator of the General Services Administration shall issue guidelines to ensure that agencies promote, encourage, and facilitate the use of frequent traveler programs offered by airlines, hotels, and car rental vendors by Federal employees who engage in official air travel, for the purpose of realizing to the maximum extent practicable cost savings for official travel.

(b) REQUIREMENT.—Any awards granted under such a frequent traveler program accrued through official travel shall be used only for official travel.

(c) REPORT.—Not later than one year after the date of the enactment of this Act, the Administrator shall report to Congress on efforts to promote the use of frequent traveler programs by Federal employees.

SEC. 6009. PROMPT RESOLUTION OF AUDIT RECOMMENDATIONS.

Federal agencies shall resolve or take corrective action on all Office of Inspector General audit report findings within a maximum of six months after their issuance, or, in the case of audits performed by non-Federal auditors, six months after receipt of the report by the Federal Government.

TITLE VII—SMALL BUSINESS AND SOCIOECONOMIC LAWS

Subtitle A—Small Business Laws

SEC. 7101. REPEAL OF CERTAIN REQUIREMENTS.

(a) SET-ASIDE PRIORITY.—Section 15 of the Small Business Act (15 U.S.C. 644) is amended by striking out subsections (e) and (f).

(b) CERTIFICATE OF COMPETENCE.—Section 804 of Public Law 102-484 (106 Stat. 2447; 10 U.S.C. 2305 note) is repealed.

SEC. 7102. CONTRACTING PROGRAM FOR CERTAIN SMALL BUSINESS CONCERNS.

(a) PROCUREMENT PROCEDURES AUTHORIZED.—(1) To facilitate the attainment of a goal for the participation of small business concerns owned and controlled by socially and economically disadvantaged individuals that is established for a Federal agency pursuant to section

15(g)(1) of the Small Business Act (15 U.S.C. 644(g)(1)), the head of the agency may enter into contracts using—

(A) less than full and open competition by restricting the competition for such awards to small business concerns owned and controlled by socially and economically disadvantaged individuals described in subsection (d)(3)(C) of section 8 of the Small Business Act (15 U.S.C. 637); and

(B) a price evaluation preference not in excess of 10 percent when evaluating an offer received from such a small business concern as the result of an unrestricted solicitation.

(2) Paragraph (1) does not apply to the Department of Defense, the Coast Guard, and the National Aeronautics and Space Administration.

(b) IMPLEMENTATION THROUGH THE FEDERAL ACQUISITION REGULATION.—

(1) IN GENERAL.—The Federal Acquisition Regulation shall be revised to provide for uniform implementation of the authority provided in subsection (a).

(2) MATTERS TO BE ADDRESSED.—The revisions of the Federal Acquisition Regulation made pursuant to paragraph (1) shall include—

(A) conditions for the use of advance payments;

(B) provisions for contract payment terms that provide for—

(i) accelerated payment for work performed during the period for contract performance; and

(ii) full payment for work performed;

(C) guidance on how contracting officers may use, in solicitations for various classes of products or services, a price evaluation preference pursuant to subsection (a)(1)(B), to provide a reasonable advantage to small business concerns owned and controlled by socially and economically disadvantaged individuals without effectively eliminating any participation of other small business concerns; and

(D)(i) procedures for a person to request the head of a Federal agency to determine whether the use of competitions restricted to small business concerns owned and controlled by socially and economically disadvantaged individuals at a contracting activity of such agency has caused a particular industry category to bear a disproportionate share of the contracts awarded to attain the goal established for that contracting activity; and

(ii) guidance for limiting the use of such restricted competitions in the case of any contracting activity and class of contracts determined in accordance with such procedures to have caused a particular industry category to bear a disproportionate share of the contracts awarded to attain the goal established for that contracting activity.

(c) TERMINATION.—This section shall cease to be effective at the end of September 30, 2000.

SEC. 7103. EXTENSION OF TEST PROGRAM FOR NEGOTIATION OF COMPREHENSIVE SMALL BUSINESS SUBCONTRACTING PLANS.

Section 834(e) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 15 U.S.C. 637 note) is amended by striking out "September 30, 1994." in the second sentence and inserting in lieu thereof "September 30, 1998.".

SEC. 7104. SMALL BUSINESS PROCUREMENT ADVISORY COUNCIL.

(a) ESTABLISHMENT.—There is hereby established an interagency council to be known as the "Small Business Procurement Advisory Council" (hereinafter in this section referred to as the "Council").

(b) DUTIES.—The duties of the Council are—

(1) to develop positions on proposed procurement regulations affecting the small business community; and

(2) to submit comments reflecting such positions to appropriate regulatory authorities.

(c) MEMBERSHIP.—The Council shall be composed of the following members:

(1) The Administrator of the Small Business Administration (or the designee of the Administrator).

(2) The Director of the Minority Business Development Agency.

(3) The head of each Office of Small and Disadvantaged Business Utilization (established under section 15(k) of the Small Business Act (15 U.S.C. 644(k)) in each Federal agency having procurement powers.

(d) CHAIRMAN.—The Council shall be chaired by the Administrator of the Small Business Administration.

(e) MEETINGS.—The Council shall meet at the call of the chairman as necessary to consider proposed procurement regulations affecting the small business community.

(f) CONSIDERATION OF COUNCIL COMMENTS.—The Federal Acquisition Regulatory Council and other appropriate regulatory authorities shall consider comments submitted in a timely manner pursuant to subsection (b)(2).

SEC. 7105. EXTENSION OF DEFENSE CONTRACT GOAL TO COAST GUARD AND NATIONAL AERONAUTICS AND SPACE ADMINISTRATION.

Section 2323 of title 10, United States Code, is amended to read as follows:

"§2323. Contract goal for small disadvantaged businesses and certain institutions of higher education

"(a) GOAL.—(1) Except as provided in subsection (d), a goal of 5 percent of the amount described in subsection (b) shall be the objective of the Department of Defense, the Coast Guard, and the National Aeronautics and Space Administration in each fiscal year for the total combined amount obligated for contracts and subcontracts entered into with—

"(A) small business concerns, including mass media and advertising firms, owned and controlled by socially and economically disadvantaged individuals (as such term is used in section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and regulations issued under that section), the majority of the earnings of which directly accrue to such individuals;

"(B) historically Black colleges and universities, including any nonprofit research institution that was an integral part of such a college or university before November 14, 1986; and

"(C) minority institutions (as defined in section 1046(3) of the Higher Education Act of 1965 (20 U.S.C. 1135d–5(3)), which, for the purposes of this section, shall include Hispanic-serving institutions (as defined in section 316(b)(1) of such Act (20 U.S.C. 1059c(b)(1)).

"(2) The head of the agency shall establish a specific goal within the overall 5 percent goal for the award of prime contracts and subcontracts to historically Black colleges and universities and minority institutions in order to increase the participation of such colleges and universities in the program provided for by this section.

"(3) The Federal Acquisition Regulation (issued under section 25(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)) shall provide procedures or guidelines for contracting officers to set goals which agency prime contractors that are required to submit subcontracting plans under section 8(d)(4)(B) of the Small Business Act (15 U.S.C. 637(d)(4)(B)) in furtherance of the agency's program to meet the 5 percent goal specified in paragraph (1) should meet in awarding subcontracts, including subcontracts to minority-owned media, to entities described in that paragraph.

"(b) AMOUNT.—With respect to the Department of Defense, the requirements of subsection (a) for any fiscal year apply to the combined total of the following amounts:

"(A) Funds obligated for contracts entered into with the Department of Defense for such fiscal year for procurement.

"(B) Funds obligated for contracts entered into with the Department of Defense for such fiscal year for research, development, test, and evaluation.

"(C) Funds obligated for contracts entered into with the Department of Defense for such fiscal year for military construction.

"(D) Funds obligated for contracts entered into with the Department of Defense for operation and maintenance.

"(2) With respect to the Coast Guard, the requirements of subsection (a) for any fiscal year apply to the total value of all prime contract and subcontract awards entered into by the Coast Guard for such fiscal year.

"(3) With respect to the National Aeronautics and Space Administration, the requirements of subsection (a) for any fiscal year apply to the total value of all prime contract and subcontract awards entered into by the National Aeronautics and Space Administration for such fiscal year.

"(c) TYPES OF ASSISTANCE.—(1) To attain the goal specified in subsection (a)(1), the head of an agency shall provide technical assistance to the entities referred to in that subsection and, in the case of historically Black colleges and universities and minority institutions, shall also provide infrastructure assistance.

"(2) Technical assistance provided under this section shall include information about the program, advice about agency procurement procedures, instruction in preparation of proposals, and other such assistance as the head of the agency considers appropriate. If the resources of the agency are inadequate to provide such assistance, the head of the agency may enter into contracts with minority private sector entities with experience and expertise in the design, development, and delivery of technical assistance services to eligible individuals, business firms and institutions, acquisition agencies, and prime contractors. Agency contracts with such entities shall be awarded annually, based upon, among other things, the number of minority small business concerns, historically Black colleges and universities, and minority institutions that each such entity brings into the program.

"(3) Infrastructure assistance provided by the Department of Defense under this section to historically Black colleges and universities and to minority institutions may include programs to do the following:

"(A) Establish and enhance undergraduate, graduate, and doctoral programs in scientific disciplines critical to the national security functions of the Department of Defense.

"(B) Make Department of Defense personnel available to advise and assist faculty at such colleges and universities in the performance of defense research and in scientific disciplines critical to the national security functions of the Department of Defense.

"(C) Establish partnerships between defense laboratories and historically Black colleges and universities and minority institutions for the purpose of training students in scientific disciplines critical to the national security functions of the Department of Defense.

"(D) Award scholarships, fellowships, and the establishment of cooperative work-education programs in scientific disciplines critical to the national security functions of the Department of Defense.

"(E) Attract and retain faculty involved in scientific disciplines critical to the national security functions of the Department of Defense.

"(F) Equip and renovate laboratories for the performance of defense research.

"(G) Expand and equip Reserve Officer Training Corps activities devoted to scientific disciplines critical to the national security functions of the Department of Defense.

"(H) Provide other assistance as the Secretary determines appropriate to strengthen scientific disciplines critical to the national security functions of the Department of Defense or the college infrastructure to support the performance of defense research.

"(4) The head of the agency shall, to the maximum extent practical, carry out programs under this section at colleges, universities, and institutions that agree to bear a substantial portion of the cost associated with the programs.

"(d) APPLICABILITY.—Subsection (a) does not apply to the Department of Defense—

"(1) to the extent to which the Secretary of Defense determines that compelling national security considerations require otherwise; and

"(2) if the Secretary notifies Congress of such determination and the reasons for such determination.

"(e) COMPETITIVE PROCEDURES AND ADVANCE PAYMENTS.—To attain the goal of subsection (a):

"(1)(A) The head of the agency shall—

"(i) ensure that substantial progress is made in increasing awards of agency contracts to entities described in subsection (a)(1);

"(ii) exercise his utmost authority, resourcefulness, and diligence;

"(iii) in the case of the Department of Defense, actively monitor and assess the progress of the military departments, Defense Agencies, and prime contractors of the Department of Defense in attaining such goal; and

"(iv) in the case of the Coast Guard and the National Aeronautics and Space Administration, actively monitor and assess the progress of the prime contractors of the agency in attaining such goal.

"(B) In making the assessment under clauses (iii) and (iv) of subparagraph (A), the head of the agency shall evaluate the extent to which use of the authority provided in paragraphs (2) and (3) and compliance with the requirement in paragraph (4) is effective for facilitating the attainment of the goal.

"(2) To the extent practicable and when necessary to facilitate achievement of the 5 percent goal described in subsection (a), the head of an agency shall make advance payments under section 2307 of this title to contractors described in subsection (a). The Federal Acquisition Regulation shall provide guidance to contracting officers for making advance payments to entities described in subsection (a)(1) under such section.

"(3) To the extent practicable and when necessary to facilitate achievement of the 5 percent goal described in subsection (a), the head an agency may enter into contracts using less than full and open competitive procedures (including awards under section 8(a) of the Small Business Act) and partial set asides for entities described in subsection (a)(1), but shall pay a price not exceeding fair market cost by more than 10 percent in payment per contract to contractors or subcontractors described in subsection (a). The head an agency shall adjust the percentage specified in the preceding sentence for any industry category if available information clearly indicates that nondisadvantaged small business concerns in such industry category are generally being denied a reasonable opportunity to compete for contracts because of the use of that percentage in the application of this paragraph.

"(4) To the extent practicable, the head of an agency shall maximize the number of minority small business concerns, historically Black colleges and universities, and minority institutions participating in the program.

"(5) Each head of an agency shall prescribe regulations which provide for the following:

"(A) Procedures or guidance for contracting officers to provide incentives for prime contractors referred to in subsection (a)(3) to increase subcontractor awards to entities described in subsection (a)(1).

"(B) A requirement that contracting officers emphasize the award of contracts to entities described in subsection (a)(1) in all industry categories, including those categories in which such entities have not traditionally dominated.

"(C) Guidance to agency personnel on the relationship among the following programs:

"(i) The program implementing this section.

"(ii) The program established under section 8(a) of the Small Business Act (15 U.S.C. 637(a)).

"(iii) The small business set-aside program established under section 15(a) of the Small Business Act (15 U.S.C. 644(a)).

"(D) With respect to an agency procurement which is reasonably likely to be set aside for entities described in subsection (a)(1), a requirement that (to the maximum extent practicable) the procurement be designated as such a set-aside before the solicitation for the procurement is issued.

"(E) Policies and procedures which, to the maximum extent practicable, will ensure that current levels in the number or dollar value of contracts awarded under the program established under section 8(a) of the Small Business Act (15 U.S.C. 637(a)) and under the small business set-aside program established under section 15(a) of the Small Business Act (15 U.S.C. 644(a)) are maintained and that every effort is made to provide new opportunities for contract awards to eligible entities, in order to meet the goal of subsection (a).

"(F) Implementation of this section in a manner which will not alter the procurement process under the program established under section 8(a) of the Small Business Act (15 U.S.C. 637(a)).

"(G) A requirement that one factor used in evaluating the performance of a contracting officer be the ability of the officer to increase contract awards to entities described in subsection (a)(1).

"(H) Increased technical assistance to entities described in subsection (a)(1).

"(f) PENALTIES AND REGULATIONS RELATING TO STATUS.—(1) Whoever for the purpose of securing a contract or subcontract under subsection (a) misrepresents the status of any concern or person as a small business concern owned and controlled by a minority (as described in subsection (a)), shall be punished by imprisonment for not more than one year, or a fine under title 18, or both.

"(2) The Federal Acquisition Regulation shall prohibit awarding a contract under this section to an entity described in subsection (a)(1) unless the entity agrees to comply with the requirements of section 15(o)(1) of the Small Business Act (15 U.S.C. 644(o)(1)).

"(g) INDUSTRY CATEGORIES.—(1) To the maximum extent practicable, the head of the agency shall—

"(A) ensure that no particular industry category bears a disproportionate share of the contracts awarded to attain the goal established by subsection (a); and

"(B) ensure that contracts awarded to attain the goal established by subsection (a) are made across the broadest possible range of industry categories.

"(2) Under procedures prescribed by the head of the agency, a person may request the Secretary to determine whether the use of small disadvantaged business set asides by a contracting activity of the agency has caused a particular industry category to bear a disproportionate share of the contracts awarded to attain the goal established for that contracting activity for the purposes of this section. Upon making a determination that a particular industry category is bearing a disproportionate share, the head of the agency shall take appropriate actions to limit the contracting activity's use of set asides in awarding contracts in that particular industry category.

"(h) COMPLIANCE WITH SUBCONTRACTING PLAN REQUIREMENTS.—(1) The Federal Acquisition Regulation shall contain regulations to ensure that potential contractors submitting sealed bids or competitive proposals to the agency for procurement contracts to be awarded under the program provided for by this section are complying with applicable subcontracting plan requirements of section 8(d) of the Small Business Act (15 U.S.C. 637(d)).

"(2) The regulations required by paragraph (1) shall ensure that, with respect to a sealed bid or competitive proposal for which the bidder or offeror is required to negotiate or submit a subcontracting plan under section 8(d) of the Small Business Act (15 U.S.C. 637(d)), the subcontracting plan shall be a factor in evaluating the bid or proposal.

"(i) ANNUAL REPORT.—(1) Not later than December 15 of each year, the head of the agency shall submit to Congress a report on the progress of the agency toward attaining the goal of subsection (a) during the preceding fiscal year.

"(2) The report required under paragraph (1) shall include the following:

"(A) A full explanation of any progress toward attaining the goal of subsection (a).

"(B) A plan to achieve the goal, if necessary.

"(3) The report required under paragraph (1) shall also include the following:

"(A) The aggregate differential between the fair market price of all contracts awarded pursuant to subsection (e)(3) and the estimated fair market price of all such contracts had such contracts been entered into using full and open competitive procedures.

"(B) An analysis of the impact that subsection (a) shall have on the ability of small business concerns not owned and controlled by socially and economically disadvantaged individuals to compete for contracts with the agency.

"(C) A description of the percentage of contracts (actions), the total dollar amount (size of action), and the number of different entities relative to the attainment of the goal of subsection (a), separately for Black Americans, Native Americans, Hispanic Americans, Asian Pacific Americans, and other minorities.

"(j) DEFINITIONS.—In this section:

"(1) The term 'agency' means the Department of Defense, the Coast Guard, and the National Aeronautics and Space Administration.

"(2) The term 'head of an agency' means the Secretary of Defense, the Secretary of Transportation, and the Administrator of the National Aeronautics and Space Administration.

"(k) EFFECTIVE DATE.—(1) This section applies in the Department of Defense to each of fiscal years 1987 through 2000.

"(2) This section applies in the Coast Guard and the National Aeronautics and Space Administration in each of fiscal years 1995 through 2000.".

SEC. 7106. PROCUREMENT GOALS FOR SMALL BUSINESS CONCERNS OWNED BY WOMEN.

(a) GOALS.—Section 15 of the Small Business Act (15 U.S.C. 644) is amended—

(1) by striking out "and small business concerns owned and controlled by socially and economically disadvantaged individuals" each place it appears in the first sentence and fourth sentences of subsection (g)(1), the second sentence of subsection (g)(2), and paragraphs (1), (2)(A), (2)(D), and (2)(E) of subsection (h) and inserting in lieu thereof ", small business concerns owned and controlled by socially and economically disadvantaged individuals, and small

business concerns owned and controlled by women";

(2) in subsection (g)—

(A) by inserting after the third sentence of paragraph (1) the following: "The Government-wide goal for participation by small business concerns owned and controlled by women shall be established at not less than 5 percent of the total value of all prime contract and subcontract awards for each fiscal year.";

(B) in the first sentence of paragraph (2), by striking out "and by small business concerns owned and controlled by socially and economically disadvantaged individuals," and inserting in lieu thereof ", by small business concerns owned and controlled by socially and economically disadvantaged individuals, and by small business concerns owned and controlled by women"; and

(C) in the fourth sentence of paragraph (2), by inserting after "including participation by small business concerns owned and controlled by socially and economically disadvantaged individuals" the following: "and participation by small business concerns owned and controlled by women"; and

(3) in subsection (h)(2)(F), by striking out "women-owned small business enterprises" and inserting in lieu thereof "small business concerns owned and controlled by women".

(b) SUBCONTRACT PARTICIPATION.—Section 8(d) of such Act (15 U.S.C. 637(d)) is amended—

(1) by striking out "and small business concerns owned and controlled by socially and economically disadvantaged individuals" both places it appears in paragraph (1), both places it appears in paragraph (3)(A), in paragraph (4)(D), in subparagraphs (A), (C), and (F) of paragraph (6), and in paragraph (10)(B) and inserting in lieu thereof ", small business concerns owned and controlled by socially and economically disadvantaged individuals, and small business concerns owned and controlled by women";

(2) by striking out subparagraph (D) in paragraph (3) and inserting in lieu thereof the following:

"(E) Contractors acting in good faith may rely on written representations by their subcontractors regarding their status as either a small business concern, a small business concern owned and controlled by socially and economically disadvantaged individuals, or a small business concern owned and controlled by women.";

(3) in paragraph (3), by inserting after subparagraph (C) the following new subparagraph (D):

"(D) The term 'small business concern owned and controlled by women' shall mean a small business concern—

"(i) which is at least 51 per centum owned by one or more women; or, in the case of any publicly owned business, at least 51 per centum of the stock of which is owned by one or more women; and

"(ii) whose management and daily business operations are controlled by one or more women."; and

(4) in paragraph (4)(E), by inserting "and for small business concerns owned and controlled by women" after "as defined in paragraph (3) of this subsection".

(c) MISREPRESENTATIONS OF STATUS.—(1) Subsection (d)(1) of section 16 of such Act (15 U.S.C. 645) is amended by striking out "or 'small business concern owned and controlled by socially and economically disadvantaged individuals'" and inserting in lieu thereof ", a 'small business concern owned and controlled by socially and economically disadvantaged individuals', or a 'small business concerns owned and controlled by women'".

(2) Subsection (e) of such section is amended by striking out "or 'small business concern owned and controlled by socially and economically disadvantaged individuals'" and inserting in lieu thereof ", a 'small business concern owned and controlled by socially and economically disadvantaged individuals', or a 'small business concerns owned and controlled by women'".

(d) DEFINITION.—Section 3 of such Act (15 U.S.C. 632) is amended by adding at the end the following new subsection:

"(n) For the purposes of this Act, a small business concern is a small business concern owned and controlled by women if—

"(1) at least 51 percent of small business concern is owned by one or more women or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and

"(2) the management and daily business operations of the business are controlled by one or more women.".

SEC. 7107. DEVELOPMENT OF DEFINITIONS REGARDING CERTAIN SMALL BUSINESS CONCERNS.

(a) REVIEW REQUIRED.—(1) The Administrator for Federal Procurement Policy shall conduct a comprehensive review of Federal laws, as in effect on November 1, 1994, to identify and catalogue all of the provisions in such laws that define (or describe for definitional purposes) the small business concerns set forth in paragraph (2) for purposes of authorizing the participation of such small business concerns as prime contractors or subcontractors in—

(A) contracts awarded directly by the Federal Government or subcontracts awarded under such contracts; or

(B) contracts and subcontracts funded, in whole or in part, by Federal financial assistance under grants, cooperative agreements, or other forms of Federal assistance.

(2) The small business concerns referred to in paragraph (1) are as follows:

(A) Small business concerns owned and controlled by socially and economically disadvantaged individuals.

(B) Minority-owned small business concerns.

(C) Small business concerns owned and controlled by women.

(D) Woman-owned small business concerns.

(b) MATTERS TO BE DEVELOPED.—On the basis of the results of the review carried out under subsection (a), the Administrator for Federal Procurement Policy shall develop—

(1) uniform definitions for the small business concerns referred to in subsection (a)(2);

(2) uniform agency certification standards and procedures for—

(A) determinations of whether a small business concern qualifies as a small business concern referred to in subsection (a)(2) under an applicable standard for purposes of contracts and subcontracts referred to in subsection (a)(1); and

(B) reciprocal recognition by an agency of a decision of another agency regarding whether a small business concern qualifies as a small business concern referred to in subsection (a)(2) for such purposes; and

(3) such other related recommendations as the Administrator determines appropriate consistent with the review results.

(c) PROCEDURES AND SCHEDULE.—(1) The Administrator for Federal Procurement Policy shall provide for the participation in the review and activities under subsections (a) and (b) by representatives of—

(A) the Small Business Administration (including the Office of the Chief Counsel for Advocacy);

(B) the Minority Business Development Agency of the Department of Commerce;

(C) the Department of Transportation;

(D) the Environmental Protection Agency; and

(E) such other executive departments and agencies as the Administrator considers appropriate.

(2) In carrying out subsections (a) and (b), the Administrator shall consult with representatives of organizations representing—

(A) minority-owned business enterprises;

(B) women-owned business enterprises; and

(C) other organizations that the Administrator considers appropriate.

(3) Not later than 60 days after the date of the enactment of this Act, the Administrator shall publish in the Federal Register a notice which—

(A) lists the provisions of law identified in the review carried out under subsection (a);

(B) describes the matters to be developed on the basis of the results of the review pursuant to subsection (b);

(C) solicits public comment regarding the matters described in the notice pursuant to subparagraphs (A) and (B) for a period of not less than 60 days; and

(D) addresses such other matters as the Administrator considers appropriate to ensure the comprehensiveness of the review and activities under subsections (a) and (b).

(d) REPORT.—Not later than May 1, 1996, the Administrator for Federal Procurement Policy shall submit to the Committees on Small Business of the Senate and the House of Representatives a report on the results of the review carried out under subsection (a) and the actions taken under subsection (b). The report shall include a discussion of the results of the review, a description of the consultations conducted and public comments received, and the Administrator's recommendations with regard to the matters identified under subsection (b).

SEC. 7108. FUNCTIONS OF OFFICE OF FEDERAL PROCUREMENT POLICY RELATING TO SMALL BUSINESS.

(a) POLICIES.—Section 6(d) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(d)) is amended by adding after paragraph (9), as added by section 5091, the following new paragraphs:

"(10) developing policies, in consultation with the Administrator of the Small Business Administration, that ensure that small businesses, small businesses owned and controlled by socially and economically disadvantaged individuals, and small businesses owned and controlled by women are provided with the maximum practicable opportunities to participate in procurements that are conducted for amounts below the simplified acquisition threshold;

"(11) developing policies that will promote achievement of goals for participation by small businesses, small businesses owned and controlled by socially and economically disadvantaged individuals, and small business owned and controlled by women; and".

(b) EDUCATION AND TRAINING.—Section 6(d)(5) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(d)(5)) is amended—

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

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

(3) by adding at the end the following new subparagraph:

"(C) establish policies and procedures for the establishment and implementation of education and training programs authorized by this Act, including the establishment and implementation of training, in conjunction with the General Services Administration, for critical procurement personnel designed to increase the participation of small business concerns owned and controlled by socially and economically disadvantaged individuals, women, and other minorities in procurement activities conducted by an executive agency.".

Subtitle B—Socioeconomic Laws

SEC. 7201. ACQUISITIONS GENERALLY.

The Act of June 30, 1936 (41 U.S.C. 35 et seq.), commonly referred to as the "Walsh-Healey Act", is amended—

(1) in the first section, by striking out subsection (a) and redesignating subsections (b), (c), (d), and (e), as subsections (a), (b), (c), and (d), respectively;

(2) in section 10(b) by striking out "manufacturer of, or regular dealer in," and inserting in lieu thereof "supplier of";

(3) in section 10(c) by striking out " 'regular dealer', 'manufacturer',"; and

(4) by adding at the end the following new sections:

"SEC. 11. (a) The Secretary of Labor may prescribe in regulations the standards for determining whether a contractor is a manufacturer of or a regular dealer in materials, supplies, articles, or equipment to be manufactured or used in the performance of a contract entered into by any executive department, independent establishment, or other agency or instrumentality of the United States, or by the District of Columbia, or by any corporation all the stock of which is beneficially owned by the United States, for the manufacture or furnishing of materials, supplies, articles, and equipment.

"(b) Any interested person shall have the right of judicial review of any legal question regarding the interpretation of the terms 'regular dealer' and 'manufacturer', as defined pursuant to subsection (a).".

SEC. 7202. PROHIBITION ON USE OF FUNDS FOR DOCUMENTING ECONOMIC OR EMPLOYMENT IMPACT OF CERTAIN ACQUISITION PROGRAMS.

(a) REVISION AND CODIFICATION.—(1) Subchapter I of chapter 134 of title 10, United States Code, is amended by adding at the end the following new section:

"§2247. Prohibition on use of funds for documenting economic or employment impact of certain acquisition programs

"No funds appropriated by the Congress may be obligated or expended to assist any contractor of the Department of Defense in preparing any material, report, lists, or analysis with respect to the actual or projected economic or employment impact in a particular State or congressional district of an acquisition program for which all research, development, testing, and evaluation has not been completed.".

(2) The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

"2247. Prohibition on use of funds for documenting economic or employment impact of certain acquisition programs.".

(b) REPEAL OF SUPERSEDED LAW.—Section 9048 of Public Law 102–396 (106 Stat. 1913) is repealed.

SEC. 7203. MERIT-BASED AWARD OF CONTRACTS AND GRANTS.

(a) ARMED SERVICES ACQUISITIONS.—(1) Section 2304 of title 10, United States Code, as amended by section 1005, is further amended—

(A) in subsection (c)(5), by inserting "subject to subsection (j)," after "(5)"; and

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

"(j)(1) It is the policy of Congress that an agency named in section 2303(a) of this title should not be required by legislation to award a new contract to a specific non-Federal Government entity. It is further the policy of Congress that any program, project, or technology identified in legislation be procured through merit-based selection procedures.

"(2) A provision of law may not be construed as requiring a new contract to be awarded to a specified non-Federal Government entity unless that provision of law—

"(A) specifically refers to this subsection;

"(B) specifically identifies the particular non-Federal Government entity involved; and

"(C) specifically states that the award to that entity is required by such provision of law in contravention of the policy set forth in paragraph (1).

"(3) For purposes of this subsection, a contract is a new contract unless the work provided for in the contract is a continuation of the work performed by the specified entity under a preceding contract.

"(4) This subsection shall not apply with respect to any contract that calls upon the National Academy of Sciences to investigate, examine, or experiment upon any subject of science or art of significance to an agency named in section 2303(a) of this title and to report on such matters to the Congress or any agency of the Federal Government.".

(2) Chapter 139 of title 10, United States Code, is amended by adding at the end the following new section:

"§2374. Merit-based award of grants for research and development

"(a) It is the policy of Congress that an agency named in section 2303(a) of this title should not be required by legislation to award a new grant for research, development, test, or evaluation to a non-Federal Government entity. It is further the policy of Congress that any program, project, or technology identified in legislation be awarded through merit-based selection procedures.

"(b) A provision of law may not be construed as requiring a new grant to be awarded to a specified non-Federal Government entity unless that provision of law—

"(1) specifically refers to this subsection;

"(2) specifically identifies the particular non-Federal Government entity involved; and

"(3) specifically states that the award to that entity is required by such provision of law in contravention of the policy set forth in subsection (a).

"(c) For purposes of this section, a grant is a new grant unless the work provided for in the grant is a continuation of the work performed by the specified entity under a preceding grant.

"(d) This section shall not apply with respect to any grant that calls upon the National Academy of Sciences to investigate, examine, or experiment upon any subject of science or art of significance to an agency named in section 2303(a) of this title and to report on such matters to the Congress or any agency of the Federal Government.".

(3) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2374. Merit-based award of grants for research and development.".

(b) CIVILIAN AGENCY ACQUISITIONS.—(1) Section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253) is amended—

(A) in subsection (c)(5), by inserting "subject to subsection (h)," after "(5)"; and

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

"(h)(1) It is the policy of Congress that an executive agency should not be required by legislation to award a new contract to a specific non-Federal Government entity. It is further the policy of Congress that any program, project, or technology identified in legislation be procured through merit-based selection procedures.

"(2) A provision of law may not be construed as requiring a new contract to be awarded to a specified non-Federal Government entity unless that provision of law—

"(A) specifically refers to this subsection;

"(B) specifically identifies the particular non-Federal Government entity involved; and

"(C) specifically states that the award to that entity is required by such provision of law in contravention of the policy set forth in paragraph (1).

"(3) For purposes of this subsection, a contract is a new contract unless the work provided for in the contract is a continuation of the work performed by the specified entity under a preceding contract.

"(4) This subsection shall not apply with respect to any contract that calls upon the National Academy of Sciences to investigate, examine, or experiment upon any subject of science or art of significance to an executive agency and to report on such matters to the Congress or any agency of the Federal Government.".

(2) Title III of such Act, as amended by section 6006, is further amended by adding at the end the following new section:

"SEC. 316. MERIT-BASED AWARD OF GRANTS FOR RESEARCH AND DEVELOPMENT

"(a) POLICY.—It is the policy of Congress that an executive agency should not be required by legislation to award a new grant for research, development, test, or evaluation to a non-Federal Government entity. It is further the policy of Congress that any program, project, or technology identified in legislation be awarded through merit-based selection procedures.

"(b) RULE OF CONSTRUCTION.—A provision of law may not be construed as requiring a new grant to be awarded to a specified non-Federal Government entity unless that provision of law—

"(1) specifically refers to this subsection;

"(2) specifically identifies the particular non-Federal Government entity involved; and

"(3) specifically states that the award to that entity is required by such provision of law in contravention of the policy set forth in subsection (a).

"(c) NEW GRANT DEFINED.—For purposes of this section, a grant is a new grant unless the work provided for in the grant is a continuation of the work performed by the specified entity under a preceding grant.

"(d) INAPPLICABILITY TO CERTAIN GRANTS.—This section shall not apply with respect to any grant that calls upon the National Academy of Sciences to investigate, examine, or experiment upon any subject of science or art of significance to an executive agency and to report on such matters to Congress or any agency of the Federal Government.".

SEC. 7204. MAXIMUM PRACTICABLE OPPORTUNITIES FOR APPRENTICES ON FEDERAL CONSTRUCTION PROJECTS.

It is the sense of the House of Representatives that—

(1) contractors performing Federal construction contracts should, to the maximum extent practicable, give preference in the selection of subcontractors to subcontractors participating in apprenticeship programs registered with the Department of Labor or with a State apprenticeship agency recognized by such Department; and

(2) contractors and subcontractors performing Federal construction contracts should provide maximum practicable opportunities for employment of apprentices who are participating in or who have completed such apprenticeship programs.

SEC. 7205. REPEAL OF OBSOLETE PROVISION.

Section 308 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 258) is repealed.

SEC. 7206. REPEAL OF OBSOLETE AND REDUNDANT PROVISIONS OF LAW.

(a) REPEAL OF REQUIREMENT FOR POLICY GUIDANCE.—Title III of the Act of March 3, 1933 (41 U.S.C. 10a et seq.), commonly referred to as

the "Buy American Act", is amended in section 4(g) (41 U.S.C. 10b–1(g)) by striking out paragraphs (2)(C) and (3).

(b) REPEAL OF REPORTING REQUIREMENT.—Section 9096(b) of Public Law 102–396 (106 Stat. 1924; 41 U.S.C. 10b–2(b)) is repealed.

(c) REPEAL OF STUDIES OF WAIVERS.—Section 306 of the Trade Agreements Act of 1979 (19 U.S.C. 2516) is repealed.

Subtitle C—Waiver of Application of Prevailing Wage-Setting Requirements to Volunteers

SEC. 7301. SHORT TITLE.

This subtitle may be cited as the "Community Improvement Volunteer Act of 1994".

SEC. 7302. PURPOSE.

It is the purpose of this subtitle to promote and provide opportunities for people who wish to volunteer their services to State or local governments, public agencies, or nonprofit charitable organizations in the construction, repair or alteration (including painting and decorating) of public buildings and public works that are funded, in whole or in part, with Federal financial assistance authorized under certain Federal programs and that might not otherwise be possible without the use of volunteers.

SEC. 7303. WAIVER FOR INDIVIDUALS WHO PERFORM VOLUNTEER SERVICES FOR PUBLIC ENTITIES.

(a) IN GENERAL.—The requirement that certain laborers and mechanics be paid in accordance with the wage-setting provisions of the Act of March 3, 1931 (commonly known as the "Davis-Bacon Act") (40 U.S.C. 276a et seq.) as set forth in any of the Acts or provisions described in section 7305 shall not apply to an individual—

(1) who volunteers—

(A) to perform a service directly to a State or local government or a public agency for civic, charitable, or humanitarian reasons, without promise, expectation, or receipt of compensation for services rendered, other than expenses, reasonable benefits, or a nominal fee (as defined in subsection (b)), but solely for the personal purpose or pleasure of the individual; and

(B) to provide such services freely and without pressure or coercion, direct or implied, from any employer;

(2) whose contribution of service is not for the direct or indirect benefit of any contractor otherwise performing or seeking to perform work on the same project for which the individual is volunteering;

(3) who is not employed by and does not provide services to a contractor or subcontractor at any time on the federally assisted or insured project for which the individual is volunteering; and

(4) who is not otherwise employed by the same public agency to perform the same type of services as those for which the individual proposes to volunteer.

(b) EXPENSES.—Payments of expenses, reasonable benefits, or a nominal fee may be provided to volunteers described in subsection (a) only in accordance with regulations issued by the Secretary of Labor. In prescribing the regulations, the Secretary shall take into consideration criteria such as the total amount of payments made (relating to expenses, benefits, or fees) in the context of the economic realities. The regulations shall include provisions that provide that—

(1) a payment for an expense may be received by a volunteer for items such as uniform allowances, protective gear and clothing, reimbursement for approximate out-of-pocket expenses, or for the cost or expense of meals and transportation;

(2) a reasonable benefit may include the inclusion of a volunteer in a group insurance plan (such as a liability, health, life, disability, or worker's compensation plan) or pension plan, or the awarding of a length of service award; and

(3) a nominal fee may not be used as a substitute for compensation and may not be connected to productivity.

The decision as to what constitutes a nominal fee for purposes of paragraph (3) shall be determined based on the context of the economic realities of the situation involved and shall be made by the Secretary of Labor.

(c) ECONOMIC REALITY.—For purposes of subsection (b), in determining whether an expense, benefit, or fee described in such subsection may be paid to volunteers in the context of the economic realities of the particular situation, the Secretary of Labor may not permit any such expense, benefit, or fee that has the effect of undermining labor standards by creating downward pressure on prevailing wages in the local construction industry.

SEC. 7304. WAIVER FOR INDIVIDUALS WHO PERFORM VOLUNTEER SERVICES FOR NONPROFIT ENTITIES.

The requirement that certain laborers and mechanics be paid in accordance with the wage-setting provisions of the Act of March 3, 1931 (commonly known as the "Davis-Bacon Act") (40 U.S.C. 276a et seq.) as set forth in any of the Acts or provisions described in section 7305 shall not apply to any individual—

(1) who volunteers—

(A) to perform a service directly to a public or private nonprofit recipient of Federal assistance for civic, charitable, or humanitarian reasons, without promise, expectation, or receipt of compensation for services rendered, but solely for the personal purpose or pleasure of the individual; and

(B) to provide such services freely and without pressure or coercion, direct or implied, from any employer;

(2) whose contribution of service is not for the direct or indirect benefit of any contractor otherwise performing or seeking to perform work on the same project for which the individual is volunteering;

(3) who is not employed by and does not provide services to a contractor or subcontractor at any time on the federally assisted or insured project for which the individual is volunteering; and

(4) who is not otherwise employed by the recipient of Federal assistance to perform the same type of services as those for which the individual proposes to volunteer.

SEC. 7305. CONTRACTS AFFECTED.

For purposes of sections 7303 and 7304, the Acts or provisions described in this section are—

(1) the Library Services and Construction Act (20 U.S.C. 351 et seq.);

(2) the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.);

(3) section 329 of the Public Health Service Act (42 U.S.C. 254b);

(4) section 330 of the Public Health Service Act (42 U.S.C. 254c);

(5) the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.); and

(6) the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.).

SEC. 7306. REPORT.

Not later than December 31, 1997, the Secretary of Labor shall prepare and submit to the appropriate committees of Congress a report that—

(1) to the maximum extent practicable—

(A) identifies and assesses the barriers that prevent private for-profit entities from using volunteers permitted under this subtitle; and

(B) assesses whether private for-profit entities should be permitted to use volunteers on projects relating to the construction, repair, or alteration of public buildings and public works if—

(i) such volunteers are performing services for civic, charitable, humanitarian or educational reasons;

(ii) the contribution of such services is not for the direct or indirect benefit of the private for-profit entity that is performing or seeking to perform work on such projects; and

(iii) such projects would not otherwise be possible without the use of volunteers; and

(2) contains recommendations with respect to other Acts related to the Davis-Bacon Act that may be considered in legislation to permit volunteer work.

TITLE VIII—COMMERCIAL ITEMS

Subtitle A—Definitions and Regulations

SEC. 8001. DEFINITIONS.

(a) DEFINITIONS.—Section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403) is amended by adding at the end the following new paragraphs:

"(12) The term 'commercial item' means any of the following:

"(A) Any item, other than real property, that is of a type customarily used by the general public or by nongovernmental entities for purposes other than governmental purposes, and that—

"(i) has been sold, leased, or licensed to the general public; or

"(ii) has been offered for sale, lease, or license to the general public.

"(B) Any item that evolved from an item described in subparagraph (A) through advances in technology or performance and that is not yet available in the commercial marketplace, but will be available in the commercial marketplace in time to satisfy the delivery requirements under a Federal Government solicitation.

"(C) Any item that, but for—

"(i) modifications of a type customarily available in the commercial marketplace, or

"(ii) minor modifications made to meet Federal Government requirements,

would satisfy the criteria in subparagraph (A) or (B).

"(D) Any combination of items meeting the requirements of subparagraph (A), (B), (C), or (E) that are of a type customarily combined and sold in combination to the general public.

"(E) Installation services, maintenance services, repair services, training services, and other services if such services are procured for support of an item referred to in subparagraph (A), (B), (C), or (D) and if the source of such services—

"(i) offers such services to the general public and the Federal Government contemporaneously and under similar terms and conditions; and

"(ii) offers to use the same work force for providing the Federal Government with such services as the source uses for providing such services to the general public.

"(F) Services offered and sold competitively, in substantial quantities, in the commercial marketplace based on established catalog prices for specific tasks performed and under standard commercial terms and conditions.

"(G) Any item, combination of items, or service referred to in subparagraphs (A) through (F) notwithstanding the fact that the item, combination of items, or service is transferred between or among separate divisions, subsidiaries, or affiliates of a contractor.

"(H) A nondevelopmental item, if the procuring agency determines, in accordance with conditions set forth in the Federal Acquisition Regulation, that the item was developed exclusively at private expense and has been sold in substantial quantities, on a competitive basis, to multiple State and local governments.

"(13) The term 'nondevelopmental item' means any of the following:

"(A) Any commercial item.

"(B) Any previously developed item of supply that is in use by a department or agency of the United States, a State or local government, or a foreign government with which the United States has a mutual defense cooperation agreement.

"(C) Any item of supply described in subparagraph (A) or (B) that requires only minor modification or modification of the type customarily available in the commercial marketplace in order to meet the requirements of the procuring department or agency.

"(D) Any item of supply currently being produced that does not meet the requirements of subparagraph (A), (B), or (C) solely because the item is not yet in use.

"(14) The term 'component' means any item supplied to the Federal Government as part of an end item or of another component.

"(15) The term 'commercial component' means any component that is a commercial item.".

(b) STYLISTIC AMENDMENTS.—Such section is further amended—

(1) by striking out "Act—" in the matter preceding paragraph (1) and inserting in lieu thereof "Act:";

(2) by capitalizing the first letter of the first word in each of paragraphs (1) through (11);

(3) by striking out the semicolon at the end of each of paragraphs (1), (2), (3), (5), (6), (7), (8), and (9) and inserting in lieu thereof a period; and

(4) by striking out "; and" at the end of paragraphs (4) and (10) and inserting in lieu thereof a period.

SEC. 8002. REGULATIONS ON ACQUISITION OF COMMERCIAL ITEMS.

(a) IN GENERAL.—The Federal Acquisition Regulation shall provide regulations to implement paragraphs (12) through (15) of section 4 of the Office of Federal Procurement Policy Act, chapter 140 of title 10, United States Code, and sections 314 through 314B of the Federal Property and Administrative Services Act of 1949.

(b) CONTRACT CLAUSES.—(1) The regulations prescribed under subsection (a) shall contain a list of contract clauses to be included in contracts for the acquisition of commercial end items. Such list shall, to the maximum extent practicable, include only those contract clauses—

(A) that are required to implement provisions of law or executive orders applicable to acquisitions of commercial items or commercial components, as the case may be; or

(B) that are determined to be consistent with standard commercial practice.

(2) Such regulations shall provide that a prime contractor shall not be required by the Federal Government to apply to any of its divisions, subsidiaries, affiliates, subcontractors, or suppliers that are furnishing commercial items any contract clause except those—

(A) that are required to implement provisions of law or executive orders applicable to subcontractors furnishing commercial items or commercial components, as the case may be; or

(B) that are determined to be consistent with standard commercial practice.

(3) To the maximum extent practicable, only the contract clauses listed pursuant to paragraph (1) may be used in a contract, and only the contract clauses referred to in paragraph (2) may be required to be used in a subcontract, for the acquisition of commercial items or commercial components by or for an executive agency.

(4) The Federal Acquisition Regulation shall provide standards and procedures for waiving the use of contract clauses required pursuant to paragraph (1), other than those required by law, including standards for determining the cases in which a waiver is appropriate.

(5) For purposes of this subsection, the term 'subcontract' includes a transfer of commercial items between divisions, subsidiaries, or affiliates of a contractor or subcontractor.

(c) MARKET ACCEPTANCE.—(1) The Federal Acquisition Regulation shall provide that under appropriate conditions the head of an executive agency may require offerors to demonstrate that the items offered—

(A) have either—

(i) achieved commercial market acceptance; or

(ii) been satisfactorily supplied to an executive agency under current or recent contracts for the same or similar requirements; and

(B) otherwise meet the item description, specifications, or other criteria prescribed in the public notice and solicitation relating to the contract.

(2) The Federal Acquisition Regulation shall provide guidance to ensure that the criteria for determining commercial market acceptance include the consideration of—

(A) the minimum needs of the executive agency concerned; and

(B) the entire relevant commercial market, including small businesses.

(d) USE OF FIRM, FIXED PRICE CONTRACTS.—The Federal Acquisition Regulation shall include, for acquisitions of commercial items—

(1) a requirement that firm, fixed price contracts or fixed price with economic price adjustment contracts be used to the maximum extent practicable; and

(2) a prohibition on use of cost type contracts.

(e) CONTRACT QUALITY REQUIREMENTS.—The regulations prescribed under subsection (a) shall include provisions that—

(1) permit, to the maximum extent practicable, a contractor under a commercial items acquisition to use the existing quality assurance system of the contractor as a substitute for compliance with an otherwise applicable requirement for the Government to inspect or test the commercial items before the contractor's tender of those items for acceptance by the Government;

(2) require that, to the maximum extent practicable, the executive agency take advantage of warranties (including extended warranties) offered by offerors of commercial items and use such warranties for the repair and replacement of commercial items; and

(3) set forth guidance regarding the use of past performance of commercial items and sources as a factor in contract award decisions.

(f) DEFENSE CONTRACT CLAUSES.—(1) Section 824(b) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 10 U.S.C. 2325 note) shall cease to be effective on the date on which the regulations implementing this section become effective.

(2) Notwithstanding subsection (b), a contract of the Department of Defense entered into before the date on which section 824(b) ceases to be effective under paragraph (1), and a subcontract entered into before such date under such a contract, may include clauses developed pursuant to paragraphs (2) and (3) of section 824(b) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 10 U.S.C. 2325 note).

SEC. 8003. LIST OF INAPPLICABLE LAWS IN FEDERAL ACQUISITION REGULATION.

(a) LIST.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), is amended by adding after section 33, as added by section 4101, the following new section:

"SEC. 34. LIST OF LAWS INAPPLICABLE TO PROCUREMENTS OF COMMERCIAL ITEMS IN FEDERAL ACQUISITION REGULATION.

"(a) LIST OF INAPPLICABLE PROVISIONS OF LAW.—(1) The Federal Acquisition Regulation shall include a list of provisions of law that are inapplicable to contracts for the procurement of commercial items. A provision of law that is properly included on the list pursuant to paragraph (2) may not be construed as applicable to purchases of commercial items by an executive agency. Nothing in this section shall be construed to render inapplicable to contracts for the procurement of commercial items any provision of law that is not included on such list.

"(2) A provision of law described in subsection (c) that is enacted after the date of the enactment of the Federal Acquisition Streamlining Act of 1994 shall be included on the list of inapplicable provisions of law required by paragraph (1), unless the Federal Acquisition Regulatory Council makes a written determination that it would not be in the best interest of the Federal Government to exempt contracts for the procurement of commercial items from the applicability of the provision.

"(b) SUBCONTRACTS.—(1) The Federal Acquisition Regulation shall include a list of provisions of law that are inapplicable to subcontracts under either a contract for the procurement of commercial items or a subcontract for the procurement of commercial items. A provision of law that is properly included on the list pursuant to paragraph (2) may not be construed as applicable to such subcontracts. Nothing in this section shall be construed to render inapplicable to subcontracts under a contract for the procurement of commercial items any provision of law that is not included on such list.

"(2) A provision of law described in subsection (c) shall be included on the list of inapplicable provisions of law required by paragraph (1) unless the Federal Acquisition Regulatory Council makes a written determination that it would not be in the best interest of the Federal Government to exempt subcontracts under a contract for the procurement of commercial items from the applicability of the provision.

"(3) Nothing in this subsection shall be construed to authorize the waiver of the applicability of any provision of law with respect to any subcontract under a contract with a prime contractor reselling or distributing commercial items of another contractor without adding value.

"(4) In this subsection, the term 'subcontract' includes a transfer of commercial items between divisions, subsidiaries, or affiliates of a contractor or subcontractor.

"(c) COVERED LAW.—A provision of law referred to in subsections (a) and (b) is any provision of law that, as determined by the Federal Acquisition Regulatory Council, sets forth policies, procedures, requirements, or restrictions for the procurement of property or services by the Federal Government, except for a provision of law that—

"(1) provides for criminal or civil penalties; or

"(2) specifically refers to this section and provides that, notwithstanding this section, it shall be applicable to contracts for the procurement of commercial items.

"(d) PETITION.—In the event that a provision of law described in subsection (c) is not included on the list of inapplicable provisions of law as required by subsection (a) or (b), and no written determination has been made by the Federal Acquisition Regulatory Council pursuant to subsection (a)(2) or (b)(2), a person may petition the Administrator for Federal Procurement Policy to take appropriate action. The Administrator shall revise the Federal Acquisition Regulation to include the provision on the list of inapplicable provisions of law unless the Federal Acquisition Regulatory Council makes a determination pursuant to subsection (a)(2) or (b)(2) within 60 days after the date on which the petition is received.".

(b) EFFECTIVE DATE OF PETITION PROVISION.—No petition may be filed under section 34(d) of the Office of Federal Procurement Policy Act, as added by subsection (a), until after the date occurring 6 months after the date of the enactment of this Act.

Subtitle B—Armed Services Acquisitions

SEC. 8101. ESTABLISHMENT OF NEW CHAPTER IN TITLE 10.

(a) ESTABLISHMENT.—Part IV of subtitle A of title 10, United States Code, is amended by inserting after chapter 139 the following new chapter 140:

"CHAPTER 140—PROCUREMENT OF COMMERCIAL ITEMS

"Sec.
"2375. Relationship of commercial item provisions to other provisions of law.
"2376. Definitions.
"2377. Preference for acquisition of commercial items.

(b) CLERICAL AMENDMENT.—The tables of chapters at the beginning of subtitle A of title 10, United States Code, and the beginning of part IV of such subtitle are amended by inserting after the item relating to chapter 139 the following new item:

"140. Procurement of Commercial Items 2375".

SEC. 8102. RELATIONSHIP TO OTHER PROVISIONS OF LAW.

Chapter 140 of title 10, United States Code, as added by section 8101, is amended by adding after the table of sections the following:

"§2375. Relationship of commercial item provisions to other provisions of law

"(a) APPLICABILITY OF TITLE.—Unless otherwise specifically provided, nothing in this chapter shall be construed as providing that any other provision of this title relating to procurement is inapplicable to the procurement of commercial items.

"(b) LIST OF LAWS INAPPLICABLE TO CONTRACTS FOR THE ACQUISITION OF COMMERCIAL ITEMS.—No contract for the procurement of a commercial item entered into by the head of an agency shall be subject to any law properly listed in the Federal Acquisition Regulation (pursuant to section 34 of the Office of Federal Procurement Policy Act).

"(c) CROSS REFERENCE TO EXCEPTION TO COST OR PRICING DATA REQUIREMENTS FOR COMMERCIAL ITEMS.—For provisions relating to exceptions for requirements for cost or pricing data for contracts for the procurement of commercial items, see section 2306a(d) of this title.".

SEC. 8103. DEFINITIONS.

Chapter 140 of title 10, United States Code, as amended by section 8102, is further amended by adding after section 2375 the following new section:

"§2376. Definitions

"In this chapter:

"(1) The terms 'commercial item', 'nondevelopmental item', 'component', and 'commercial component' have the meanings provided in section 4 of the Office of Federal Procurement Policy Act.

"(2) The term 'head of an agency' means the Secretary of Defense, the Secretary of Transportation, and the Administrator of the National Aeronautics and Space Administration.

"(3) The term 'agency' means the Department of Defense, the Coast Guard, and the National Aeronautics and Space Administration.".

SEC. 8104. PREFERENCE FOR ACQUISITION OF COMMERCIAL ITEMS.

(a) IN GENERAL.—Chapter 140 of title 10, United States Code, as amended by section 8103, is further amended by adding after section 2376 the following new section:

"§2377. Preference for acquisition of commercial items

"(a) PREFERENCE.—The head of an agency shall ensure that, to the maximum extent practicable—

"(1) requirements of the agency with respect to a procurement of supplies or services are stated in terms of—

"(A) functions to be performed;

"(B) performance required; or

"(C) essential physical characteristics;

"(2) such requirements are defined so that commercial items or, to the extent that commercial items suitable to meet the agency's needs are not available, nondevelopmental items other than commercial items, may be procured to fulfill such requirements; and

"(3) offerors of commercial items and nondevelopmental items other than commercial items are provided an opportunity to compete in any procurement to fill such requirements.

"(b) IMPLEMENTATION.—The head of an agency shall ensure that procurement officials in that agency, to the maximum extent practicable—

"(1) acquire commercial items or nondevelopmental items other than commercial items to meet the needs of the agency;

"(2) require prime contractors and subcontractors at all levels under the agency contracts to incorporate commercial items or nondevelopmental items other than commercial items as components of items supplied to the agency;

"(3) modify requirements in appropriate cases to ensure that the requirements can be met by commercial items or, to the extent that commercial items suitable to meet the agency's needs are not available, nondevelopmental items other than commercial items;

"(4) state specifications in terms that enable and encourage bidders and offerors to supply commercial items or, to the extent that commercial items suitable to meet the agency's needs are not available, nondevelopmental items other than commercial items in response to the agency solicitations;

"(5) revise the agency's procurement policies, practices, and procedures not required by law to reduce any impediments in those policies, practices, and procedures to the acquisition of commercial items; and

"(6) require training of appropriate personnel in the acquisition of commercial items.

"(c) PRELIMINARY MARKET RESEARCH.—(1) The head of an agency shall conduct market research appropriate to the circumstances—

"(A) before developing new specifications for a procurement by that agency; and

"(B) before soliciting bids or proposals for a contract in excess of the simplified acquisition threshold.

"(2) The head of an agency shall use the results of market research to determine whether there are commercial items or, to the extent that commercial items suitable to meet the agency's needs are not available, nondevelopmental items other than commercial items available that—

"(A) meet the agency's requirements;

"(B) could be modified to meet the agency's requirements; or

"(C) could meet the agency's requirements if those requirements were modified to a reasonable extent.

"(3) In conducting market research, the head of an agency should not require potential sources to submit more than the minimum information that is necessary to make the determinations required in paragraph (2).".

(b) REPEAL OF SUPERSEDED PROVISION.—(1) Section 2325 of title 10, United States Code, is repealed.

(2) The table of sections at the beginning of chapter 137 of such title is amended by striking out the item relating to section 2325.

SEC. 8105. INAPPLICABILITY OF CERTAIN PROVISIONS OF LAW.

(a) INAPPLICABILITY OF REQUIREMENT FOR CONTRACT CLAUSE REGARDING CONTINGENT FEES.—Section 2306(b) of title 10, United States Code, as amended by section 4102(b), is further amended by inserting before the period at the end of the sentence added by that section the following: "or to a contract for the acquisition of commercial items".

(b) INAPPLICABILITY OF REQUIREMENT TO IDENTIFY SUPPLIERS AND SOURCES OF SUPPLIES.—Paragraph (2) of section 2384(b) of title 10, United States Code, is amended to read as follows:

"(2) The regulations prescribed pursuant to paragraph (1) do not apply to a contract that requires the delivery of supplies that are commercial items, as defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12))).".

(c) INAPPLICABILITY OF PROHIBITION AGAINST DOING BUSINESS WITH CERTAIN OFFERORS OR CONTRACTORS.—Section 2393(d) of title 10, United States Code, as amended by section 4102(e), is further amended by adding at the end the following: "The requirement shall not apply in the case of a subcontract for the acquisition of commercial items (as defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12))).".

(d) REPORTS BY EMPLOYEES OR FORMER EMPLOYEES OF DEFENSE CONTRACTORS.—Section 2397(a)(1) of title 10, United States Code, as amended by section 4401(d), is further amended by adding at the end the following: "The term does not include a contract for the purchase of commercial items (as defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).".

(e) LIMITS ON EMPLOYMENT FOR CERTAIN FORMER DOD OFFICIALS.—Section 2397b(f) of title 10, United States Code, is amended in paragraph (2)(B)—

(A) by striking out "or" at the end of clause (i);

(B) by striking out the period at the end of clause (ii) and inserting in lieu thereof "; or"; and

(C) by adding at the end the following new clause:

"(iii) any person who contracts to supply the Department of Defense only commercial items (as defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12))".

(f) DEFENSE CONTRACTOR REQUIREMENTS CONCERNING FORMER DOD OFFICIALS.—Section 2397c of title 10, United States Code, is amended by adding at the end the following:

"(e) This section does not apply to contracts for the purchase of commercial items (as defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12))).".

(g) INAPPLICABILITY OF PROHIBITION ON LIMITATION OF SUBCONTRACTOR DIRECT SALES.—(1) Section 2402 of title 10, United States Code, as amended by section 4102(f), is further amended by adding at the end the following new subsection:

"(d)(1) An agreement between the contractor in a contract for the acquisition of commercial items and a subcontractor under such contract that restricts sales by such subcontractor directly to persons other than the contractor may not be considered to unreasonably restrict sales by that subcontractor to the United States in violation of the provision included in such contract pursuant to subsection (a) if the agreement does not result in the United States being treated differently with regard to the restriction than any other prospective purchaser of such commercial items from that subcontractor.

"(2) In paragraph (1), the term 'commercial item' has the meaning given such term in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).".

(h) INAPPLICABILITY OF PROHIBITION ON PERSONS CONVICTED OF DEFENSE-RELATED FELONIES.—Paragraph (4) of section 2408(a) of title 10, United States Code, as added by section 4102(g), is amended—

(1) by inserting after subparagraph (A) the following:

"(B) A contract referred to in such subparagraph that is for the acquisition of commercial items (as defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12))).".; and

(2) by inserting "or (B)" before the period at the end of subparagraph (C).

(i) INAPPLICABILITY OF CONTRACTOR INVENTORY ACCOUNTING SYSTEM STANDARDS.—Section 2410b of title 10, United States Code, is amended by adding after subsection (b), as added by section 4102(h), the following:

"(c) The regulations prescribed pursuant to subsection (a) shall not apply to a contract for the purchase of commercial items (as defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12))).".

(j) INAPPLICABILITY OF REPORTING REQUIREMENT REGARDING DEALINGS WITH TERRORIST COUNTRIES.—Section 843(a) of Public Law 103-160 (107 Stat. 1720) is amended by adding at the end the following:

"(3) This section does not apply with respect to a contract for the procurement of a commercial item (as defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12))).".

(k) AMENDMENTS TO ARMED SERVICES PROVISION.—Section 806 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102-190; 10 U.S.C. 2301 note) is amended by striking out subsection (b) and inserting in lieu thereof the following:

"(b) INAPPLICABILITY TO CERTAIN CONTRACTS.—Regulations prescribed under this section shall not apply to a contract for the acquisition of commercial items (as defined in section 4(12) of the Office of Federal Procurement Policy Act).".

SEC. 8106. PRESUMPTION THAT TECHNICAL DATA UNDER CONTRACTS FOR COMMERCIAL ITEMS ARE DEVELOPED EXCLUSIVELY AT PRIVATE EXPENSE.

(a) REGULATIONS REQUIRED TO INCLUDE PRESUMPTION OF DEVELOPMENT AT PRIVATE EXPENSE.—Paragraph (1) of section 2320(b) of title 10, United States Code, is amended by inserting before the semicolon at the end the following: "and providing that, in the case of a contract for a commercial item, the item shall be presumed to be developed at private expense unless shown otherwise in accordance with section 2321(f)".

(b) ASSERTION OF RESTRICTION PRESUMED JUSTIFIED.—Section 2321 of title 10, United States Code, is amended—

(1) by redesignating subsections (f), (g), (h), and (i) as subsections (g), (h), (i), and (j); and

(2) by inserting after subsection (e) the following new subsection:

"(f) PRESUMPTION OF DEVELOPMENT EXCLUSIVELY AT PRIVATE EXPENSE FOR COMMERCIAL ITEMS CONTRACTS.—In the case of a challenge to a use or release restriction that is asserted with respect to technical data of a contractor or subcontractor under a contract for commercial items, the contracting officer shall presume that the contractor or subcontractor has justified the restriction on the basis that the item was developed exclusively at private expense, whether or not the contractor or subcontractor submits a justification in response to the notice provided pursuant to subsection (d)(3). In such a case, the challenge to the use or release restriction may be sustained only if information provided by the Department of Defense demonstrates that the item was not developed exclusively at private expense.".

Subtitle C—Civilian Agency Acquisitions

SEC. 8201. RELATIONSHIP TO OTHER PROVISIONS OF LAW.

Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), as amended by section 5051(a), is further amended by adding after section 313 the following new section:

"SEC. 314. RELATIONSHIP OF COMMERCIAL ITEM PROVISIONS TO OTHER PROVISIONS OF LAW.

"(a) APPLICABILITY OF TITLE.—Unless otherwise specifically provided, nothing in this section, section 314A, or section 314B shall be construed as providing that any other provision of this title relating to procurement is inapplicable to the procurement of commercial items.

"(b) LIST OF LAWS INAPPLICABLE TO CONTRACTS FOR THE ACQUISITION OF COMMERCIAL ITEMS.—No contract for the procurement of a commercial item entered into by the head of an executive agency shall be subject to any law properly listed in the Federal Acquisition Regulation (pursuant to section 34 of the Office of Federal Procurement Policy Act).

SEC. 8202. DEFINITIONS.

Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), as amended by section 8201, is further amended by adding after section 314 the following new section:

"SEC. 314A. DEFINITIONS.

"As used in this title, the terms 'commercial item', 'nondevelopmental item', 'component', and 'commercial component' have the meanings provided in section 4 of the Office of Federal Procurement Policy Act.".

SEC. 8203. PREFERENCE FOR ACQUISITION OF COMMERCIAL ITEMS.

Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), as amended by section 8202, is further amended by adding after section 314A the following new section:

"SEC. 314B. PREFERENCE FOR ACQUISITION OF COMMERCIAL ITEMS.

"(a) PREFERENCE.—The head of each executive agency shall ensure that, to the maximum extent practicable—

"(1) requirements of the executive agency with respect to a procurement of supplies or services are stated in terms of—

"(A) functions to be performed;

"(B) performance required; or

"(C) essential physical characteristics;

"(2) such requirements are defined so that commercial items or, to the extent that commercial items suitable to meet the executive agency's needs are not available, nondevelopmental items other than commercial items, may be procured to fulfill such requirements; and

"(3) offerors of commercial items and nondevelopmental items other than commercial items are provided an opportunity to compete in any procurement to fill such requirements.

"(b) IMPLEMENTATION.—The head of each executive agency shall ensure that procurement officials in that executive agency, to the maximum extent practicable—

"(1) acquire commercial items or nondevelopmental items other than commercial items to meet the needs of the executive agency;

"(2) require prime contractors and subcontractors at all levels under the executive agency contracts to incorporate commercial items or nondevelopmental items other than commercial items as components of items supplied to the executive agency;

"(3) modify requirements in appropriate cases to ensure that the requirements can be met by commercial items or, to the extent that commercial items suitable to meet the executive agency's needs are not available, nondevelopmental items other than commercial items;

"(4) state specifications in terms that enable and encourage bidders and offerors to supply commercial items or, to the extent that commercial items suitable to meet the executive agency's needs are not available, nondevelopmental items other than commercial items in response to the executive agency solicitations;

"(5) revise the executive agency's procurement policies, practices, and procedures not required by law to reduce any impediments in those policies, practices, and procedures to the acquisition of commercial items; and

"(6) require training of appropriate personnel in the acquisition of commercial items.

"(c) PRELIMINARY MARKET RESEARCH.—(1) The head of an executive agency shall conduct market research appropriate to the circumstances—

"(A) before developing new specifications for a procurement by that executive agency; and

"(B) before soliciting bids or proposals for a contract in excess of the simplified acquisition threshold.

"(2) The head of an executive agency shall use the results of market research to determine whether there are commercial items or, to the extent that commercial items suitable to meet the executive agency's needs are not available, nondevelopmental items other than commercial items available that—

"(A) meet the executive agency's requirements;

"(B) could be modified to meet the executive agency's requirements; or

"(C) could meet the executive agency's requirements if those requirements were modified to a reasonable extent.

"(3) In conducting market research, the head of an executive agency should not require potential sources to submit more than the minimum information that is necessary to make the determinations required in paragraph (2).".

SEC. 8204. INAPPLICABILITY OF CERTAIN PROVISIONS OF LAW.

(a) INAPPLICABILITY OF PROHIBITION ON LIMITING SUBCONTRACTOR DIRECT SALES TO THE UNITED STATES.—Section 303G of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253g), as amended by section 4103(b), is further amended by adding at the end the following new subsection:

"(d) An agreement between the contractor in a contract for the acquisition of commercial items and a subcontractor under such contract that restricts sales by such subcontractor directly to persons other than the contractor may not be considered to unreasonably restrict sales by that subcontractor to the United States in violation of the provision included in such contract pursuant to subsection (a) if the agreement does not result in the Federal Government being treated differently with regard to the restriction than any other prospective purchaser of such commercial items from that subcontractor.".

(b) INAPPLICABILITY OF REQUIREMENT FOR CONTRACT CLAUSE REGARDING CONTINGENT FEES.—Section 304(a) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(a)), as amended by section 4103(c), is further amended by inserting before the period at the end of the sentence added by section 4103(c) the following: "or to a contract for the acquisition of commercial items".

Subtitle D—Acquisitions Generally

SEC. 8301. INAPPLICABILITY OF CERTAIN PROVISIONS OF LAW.

(a) FEDERAL WATER POLLUTION CONTROL ACT.—Section 508 of the Federal Water Pollution Control Act (33 U.S.C. 1368) is amended by adding at the end the following new subsection:

"(f)(1) No certification by a contractor, and no contract clause, may be required in the case of a contract for the acquisition of commercial items in order to implement a prohibition or requirement of this section or a prohibition or requirement issued in the implementation of this section.

"(2) In paragraph (1), the term 'commercial item' has the meaning given such term in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).".

(b) CONTRACT WORK HOURS AND SAFETY STANDARDS ACT.—The Contract Work Hours and Safety Standards Act (title I of the Work Hours and Safety Act of 1962 (40 U.S.C. 327 et seq.)) is amended by adding at the end the following new section:

"SEC. 108. (a) No certification by a contractor, and no contract clause, may be required in the

case of a contract for the acquisition of commercial items in order to implement a prohibition or requirement in this title.

"(b) In subsection (a), the term 'commercial item' has the meaning given such term in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).".

(c) ANTI-KICKBACK ACT OF 1986.—(1) Section 7 of the Anti-Kickback Act of 1986 (41 U.S.C. 57), as amended by section 4104(a), is further amended by inserting before the period at the end of subsection (d) the following: "or to a prime contract for the acquisition of commercial items (as defined in section 4(12) of such Act (41 U.S.C. 403(12))).".

(2) Section 8 of such Act (41 U.S.C. 58) is amended by adding at the end the following: "This section does not apply with respect to a prime contract for the acquisition of commercial items (as defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12))).".

(d) COST ACCOUNTING STANDARDS BOARD.—Section 26(f)(2) of the Office of Federal Procurement Policy Act (41 U.S.C. 422(f)(2)) is amended—

(1) by inserting "(A)" after "(2)";

(2) by striking out ", other than contracts or subcontracts" and all that follows and inserting in lieu thereof a period; and

(3) by inserting at the end the following:

"(B) Subparagraph (A) does not apply to the following contracts or subcontracts:

"(i) Contracts or subcontracts where the price negotiated is based on established catalog or market prices of commercial items sold in substantial quantities to the general public.

"(ii) Contracts or subcontracts where the price negotiated is based on prices set by law or regulation.

"(iii) Any other firm fixed-price contract or subcontract (without cost incentives) for commercial items.

"(C) In this paragraph, the term 'subcontract' includes a transfer of commercial items between divisions, subsidiaries, or affiliates of a contractor or subcontractor.".

(e) CERTIFICATION REQUIREMENTS.—Subsection (e)(1)(B) of section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) is amended by inserting after "certifies in writing to such contracting officer" the following: ", except in the case of a contract for the procurement of commercial items,".

(f) DRUG-FREE WORKPLACE ACT OF 1988.—Section 5152(a)(1) of the Drug-Free Workplace Act of 1988 (subtitle D of title V of Public Law 100-690; 41 U.S.C. 701 et seq.), as amended by section 4104(d), is further amended by inserting after the matter inserted by such section 4104(d) the following: ", other than a contract for the procurement of commercial items as defined in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403)),".

(g) CLEAN AIR ACT.—The Federal Acquisition Regulation may not contain a requirement for a certification by a contractor under a contract for the acquisition of commercial items, or a requirement that such a contract include a contract clause, in order to implement a prohibition or requirement of section 306 of the Clean Air Act (42 U.S.C. 7606) or a prohibition or requirement issued in the implementation of that section, since there is nothing in such section 306 that requires such a certification or contract clause.

(h) FLY AMERICAN REQUIREMENTS.—Section 40118 of title 49, United States Code, is amended by adding at the end the following new subsection:

"(f)(1) No certification by a contractor, and no contract clause, may be required in the case of a contract for the transportation of commercial items in order to implement a requirement in this section.

"(2) In paragraph (1), the term 'commercial item' has the meaning given such term in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).".

SEC. 8302. FLEXIBLE DEADLINES FOR SUBMISSION OF OFFERS OF COMMERCIAL ITEMS.

Section 18(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(a)), as amended by section 4201(c), is further amended by adding at the end the following new paragraph:

"(6) The Administrator shall prescribe regulations defining limited circumstances in which flexible deadlines can be used under paragraph (3) for the submission of bids or proposals for the procurement of commercial items.".

SEC. 8303. ADDITIONAL RESPONSIBILITIES FOR ADVOCATES FOR COMPETITION.

(a) RESPONSIBILITIES OF THE ADVOCATE FOR COMPETITION.—Section 20(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 418(c)) is amended to read as follows:

"(c) The advocate for competition for each procuring activity shall be responsible for promoting full and open competition, promoting the acquisition of commercial items, and challenging barriers to such acquisition, including such barriers as unnecessarily restrictive statements of need, unnecessarily detailed specifications, and unnecessarily burdensome contract clauses.".

(b) REPEAL OF SUPERSEDED PROVISION.—Section 28 of such Act (41 U.S.C. 424) is repealed.

SEC. 8304. PROVISIONS NOT AFFECTED.

Nothing in this title shall be construed as modifying or superseding, or as intended to impair or restrict, authorities or responsibilities under—

(1) section 2323 of title 10, United States Code, or section 7102 of the Federal Acquisition Streamlining Act of 1994;

(2) the Brooks Automatic Data Processing Act (section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759));

(3) Brooks Architect-Engineers Act (title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 et seq.);

(4) subsections (a) and (d) of section 8 of the Small Business Act (15 U.S.C. 637(a) and (d)); or

(5) the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c).

SEC. 8305. COMPTROLLER GENERAL REVIEW OF FEDERAL GOVERNMENT USE OF MARKET RESEARCH.

(a) REPORT REQUIRED.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Congress a report on the use of market research by the Federal Government in support of the procurement of commercial items and nondevelopmental items.

(b) CONTENT OF REPORT.—The report shall include the following:

(1) A review of existing Federal Government market research efforts to gather data concerning commercial and other nondevelopmental items.

(2) A review of the feasibility of creating a Government-wide data base for storing, retrieving, and analyzing market data, including use of existing Federal Government resources.

(3) Any recommendations for changes in law or regulations that the Comptroller General considers appropriate.

TITLE IX—FEDERAL ACQUISITION COMPUTER NETWORK

SEC. 9001. FEDERAL ACQUISITION COMPUTER NETWORK ARCHITECTURE AND IMPLEMENTATION.

(a) FEDERAL ACQUISITION COMPUTER NETWORK ARCHITECTURE.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended by adding after section 29, as added by section 1093, the following new sections:

"SEC. 30. FEDERAL ACQUISITION COMPUTER NETWORK (FACNET) ARCHITECTURE.

"(a) IN GENERAL.—(1) The Administrator shall establish a program for the development and implementation of a Federal acquisition computer network architecture (hereinafter in this section referred to as 'FACNET') that will be Government-wide and provide interoperability among users. The Administrator shall assign a program manager for FACNET and shall provide for overall direction of policy and leadership in the development, coordination, installation, operation, and completion of implementation of FACNET by executive agencies.

"(2) In carrying out paragraph (1), the Administrator shall consult with the heads of appropriate Federal agencies with applicable technical and functional expertise, including the Office of Information and Regulatory Affairs, the National Institute of Standards and Technology, the General Services Administration, and the Department of Defense.

"(3) Government-wide FACNET capability (as defined in section 30A(b)) shall be implemented not later than January 1, 2000.

"(b) FUNCTIONS OF FACNET.—The FACNET architecture shall provide for the following functions:

"(1) GOVERNMENT FUNCTIONS.—Allow executive agencies to do the following electronically:

"(A) Provide widespread public notice of solicitations for contract opportunities issued by an executive agency.

"(B) Receive responses to solicitations and associated requests for information through such system.

"(C) Provide public notice of contract awards (including price) through such system.

"(D) In cases in which it is practicable, receive questions regarding solicitations through such system.

"(E) In cases in which it is practicable, issue orders to be made through such system.

"(F) In cases in which it is practicable, make payments to contractors by bank card, electronic funds transfer, or other automated methods.

"(G) Archive data relating to each procurement action made using such system.

"(2) PRIVATE SECTOR USER FUNCTIONS.—Allow private sector users to do the following electronically:

"(A) Access notice of solicitations for contract opportunities issued by an executive agency.

"(B) Access and review solicitations issued by an executive agency.

"(C) Respond to solicitations issued by the executive agency.

"(D) In cases in which it is practicable, receive orders from the executive agency.

"(E) Access information on contract awards (including price) made by the executive agency.

"(F) In cases in which it is practicable, receive payment by bank card, electronic funds transfer, or other automated means.

"(3) GENERAL FUNCTIONS.—

"(A) Allow the electronic interchange of procurement information between the private sector and the Federal Government and among Federal agencies.

"(B) Employ nationally and internationally recognized data formats that serve to broaden and ease the electronic interchange of data.

"(C) Allow convenient and universal user access through any point of entry.

"(c) NOTICE AND SOLICITATION REGULATIONS.—In connection with implementation of the architecture referred to in subsection (a), the Federal Acquisition Regulatory Council shall ensure that the Federal Acquisition Regulation contains appropriate notice and solicitation provisions applicable to acquisitions conducted through a FACNET capability. The provisions shall specify the required form and content of notices of acquisitions and the minimum

periods for notifications of solicitations and for deadlines for the submission of offers under solicitations. Each minimum period specified for a notification of solicitation and each deadline for the submission of offers under a solicitation shall afford potential offerors a reasonable opportunity to respond.

"(d) ARCHITECTURE DEFINED.—For purposes of this section, the term 'architecture' means the conceptual framework that—

"(1) uses a combination of commercial hardware and commercial software to enable contractors to conduct business with the Federal Government by electronic means; and

"(2) includes a description of the functions to be performed to achieve the mission of streamlining procurement through electronic commerce, the system elements and interfaces needed to perform the functions, and the designation of performance levels of those system elements.

"SEC. 30A. FEDERAL ACQUISITION COMPUTER NETWORK IMPLEMENTATION.

"(a) CERTIFICATION OF FACNET CAPABILITY IN PROCURING ACTIVITIES AND AGENCIES.—(1) When the senior procurement executive of an executive agency or, in the case of the Department of Defense, the Under Secretary of Defense for Acquisition and Technology, determines that a procuring activity of the executive agency has implemented an interim FACNET capability (as defined in subsection (c)), the executive or the Under Secretary shall certify to the Administrator that such activity has implemented an interim FACNET capability.

"(2) When the head of an executive agency, with the concurrence of the Administrator for Federal Procurement Policy, determines that the executive agency has implemented a full FACNET capability (as defined in subsection (d)), the head of the executive agency shall certify to Congress that the executive agency has implemented a full FACNET capability.

"(3) The head of each executive agency shall provide for implementation of both interim FACNET capability and full FACNET capability, with priority on providing convenient and universal user access as required by section 30(b)(3)(C), in that executive agency as soon as practicable after the date of the enactment of the Federal Acquisition Streamlining Act of 1994.

"(b) CERTIFICATION OF GOVERNMENT-WIDE FACNET CAPABILITY.—When the Administrator for Federal Procurement Policy determines that the Federal Government is making at least 75 percent of eligible contracts in amounts greater than the micro-purchase threshold and not greater than the simplified acquisition threshold entered into by the Government during the preceding fiscal year through a system with full FACNET capability, the Administrator shall certify to Congress that the Government has implemented a Government-wide FACNET capability.

"(c) IMPLEMENTATION OF INTERIM FACNET CAPABILITY.—A procuring activity shall be considered to have implemented an interim FACNET capability if—

"(1) with respect to each procurement expected to be in an amount greater than the micro-purchase threshold and not greater than the simplified acquisition threshold, the procuring activity has implemented the FACNET functions described in paragraphs (1)(A), (1)(B), (2)(A), (2)(B), and (2)(C) of section 30(b); and

"(2) for each such procurement (other than a procurement for which notice is not required under section 18(c) or with respect to which the head of the procuring activity determines that it is not cost effective or practicable), the procuring activity issues notices of solicitations and receives responses to solicitations through a system having those functions.

"(d) IMPLEMENTATION OF FULL FACNET CAPABILITY.—An executive agency shall be considered to have implemented a full FACNET capability if (except in the case of procuring activities (or portions thereof) of the executive agency for which the head of the executive agency determines that implementation is not cost effective or practicable)—

"(1) the executive agency has implemented all of the FACNET functions described in section 30(b); and

"(2) more than 75 percent of the eligible contracts in amounts greater than the micro-purchase threshold and not greater than the simplified acquisition threshold entered into by the executive agency during the preceding fiscal year have been made through a system with those functions.

"(e) ELIGIBLE CONTRACTS.—For purposes of subsections (b) and (d), a contract is eligible if it is not in any class of contracts determined by the Federal Acquisition Regulatory Council (pursuant to section 9004 of the Federal Acquisition Streamlining Act of 1994) to be unsuitable for acquisition through a system with full FACNET capability.".

(b) TECHNICAL AMENDMENTS.—Section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) is amended—

(1) in subsection (a)(1)(A), by striking out "notice" in the matter following clause (ii) and inserting in lieu thereof "notice of solicitation"; and

(2) in subsection (d), by striking out "a notice under subsection (e)" in the first sentence and inserting in lieu thereof "a notice of solicitation under subsection (a)".

SEC. 9002. IMPLEMENTATION OF FACNET CAPABILITY IN ARMED SERVICES.

(a) IMPLEMENTATION IN TITLE 10.—Chapter 137 of title 10, United States Code, is amended by inserting after section 2302b, as added by section 4203, the following new section:

"§2302c. Implementation of FACNET capability

"(a) IMPLEMENTATION OF FACNET CAPABILITY.—(1) The head of each agency named in section 2303 of this title shall implement the Federal acquisition computer network ('FACNET') capability required by section 30 of the Office of Federal Procurement Policy Act. In the case of the Department of Defense, the implementation shall be by the Secretary of Defense, acting through the Under Secretary of Defense for Acquisition and Technology, for the Department of Defense as a whole. For purposes of this section, the term 'head of an agency' does not include the Secretaries of the military departments.

"(2) In implementing the FACNET capability pursuant to paragraph (1), the head of an agency shall consult with the Administrator for Federal Procurement Policy.

"(b) DESIGNATION OF AGENCY OFFICIAL.—The head of each agency named in paragraph (5) or (6) of section 2303 of this title shall designate a program manager to have responsibility for implementation of FACNET capability for that agency and otherwise to implement this section. Such program manager shall report directly to the senior procurement executive designated for the agency under section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3)).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 137 of such title is amended by inserting after the item relating to section 2302b the following new item:

"2302c. Implementation of FACNET capability.".

(c) EFFECTIVE DATE.—A FACNET capability may be implemented and used in an agency before the promulgation of regulations implementing this section (as provided in section 10002). If such implementation and use occurs, the period for submission of bids or proposals under section 18(a)(3)(B) of the Office of Federal Procurement Policy Act, in the case of a solicitation through FACNET, may be less than the period otherwise applicable under that section, but shall be at least 10 days. The preceding sentence shall not be in effect after September 30, 1995.

SEC. 9003. IMPLEMENTATION OF FACNET CAPABILITY IN CIVILIAN AGENCIES.

Title III of the Federal Property and Administrative Services Act of 1949 is amended by inserting after section 302B, as added by section 4203, the following new section:

"SEC. 302C. IMPLEMENTATION OF FACNET CAPABILITY.

"(a) IMPLEMENTATION OF FACNET CAPABILITY.—(1) The head of each executive agency shall implement the Federal acquisition computer network ('FACNET') capability required by section 30 of the Office of Federal Procurement Policy Act.

"(2) In implementing the FACNET capability pursuant to paragraph (1), the head of an executive agency shall consult with the Administrator for Federal Procurement Policy.

"(b) DESIGNATION OF AGENCY OFFICIAL.—The head of each executive agency shall designate a program manager to have responsibility for implementation of FACNET capability for that agency and otherwise to implement this section. Such program manager shall report directly to the senior procurement executive designated for the executive agency under section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3)).".

SEC. 9004. GAO DETERMINATION OF ELIGIBLE AGENCY CONTRACTS.

(a) REPORT ON CONTRACTS NOT SUITABLE FOR ACQUISITION THROUGH FULL FACNET CAPABILITY.—Not later than 3 years after the date of the enactment of this Act, the Comptroller General shall submit to the Administrator for Federal Procurement Policy and the congressional committees referred to in subsection (d) a report on the classes of contracts in amounts greater than the micro-purchase threshold and not greater than the simplified acquisition threshold that are not suitable for acquisition through a system with full FACNET capability.

(b) FAR COUNCIL DETERMINATIONS.—Not earlier than 3 years after the date of the enactment of this Act, and after consideration of the report of the Comptroller General required by subsection (a), the Federal Acquisition Regulatory Council (established by section 25 of the Office of Federal Procurement Policy Act) may make a determination that a class or classes of contracts in amounts greater than the micro-purchase threshold and not greater than the simplified acquisition threshold are not suitable for acquisition through a system with full FACNET capability. Any such determination shall be submitted to the congressional committees referred to in subsection (d). Each determination under this subsection shall take effect 60 days after the date on which it is submitted to those committees.

(c) APPLICABILITY OF DETERMINATIONS.—Each determination under subsection (b) shall apply for purposes of determining eligible contracts under section 30A(e) of the Office of Federal Procurement Policy Act, as added by section 9001.

(d) COMMITTEES.—The report required by subsection (a), and any determination made under subsection (b), shall be submitted to the Committees on Governmental Affairs, on Armed Services, and on Small Business of the Senate and the Committees on Government Operations, on Armed Services, and on Small Business of the House of Representatives.

(e) DEFINITIONS.—In this section:

(1) The term "simplified acquisition threshold" has the meaning provided by section 4(11) of the Office of Federal Procurement Policy Act, as amended by section 4001.

(2) The term "micro-purchase threshold" has the meaning provided by section 32(g) of the Office of Federal Procurement Policy Act, as added by section 4301.

(3) The term "full FACNET capability" has the meaning described in section 30A(d) of the Office of Federal Procurement Policy Act, as added by section 9001(a).

TITLE X—EFFECTIVE DATES AND IMPLEMENTATION

SEC. 10001. EFFECTIVE DATE AND APPLICABILITY.

(a) EFFECTIVE DATE.—Except as otherwise provided in this Act, this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) APPLICABILITY OF AMENDMENTS.—(1) An amendment made by this Act shall apply, in the manner prescribed in the final regulations promulgated pursuant to section 10002 to implement such amendment, with respect to any solicitation that is issued, any unsolicited proposal that is received, and any contract entered into pursuant to such a solicitation or proposal, on or after the date described in paragraph (3).

(2) An amendment made by this Act shall also apply, to the extent and in the manner prescribed in the final regulations promulgated pursuant to section 10002 to implement such amendment, with respect to any matter related to—

(A) a contract that is in effect on the date described in paragraph (3);

(B) an offer under consideration on the date described in paragraph (3); or

(C) any other proceeding or action that is ongoing on the date described in paragraph (3).

(3) The date referred to in paragraphs (1) and (2) is the date specified in such final regulations. The date so specified shall be October 1, 1995, or any earlier date that is not within 30 days after the date on which such final regulations are published.

(c) IMMEDIATE APPLICABILITY OF CERTAIN AMENDMENTS.—Notwithstanding subsection (b), the amendments made by the following provisions of this Act apply on and after the date of the enactment of this Act: sections 1001, 1021, 1031, 1051, 1071, 1092, 1201, 1506(a), 1507, 1554, 2002(a), 2191, 3062(a), 3063, 3064, 3065(a)(1), 3065(b), 3066, 3067, 6001(a), 7101, 7103, 7205, and 7207, the provisions of subtitles A, B, and C of title III, and the provisions of title V.

SEC. 10002. IMPLEMENTING REGULATIONS.

(a) PROPOSED REVISIONS.—Proposed revisions to the Federal Acquisition Regulation and such other proposed regulations (or revisions to existing regulations) as may be necessary to implement this Act shall be published in the Federal Register not later than 210 days after the date of the enactment of this Act.

(b) PUBLIC COMMENT.—The proposed regulations described in subsection (a) shall be made available for public comment for a period of not less than 60 days.

(c) FINAL REGULATIONS.—Final regulations shall be published in the Federal Register not later than 330 days after the date of enactment of this Act.

(d) MODIFICATIONS.—Final regulations promulgated pursuant to this section to implement an amendment made by this Act may provide for modification of an existing contract without consideration upon the request of the contractor.

(e) REQUIREMENT FOR CLARITY.—Officers and employees of the Federal Government who prescribe regulations to implement this Act and the amendments made by this Act shall make every effort practicable to ensure that the regulations are concise and are easily understandable by potential offerors as well as by Government officials.

(f) SAVINGS PROVISIONS.—(1) Nothing in this Act shall be construed to affect the validity of any action taken or any contract entered into before the date specified in the regulations pursuant to section 10001(b)(3) except to the extent and in the manner prescribed in such regulations.

(2) Except as specifically provided in this Act, nothing in this Act shall be construed to require the renegotiation or modification of contracts in existence on the date of the enactment of this Act.

(3) Except as otherwise provided in this Act, a law amended by this Act shall continue to be applied according to the provisions thereof as such law was in effect on the day before the date of the enactment of this Act until—

(A) the date specified in final regulations implementing the amendment of that law (as promulgated pursuant to this section); or

(B) if no such date is specified in regulations, October 1, 1995.

SEC. 10003. EVALUATION BY THE COMPTROLLER GENERAL.

(a) EVALUATION RELATING TO ISSUANCE OF REGULATIONS.—Not later than 180 days after the issuance in final form of revisions to the Federal Acquisition Regulation pursuant to section 10002, the Comptroller General shall submit to Congress a report evaluating compliance with such section.

(b) EVALUATION OF IMPLEMENTATION OF REGULATIONS.—Not later than 18 months after issuance in final form of revisions to the Federal Acquisition Regulation pursuant to section 10002, the Comptroller General shall submit to the committees referred to in subsection (c) a report evaluating the effectiveness of the regulations implementing this Act in streamlining the acquisition system and fulfilling the other purposes of this Act.

(c) COMMITTEES DESIGNATED TO RECEIVE THE REPORTS.—The Comptroller General shall submit the reports required by this section to—

(1) the Committees on Governmental Affairs, on Armed Services, and on Small Business of the Senate; and

(2) the Committees on Government Operations, on Armed Services, and on Small Business of the House of Representatives.

SEC. 10004. DATA COLLECTION THROUGH THE FEDERAL PROCUREMENT DATA SYSTEM.

(a) DATA COLLECTION REQUIRED.—The Federal Procurement Data System described in section 6(d)(4)(A) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(d)(4)(A)) shall be modified to collect from contracts in excess of the simplified acquisition threshold data identifying the following matters:

(1) Contract awards made pursuant to competitions conducted pursuant to section 2323 of title 10, United States Code, or section 7102 of the Federal Acquisition Streamlining Act of 1994.

(2) Awards to business concerns owned and controlled by women.

(3) Number of offers received in response to a solicitation.

(4) Task order contracts.

(5) Contracts for the acquisition of commercial items.

(b) DEFINITION.—In this section, the term "simplified acquisition threshold" has the meaning given such term in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)).

SEC. 10005. TECHNICAL AND CLERICAL AMENDMENTS.

(a) TABLE OF CONTENTS AMENDMENTS.—

(1) OFFICE OF FEDERAL PROCUREMENT POLICY ACT.—The first section of the Office of Federal Procurement Policy Act (41 U.S.C. 401 note) is amended to read as follows:

"SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

"(a) SHORT TITLE.—This Act may be cited as the 'Office of Federal Procurement Policy Act'.

"(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

"Sec. 1. Short title; table of contents.
"Sec. 2. Declaration of policy.
"Sec. 3. Findings and purpose.
"Sec. 4. Definitions.
"Sec. 5. Office of Federal Procurement Policy.
"Sec. 6. Authority and functions of the Administrator.
"Sec. 7. Administrative powers.
"Sec. 8. Responsiveness to Congress.
"Sec. 9. Effect on existing laws.
"Sec. 10. Effect on existing regulations.
"Sec. 11. Authorization of appropriations.
"Sec. 12. Delegation.
"Sec. 14. Access to information.
"Sec. 15. Tests of innovative procurement methods and procedures.
"Sec. 16. Executive agency responsibilities.
"Sec. 18. Procurement notice.
"Sec. 19. Record requirements.
"Sec. 20. Advocates for competition.
"Sec. 21. Rights in technical data.
"Sec. 22. Publication of proposed regulations.
"Sec. 23. Contracting functions performed by Federal personnel.
"Sec. 25. Federal Acquisition Regulatory Council.
"Sec. 26. Cost Accounting Standards Board.
"Sec. 27. Procurement integrity.
"Sec. 28. Advocate for the Acquisition of Commercial Products.
"Sec. 29. Nonstandard contract clauses.
"Sec. 30. Federal acquisition computer network (FACNET).
"Sec. 30A. Federal acquisition computer network implementation.
"Sec. 31. Simplified acquisition procedures.
"Sec. 32. Procedures applicable to purchases below micro-purchase threshold.
"Sec. 33. List of laws inapplicable to contracts not greater than the simplified acquisition threshold in Federal Acquisition Regulation.
"Sec. 34. List of laws inapplicable to procurements of commercial items in Federal Acquisition Regulation.".

(2) FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949.—The first section of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 471 et seq.) is amended to read as follows:

"SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

"(a) SHORT TITLE.—This Act may be cited as the 'Federal Property and Administrative Services Act of 1949'.

"(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

"Sec. 1. Short title; table of contents.
"Sec. 2. Declaration of policy.
"Sec. 3. Definitions.

"TITLE I—ORGANIZATION

"Sec. 101. General Services Administration.
"Sec. 102. Transfer of affairs of Bureau of Federal Supply.
"Sec. 103. Transfer of affairs of the Federal Works Agency.
"Sec. 104. Records management: Transfer of the National Archives.
"Sec. 106. Redistribution of functions.
"Sec. 107. Transfer of funds.
"Sec. 109. General supply fund.
"Sec. 110. Information Technology Fund.
"Sec. 111. Automatic data processing equipment.
"Sec. 112. Federal information centers.

"TITLE II—PROPERTY MANAGEMENT

"Sec. 201. Procurement, warehousing, and related activities.
"Sec. 202. Property utilization.
"Sec. 203. Disposal of surplus property.
"Sec. 204. Proceeds from transfer or disposition of property.

"Sec. 205. Policies, regulations, and delegations.
"Sec. 206. Surveys, standardization, and cataloging.
"Sec. 207. Applicability of antitrust laws.
"Sec. 208. Employment of personnel.
"Sec. 209. Civil remedies and penalties.
"Sec. 210. Operation of buildings and related activities.
"Sec. 211. Motor vehicle identification and operation.
"Sec. 212. Reports to Congress.

"TITLE III—PROCUREMENT PROCEDURE

"Sec. 301. Declaration of purpose.
"Sec. 302. Application and procurement methods.
"Sec. 302A. Simplified acquisition threshold.
"Sec. 302B. Implementation of simplified acquisition procedures.
"Sec. 302C. Implementation of FACNET capability.
"Sec. 303. Competition requirements.
"Sec. 303A. Planning and solicitation requirements.
"Sec. 303B. Evaluation and award.
"Sec. 303C. Encouragement of new competition.
"Sec. 303D. Validation of proprietary data restrictions.
"Sec. 303F. Economic order quantities.
"Sec. 303G. Prohibition of contractors limiting subcontractor sales directly to the United States.
"Sec. 303H. Task and delivery order contracts: general authority.
"Sec. 303I. Task order contracts: advisory and assistance services.
"Sec. 303J. Task and delivery order contracts: orders.
"Sec. 303K. Task and delivery order contracts: definitions.
"Sec. 303L. Severable services contracts for periods crossing fiscal years.
"Sec. 304. Contract requirements.
"Sec. 304A. Cost or pricing data: truth in negotiations.
"Sec. 304B. Multiyear contracts.
"Sec. 304C. Examination of records of contractor.
"Sec. 305. Contract financing.
"Sec. 306. Allowable costs.
"Sec. 307. Administrative determinations and delegations.
"Sec. 309. Definitions.
"Sec. 310. Statutes not applicable.
"Sec. 311. Assignment and delegation of procurement functions and responsibilities.
"Sec. 312. Determinations and decisions.
"Sec. 313. Performance based management: acquisition programs.
"Sec. 314. Relationship of commercial item provisions to other provisions of law.
"Sec. 314A. Definitions relating to procurement of commercial items.
"Sec. 314B. Preference for acquisition of commercial items.
"Sec. 315. Contractor employees: protection from reprisal for disclosure of certain information.

"TITLE IV—FOREIGN EXCESS PROPERTY

"Sec. 401. Disposal of foreign excess property.
"Sec. 402. Methods and terms of disposal.
"Sec. 403. Proceeds; foreign currencies.
"Sec. 404. Miscellaneous provisions.

"TITLE VI—GENERAL PROVISIONS

"Sec. 601. Applicability of existing procedures.
"Sec. 602. Repeal and saving provisions.
"Sec. 603. Authorization for appropriations and transfer of authority.
"Sec. 604. Separability.
"Sec. 605. Effective date.

"TITLE VIII—URBAN LAND UTILIZATION

"Sec. 801. Short title.
"Sec. 802. Declaration of purpose and policy.
"Sec. 803. Disposal of urban lands.
"Sec. 804. Acquisition or change of use of real property.
"Sec. 805. Waiver during national emergency.
"Sec. 806. Definitions.

"TITLE IX—SELECTION OF ARCHITECTS AND ENGINEERS

"Sec. 901. Definitions.
"Sec. 902. Policy.
"Sec. 903. Requests for data on architectural and engineering services.
"Sec. 904. Negotiation of contracts for architectural and engineering services.
"Sec. 905. Short title.".

(b) AMENDMENTS FOR STYLISTIC CONSISTENCY.—

(1) OFFICE OF FEDERAL PROCUREMENT POLICY ACT.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended so that the section designation and section heading of each section of such Act is in the same form and typeface as the section designation and heading of this section.

(2) FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949.—The Federal Property and Administrative Services Act of 1949 (41 U.S.C. 471 et seq.) is amended so that the section designation and section heading of each section of such Act is in the same form and typeface as the section designation and heading of this section.

(c) REPEALS OF EXECUTED PROVISIONS.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended—

(1) by striking out section 13; and

(2) by striking out the first section 15 (which made amendments to the Federal Property and Administrative Services Act of 1949).

(d) CROSS REFERENCE CORRECTIONS.—Section 3552 of title 31, United States Code, is amended—

(1) by striking out "section 111(h)" and inserting in lieu thereof "section 111(f)"; and

(2) by striking out "759(h)" and inserting in lieu thereof "759(f)".

(e) CONSISTENCY OF TERMINOLOGY WITH CUSTOMARY USAGE.—Section 304(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(b)) is amended by striking out "per centum" each place it appears and inserting in lieu thereof "percent".

(f) ENACTMENT OF POPULAR NAMES OF CERTAIN ACTS.—

(1) MILLER ACT.—The Act of August 24, 1935 (40 U.S.C. 270a–270d), commonly referred to as the "Miller Act", is amended by adding at the end the following new section:

"SEC. 6. This Act may be cited as the 'Miller Act'.".

(2) BROOKS ARCHITECT-ENGINEERS ACT.—Title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541–544) is amended by adding at the end the following new section:

"SEC. 905. SHORT TITLE.

"This title may be cited as the 'Brooks Architect-Engineers Act'.".

(3) BROOKS AUTOMATIC DATA PROCESSING ACT.—Section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759), as amended by section 1439, is further amended by adding at the end the following new subsection:

"(i) This section may be cited as the 'Brooks Automatic Data Processing Act'.".

(4) BUY AMERICAN ACT.—The Act of March 3, 1933 (41 U.S.C. 10a–10c), commonly referred to as the "Buy American Act", is amended by adding at the end the following new section:

"SEC. 5. This Act may be cited as the 'Buy American Act'.".

(5) WALSH-HEALEY ACT.—The Act of June 30, 1936 (41 U.S.C. 35 et seq.), commonly referred to as the "Walsh-Healey Act", as amended by section 7201, is further amended by adding at the end the following new section:

"SEC. 12. This Act may be cited as the 'Walsh-Healey Act'."

(6) JAVITS-WAGNER-O'DAY ACT.—The Act entitled "An Act to create a Committee on Purchases of Blind-made Products, and for other purposes", approved June 25, 1938 (41 U.S.C. 46–48c), that was revised and reenacted in the Act of June 23, 1971 (85 Stat. 77), is amended by adding at the end the following new section:

"SHORT TITLE

"SEC. 7. This Act may be cited as the 'Javits-Wagner-O'Day Act'.".

And the House agree to the same.

Conferees from the Committee on Government Operations, for consideration of the Senate bill, and the House amendment, and modifications committed to conference:

JOHN CONYERS,
MIKE SYNAR,
STEVE NEAL,
TOM LANTOS,
MAJOR R. OWENS,
EDOLPHUS TOWNS,
JOHN M. SPRATT, Jr.,
BOBBY L. RUSH,
CAROLYN B. MALONEY,
MARJORIE MARGOLIES-MEZVINSKY,
BILL CLINGER,
AL MCCANDLESS,
J. DENNIS HASTERT,
JON KYL,
CHRISTOPHER SHAYS,
STEVEN SCHIFF,

As additional conferees from the Committee on Armed Services, for consideration of the Senate bill, and the House amendment, and modifications committed to conference:

RONALD V. DELLUMS,
NORMAN SISISKY,
LANE EVANS,
JAMES H. BILBRAY,
CHET EDWARDS,
ELIZABETH FURSE,
FLOYD SPENCE,
JOHN R. KASICH,
HERBERT H. BATEMAN,
CURT WELDON,

As additional conferees from the Committee on Education and Labor, for consideration of sections 4024(d), 4101(b), 4101(c), 6101–02, 8005(c)(2), and 11001–04 of the Senate bill, and section 4105 of the House amendment, and modifications committed to conference:

WILLIAM D. FORD,
AUSTIN J. MURPHY,

As additional conferees from the Committee on the Judiciary, for consideration of sections 1421–22, 1437, 2451, 2551–53, 2555, that portion of section 4011 that adds a new section 29(b)(2) to the Federal Procurement Policy Act, sections 4024(a), (b), (c), and (f), 4101(b) and (c), 6001–04, 6053, and 8005(c)(3) and (c)(4) of the Senate bill; and that portion of section 4011 that adds a new section 4B(c) to the Federal Procurement Policy Act, that portion of section 4031 that adds a new subsection (c)(9) to section 23012a of title 10, United States Code, that portion of section 4041 that adds a new subsection (c)(2) to section 302A of the Federal Property and Administrative Services Act of 1949, sections 4051, 5003, that portion of section 7106 that adds a new section 2285(a)(12) to title 10, United States Code, that portion of section 7205 that adds a new section 314D(a)(4) to the Federal Property and Administrative Services Act of 1949, and section 7301(b) of the

House amendment, and modifications committed to conference:

JACK BROOKS,
JOHN BRYANT,
HAMILTON FISH,

As additional conferees from the Committee on Public Works and Transportation, for consideration of sections 1056 and 1067 of the Senate bill and modifications committed to conference:

NORMAN Y. MINETA,
JAMES TRAFICANT,
BUD SHUSTER,

As additional conferees from the Committee on Small Business, for consideration of sections 1055(b)(2), 2554, 4102–05, that portion of section 4011 that adds a new section 29(b)(1) to the Office of Federal Procurement Policy Act, sections 4012, 4014(d), 4015(d), and 4074 of the Senate bill, and sections 4104 and 8002 of the House amendment, and modifications committed to conference:

JOHN L. LAFALCE,
NEAL SMITH,

As additional conferees from the Committee on Energy and Commerce, for consideration of sections 4024(g), 6003(a)(4) and (b)(4), and 8005(c)(6) of the Senate bill, and modifications committed to conference:

JOHN D. DINGELL,
AL SWIFT,
CARLOS J. MOORHEAD,
Managers on the Part of the House.

JOHN GLENN,
SAM NUNN,
DALE BUMPERS,
JIM SASSER,
J.J. EXON,
CARL LEVIN,
DAVID PRYOR,
JEFF BINGAMAN,
RICHARD SHELBY,
BYRON L. DORGAN,
BILL ROTH,
STROM THURMOND,
TED STEVENS,
JOHN WARNER,
BILL COHEN,
LARRY PRESSLER,
JOHN MCCAIN,
BOB SMITH,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1587) to revise and streamline the acquisition laws of the Federal Government, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment that is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

TITLE I—CONTRACT FORMATION

Subtitle A—Competition Statutes

PART I—ARMED SERVICES ACQUISITIONS

SUBPART A—COMPETITION REQUIREMENTS

References to Federal acquisition regulation (sec. 1001)

The Senate bill contained a provision (sec. 1001) that would clarify references to the Federal Acquisition Regulation by removing an obsolete reference to modifications to the regulation.

The House amendment contained an identical provision (sec. 1001).

The conferees agree to this provision.

Establishment or maintenance of alternate sources of supply (sec. 1002)

The Senate bill contained a provision (sec. 1002) that would amend 10 U.S.C. 2304(b) to permit an agency to exclude a particular source in order to maintain an alternate source to: (1) ensure a continuous flow of supplies or services; (2) satisfy a critical need for health, safety, or other emergency supplies; or (3) satisfy projected needs resulting from a high demand.

The House amendment contained a similar provision (sec. 1002).

The Senate recedes with a technical amendment.

Clarification of approval authority for use of procedures other than full and open competition (sec. 1003)

The Senate bill contained a provision (sec. 1003) that would clarify the law governing the approval authority for the use of noncompetitive procedures within the Department of Defense.

The House amendment contained an identical provision (sec. 1003).

The conferees agree to this provision.

Task and delivery order contracts (sec. 1004)

The Senate bill contained a provision (sec. 1004) that would add a new section, 10 U.S.C. 2304a, authorizing the use of task order contracts for advisory and assistance services. The provision would establish a requirement that solicitations for such contracts shall ordinarily provide for multiple awards where the contract period is to exceed three years and the contract is estimated to exceed $10,000,000 and for fair consideration of each awardee for each task order issued under such multiple contracts.

The House amendment contained no similar provision.

The House recedes with an amendment clarifying that nothing in this section is intended to amend or impair the authorities or responsibilities under section 111 of the Federal Property and Administration Services Act or title IX of the Federal Property and Administrative Services Act.

In addition, the conference agreement would provide general authorization for the use of task and delivery order contracts to acquire goods and services other than advisory and assistance services. The conferees note that this provision is intended as a codification of existing authority to use such contractual vehicles. All otherwise applicable provisions of law would remain applicable to such acquisitions, except to the extent specifically provided in this section. For example, the requirements of the Competition in Contracting Act, although they would be inapplicable to the issuance of individual orders under task and delivery order contracts, would continue to apply to the solicitation and award of the contracts themselves.

Acquisition of expert services (sec. 1005)

The Senate bill contained a provision (sec. 1005) that would establish a new exception to the requirement for the use of competitive procedures in 10 U.S.C. 2304(C)(3) when contracting for expert services for use in Federal litigation.

The House amendment contained no similar provision.

The House recedes.

SUBPART B—PLANNING, SOLICITATION, EVALUATION, AND AWARD

Source selection factors (sec. 1011)

The Senate bill contained a provision (sec. 1011) that would clarify the Competition in Contracting Act solicitation provisions requiring the disclosure of evaluation factors and subfactors and authorizing awards without discussions.

The House amendment contained a similar provision (sec. 1011) that also would provide that implementing regulations may not define "significantly more" or "significantly less important" as specific numeric weights to be uniformly applied.

The Senate recedes with a clarifying amendment.

Solicitation provision regarding evaluation of purchase options (sec. 1012)

The Senate bill contained a provision (sec. 1012) that would make a technical amendment regarding the consideration of option pricing.

The House amendment contained a similar provision (sec. 1012).

The Senate recedes.

Prompt notice of award (sec. 1013)

The Senate bill contained a provision (sec. 1013) that would require notice to all offerors as soon as practicable after date of contract award.

The House amendment contained a provision (sec. 1013) that would require that such notice be given "within three days" of award. The provision also would allow electronic transmission of a written notice.

The Senate recedes.

Post-award debriefings (sec. 1014)

The Senate bill contained a provision (sec. 1014) that would require prompt debriefings providing basic information on the award to unsuccessful offerors, if requested within three days after receipt of notification of contract award. The Senate provision also would require disclosure of debriefing information to all offerors if, within one year of contract award, the agency seeks to fulfill the same requirement.

The House amendment contained a similar provision (sec. 1014).

The House recedes with an amendment that would require the agency, to the maximum extent practicable, to debrief the offeror within five days after the agency's receipt of an offeror's request and that would make other clarifying changes.

The conferees intent that information not anticipated to be released under this provision includes information relating to trade secrets; privileged or confidential manufacturing processes and techniques; and commercial and financial information that is privileged or confidential, including cost breakdowns, profit, indirect cost rates, and similar information. Information concerning such matters is protected currently under the Federal Acquisition Regulation.

Protest file (sec. 1015)

The Senate bill contained a provision (sec. 1015) that would require the Department of Defense to maintain protest files in protests to the Comptroller General.

The House amendment contained a similar provision (sec. 1015).

The Senate recedes.

Agency actions on protests (sec. 1016)

The Senate bill contained a provision (sec. 1016) that would authorize the Department of defense to pay costs and fees in bid protest settlements.

The House amendment contained a similar provision (sec. 1016).

The Senate recedes with a technical amendment.

SUBPART C—KINDS OF CONTRACTS

Repeal of requirement for Secretarial determination regarding use of cost type or incentive contracts (sec. 1021)

The Senate bill contained a provision (sec. 1021) that would repeal the requirement for a determination prior to the use of cost or incentive-type contracts in defense procurements.

The House amendment contained an identical provision (sec. 1021).

The conferees agree to this provision.

Revision and reorganization of multiyear contracting authority (sec. 1022)

The conferees recommend a revision and reorganization of the current Department of Defense multiyear contracting authority in 10 U.S.C. 2306(h) to accommodate the inclusion of the U.S. Coast Guard and National Aeronautics and Space Administration. Such authority would be addressed in a new section 10 U.S.C. 2306b.

SUBPART D—MISCELLANEOUS PROVISIONS FOR THE ENCOURAGEMENT OF COMPETITION

Repeal of requirement for annual report by advocates for Competition (sec. 1031)

The Senate bill contained a provision (sec. 1031) that would repeal 10 U.S.C. 2318, requiring annual reports by Department of Defense competition advocates. The separate requirement for annual reports on competition by competition advocates of all agencies (in section 20(b)) of the Office of Federal Procurement Policy Act) would remain in effect.

The House amendment contained an identical provision (sec. 1031).

The conferees agree to this provision.

PART II—CIVILIAN AGENCY ACQUISITIONS

SUBPART A—COMPETITION REQUIREMENTS

References to Federal acquisition regulation (sec. 1051)

The Senate bill contained a provision (sec. 1051) that would clarify references to the Federal Acquisition Regulation by removing an obsolete reference to modifications to the regulation. The House amendment contained an identical provision (sec. 1051).

The conferees agree to this provision.

Establishment or maintenance of alternate sources of supply (sec. 1052)

The Senate bill contained a provision (sec. 1052) that would amend 41 U.S.C. 253(b) to permit an agency to exclude a particular source in order to maintain an alternate source to: (1) ensure a continuous flow of supplies or services; (2) satisfy a critical need for health, safety, or other emergency supplies; or (3) satisfy projected needs resulting from a high demand.

The House amendment contained a similar provision (sec. 1052).

The Senate recedes with a technical amendment.

Clarification of approval authority for use of procedures other than full and open competition (sec. 1053)

The Senate bill contained a provision (sec. 1053) that would clarify the law governing the approval authority for the use of noncompetitive procedures for civilian agencies.

The House amendment contained an identical provision (sec. 1053).

The conferees agree to this provision.

Task and delivery order contracts (sec. 1054)

The Senate bill contained a provision (sec. 1054) that would add a new section 303H to the Federal Property and Administrative Services Act, authorizing the use of task order contracts for advisory and assistance services. The provision would establish a requirement that solicitations for such contracts shall ordinarily provide for multiple awards where the contract period is to exceed three years and the contract is estimated to exceed $10,000,000 and for fair consideration of each awardee for each task order issued under such multiple contracts.

The House amendment contained no similar provision.

The House recedes with an amendment clarifying that nothing in this section is intended to amend or impair the authorities or responsibilities under section 111 of the Federal Property and Administrative Services Act or title IX of the Federal Property and Administrative Services Act.

In addition, the conference agreement would provide general authorization for the use of task and delivery order contracts to acquire goods and services other than advisory and assistance services. The conferees note that this provision is intended as a codification of existing authority to use such contractual vehicles. All otherwise applicable provisions of law would remain applicable to such acquisitions, except to the extent specifically provided in this section. For example, the requirements of the Competition in Contracting Act, although they would be inapplicable to the issuance of individual orders under task and delivery order contracts, would continue to apply to the solicitation and award of the contracts themselves.

Acquisition of expert services (sec. 1055)

The Senate bill contained a provision (sec. 1055) that would establish for civilian agencies a new exception to the requirement for the use of competitive procedures in 41 U.S.C. 253(c)(3) for expert litigation services, similar to the provisions set forth in section 1005 for the Department of Defense. The section would conform the notice requirements in 41 U.S.C. 416(c) and 15 U.S.C. 637(c) and repeal a codified provision that exempts from the Competition in Contracting Act all Internal Revenue Service contracts to hire experts for the examination of tax returns or litigating actions under the Internal Revenue Code.

The House amendment contained no similar provision.

The House recedes.

SUBPART B—PLANNING, SOLICITATION, EVALUATION AND AWARD

Solicitation, evaluation, and award (sec. 1061)

The Senate bill contained a provision (sec. 1061) that would clarify the Competition in Contracting Act solicitation provisions requiring the disclosure of evaluation factors and subfactors and authorizing awards without discussions in civilian acquisitions.

The House amendment contained a provision (sec. 1061) that also would provide that implementing regulations may not define "significantly more" or "significantly less important" as specified numeric weights to be uniformly applied.

The Senate recedes with a clarifying amendment.

Solicitation provision regarding evaluation of purchase options (sec. 1062)

The Senate bill contained a provision (sec. 1062) that would make a technical amendment regarding the consideration of option pricing.

The House amendment contained a similar provision (sec. 1062).

The Senate recedes.

Prompt notice of award (sec. 1063)

The Senate bill contained a provision (sec. 1063) that would require notice to all offerors as soon as practical after date of contract award.

The House amendment contained a provision (sec. 1063) that would stipulate such notice be given "within three days." The provision also would allow electronic transmission of the written notice.

The Senate recedes.

Post-award debriefings (sec. 1064)

The Senate bill contained a provision (sec. 1063) that would require prompt debriefings providing basic information on the award to unsuccessful offerors if requested within three days after receipt of notification of contract award. The Senate provision also would require disclosure of debriefing information to all offerors if, within one year of contract award, the agency seeks to fulfill the same requirement.

The House amendment contained a similar provision (sec. 1064).

The House recedes with an amendment that would require the agency, to the maximum extent practicable, to debrief the offeror within five days after the agency's receipt of the offeror's request, and that would make other clarifying changes.

The conferees intend that information not anticipated to be released under this provision includes information relating to trade secrets; privileged or confidential manufacturing processes and techniques; and commercial and financial information that is privileged or confidential, including cost breakdowns, profit, indirect cost rates, and similar information. Information concerning such matters is protected currently under the Federal Acquisition Regulation.

Protest file (sec. 1065)

The Senate bill contained a provision (sec. 1065) that would require civilian agencies to maintain protest files in protests to the Comptroller General.

The House amendment contained a similar provision (sec. 1065).

The Senate recedes.

Agency actions on protests (sec. 1066)

The Senate bill contained a provision (sec. 1066) that would authorize civilian agencies to pay costs and fees in bid protest settlements.

The House amendment contained a similar provision (sec. 1066).

The Senate recedes with a technical amendment.

SUBPART C—KINDS OF CONTRACTS

Repeal of agency head determination regarding use of cost type or incentive contract (sec. 1071)

The Senate bill contained a provision (sec. 1071) that would repeal the requirement for a determination prior to the use of cost or incentive-type contracts.

The House amendment contained an identical provision (sec. 1071).

The conferees agree to this provision.

Multiyear contracting authority (sec. 1072)

The Senate bill contained a provision (sec. 1072) that would amend the Federal Property and Administrative Services Act to add a new section 303J to permit civilian agencies to enter into multiyear contracts where sufficient appropriations are available and obligated and the agency head determines that

the need for property or services is reasonably firm and continuing and such a contract is in the best interest of the United States.

The House amendment contained a similar provision (sec. 1072) that would define the multiyear contract as a contract not exceeding five years. It would require a notice to Congress for any contract containing a cancellation ceiling in excess of $10,000,000.

The Senate recedes with a technical amendment.

Severable contracts crossing fiscal years (sec. 1073)

The Senate bill contained a provision (sec. 1073) that would authorize agencies to enter into contracts for severable services which cross fiscal years as long as the base period does not exceed one year.

The House amendment contained a similar provision (sec. 1073).

The House recedes.

Economy Act purchases (sec. 1074)

The Senate bill contained a provision (sec. 1074) that would provide for the revision of the Federal Acquisition Regulation to govern federal agencies' exercise of authority to purchase goods and services under other agencies' contracts under 31 U.S.C. 1535, commonly known as the "Economy Act."

The House amendment contained no similar provision.

The House recedes.

PART III—ACQUISITIONS GENERALLY

Policy regarding consideration of contractor past performance (sec. 1091)

The Senate bill contained a provision (sec. 1091) that would provide that the Office of Federal Procurement Policy should prescribe guidance for executive agencies regarding consideration of the past performance of offerors in awarding contracts. The guidance would include evaluation standards, information collection and maintenance policies, and policies for ensuring that offerors are provided an opportunity to submit past performance information, including performance, under contracts with Federal, State, and local governments, and with commercial customers.

The House amendment contained a similar provision (sec. 1091), but did not provide for consideration of performance under contracts with Federal, State, and local government, or with commercial customers.

The House recedes with a technical amendment.

Repeal of requirement for annual report on competition (sec. 1092)

The Senate bill contained a provision (sec. 1092) that would repeal Section 23 of the Office of Federal Procurement Policy Act, which requires an annual report on competition each year through fiscal year 1990. The separate requirement for annual reports on competition by agency competition advocates (in section 20(b) of the OFPP Act) would remain in effect.

The House amendment contained an identical provision (sec. 1092).

The conferees agree to this provision.

Discouragement of nonstandard contract clauses (sec. 1093)

The House amendment contained a provision (sec. 1093) that would require the Federal Acquisition Regulatory Council to promulgate regulations to discourage the repetitive use of nonstandard clauses.

The Senate bill contained no similar provision.

The Senate recedes.

Subtitle B—Truth in Negotiations

PART I—ARMED SERVICES ACQUISITIONS

Stabilization of dollar threshold of applicability (sec. 1201)

The Senate bill contained a provision (sec. 1201) that would set the dollar threshold for the Truth in Negotiations Act in 10 U.S.C. 2306a at $500,000 and provide for periodic inflation adjustments.

The House amendment contained a similar provision (sec. 1201). The two provisions differed in that the Senate bill provided for inflation adjustments to be rounded to the nearest $50,000, while the House amendment provided for rounding to the nearest $10,000.

The House recedes.

Exceptions to cost or pricing data requirements (sec. 1202)

The Senate bill contained a provision (sec. 1202) that would broaden the exceptions to the requirement to provide cost or pricing data under the Truth in Negotiations Act in 10 U.S.C. 2306a.

The House amendment contained a similar provision (sec. 1202(a)).

The Senate recedes with an amendment, which would address the differences between the two provisions as follows.

(1) *Modifications.*—The Senate bill would preclude the requirement of cost or pricing data in the case of a modification to a contract or subcontract for a commercial item as long as the modification would not change the item from a commercial item to a noncommercial item. The House amendment contained no similar provision. The conference agreement would adopt the Senate language, with a clarifying amendment.

(2) *Catalog or Market Prices.*—The House amendment would substitute the phrase "sufficient quantities" for the statutory phrase "substantial quantities" in this exception. The Senate bill contained no similar provision. The conference agreement would adopt the Senate position. The conferees intend that the current regulatory interpretation of this exception should be changed in light of the purposes of this Act to provide broader flexibility for the purchase of commercial items, as required by the provision explained in paragraph (4) below.

Both the Senate bill and the House amendment would extend the catalog or market price exemption to cover not only commercial items, but also services sold at catalog or market prices. The conference agreement would also extend the catalog or market price exemption to cover services in appropriate cases. This would be accomplished through the new definition of the term "commercial item" in Title VIII of the bill. Under the new definition, the term "commercial item" would include services that are sold in substantial quantities in the commercial marketplace based on established catalog prices for specific tasks performed and under standard commercial terms and conditions. The catalog or market price except would be available, in appropriate cases, to services that are included in this definition.

(3) *Waiver.*—The Senate bill would not change the existing waiver provision. The existing provision authorizes a waiver upon a written (and delegable) determination by the head of the agency concerned. The House amendment instead would require a non-delegable determination by the head of the procuring activity. The conference agreement would adopt the House language.

(4) *Regulations.*—The House amendment contained a provision that would require the issuance, in the Federal Acquisition Regulation, of clear standards for determining whether the exceptions to the cost or pricing data requirements apply. In the case of the "adequate price competition" exception, the regulations would specify the criteria to be used to determine whether adequate price competition exists. In the case of the "catalog or market pricing" exception, the regulations would preclude consideration of sales to federal agencies in determining whether an item has been sold in substantial quantities to the general public.

The conference agreement would adopt the House provision. The existing regulations apply a "percentage of sales test", which compares a company's sales to the general public to the company's sales to the federal government, for the purposes of determining whether a product is sold in substantial quantities to the general public. Under this approach, two companies that sell precisely the same number of an identical item to the general public are treated differently, depending on the quantity of items they sell to the federal government. The conferees intend that the "percentage of sales" test no longer be used.

The provision recommended by the conferees would require equal treatment of the two companies. Under the new approach, the determination whether sales to the general public are "substantial" could be made by comparison to the size of the market for the item as a whole (including small businesses), but could not be made by comparison to sales of a particular company to the federal government. Standards regarding the percentage of sales made on the basis of catalog prices would still be permissible.

The conferees note that section 824 of the National Defense Authorization Act for Fiscal Year 1990 required the Secretary of Defense to revise the regulations governing the applicability of the catalog or market pricing exception, by no later than August 1991, to make it easier for commercial items to qualify for the exception. Despite this clear statutory directive, this provision has yet to be implemented by the Department of Defense. The provision recommended by the conferees would direct that these regulations be revised in a manner similar to that previously required by section 824.

Restrictions on additional authority to require cost or pricing data or other information (sec. 1203)

The Senate bill contained a provision (sec. 1203) which would limit the authority of the Department of Defense to require cost or pricing data in cases where the exceptions to the requirement apply.

The House amendment contained a similar provision (sec. 1202(b)). The House provision would prohibit an agency from requiring the submission of cost or pricing data where one of the statutory exceptions to the requirement applies. An agency could require the submission of cost or pricing data for procurements of less than $500,000 only upon a written (nondelegable) determination by the head of the procuring activity.

The Senate recedes with an amendment. Under the conference agreement, an agency would be prohibited from requiring the submission of full, certified cost or pricing data where one of the statutory exemptions applies. However, a contracting officer would be authorized to require the submission of information (less than full, certified cost or pricing data), if such information would be necessary to determine the reasonableness of price. Such information need not be certified by the offeror as current, accurate, and complete, and would be limited to the minimum

of information that would be necessary to determine price reasonableness.

Additional special rules for commercial items (sec. 1204)

The Senate bill contained a provision (sec. 1204) that would create a new exception to cost or pricing data requirements in 10 U.S.C. 2306a for commercial items.

The House amendment contained a similar provision (sec. 7104).

The Senate recedes with an amendment, which would address the differences between the two provisions as follows:

(1) *Competition.*—The Senate bill would require that, to the maximum extent practicable, agencies shall conduct procurements of commercial items on a competitive basis. The House amendment would provide that if a commercial item is purchased on the basis of adequate price competition or established catalog or market prices, the procurement shall be exempt from cost or pricing data requirements and, to the maximum extent practicable, the agency may not require any additional information from the offeror to determine price reasonableness.

The conference agreement would combine the language of the Senate and the House bills. Under the conference agreement, agencies would be required to conduct procurements of commercial items on a competitive basis to the maximum extent practicable. It is the intent of the conferees that requirements for commercial items should be structured, wherever possible, so that multiple commercial items can compete for the same requirement. Where a commercial item is purchased on the basis of adequate price competition, the purchase would be exempt from cost or pricing data requirements. If data not obtained through the competition is needed to determine the reasonableness of price, it must be obtained, to the maximum extent practicable, from sources other than the offeror.

(2) *Authority to require cost or pricing data.*—The Senate bill would authorize contracting officers to waive cost or pricing data requirements when they are able to obtain adequate information on commercial pricing to determine that the price is fair and reasonable. The House amendment would permit the waiver of cost or pricing data requirements where price analysis is sufficient to determine whether the price of a contract for a commercial item is fair and reasonable.

Under the conference agreement, the contracting officer would be required (in any case in which it is not practicable to purchase a commercial item on a competitive basis) to seek information on prices at which the same or similar items have been sold in the commercial market. Such information must be sought from the offeror or contractor, or when such information is not available from that source, from another source or sources. If the contracting officer is able to obtain information of this type that is adequate to evaluate, the reasonableness of contract price through price analysis, the contracting officer must exempt the procurement from cost or pricing data requirements. If the contracting officer makes a written determination that the agency is unable to obtain adequate information for this purpose, the contracting officer must require the submission of cost or pricing data.

(3) *Right to audit.*—The Senate bill would authorize audits to determine whether the agency was receiving accurate information under this section. The House amendment would authorize audits for any purpose other than determining the completeness of the data supplied. In addition, the Senate bill would provide for audit authority up to three years after the date of award, while the House amendment would limit the authority to one year after the commencement of performance (or any other date agreed upon in the contract). The conference agreement would adopt the Senate language, with a modification to limit the audit authority to a period of two years after the date of award.

(4) *Requests for data and forms of information.*—The House amendment contained three provisions addressing the information that may be requested under this section. The first provision would require the Federal Acquisition Regulation to establish reasonable limitations on requests for sales data on commercial items. The second would provide that a contracting officer may request information from an offeror of a commercial item only in the form regularly maintained by the offeror in commercial operations, adequate to demonstrate the market price of an item, or otherwise needed to establish a fair and reasonable price. The third would provide that all documentation received from an offeror under this section and marked as proprietary shall be treated by the Government as confidential. The Senate bill contained no similar provisions.

The conference agreement would adopt the House language with a modification to clarify that: (a) any information received under this section that would be exempt from disclosure under the Freedom of Information Act may not be disclosed by the agency; and (b) contracting officers should, to the maximum extent practicable, request information from offerors in a form that is regularly maintained by the offeror in its commercial operations.

Right of United States to examine contractor records (sec. 1205)

The Senate bill contained a provision (sec. 1205) that would cross-reference the right of the United States to examine contractor records under the audit provision in 10 U.S.C. 2313.

The House amendment contained a similar provision (sec. 1203).

The House recedes.

Required regulations (sec. 1206)

The Senate bill contained a provision (sec. 1206) that would codify the requirement, in Section 803 of the National Defense Authorization Act for Fiscal Year 1991, concerning the types of price information which offerors must provide for use by contracting officers in determining the reasonableness of the contract price in procurements under the $500,000 Truth in Negotiations Act threshold.

The House amendment contained no similar provision.

The House recedes with a technical amendment.

Consistency of time references (sec. 1207)

The Senate bill contained a provision (sec. 1207) that would ensure consistency of time references in the Truth in Negotiations Act in 10 U.S.C. 2306a.

The House amendment contained a similar provision (sec. 1204).

The House recedes with a technical amendment.

Exception for transfers between divisions, subsidiaries, and affiliates (sec. 1208)

The Senate bill contained a provision (sec. 1208) that would amend the Truth in Negotiations Act in 10 U.S.C. 2306a to define the term "subcontract" to include a transfer of commercial items between divisions, subsidiaries, or affiliates of a contractor or subcontractor.

The House amendment contained no similar provision.

The House recedes with a technical amendment.

Coverage of Coast Guard and NASA for interest and payments on certain overpayments (sec. 1209)

The conference agreement includes a provision that would make conforming modifications to the Truth in Negotiations Act in 10 U.S.C. 2306a to ensure that the National Aeronautics and Space Administration and the United States Coast Guard are covered.

Repeal of superseded provision (sec. 1210)

The Senate bill contained a provision (sec. 1209) that would repeal subsections (b) and (c) of section 803 of the National Defense Authorization Act for Fiscal Year 1991. Subsection 803(b), which required a review of the impact of the $500,000 threshold, would be superseded by section 1201 of the Senate bill, which would create a permanent $500,000 threshold for the Truth in Negotiations Act. Subsection 803(c), which concerned price information in below-threshold procurements, would be codified by section 1206 of the Senate bill.

The House amendment contained a provision (sec. 1205) which differed from the Senate provision in that: (1) it would not have repealed subsection 803(b); and (2) it would have repealed, but not codified, subsection 803(c).

The House recedes.

PART II—CIVILIAN AGENCY ACQUISITIONS

Revision of civilian agency provisions to ensure uniform treatment of cost or pricing data (sec. 1251)

The Senate bill contained a provision (sec. 1251) that would amend the Federal Property and Administrative Services Act to ensure uniform treatment of cost or pricing data for civilian agencies and for the Department of Defense.

The House amendment contained a similar provision (sec. 1251).

The Senate recedes with a technical amendment.

Repeal of obsolete provision (sec. 1252)

The Senate bill contained a provision (sec. 1252) that would repeal the obsolete cost or pricing data requirements in section 303E of the Federal Property and Administrative Services Act.

The House amendment contained a similar provision (sec. 1252).

The Senate recedes.

Subtitle C—Research and Development

Research projects (sec. 1301)

The Senate bill contained a provision (sec. 1301) that would make technical amendments in the research and development authorities of the Department of Defense.

The House amendment contained no similar provision.

The House recedes with a technical amendment.

Subtitle D—Procurement Protests

PART I—COMPTROLLER GENERAL

Protest defined (sec. 1401)

The Senate bill contained a provision (sec. 1401) that would amend 31 U.S.C. 3551 to make clear that the definition of protest covers protests of solicitations, cancellation of solicitations, awards or proposed awards of contracts, and the cancellation of an award (where such cancellation is alleged to be based on improprieties in the award process) to be consistent with the definition set

forth in section 1439 for the General Services Board of Contract Appeals.

The House amendment contained a similar provision (sec. 1401).

The Senate recedes with a technical amendment.

Review of protests and effect on contracts pending decision (sec. 1402)

The Senate bill contained a provision (sec. 1402) that would amend 31 U.S.C. 3553.

Subsection (a) would make technical changes to refer to calendar days instead of working days.

Subsection (b) would permit contractors to begin performance unless the contracting officer withholds an authorization to proceed with performance in the first ten days after contract award. A contracting officer could withhold authorization if he or she felt that a bid protest was likely and that immediate performance would not be in the best interest of the United States. The provision is intended to avoid adding costs to the United States from starting, stopping, and restarting contract performance in cases where protests are considered likely and immediate performance is not necessary.

The House amendment contained a similar provision (sec. 1402).

The House recedes with an amendment that would provide contracting agencies 20 days within which to submit a protests report when the express option protest process is invoked.

Decisions on protests (sec. 1403)

The Senate bill contained a provision (sec. 1403) that would amend 31 U.S.C. 3554, regarding Comptroller General decisions on bid protests.

Subsection (a) would make technical changes to refer to calendar days instead of working days and to provide that an amendment that adds new ground of protests should be resolved to the maximum extent practicable, within the time period for final decision on the initial protest.

Subsection (b) would provide that the Comptroller General may recommend the payment of fees and costs in bid protest cases, rather than directing agencies to pay such fees and costs. This provision would address questions that have been raised about the constitutionality of existing law. This subsection would also authorize the payment of consultant and expert witness fees as well as attorneys' fees in protest cases, and would limit all such fees to the levels established in the Equal Access to Justice Act (EAJA). This fee cap would not apply to protests filed by small businesses.

The House amendment contained a similar provision (sec. 1403), which also would allow recovery of costs for frivolous protests and authorize the Comptroller General to issue protective orders Further, the House amendment would provide different time frames.

The House recedes with an amendment that would provide the Comptroller General authority to issue protective orders. The amendment would also provide for a $150 limit on attorneys' fees, which is higher than the current EAJA rate. The amendment would allow for higher fees if such higher fees are determined by the agency, based on the Comptroller General's recommendation, to be justified. The amendment would limit the reimbursement for fees of consultants and expert witness to the highest rate paid by the Federal Government for expert witnesses.

The conferees note that the $150 fee level should be considered as a maximum, not a minimum. The conferees do not intend the provision to authorize the payment of rates that are higher than charged by an attorney in other similar cases or by other attorneys of similar level of experience in bid protest cases.

The conferees also note that this provision would entitle a small business concern to recover "reasonable attorneys' fees" in appropriate cases. The conferees expect the Comptroller General to be vigilant in reviewing attorneys' fees to ensure that they are reasonable. The cap placed on attorneys' fees for businesses other than small business constitutes a benchmark as to what constitutes a "reasonable" level for attorneys' fees for small businesses.

Regulations (sec. 1404)

The Senate bill contained a provision (sec. 1404) that would authorize the Comptroller General to issue regulations on the calculation of time periods and electronic filings and disseminations.

The House amendment contained an identical provision (sec. 1404).

The conferees agree to this provision.

PART II—PROTESTS IN PROCUREMENTS OF AUTOMATIC DATA PROCESSING

Revocation of delegations of procurement authority (sec. 1431)

The Senate bill contained a provision (sec. 1431) that would authorize the Administrator of General Services to revoke a delegation of authority after the award of a contract where there is a finding of a violation of law or regulation in connection with the contract award.

The House amendment contained a similar provision (sec. 1431).

The Senate recedes.

Authority of the General Services Administration Board of Contract Appeals (sec. 1432)

The Senate bill contained a provision (sec. 1432) that would clarify that at the request of an interested party, the General Services Administration Board of Contract Appeals shall review any decision by a contracting officer alleged to have violated a statute, regulation, or the conditions of any delegation of procurement authority.

The House amendment contained an identical provision (sec. 1432).

The conferees agree to this provision.

Periods for certain actions (sec. 1433)

The Senate bill contained a provision (sec. 1433) that would amend section 111(f) of the Federal Property and Administrative Services Act.

Subsection (a) would conform the schedule for General Services Administration Board of Contract Appeals hearings on suspension of procurement authority to the time frames established in section 1402 for protests before the Comptroller General and provide that pre-award suspensions need not preclude continuance of the procurement process to point of award unless the agency head determines such action not to be in the best interests of the United States.

Subsection (b) would substitute calendar days for working days and require that an amendment that adds new grounds of protest be resolved, to the maximum extent practicable, within the time limits established for resolution of the initial protest.

The House amendment contained a similar provision (sec. 1433).

The Senate recedes with an amendment that would provide that the termination regarding the pre-award suspension would be made by the Board.

Dismissals of protests (sec. 1434)

The Senate bill contained a provision (sec. 1434) that would authorize the General Services Administration Board of Contract Appeals to dismiss a protest that is frivolous, brought in bad faith, or does not state on its face a valid basis for protest.

The House amendment contained a similar provision (sec. 1434) that also would provide for the imposition of liability on a protester bringing a frivolous protest for costs of the United States incurred in defending against the protest.

The House recedes with an amendment which would provide that the Board may impose appropriate procedural sanctions against protestors filing such protests.

Awards of costs (sec. 1435)

The Senate bill contained a provision (sec. 1435) that would authorize the payment of consultant and expert witness fees as well as attorneys' fees in protest cases before the General Services Administration Board of Contract Appeals, and would limit all such fees to the levels established in the Equal Access to Justice Act (EAJA). The fee cap would not apply to small businesses.

The House amendment contained a similar provision (sec. 1435) but did not include a cap on fees and included a definition of the term "prevailing party."

The House recedes with an amendment that would provide for a $150 limit on attorneys' fees, which is higher than the current EAJA rate. The amendment would allow for fees above $150 if such higher fees are determined by the Board to be justified. The amendment would limit the reimbursement for fees of consultants and expert witness to the highest rate paid by the Federal Government for expert witnesses.

The conferees note that the $150 fee level should be considered as a maximum, not a minimum. The conferees do not intend the provision to authorize the payment of rates that are higher than charged by an attorney in other similar cases or by other attorneys of similar level of experience in bid protest cases.

The conferees also note that this provision would entitle a small business concern to recover "reasonable attorneys' fees" in appropriate cases. The conferees expect the Board to be vigilant in reviewing attorneys' fees to ensure that they are reasonable. The cap placed on attorneys' fees for businesses other than small business constitutes a benchmark as to what constitutes a "reasonable" level for attorneys' fees for small businesses.

Dismissal agreements (sec. 1436)

The Senate bill contained a provision (sec. 1436) that would require public disclosure of any settlement agreement that provides for the dismissal of a protest and involves a direct or indirect expenditure of appropriated funds. This provision also would authorize agencies to make such payments from the judgment fund.

The House amendment contained an identical provision (sec. 1436).

The conferees agree to this provision.

Matters to be covered in regulations (sec. 1437)

The Senate bill contained a provision (sec. 1438) that would authorize the General Services Administration Board of Contract Appeals to adopt appropriate rules and procedures which would, at a minimum, address the computation of time periods under the statute and provide procedures for electronic filing and dissemination of documents.

The House amendment contained a similar provision (sec. 1437).

The Senate recedes.

Definition of protest (sec. 1438)

The Senate bill contained a provision (sec. 1439) that would amend the definition of

"protest" in 40 U.S.C. 759(f)(9) regarding protests to the General Services Administration Board of Contract Appeals to clarify that the term covers protests of solicitations, cancellations of solicitations, awards or proposed awards of contracts, and the cancellation of an award (where such cancellation is alleged to be based on improprieties in the award process). The same definition would be provided for the General Accounting Office in section 1401 of the Senate bill.

The House amendment contained a similar provision (sec. 1438).

The Senate recedes with a technical amendment.

Oversight of acquisition of automatic data processing equipment by federal agencies (sec. 1439)

The House amendment contained a provision (sec. 1439) that would require the Administrator of the General Services to collect and compile data on automated data processing acquisitions.

The Senate bill contained no similar provision.

The Senate recedes.

Subtitle E—Policy, Definitions, and Other Matters

PART I—ARMED SERVICES ACQUISITIONS

Repeal of policy statement (sec. 1501)

The House amendment contained a provision (sec. 1501) that would revise 10 U.S.C. 2301 to restate congressional defense procurement policy.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would repeal 10 U.S.C. 2301. The conferees agree that contemporary changes in the acquisition laws, including the changes proposed in this conference report, have made it unnecessary to set forth a separate statement of procurement policy.

Definitions (sec. 1502)

The Senate bill contained a provision (sec. 1501) that would amend the definitions in 10 U.S.C. 2302 to cross-reference definitions in the Office of Federal Procurement Policy Act, where appropriate.

The House amendment contained a similar provision (sec. 1502).

The Senate recedes with a technical amendment.

Delegation of procurement functions (sec. 1503)

The Senate bill contained a provision (sec. 1502) that would consolidate provisions on delegation of procurement functions for the Department of Defense.

The House amendment contained a similar provision (sec. 1503).

The Senate recedes.

Determinations and decisions (sec. 1504)

The Senate bill contained a provision (sec. 1503) that would streamline provisions on determinations and decisions by the Department of Defense, while retaining the requirement that such findings be made in writing and retained for no less than six years.

The House amendment contained a similar provision (sec. 1504).

The Senate recedes.

Restrictions on undefinitized contractual actions (sec. 1505)

The Senate bill contained a provision (sec. 1504) that would make technical changes in 10 U.S.C. 2326, concerning undefinitized contractual actions.

The House amendment contained in identical provision (sec. 1505).

The conferees agree to this provision.

Repeal of requirement relating to production special tooling and production special test equipment (sec. 1506)

The Senate bill contained a provision (sec. 1505) that would repeal 10 U.S.C. 2329, concerning contract terms of production special tooling and production special test equipment.

The House amendment contained a similar provision (sec. 1505).

The Senate recedes. The repeal is not intended to effect current policies with respect to reimbursement for the costs of production special tooling and production test equipment.

Regulations for bids (sec. 1507)

The Senate bill contained a provision (sec. 1506) that would clarify that the authority established in 10 U.S.C. 2381(a) regarding issuance of regulations relating to bid bonds on construction contracts. The Senate provision added a reference to the Secretary of Defense.

The House amendment contained an identical provision (sec. 1507).

The conference agreement deletes references to the secretaries of the military services vesting regulatory authority in the Secretary of defense, subject to any delegation that might be needed to meet a service unique requirement.

PART II—CIVILIAN AGENCY ACQUISITIONS

Definitions (sec. 1551)

The Senate bill contained a provision (sec. 1551) that would amend the definitions in the Federal Property and Administrative Services Act to cross-reference definitions in the Office of Federal Procurement Policy Act, where appropriate.

The House amendment contained a similar provision (sec. 1551).

The Senate recedes with a technical amendment.

Delegation of procurement functions (sec. 1552)

The Senate bill contained a provision (sec. 1552) that would consolidate provisions on delegation of procurement functions for civilian agencies, in the same manner as provided for the Department of Defense in section 1502.

The House amendment contained a similar provision (sec. 1552).

The Senate recedes with a technical amendment.

Determinations and decisions (sec. 1553)

The Senate bill contained a provision (sec. 1553) that would streamline the provisions in the Federal Property and Administrative Services Act on determinations and decisions, while retaining the requirement that such findings be in writing and retained for not less than six years.

The House amendment contained a similar provision (sec. 1553).

The Senate recedes with a technical amendment.

Repeal of preference for recycled toner cartridges (sec. 1554)

The Senate bill contained a provision (sec. 3085) that would repeal certain restrictions relating to the acquisition of recycled toner cartridges.

The House amendment contained a similar provision (sec. 1554).

The Senate recedes with a technical amendment.

Cooperative purchasing (sec. 1555)

The Senate bill contained a provision (sec. 1554) that would amend the Federal Property and Administrative Services Act to provide that the Administrator of General Services is to provide, upon request, any of the services the Administrator performs to other federal agencies, mixed-ownership government corporations, or the District of Columbia, or a qualified non-profit agency for the blind or other severely handicapped under the Javits-Wagner-O'Day Act and that the Administrator may provide for the use of Federal supply schedules or other contracts by State or local governments, Puerto Rico, or Indian tribal governments.

The House amendment contained a similar provision (sec. 1555). With respect to the use of schedules, the House amendment would provide for the use of General Services Administration Federal supply schedules only and would provide that the entity using the Federal supply schedule may be required to reimburse the General Services Administration (GSA) for any administrative costs of using the schedule.

The Senate recedes with a technical amendment. In providing the authority for GSA to permit State and local governments as well as others to use GSA schedule contracts, the conferees intend that the terms of each schedule holder's contract govern and that schedule contractors not be required to service other than federal government users unless the particular schedule contract so specifies.

CONTRACT FORMATION—LEGISLATIVE PROVISIONS NOT ADOPTED

Two-phase selection procedures

The Senate bill contained two provisions (secs. 1017 and 1067) that would authorize two-phase selection procedures for use on other than construction contracts where it is anticipated that three or more offers will be received, a substantial amount of design work is needed before a cost or price proposal can be developed, and offerors will incur substantial proposal preparation costs. First step proposals would be evaluated on technical approach and qualifications; in the second step, at least three offerors determined to be most highly qualified under step one would submit competitive proposals including cost or price information.

The House amendment contained no similar provision.

The Senate recedes.

Technical and conforming amendments

The Senate bill contained a provision (sec. 1022) that would make technical and conforming amendments to 10 U.S.C. 2306.

The House amendment contained no similar provision.

The Senate recedes.

Continued occupancy of leased space

The Senate bill contained a provision (sec. 1056) that would amend 41 U.S.C. 253(d) to permit the use of other than competitive procedures for a follow-on lease for continued occupancy by federal agencies of space in buildings on a one-time basis for a period not to exceed five years upon a determination that there is a continuous need for the space, the space meets the agency's needs and that the space is offered at a fair market price.

The House amendment contained no similar provision.

The Senate recedes.

Award of multiple contracts

The House amendment contained two provisions (secs. 1017 and 1067) that would authorize the Department of Defense to award multiple contracts under a single solicitation if it would be in the best interests of the Federal Government.

The Senate bill contained no similar provision.

The House recedes.

Elimination of certain terminology regarding defense research activities

The Senate bill contained a provision (sec. 1302) that would have revised 10 U.S.C. 2364 to eliminate the statutory use of certain terminology regarding defense research activities.

The House amendment contained no similar provision.

The Senate recedes.

Jurisdiction of the United States Court of Federal Claims

The Senate bill contained three provisions (Secs. 1421, 1422, and 1437) that would give the U.S. Court of Federal Claims exclusive judicial jurisdiction over bid protests, and eliminate district court jurisdiction over such protests. The provisions would have no impact on the protest jurisdiction of the General Accounting Office and the General Services Administration Board of Contract Appeals.

The House amendment contained no similar provisions.

The Senate recedes.

TITLE II—CONTRACT ADMINISTRATION

Subtitle A—Contract Payment

PART I—ARMED SERVICES ACQUISITIONS

Contract financing (sec. 2001)

The Senate bill contained a provision (sec. 2001) that would consolidate contract financing provisions for the Department of Defense in 10 U.S.C. 2307, provide for performance-based payments whenever practicable, and repeal obsolete and superseded provisions.

The House amendment contained a similar provision (sec. 2001) that also would authorize payments for commercial items using commercial terms and conditions, with certain limitations.

The Senate recedes with an amendment that would provide for performance-based payments whenever practicable and commercial item payments when in the best interests of the United States. The conference agreement would make it clear that Prompt Payment Act requirements in chapter 39 of title 31, United States Code are not intended to be impaired or modified by this provision.

Repeal of vouchering procedures section (sec. 2002)

The Senate bill contained a provision (sec. 2002) that would repeal 10 U.S.C. 2355, which creates unique vouchering requirements for the Department of Defense.

The House amendment contained an identical provision (sec. 2002).

The conferees agree to this provision.

PART II—CIVILIAN AGENCY ACQUISITIONS

Contract financing (sec. 2051)

The Senate bill contained a provision (sec. 2051) that would consolidate contract financing provisions for the civilian agencies and provide for performance-based payments whenever practicable.

The House amendment contained a similar provision (sec. 2051) that would also authorize payments for commercial items using commercial terms and conditions, with certain limitations.

The Senate recedes with an amendment that would provide for performance-based payments whenever practicable and commercial item payments when in the best interests of the United States. The conference agreement would make it clear that Prompt Payment Act requirements in chapter 39 of title 31, United States Code are not intended to be modified by this provision.

PART III—ACQUISITIONS GENERALLY

Government-wide application of payment protections for subcontractors and suppliers (sec. 2091)

The House amendment contained a provision (sec. 4102) that would require the Administrator of the Office of Federal Procurement Policy to prescribe regulations to govern payment protections for first tier subcontractors and suppliers under Government contracts. This provision would make conforming amendments to other applicable provisions of law.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would provide that the Federal Acquisition Regulation be modified to apply on a government-wide basis the current Department of Defense payment protections mandated by section 806 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190: 10 U.S.C. 2301 note) which are similar to the provisions that are in sec. 4102 of the House amendment.

Subtitle B—Cost principles

PART I—ARMED SERVICES ACQUISITIONS

Allowable contract costs (sec. 2101)

The Senate bill contained a provision (sec. 2101) that would amend the Department of Defense contract cost principles in 10 U.S.C. 2324 to raise the threshold for coverage to $500,000, with a periodic inflation adjustment for the threshold. This provision also would eliminate the requirement for General Accounting Office reports and include the costs of lobbying local government bodies in the current prohibition against reimbursement of the costs of lobbying before a Federal or State body.

The House amendment contained a similar provision (sec. 2101) that also would extend the coverage of the cost principles to the U.S. Coast Guard and the National Aeronautics and Space Administration, provide for different inflation adjustment factors, and exempt commercial items. The House provision did not address local lobbying costs.

The Senate recedes with an amendment that would conform the inflation adjustment to the Senate provision (adjustments based upon 1994 dollars and rounded to the nearest $50,000) and provide that firm fixed price contracts for commercial items are not subject to this provision. The amendment would also adopt the Senate provision with respect to the local lobbying costs. The conferees direct that the costs associated with lobbying of local government entities be treated in the regulations in the same manner as lobbying before State entities is treated under the current applicable cost principle, section 31.205–22(B) of the Federal Acquisition Regulation.

Repeal of authority for contract profit controls during emergency periods (sec. 2102)

The Senate bill contained a provision (sec. 2102) that would repeal 10 U.S.C. 2382, which provides standby profit controls for use during national emergencies. Contractor profits would continue to be negotiated pursuant to the principles established in the Federal Acquisition Regulation.

The House amendment contained an identical provision (sec. 2102).

The conferees agree to this provision.

PART II—CIVILIAN AGENCY ACQUISITIONS

Allowable contract costs (sec. 2151)

The Senate bill contained a provision (sec. 2151) that would amend Section 306 of the Federal Property and Administrative Services Act (41 U.S.C. 256) to establish contract cost principles for civilian agencies. This provision, which is substantially the same as section 2101, would ensure uniform treatment of contract costs by civilian agencies and the Department of Defense.

The House amendment contained a similar provision (sec. 2125) that would provide for different inflation adjustment factors. It would add a provision concerning claims of unallowable costs under Department of Energy management and operating contracts and would exempt commercial contracts from the cost principles. The House provision did not address local lobbying costs.

The Senate recedes with a amendment that would adopt the Senate inflation adjustment provision (adjustments based upon 1994 dollars and rounded to the nearest $50,000) and would provide that firm fixed price contracts for commercial items are not to be covered. The amendment would also adopt the Senate provision with respect to the local lobbying costs. In this regard, the conferees direct that the costs associated with lobbying of local government entities be treated in the regulations in the same manner as lobbying before State entities is treated under the current applicable cost principle, section 31.205–22(B) of the Federal Acquisition Regulation (FAR).

The conferees do not intend that the current contract cost principles in the FAR be rewritten for civilian agencies unless the codification contains a change from current law set forth in title 10, United States Code.

PART III—ACQUISITIONS GENERALLY

Travel expenses of government contractors (sec. 2191)

The Senate bill contained a provision (sec. 2191) that would repeal section 24 of the Office of Federal Procurement Policy Act (41 U.S.C. 420), regarding travel expenses of government contractors.

The House amendment contained a similar provision (sec. 2161) that would clarify the application of the current OFPP Act limit on reimbursement of such expenses.

The House recedes.

Revision of cost principles relating to entertainment, gift, and recreation costs for contractor employees (sec. 2192)

The Senate bill contained a provision (sec. 2192) that would require an amendment of the Federal Acquisition Regulation (FAR) to provide that costs for entertainment that are not allowable under the entertainment cost principle are not allowable under any other principle, and to clarify the relationship to other cost principles.

The House amendment would provide: (1) that costs for entertainment, gifts, or recreation for employees are not allowable unless the FAR is amended to specify circumstances under which such costs are allowable; and (2) that costs not allowable under the entertainment cost principles are not allowable under any other principle.

The Senate recedes with a clarifying amendment. The conference agreement would combine the two provisions and make clear the Congressional intent that the Federal Acquisition Regulation be revised so that entertainment costs are not reimbursable on any basis.

Subtitle C—Audit and Access to Records

PART I—ARMED SERVICES ACQUISITIONS

Consolidation and revision of authority to examine records of contractors (sec. 2201)

The Senate bill contained a provision (sec. 2201) that would amend 10 U.S.C. 2313 to provide a consolidated audit provision, prohibit a contracting agency preaward audit where the contracting officer determines that audit objectives can be met by any federal agency's audit occurring within one year preceding the contracting officer's determination, and clarify that no special records need to be created or maintained in connection with General Accounting Office access to records. The section also would repeal superseded provisions.

The House amendment contained a similar provision (sec. 2201) that in addition would extend the applicability to electronic forms and images of original records.

The Senate recedes with a technical amendment.

PART II—CIVILIAN AGENCY ACQUISITIONS

Authority to examine records of contractors (sec. 2251)

The Senate bill contained a provision (sec. 2251) that would add a new section 304B to the Federal Property and Administrative Services Act to provide a consolidated audit provision, provide agency heads with subpoena power, prohibit a contracting agency preaward audit where the contracting officer determines that audit objectives can be met by any federal agency's audit occurring within one year preceding the contracting officer's determination, and to clarify that no special records need to be created or maintained in connection with General Accounting Office access to records. The section also would repeal superseded provisions.

The House amendment contained a similar provision (sec. 2251) but would not provide for subpoena power.

The House recedes with an amendment that would limit the subpoena power to the Defense Contract Audit Agency and the statutory Inspectors General. With respect to an agency without a statutory Inspector General, a subpoena could be issued by the General Services Administration Inspector General. The amendment also would make additional technical and clarifying changes.

Subtitle D—Claims and Disputes

PART I—ARMED SERVICES ACQUISITIONS

Certification of contract claims (sec. 2301)

The Senate bill contained a provision (sec. 2501) that would amend 10 U.S.C. 2410, which establishes Department of Defense-unique requirements for the certification of contract claims to make it clear the provision applies only to requests for equitable adjustment and for relief under Public Law 85-804. The provision would repeal 10 U.S.C. 2410e, concerning a Department of Defense certification requirement. Provisions of the Contract Disputes Act of 1978 regarding the certification of claims would remain in effect and would govern claims on a government-wide basis. The provision would also codify a provision restricting legislative payment of claims.

The House amendment contained a provision (sec. 2501) that would amend 10 U.S.C. 2410e and repeal 10 U.S.C. 2410.

The House recedes.

Shipbuilding claims (sec. 2302)

The Senate bill contained a provision (sec. 2502) that would amend 10 U.S.C. 2405, to conform the time allowed for the filing of a claim, request for equitable adjustment, or demand for payment under shipbuilding contracts to six years, the time allowed for such actions under other types of contracts. The Senate provision also would repeal subsection (c) of section 2405, which concerns corrected certifications.

The House amendment contained a similar provision (sec. 2502).

The Senate recedes with a technical amendment.

PART II—ACQUISITIONS GENERALLY

Contract Disputes Act improvements (sec. 2351)

The Senate bill contained a provision (sec. 2552) that would amend the Contract Disputes Act to clarify the periods for filing claims. The section also would raise thresholds for certifications and for accelerated and small claims procedures. In addition, it would reduce the time period for filing actions in the Court of Federal Claims from 12 months to 90 days.

The House amendment contained no similar provision.

The House recedes with an amendment that would measure the six year limitation for filing claims from the "accrual" of the claim, increase the threshold for the applicability of accelerated claims procedures to $100,000, and eliminate the provision in the Senate bill reducing the time period for filing actions in the Court of Federal Claims. In addition the amendment would clarify the Contract Disputes Act to insure a contractor's right to request that the "tribunal concerned" in a particular claim action, whether it is an agency board of contract appeals or a court of proper jurisdiction, for example, the Court of Federal Claims, direct a contracting officer to issue a decision on a claim in a specified period of time in the event of the contracting officer's undue delay.

Extension of alternate dispute resolution authority (sec. 2352)

The Senate bill contained a provision (sec. 2553) that would amend the Contract Disputes Act to extend the authority to engage in alternative dispute resolution under that Act until October 1, 1999. The provision also would provide a procedure for addressing requests for use of alternative dispute resolution procedures.

The House amendment contained no similar provision.

The House recedes.

Expedited resolution of contract administration complaints (sec. 2353)

The Senate bill contained a provision (sec. 2554) that would require that a contracting officer make reasonable efforts to respond within 30 days to any written inquiry from a small business concerning contract administration. This section would create no rights under the Contract Disputes Act.

The House amendment contained no similar provision.

The House recedes. The conferees intend references to written matter in this section to include electronic transmissions.

Authority for district courts to obtain advisory opinions from boards of contract appeals in certain cases (sec. 2354)

The Senate bill contained a provision (sec. 2555) that would permit a district court to ask a board of contract appeals for an advisory opinion on contract issues.

The House amendment contained no similar provision.

The House recedes with an amendment that would provide that the board of contract appeals should provide the advisory opinion in a timely manner to the district court.

Subtitle E—Miscellaneous

PART I—ARMED SERVICES ACQUISITIONS

Clarification of provision regarding quality control of certain spare parts (sec. 2401)

The Senate bill contained a provision (sec. 2401) that would repeal 10 U.S.C. 2383, which concerns the qualification requirements for critical spare parts.

The House amendment contained a provision (sec. 2401) that would revise 10 U.S.C. 2383.

The Senate recedes.

Contractor guarantees regarding weapons systems (sec. 2402)

The Senate bill contained a provision (sec. 2402) that would amend 10 U.S.C. 2403, which concerns contractor guarantees on weapons systems, to require the Department of Defense to establish guidelines and procedures for negotiating and administering contractor guarantees.

The House amendment contained a similar provision (sec. 2401).

The Senate recedes. The conferees agree that the Department of Defense should take steps to test innovative approaches to warranties with a goal of developing a more effective implementation of the statutory requirement.

PART II—ACQUISITIONS GENERALLY

Section 3737 of the Revised Statutes: expansion of authority to prohibit setoffs against assignees; reorganization of section; revision of obsolete provisions (sec. 2451)

The Senate bill contained a provision (sec. 2451) that would amend section 3737 of the Revised Statutes (41 U.S.C. 15) to expand authority for set-offs against assignees.

The House amendment contained no similar provision.

The House recedes.

Repeal of requirement for deposit of contracts with GAO (sec. 2452)

The Senate bill contained a provision (sec. 2452) which would repeal an obsolete requirement for deposit of contracts with GAO.

The House amendment contains no similar provision.

The House recedes.

Repeal of obsolete deadline regarding procedural regulations for the Cost Accounting Standards Board (sec. 2453)

The Senate bill contained a provision (sec. 2302) that would repeal an obsolete deadline for procedural regulations that have already been issued, while retaining the provision authorizing the issuance of such regulations.

The House amendment contained an identical provision (sec. 2301).

The conferees agree to this provision.

Codification of accounting requirement for contracted advisory and assistance services (sec. 2454)

The Senate bill contained a provision (sec. 3051) that would codify accounting requirements for contracted advisory and assistance services.

The House amendment contained a similar provision (sec. 8008).

The House recedes with a technical amendment.

Uniform suspension and debarment (sec. 2455)

The Senate bill contained a provision (sec. 9004) that would give government-wide effect to agency suspension and debarment actions, with limited exceptions.

The House amendment contained no similar provision.

The House recedes.

CONTRACT ADMINISTRATION—LEGISLATIVE PROVISIONS NOT ADOPTED

Claims jurisdiction of United States district courts and the United States Court of Federal Claims

The Senate bill contained a provision (sec. 2551) that would amend the Little Tucker Act to clarify the concurrent jurisdiction of district courts with the Court of Federal Claims over contract disputes.

The House amendment contained no similar provision.

The Senate recedes.

Interest penalty on contract close-out lagtime

The House amendment contained a provision (sec. 2061) that would permit the payment of interest penalties when contract close-out exceeds one year after the contractor completes all obligations.

The Senate bill contained no similar provision.

The House recedes.

TITLE III—SERVICE SPECIFIC AND MAJOR SYSTEMS STATUTES

Subtitle A—Major Systems Statutes

Weapon development and procurement schedules (sec. 3001)

The House amendment contained a provision (sec. 3001) that would streamline the statutory requirements concerning weapon development and procurement schedules (10 U.S.C. 2431).

The Senate bill contained no similar provision.

The Senate recedes.

Selected acquisition report requirement (sec. 3002)

The House amendment contained a provision (sec. 3002) that would streamline the statutory requirements governing selected acquisition reports (10 U.S.C. 2432–33) by eliminating several requirements, eliminating extraneous data requirements, and by redefining budgetary baselines.

The Senate bill contained no similar provision.

The Senate recedes with a clarifying amendment.

Unit cost report requirement (sec. 3003)

The House amendment contained a provision (sec. 3003) that would streamline the statutory requirements governing unit cost reports (10 U.S.C. 2433) by eliminating extraneous data requirements and by redefining baselines.

The Senate bill contained no similar provision.

The Senate recedes.

Requirement for independent cost estimate and manpower estimate before development or production (sec. 3004)

The Senate bill contained a provision (sec. 3001) that would modify 10 U.S.C. 2434, which concerns independent cost estimates and manpower estimates.

The House amendment contained a similar provision (sec. 3004).

The Senate recedes with a clarifying amendment.

Baseline description (sec. 3005)

The Senate bill contained a provision (sec. 3002) that would streamline requirements for program baseline descriptions and deviation reporting.

The House amendment contained a similar provision (sec. 3005).

The Senate recedes with a technical amendment. Although these modifications provide DOD with added flexibility, the conferees expect that the Department will continue to establish program baselines and provide essential program cost information.

Repeal of requirement for competitive prototyping of major programs (sec. 3006)

The Senate bill contained a provision (sec. 3004) that would repeal 10 U.S.C. 2438, concerning the use of competitive prototyping in major programs.

The House amendment contained an identical provision (sec. 3006).

The conferees agree to this provision. The conferees expect the Department of Defense to continue considering prototyping as an option in the acquisition planning process and to use competitive prototype strategies where appropriate.

Repeal of requirement for competitive alternative sources for major programs (sec. 3007)

The Senate bill contained a provision (sec. 3005) that would repeal 10 U.S.C. 2439, concerning the use of competitive alternative sources in major programs.

The House amendment contained an identical provision (sec. 3007).

The conferees agree to this provision. The conferees expect DOD to continue considering competitive alternative sources as an option in the acquisition planning process and to use competitive alternative sources where appropriate.

Subtitle B—Testing Statutes

Authority of the Director of Operational Test and Evaluation to communicate views directly to the Secretary of Defense (sec. 3011)

The Senate bill contained a provision (sec. 3011) that would amend 10 U.S.C. 139 to provide that the Director of Operational Test and Evaluation reports directly, without intervening review or approval, to the Secretary and Deputy Secretary of Defense personally.

The House amendment contained no similar provision. A separate bill passed by the House (H.R. 4301) contained a provision (sec. 906) that would provide for the Director to report to the Under Secretary of Defense (Comptroller).

The House recedes with an amendment that would provide expressly that the Director of Operational Test and Evaluation is authorized to communicate views on matters within the Director's responsibility directly to the Secretary and Deputy Secretary of Defense without obtaining the approval or concurrence of any other official within the Department of Defense.

Under current DOD policy, the Director reports directly to the Secretary and Deputy Secretary of Defense. The conferees agree that this is the most desirable arrangement. If, in the future, the Department intends to consider a different organizational arrangement, the conferees direct the Secretary to ensure ample consultation with Congress before implementation of any changes. The conferees emphasize that any such future arrangement must maintain the requirements for independence of the Director from the Under Secretary of Defense for Acquisition and Technology as set forth in 10 U.S.C. 139. The conferees further emphasize that section 139 prohibits placing the Director within the control of the Under Secretary's organization, and requires the Director to act independently of the Under Secretary.

Responsibility of the Director of Operational Test and Evaluation for live fire testing (sec. 3012)

The Senate bill contained a provision (sec. 3012) that would amend 10 U.S.C. 139 to assign responsibility for live fire testing in the Department of Defense to the Director of Operational Test and Evaluation. The Senate amendment also would require the Director to include live fire testing activities in the Director's annual report.

The House amendment contained no similar provision.

The House recedes with an amendment that would make it clear that the Director would be responsible for monitoring and reviewing the live fire testing activities of the Department, including the Department's responsibilities under 10 U.S.C. 2366. The conferees intend that the Director prepare the report required by 10 U.S.C. 2366(d). The conferees note that the responsibility of the Director to include live fire testing activities in the Director's annual report does not replace other statutory reporting requirements concerning live fire testing. The conferees direct the Secretary of Defense to review all applicable reporting requirements, and to advise the congressional defense committees, not later than March 15, 1995, as to whether any statutory reporting requirements should be consolidated.

Requirement for unclassified version of annual report on operational test and evaluation (sec. 3013)

The Senate bill contained a provision (sec. 3013) that would amend 10 U.S.C. 139 to require the Secretary of Defense to submit the annual report to Congress on operational test and evaluation in an unclassified form if the report is submitted in a classified form.

The House amendment contained no similar provision.

The House recedes.

Survivability and lethality testing (sec. 3014)

The House amendment contained a provision (sec. 3011) that would amend 10 U.S.C. 2366 to modify requirements for survivability and lethality testing. This section would allow a waiver for less than full-up testing if the Secretary of Defense certifies to Congress that such testing would be unreasonably expensive or impractical.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would make it clear that the certification which must be provided to Congress in connection with such a modification must be submitted before the system enters engineering and manufacturing development. The effect would be to maintain realistic survivability and lethality testing through testing of components, subsystems, and subassemblies in cases where the Secretary waives requirements for full up testing under 10 U.S.C. 2366.

Limitation on quantities to be procured for low-rate initial production (sec. 3015)

The House amendment contained a provision (sec. 3012) that would amend 10 U.S.C. 2400 to provide limits on the number of articles that could be procured under low-rate initial production within the engineering and manufacturing phase of the acquisition cycles.

The Senate bill contained no similar provision.

The Senate recedes.

Subtitle C—Service Specific Laws

Gratuitous services of officers of certain reserve components (sec. 3021)

The Senate bill contained a provision (sec. 3021) that would revise 10 U.S.C. 279, concerning the acceptance of gratuitous services of reserve officers by the military departments.

The House amendment contained no similar provision.

The House recedes.

Authority to rent samples, drawings, and other information to others (sec. 3022)

The Senate bill contained a provision (sec. 3022) that would revise 10 U.S.C. 2541(a) to clarify that the provision includes the authority to rent manufacturing information, equipment, materials, and sources.

The House amendment contained no similar provision.

The House recedes.

Repeal of application of Public Contracts Act to certain naval vessel contracts (sec. 3023)

The House amendment contained a provision (sec. 3033) that would repeal 10 U.S.C. 7299, concerning the application of the Walsh-Healey Act to the construction of naval vessels.

The Senate bill contained no similar provision.

The Senate recedes.

Repeal of requirement for construction of vessels on Pacific Coast (sec. 3024)

The Senate bill contained a provision (sec. 3027) that would repeal a provision requiring the construction of certain naval vessels on the Pacific Coast.

The House amendment contained no similar provision.

The House recedes.

Scientific investigation and research for the Navy (sec. 3025)

The Senate bill contained a provision (sec. 3025) that would repeal an obsolete provision concerning Navy research.

The House amendment contained no similar provision.

The House recedes.

Subtitle D—Civil Reserve Air Fleet

Civil Reserve Air Fleet (secs. 3031–33)

The Senate bill contained a provision (sec. 3023) that would streamline and consolidate current laws concerning the Civil Reserve Air Fleet.

The House amendment contained similar provisions (secs. 3021–23).

The Senate recedes with a clarifying amendment.

The conferees encourage the Secretary of the Air Force to utilize the authorities provided in the conference agreement, which would enhance the effectiveness of participation in the Civil Reserve Air Fleet. The conference agreement would permit the Air Force to use landing fees to mitigate the cost of installation operations. The conferees believe this new authority will reduce costs at installations where active and reserve component operations have been reduced. This is especially significant in remote and isolated locations where support functions have been shifted to civilian contractors.

Subtitle E—Miscellaneous

Regulations on procurement, production, warehousing, and supply distribution functions (sec. 3061)

The Senate bill contained a provision (sec. 3081) that would amend 10 U.S.C. 2202 to delete unnecessary and redundant language.

The House amendment contained a similar provision (sec. 3051).

The Senate recedes with a technical amendment.

Repeal of requirements regarding product evaluation activities (sec. 3062)

The Senate bill contained a provision (sec. 3082) that would repeal 10 U.S.C. 2369, concerning product evaluation activities.

The House amendment contained a similar provision (sec. 3052).

The Senate recedes.

Department of Defense acquisition of intellectual property rights (sec. 3063)

The Senate bill contained a provision (sec. 5092) that would make technical changes in 10 U.S.C. 2386, concerning the acquisition of intellectual property rights by DOD.

The House amendment contained an identical provision (sec. 8005).

The conferees agree to this provision.

Liquid fuels and natural gas: contracts for storage, handling, or distribution (sec. 3064)

The Senate bill contained a provision (sec. 3061) that would clarify 10 U.S.C. 2388(a), concerning the storage, handling, and distribution of liquid fuels and natural gas.

The House amendment contained no similar provision.

The House recedes.

Codification and revision of limitation on lease of vessels, aircraft, and vehicles (sec. 3065)

The Senate bill contained a provision (sec. 3083) that codify the limitations on leasing vessels, aircraft, and vehicles by the Department of Defense.

The House amendment contained a similar provision (sec. 3052).

The Senate recedes.

Soft drink supplies (sec. 3066)

The Senate bill contained a provision (sec. 3084) that would revise 10 U.S.C. 2424 to permit the acquisition of U.S. manufactured soft drinks from a military exchange store located outside the United States for use outside the United States.

The House amendment contained no similar provision.

The House recedes.

Disbursement of funds of military department to cover obligations of another agency of Department of Defense (sec. 3067)

The Senate bill contained a provision (sec. 3071) that would clarify 31 U.S.C. 3321(c)(2), concerning the authority to designate disbursing officers within DOD.

The House amendment contained no similar provision.

The House recedes.

SERVICE SPECIFIC AND MAJOR SYSTEMS STATUTES—LEGISLATIVE PROVISIONS NOT ADOPTED

Repeal of requirement to designate certain programs as defense enterprise programs

The Senate bill contained a provision (sec. 3004) that would repeal section 809(d) of the National Defense Authorization Act for Fiscal Year 1991. Section 809(d) required defense acquisition pilot programs to be designated as defense enterprise programs under 10 U.S.C. 2436.

The House amendment contained no similar provision.

The Senate recedes. The conferees note that section 809(d) and 10 U.S.C. 2436 have been repealed by sections 821(a)(5) and 832(b) of the National Defense Authorization Act for Fiscal Year 1994.

Operational test and evaluation of defense acquisition programs

The House amendment contained a provision (sec. 3013) that would amend 10 U.S.C. 2399 to authorize the Secretary of Defense to use alternative operational test and evaluation procedures if the Secretary certifies to Congress that normal testing procedures are too costly or impractical.

The Senate bill contained no similar provision.

The House recedes. In view of the fact that the position of Director of Operational Test and Evaluation has been vacant for over a year and a half, the conferees agree that the changes proposed by the House should not be considered prior to a thorough review and consideration by appropriate DOD officials, including the next Director. The conferees agree that it is appropriate to review current statutory requirements to ensure that they are cost effective and practicable. The conferees direct the Secretary of Defense to advise the congressional defense committees no later than March 15, 1994 on the issue of whether any changes should be made in current law.

Exchange of personnel

The Senate bill contained a provision (sec. 3024) that would authorize certain international personnel exchanges.

The House amendment contained no similar provision.

The Senate recedes. The conferees note that the Department of Defense has authority to participate in international exchanges of scientific personnel through Memoranda of Understanding and international cooperative research and development agreements. If DOD in the future should determine that existing authority is insufficient, the Administration should submit an appropriate legislative proposal.

Construction of combatant and escort vessels and assignment of vessel projects

The Senate bill contained a provision (sec. 3026) that would repeal a prohibition on the assignment of naval vessel conversion, alteration, or repair based upon a requirement that parts of the work be assigned to a particular type of shipyard or geographic area.

The House amendment contained no similar provision.

The Senate recedes.

Authority to transfer by gift a vessel stricken from naval vessel register

The Senate bill contained a provision (sec. 3028) that would clarify 10 U.S.C. 7306(a), concerning the authority to transfer by gift a vessel stricken from the naval vessel register.

The House amendment contained no similar provision.

The Senate recedes.

Naval salvage facilities

The Senate bill contained a provision (sec. 3029) that would revise various statutes regarding naval salvage facilities.

The House amendment contained no similar provision.

The Senate recedes.

TITLE IV—SIMPLIFIED ACQUISITION THRESHOLD

Subtitle A—Establishment of Threshold

Simplified acquisition threshold defined (sec. 4001)

The Senate bill contained a provision (sec. 4001(a)) that would amend the Office of Federal Procurement Policy Act to establish a new simplified acquisition threshold of $100,000.

The House amendment contained a similar provision (sec. 4001) that would define the simplified acquisition threshold as $25,000, increasing to $100,000 for agencies or procuring activities conducting acquisitions using a Federal Acquisition Computer Network (FACNET) capability, adjusted for inflation every five years.

The House recedes. The conference agreement includes a Federal Acquisition Computer Network cap established in Title IX of this agreement.

Establishment of simplified acquisition threshold for Armed Services (sec. 4002)

The House amendment contained a provision (sec. 4003) that would establish the simplified acquisition threshold within the Department of Defense, U.S. Coast Guard and National Aeronautics and Space Administration.

The Senate bill contained no similar provision.

The Senate recedes with an amendment.

Establishment of simplified acquisition threshold for civilian agencies (sec. 4003)

The House amendment contained a provision (sec. 4004) that would establish the simplified acquisition threshold within the civilian agencies.

The Senate bill contained no similar provision.

The Senate recedes.

Small business reservation (sec. 4004)

The Senate bill contained a provision (sec. 4012) that would reserve all contracts under the simplified acquisition threshold, except for those not exceeding $2,500, for small business, and would specifically authorize continued set-asides of all contracts under the simplified acquisition threshold for minority small businesses.

The House amendment contained no similar provision.

The House recedes with an amendment which would set the threshold for the reserve at $100,000. The conferees do not intend that the increased threshold alter the current priority among sources of supplies and services under Parts 8 and 13 of the Federal Acquisition Regulation.

Subtitle B—Inapplicability of Laws to Acquisition at or Below the Simplified Acquisition Threshold

List of inapplicable laws in Federal Acquisition Regulation (sec. 4101)

The Senate bill contained a provision (sec. 4021) that would authorize the waiver, in the Federal Acquisition Regulation (FAR), of the applicability of certain statutes to acquisitions not exceeding the simplified acquisition threshold. The House amendment contained a similar provision (sec. 4021).

The House recedes with an amendment.

Under the conference agreement, the FAR would be revised to include a list of statutes that are inapplicable to contracts or subcontracts for acquisitions not exceeding the $100,000 simplified acquisition threshold. Any provision of law that is properly included on the list would be inapplicable to any such contract. Nothing in the provision would waive the applicability of any statute that is not included on the list, or create any private right of action or other legal rights not expressly provided in this section, based on the alleged inapplicability of a provision of law that is not included on the list. The conferees intend that the FAR should be revised, upon enactment of this Act, to list as inapplicable to contracts for the acquisitions not exceeding the simplified acquisition threshold each of the provisions of law that would be made inapplicable by this Act, as well as those provisions that currently have a $100,000 or higher threshold.

The conference agreement would further provide that any future-enacted provision of law that, as determined by the FAR Council, sets forth policies, procedures, requirements, or restrictions for the procurement of property or services (other than a provision of law that imposes a civil or criminal penalty, or expressly precludes a simplified acquisition threshold exemption) would be included on the list unless the FAR Council determines that such an exemption would not be in the best interest of the United States. If such a provision of law is not included on the list and the FAR Council has not made the required determination, any interested party may file a petition to require appropriate action by the Administrator for Federal Procurement Policy.

Armed services acquisitions (sec. 4102)

The Senate bill contained a provision (sec. 4022) that would exempt armed services procurements below the simplified acquisition threshold from contingent fees certifications; the prohibition on limiting subcontractor direct sales to the United States; the audit requirements in 10 U.S.C. 2313; the requirement to identify suspended or debarred subcontractors; and the prohibition related to persons convicted of defense related felonies.

The House amendment contained a similar provision (sec. 4032) that also would exempt 10 U.S.C. 2401b (inventory accounting system standards) and 10 U.S.C. 2534 (miscellaneous limitations on procurement).

The Senate recedes with technical amendments.

Civilian agency acquisitions (sec. 4103)

The Senate bill contained a provision (sec. 4023) that would, in the same manner as section 4022, exempt civilian agency procurements below the simplified acquisition threshold from contingent fees certifications; the prohibition on limiting subcontractor direct sales to the United States; and certain audit requirements.

The House amendment contained a similar provision (sec. 4042).

The House recedes with a technical amendment.

Acquisitions generally (sec. 4104)

The Senate bill contained a provision (sec. 4024) that would exempt procurements below the simplified acquisition threshold from the procedural requirements of the Anti-Kickback Act; the Miller Act; the Contract Work Hours and Safety Standards Act; the Drug-Free Workplace Act of 1988; the certification requirements of Solid Waste Disposal Act; and would make technical changes to the Procurement Integrity Act substituting "simplified acquisition threshold" for $100,000," and making conforming changes.

The House amendment contained similar provisions (secs. 4031, 4051, 4052) but did not waive the Anti-Kickback Act; the Miller Act; the Contract Work Hours and Safety Standards Act; or certifications under the Solid Waste Disposal Act.

The House recedes with an amendment that would clarify the requirement to cooperate with Federal agency investigations of violations of the Anti-Kickback Act.

Simplified acquisition procedures (sec. 4201)

The Senate bill contained a provision (sec. 4011) that would add a new section 29 to the Office of Federal Procurement Policy Act, authorizing the use of simplified procedures for acquisitions under the simplified acquisition threshold. The section also would require that regulations implementing the new simplified procedures provide that purchases not exceeding $2,500 not be subject to the Small Business Act reservation requirement or the Buy American Act, that Federal employees who make such purchases are not to be classified as "procurement officials" under the Office of Federal Procurement Policy Act, and that such purchases may be made, as such purchases currently are made, without a requirement to secure competitive quotations.

The House amendment contained similar provisions (secs. 4011, 6001) that would reflect the Senate's simplified procedures and that would establish a micro-purchase threshold adjusted for inflation every five years. The provision would exempt such purchases from the Buy American Act, would treat government personnel authorized to use micro-purchases as procurement officials and would consider any contractor entering into a micro-purchase contract to be a competing contractor.

The Senate recedes with an amendment that would identify simplified procedures; prohibit the dividing of requirements for acquisition under the new threshold; promote competition; and establish special rules for the utilization of simplified procedures in connection with a new electronic Federal Acquisition Computer Network (FACNET). Simplified procedures may be used for acquisitions up to $50,000 upon enactment of the Act. When an agency certifies that interim FACNET is implemented, simplified procedures may be used by an agency for contracts up to $100,000.

Micro-purchases are addressed in sec. 4301 of the conference agreement.

Procurement notice (sec. 4202)

The Senate bill contained a provision (sec. 4014) that would amend section 18 of the Office of Federal Procurement Policy Act and section 8(e) of the Small Business Act to continue the requirement that a notice of any procurement over $25,000 be published in the Commerce Business Daily 15 days prior to the issuance of a solicitation. After the issuance of this notice, the agency would be free to pursue any procedures described in the notice; the current requirement to allow the 30 days for the submissions of bids and proposals would apply only to contracts in excess of the simplified acquisition threshold.

The House amendment contained similar provisions (sec. 4012, 6001) that would require the posting of notices of all solicitations between $10,000 and the simplified acquisition threshold for at least a ten day period unless the acquisition is conducted through the Federal Acquisition Computer Network (FACNET) to be established under this Act. In addition, the House amendment would establish minimum periods for the submission of offers to be set forth in the Federal Acquisition Regulation.

The House recedes with a technical amendment.

Implementation of simplified acquisition procedures (sec. 4203)

The House amendment contained provisions that would establish the simplified acquisition threshold (SAT) for the Department of Defense (DOD) (sec. 4003) and civilian agency (sec. 4004) procurements. The provision would allow an increase in SAT from $25,000 to $100,000 for a procuring activity once the senior procurement executive of an agency certifies that an interim electronic commerce capability has been implemented by the activity. Interim capability would be defined as the ability to issue notice of solicitation through the system. The provision also would require an agency to revert to a $25,000 SAT if in five years after enactment the agency has not achieved full electronic commerce capability for simplified acquisitions. Full capability is defined as 75% of all eligible agency contract actions between $2,500 (micro-purchase threshold) and $100,000.

The Senate bill contained no similar provision linking electronic commerce with a new simplified acquisition threshold. The Senate

bill, however, did contain a provision (sec. 4015) which would allow the establishment of an interoperable, governmentwide architecture for electronic commerce, coordinated through the Administrator of Federal Procurement Policy, that would permit the exchange of procurement information between the government and private users of the system.

The Senate recedes with an amendment. Electronic commerce under a Federal Acquisition Computer Network (FACNET) is set forth in title IX of the conference agreement. Sec. 4203 of the conference agreement provides for implementation of simplified acquisition procedures in DOD and civilian agencies.

Subtitle D—Micro-Purchase Procedures

Procedures for purchases below micro-purchase threshold (sec. 4301)

The Senate bill contained a provision (sec. 4011(b)) that would establish a "micro-purchase threshold" of $2,500 and require that regulations implementing the new simplified procedures provide that purchases not exceeding $2,500 not be subject to the Small Business Act reservation requirement or the Buy American Act. Federal employees who make such purchases would not be classified as "procurement officials" under the Office of Federal Procurement Policy Act. Micro-purchases could be made without a requirement to secure competitive quotations.

The House amendment contained similar provisions (secs. 4011, 6001) that would establish a micro-purchase threshold adjusted for inflation every five years. The provision would exempt such purchases from the Buy American Act, would treat government personnel authorized to use micro-purchases as procurement officials and would consider any contractor entering into a micro-purchase contract to be a competing contractor under the Procurement Integrity Act.

The House recedes with a clarifying amendment.

Subtitle E—Conforming Amendments

Armed services acquisitions (sec. 4401)

The Senate bill contained a provision (sec. 4071) that would make conforming amendments concerning the "simplified acquisition threshold."

The House amendment contained a similar provision (sec. 4071.)

The Senate recedes with a technical amendment.

Civilian agency acquisitions (sec. 4402)

The Senate bill contained a provision (sec. 4072) that would make conforming amendments concerning the "simplified acquisition threshold." The section also would amend the Federal Property and Administrative Services Act to authorize the use of simplified procedures for acquisitions of leases of real property where the annual rent does not exceed the simplified acquisition threshold.

The House amendment contained a similar provision (sec. 4072) but did not provide for simplified lease procedures under the simplified acquisition threshold.

The House recedes.

Office of Federal Procurement Policy Act (sec. 4403)

The Senate bill contained a provision (sec. 4073) that would make conforming amendments concerning the "simplified acquisition threshold" in the Office of Federal Procurement Policy Act.

The House amendment contained an identical provision (sec. 4073).

The conferees agree to this provision.

Small Business Act (sec. 4404)

The Senate bill contained a provision (sec. 4074) that would make conforming amendments concerning the "simplified acquisition threshold" in the Small Business Act.

The House amendment contained no similar provision.

The House recedes.

SIMPLIFIED ACQUISITION THRESHOLD—LEGISLATIVE PROVISION NOT ADOPTED

Revision required

The Senate bill contained a provision (sec. 4081) that would require the FAR Council to review the Federal Acquisition Regulation to identify and amend regulations that are applicable below the new simplified acquisition threshold.

The House amendment contained a similar provision (sec. 4081).

The conferees agreed that such a provision is unnecessary in view of the detailed implementation requirements in title X of the bill.

Fast payment under simplified acquisition procedures

The Senate bill contained a provision (sec. 4013) that would provide that for any purchase made pursuant to simplified acquisition procedures payment shall be made in accordance with the Prompt Payment Act within 15 days of receipt of invoice under appropriate circumstances. In making such payments disbursements would be required to be matched with obligations.

The House amendment contained no similar provision.

The Senate recedes.

GAO report on the simplified acquisition threshold

The House amendment contained a provision (sec. 4013) that would require GAO to submit a report to Congress regarding the effects of the simplified acquisition threshold on participation of small business on awards less than $100,000.

The Senate bill contains no similar provision.

The House recedes.

TITLE V—ACQUISITION MANAGEMENT

Subtitle A—Armed Services Acquisitions

Performance based management (sec. 5001)

The Senate bill contained a provision (sec. 5001) that would require the establishment of cost, schedule, and performance goals for Department of Defense major weapons systems, as well as the development of an enhanced system of performance incentives.

The House amendment contains no similar provision.

The House recedes with an amendment that would delete the policy statement from the Senate provision. This is consistent with the conferees' goal of minimizing the number of policy statements codified in title 10 of the United States Code. The conference agreement also would address the standards in the Senate provision by reflecting these standards in the annual reporting requirements. These standards would serve as the basis for review of programs that do not meet cost, schedule, and performance goals. The conferees agree that because the review of such non-complaint programs would necessarily include an evaluation of the current need for the program, the state of technology, and cost and schedule estimates, there is no need to codify these requirements. The conference agreement also would revise the provisions of the Senate bill concerning performance incentives to clarify that these provisions are intended to focus on personnel whose performance would have a direct impact on program management.

Results oriented program acquisition cycle (sec. 5002)

The Senate bill contained a provision (sec. 5002) that would require the Secretary of Defense to establish, by regulation, a simplified, results-oriented acquisition program cycle.

The House amendment contains no similar provision.

The House recedes with an amendment that would require DOD to ensure that the Department's acquisition program cycle procedures are consistent with the revised baseline description requirements of 10 U.S.C. 2435, as amended in title III of the conference report. The conferees agree that in streamlining the current acquisition program cycle, DOD should consider the techniques set forth in the Senate provision, including: (1) greater reliance on objective data to confirm results of a program phase, and (2) shortening timelines through increased use of integrated decision teams and operator involvement in evaluating results.

Subtitle B—Civilian Agency Acquisitions

Performance based management (sec. 5051)

The Senate bill contained a provision (sec. 5051) that would require the establishment of cost, schedule, and performance goals for civilian agency procurements, as well as the development of civilian acquisition workforce policies similar to those established for the Department of Defense acquisition workforce under chapter 87 of title 10, United States Code.

The House amendment contains no similar provision.

The House recedes with a clarifying amendment similar to the conference agreement on the performance based management provisions applicable to the Department of Defense. The conferees expect that such guidelines will consist of general procedures and policies that would be adapted by agencies to their specific circumstances.

Results oriented program acquisition process (sec. 5052)

The Senate bill contained a provision (sec. 5052) that would require the Administrator for Federal Procurement Policy, in consultation with the heads of civilian agencies, to establish simplified, results-oriented acquisition program cycles, similar to the process required for the Department of Defense under section 5002 of the Senate bill. The House amendment contained no similar provision.

The House recedes.

Subtitle C—Pilot Programs

Office of Federal Procurement Policy test program (sec. 5061)

The House amendment contained a provision (sec. 8001) that would authorize the Administrator for Federal Procurement Policy to conduct a program of up to six tests of alternative and innovative procurement procedures over a four year period.

The Senate bill contained no similar provision.

The Senate recedes with an amendment. The conference agreement would authorize the Administrator to test alternative and innovative acquisition practices, using one program at each of six separate agencies. Programs in the test would be authorized to waive specified laws and regulations. An agency could participate in the test after the agency has implemented the full FACNET electronic commerce procedures required in title IV of the conference report. The conferees expect the Office of Federal Procurement Policy (OFPP) to be fully occupied

over the next year with the issuance of regulations implementing the full range of reforms mandated by the Federal Acquisition Streamlining Act of 1994, and it is the intent of the conferees that OFPP not take any action to use the test authority in this provision until the regulations needed to effectuate the Act are fully implemented.

NASA mid-range procurement test program (sec. 5062)

The House amendment contained a provision (sec. 8001(b)(5)(A)) that would require the Administrator of Federal Procurement Policy to establish one of the OFPP acquisition pilot programs at the National Aeronautics and Space Administration.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would authorize the NASA Administrator to test alternative notice and publication requirements for procurements having a value of $500,000 or less.

Federal Aviation Administration acquisition pilot program (sec. 5063)

The House amendment contained a provision (sec. 8001(j)) that would authorize the Federal Aviation Administration to test innovative acquisition procedures for one of the modernization programs under the Airway Capital Investment Plan.

The Senate bill contained no similar provision.

The Senate recedes with a clarifying amendment.

Department of Defense acquisition pilot programs (sec. 5064)

The Senate bill contained a provision (sec. 5003) that would authorize the Department of Defense to conduct six programs testing innovative procurement procedures under the defense acquisition pilot program authority set forth in section 809 of the National Defense Authorization Act for Fiscal Year 1991, as amended.

The House amendment contained a similar provision (sec. 8001(k)) authorizing DOD to conduct pilot programs.

The House recedes with an amendment. The conference agreement would establish procedures for using the pilot program authority for the following five programs, which were authorized for pilot program status under the National Defense Authorization Act for Fiscal Year 1995: (1) fire support combined arms tactical trainer; (2) joint direct attack munition; (3) commercial derivative aircraft; (4) commercial-derivative engine; and (5) joint primary aircraft training system.

The conference agreement also makes clarifying and conforming changes in sections 833, 837, and 838 of the National Defense Authorization Act for Fiscal Year 1994, concerning the use of performance based management concepts in the pilot programs. It is the conferees intent that DOD should apply the concept of mission oriented program management to at least one of the pilot programs, and that DOD should define payment milestones on the basis of quantitative measures of results for at least one of the programs.

Subtitle D—Miscellaneous

Vendor and employee excellence awards (sec. 5091)

The Senate bill contained a provision (sec. 5091) that would authorize the Administrator for Federal Procurement Policy to establish contractor exceptional performance awards.

The House amendment contained a provision (sec. 8007) that would authorize the Administrator to establish awards for vendor and employee excellence.

The Senate recedes.

Waiting period for significant changes proposed for acquisition regulations (sec. 5092)

The Senate bill contained a provision (sec. 6054) that would require an increased waiting period before the effective date of significant proposed changes to acquisition regulations.

The House amendment contained a similar provision (sec. 5004).

The House recedes.

Sense of Congress on negotiated rulemaking (sec. 5093)

The House amendment contained a provision (sec. 8006) expressing the sense of Congress that the Federal Acquisition Regulatory Council should consider using negotiated rulemaking procedures in prescribing acquisition regulations.

The Senate bill contained no similar provision.

The Senate recedes with a clarifying amendment.

TITLE VI—OTHER PROCUREMENT-RELATED MATTERS

Post-employment rules (sec. 6001)

The Senate bill contained a provision (sec. 6003) that would repeal superseded and obsolete procurement ethics statutes.

The House amendment contained a similar provision (sec. 5005).

The House recedes with an amendment that would repeal 37 U.S.C. 801 and suspend 18 U.S.C. 281 through December 31, 1996. The conferees have agreed to suspend the effect of 18 U.S.C. 281 in anticipation of a thorough review and reform of the procurement integrity statutes in the next Congress.

Contracting functions performed by Federal personnel (sec. 6002)

The Senate bill contained a provision (sec. 6051) that would restrict the use of consultants to conduct evaluations or analyses of a proposal submitted for an acquisition if qualified federal personnel are available. The Office of Federal Procurement Policy would be required to establish a procedure to determine whether qualified Federal employees are available.

The House amendment contained a similar provision (sec. 5001).

The House recedes with a technical amendment.

Repeal of executed requirement for study and report (sec. 6003)

The Senate bill contained a provision (sec. 6052) that would repeal an executed requirement for a study and report by the General Accounting Office.

The House amendment contained an identical provision (sec. 5002).

The conferees agree to this provision.

Interests of Members of Congress (sec. 6004)

The Senate bill contained a provision (sec. 6053) that would make technical changes to 41 U.S.C. 22.

The House amendment contained an identical provision (sec. 5003).

The conferees agree to this provision.

Whistleblower protection for contractor employees of the Department of Defense, Coast Guard, and National Aeronautics and Space Administration (sec. 6005)

The Senate bill contained a provision (sec. 6101) that would simplify and recodify the statute providing whistleblower protection for employees of Defense Department contractors.

The House amendment contained no similar provision.

The House recedes. In recodifying these provisions, the conferees do not intend to require the Department of Defense to revise the procedures or standards applicable to contractor employee whistleblower cases under existing regulations.

Whistleblower protection for contractor employees of civilian agencies (sec. 6006)

The Senate bill contained a provision (sec. 6102) that would provide whistleblower protection for employees of civilian agency contractors identical to the protections already available for employees of Department of Defense contractors.

The House amendment contained no similar provision.

The House recedes with an amendment that would codify the new provision in the Federal Property and Administrative Services Act. The conferees direct that the regulations implementing this provision should establish procedures and standards that are as similar as practicable to the procedures and standards already established in Department of Defense regulations.

The authority created by this section is in addition to, and not intended to override or replace, any other authority that a federal agency may have to protect contractor employee whistleblowers (as in the case of federal environment, health and safety statutes containing whistleblower protection provisions). Where more than one remedy is available, the individual whistleblower should be informed of the available options.

Comptroller General review of the provision of legal advice to Inspectors General (sec. 6007)

The Senate bill contained a provision (sec. 9001) that would require the Comptroller General to conduct a review of the independence of legal services being provided to Inspectors General.

The House amendment contained no similar provision.

The House recedes.

Cost savings for official travel (sec. 6008)

The Senate bill contained a provision (sec. 9002) that would require the General Services Administration to issue guidelines encouraging use of frequent travel programs to realize cost savings in official travel.

The House amendment contained no similar provision.

The House recedes.

Prompt resolution of audit recommendations (sec. 6009)

The Senate bill contained a provision (sec. 9003) that would require Federal agencies to resolve or take corrective actions within six months of receipt of a report issued by an Inspector General or non-Federal auditor.

The House amendment contained no similar provision.

The House recedes.

OTHER PROCUREMENT-RELATED MATTERS—LEGISLATIVE PROVISIONS NOT ADOPTED

Amendments to Office of Federal Procurement Policy Act

The Senate bill contained two provisions (secs. 6001 and 6004) that would have revised and clarified the protections of the Procurement Integrity statute (41 U.S.C. 423).

The House amendment contained no similar provision.

The Senate recedes.

Amendments to Title 18, United States Code

The Senate bill contained a provision (sec. 6002) that would amend title 18 to add to section 208(a) a provision expressly prohibiting any person from knowingly aiding or abetting in a violation of the statute.

The House amendment contained no similar provision.

The Senate recedes.

TITLE VII—SMALL BUSINESS AND SOCIOECONOMIC LAWS

Subtitle A—Small Business Laws

Repeal of certain requirements (sec. 7101)

The Senate bill contained a provision (sec. 4102) that would: (1) amend the Small Business Act by striking subsections (e) and (f) of 15 U.S.C. 644 concerning the priority of labor surplus area firms in small business set-asides; and (2) repeal Section 804 of Public Law 103-484 (10 U.S.C. 2305 note) regarding notification of offerers of the certificate of competency process.

The House amendment contained no similar provision.

The House recedes.

Contracting program for certain small business concerns (sec. 7102)

The Senate bill contained a provision (sec. 4103) that would amend the Small Business Act to extend government-wide the Department of Defense's so-called "Section 1207" program for small business concerns owned and controlled by socially and economically disadvantaged individuals. The section would, among other things, permit agencies to restrict the competition to such concerns and include a price evaluation preference of not more than ten percent for such firms under unrestricted solicitations.

The House amendment contained a similar provision (sec. 8003) that would extend the "section 1207" program to the National Aeronautics and Space Administration (NASA) and the U.S. Coast Guard.

The House recedes with a technical amendment. Section 7105 of the conference agreement would extend the "section 1207" program to NASA and the U.S. Coast Guard.

Extension of test program for negotiation of comprehensive small business subcontracting plans (sec. 7103)

The House amendment contained a provision (sec. 4103) that would extend until September 30, 1997 the Department of Defense test program for comprehensive small business subcontracting plans.

The Senate bill contained no similar provision. The Senate-passed version of S. 2182, the National Defense Authorization Act for Fiscal Year 1995, contained a similar provision (sec. 814), which would have extended the program until September 30, 1998.

The Senate recedes with an amendment to extend the program until September 30, 1998.

Small Business Procurement Advisory Council (sec. 7104)

The House amendment contained a provision (sec. 4104) that would establish a Small Business Procurement Advisory Council to discuss issues and problems, provide information, and issue advisory reports.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would establish a Council consisting of the Administrator of the Small Business Administration, Director of the Minority Business Development Agency, and the heads of the various Offices of Small and Disadvantaged Business Utilization. The Council would prepare and submit comments on proposed procurement regulations impacting upon small business.

Procurement goals for small business concerns owned by women (sec. 7106)

The Senate bill contained a provision (sec. 4104) that would establish procurement goals for small businesses owned by women.

The House amendment contained no similar provision.

The House recedes. In enacting this separate five percent women's goal, the conferees do not intend to create a new set aside or program of restricted competition for a specific designated group, but rather to establish a target that will result in greater opportunities for women to compete for federal contracts. It is the conferee's intent that the departments and agencies of the federal government make a concerted effort to move toward this goal.We expect these departments and agencies to identify and adopt the best available practices to assist in moving toward this objective. Given the slow progress to date in reaching the current award levels, the conferees recognize that this goal may take some time to be reached.

Development of Definition regarding certain small business concerns (sec. 7107)

The Senate bill contained a provision (sec. 4105) that would provide that the Administrator of Federal Procurement Policy study use of definitions of certain types of small business concerns.

The House amendment contained no similar provision.

The House recedes with an amendment. The conferees expect the SBA Administrator to provide to the OFPP Administrator the resources necessary to conduct this study.

Functions of Office of Federal Procurement Policy related to small business (sec. 7108)

The House amendment contained a provision (sec. 4101) that would require the Administrator of Federal Procurement Policy to develop policies to ensure that small business and small disadvantaged businesses are provided the maximum practicable opportunity to participate in procurements under the simplified acquisition threshold and develop policies to promote achievements of goals.

The Senate bill contained no similar provision.

The Senate recedes with an amendment which would provide for the inclusion of the education and training provision contained in section 8004 of the House amendment.

Education and training. (sec. 7108b)

The House amendment contained a provision (sec. 8004) that would establish policies and procedures for the implementation of education and training programs for critical procurement personnel designed to increase participation of small disadvantaged businesses and women-owned small businesses.

The Senate bill contained no similar provision.

The Senate recedes.

Subtitle B—Socioeconomic Laws

Acquisitions generally (sec. 7201)

The Senate bill contained a provision (sec. 4101(b)) that would repeal the Walsh-Healey Act, except for the purpose of authorizing the Secretary of Labor to define the terms "regular dealer" and "manufacturer," which have been incorporated by reference into a number of other statutes. A conforming amendment would be made to 10 U.S.C. 2304(h).

The House amendment contained no similar provision.

The House recedes with an amendment that would amend the Walsh-Healey Act to eliminate the requirement that contractors certify that they are either manufacturers or regular dealers in items to be supplied. The amendment would retain the provision in the Senate bill concerning the Secretary of Labor's authorization to define the terms "regular dealer" and "manufacturer."

Prohibition on use of funds for documenting economic or employment impact of certain acquisition programs (sec. 7202)

The Senate bill contained a provision (sec. 4151) that would codify a provision from the Department of Defense Appropriations Act for Fiscal Year 1991, which prohibits the use of appropriated funds to prepare materials, reports, lists, or analyses on the economic effect of acquisition programs in specific states or congressional districts.

The House amendment contained no similar provision.

The House recedes.

Merit-based award of contracts and grants (sec. 7203)

The Senate bill contained a provision (sec. 4152) that would set forth the policy of Congress that no legislation should be enacted that requires a procurement to be made from a specified non-Federal Government source.

The House amendment contained two provisions (secs. 1301 and 4151) restricting award of contracts and grants to sources specified in legislation.

The House recedes with a clarifying amendment.

Maximum practicable opportunities for apprentices on Federal construction projects (sec. 7204)

The House amendment contained a provision (sec. 4105) that would set forth the sense of Congress that contractors performing Federal construction contracts should select subcontractors participating in apprenticeship programs, and should employ individuals participating in such programs.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would provide that the provision represents the sense of the House of Representatives.

Repeal of obsolete provision (sec. 7205)

The Senate bill contained a provision (sec. 4101(c)), that would repeal 41 U.S.C. 258 as obsolete.

The House amendment contained an identical provision (sec. 4152).

The conferees agree to this provision.

Repeal of obsolete and redundant provisions (sec. 7206)

The Senate bill contained a provision (secs. 7001(a)) that would repeal: (1) sections 4(g)(2)(C) and (4)(g)(3) of the Buy American Act; and (2) section 9096(b) of Public Law 102-396. The House amendment contained similar provisions (secs. 6004(a) and 6004(b)). The conference agreement repeals these provisions of current law.

The House amendment contained a provision (sec. 6004(c)) that would repeal section 306 of the Trade Agreements Act. The Senate bill contained no similar provision. The Senate recedes.

The Senate bill also contained a provision (sec. 7001(b) that would repeal 10 U.S.C. 2327. The House amendment contained no similar provision. The Senate recedes.

SUBTITLE C—WAIVER OF APPLICATION OF PREVAILING WAGE-SETTING REQUIREMENTS TO VOLUNTEERS

Waiver of the application of the prevailing wage-setting requirements to volunteers (secs. 7301-7306)

The Senate bill contained a provision (title XI) that would waive the application of the prevailing wage-setting provisions of the Davis-Bacon Act to certain volunteers who assist in the construction, repair, or alteration of certain public buildings funded under specified Federal programs

The House amendment contained no similar provision.

The House recedes with a technical amendment.

SMALL BUSINESS AND SOCIOECONOMIC LAWS—LEGISLATIVE PROVISIONS NOT ADOPTED

Determinations of public interest under the Buy American Act

The House amendment contained a provision (sec. 6002) that would revise 10 U.S.C. 2533, concerning determinations of public interest under the Buy American Act.

The Senate bill contained no similar provision.

The House recedes. The conferees note that this item has been addressed in section 812 of the conference report on S. 2182, the National Defense Authorization Act for Fiscal Year 1995.

Cross-servicing agreements

The Senate bill contained a provision (sec. 7003) that would provide added flexibility for acquisition, cross-servicing agreements, and standardization under joint and multilateral defense arrangements.

The House amendment contained no similar provision.

The Senate recedes. The conferees note that this item is being addressed in the conference on S. 1587, the National Defense Authorization Act for Fiscal Year 1995.

Consolidation of limitations on procurement of goods other than American goods

The House amendment contained a provision (sec. 6003) that would consolidate and revise miscellaneous procurement limitations.

The Senate bill contained no similar provision.

The House recedes. The conferees note that this item has been addressed in section 814 of the conference report on S. 2182, the National Defense Authorization Act for Fiscal Year 1995.

International cooperative agreements

The Senate bill contained a provision (sec. 7002) that would amend 10 U.S.C. 2531 to replace the term "Memoranda of Understanding" with the broader term "International Cooperative Agreements," and to expand the authorized scope of such agreements to cover logistics support.

The House amendment contained no similar provision.

The Senate recedes. The conferees agree in concept with the changes proposed in the Senate bill, but agree that final action on these provisions should be deferred until there is further review of the details in the legislative proposal.

Study of participation by certain small businesses in federal procurement

The House amendment contained a provision (sec. 8002) that would require the Administrator of Federal Procurement Policy to determine the degree of participation by small disadvantaged businesses and compliance by executive agencies with the goals. A report would be due not later than six months after enactment of this Act.

The House amendment would also extend the contract goal for small disadvantaged businesses and certain institutions of higher learning to the U.S. Coast Guard and the Aeronautics and Space Administration.

The Senate bill contained no similar provision.

The House recedes.

TITLE VIII—COMMERCIAL ITEMS

Subtitle A—Definitions and Regulations

Definitions (sec. 8001)

The Senate bill contained a provision (sec. 8001) that would amend the OFPP Act to add definitions of certain terms used in the commercial items provisions. The terms defined included: "commercial item", "nondevelopmental item", "component" and "commercial component".

The House amendment contained a similar provision (sec. 7001).

The House recedes with an amendment that would address the differences between the two provisions as follows.

(1) *Commercial Items.*—The Senate bill would define "commercial items" to include items of a type used by the general public or by nongovernmental entities. The House amendment would include items of a type used "for other than Federal Government purposes" and sold or offered for sale to domestic State and local governments.

The conference agreement would adopt an alternative formulation, under which a nondevelopmental item would be included in the definition of commercial item if the procuring agency determines that the item was developed exclusively at private expense and has been sold in substantial quantities, on a competitive basis, to multiple state and local governments, under conditions set forth in the Federal Acquisition Regulation.

The definition of "commercial items" in the Senate bill would include items not yet available in the commercial marketplace that will be made available for commercial delivery within a reasonable period, but only if the items are "of a type customarily used" for other than governmental purposes. The House amendment included such items if they are "intended to be used" for other than Federal government purposes.

The conference agreement would provide that items that are not yet available in the commercial marketplace would be included in the definition of commercial items if they evolve out of commercial items based on advances in technology or increases in capability and will be available for delivery in the commercial marketplace in time to meet government requirements. This provision is intended to ensure that new generations of commercial products incorporating technological advances are included in the definition. At the same time, this provision should ensure that there is some yardstick in the commercial marketplace against which to measure price and product quality, and to serve as a surrogate for the imposition of government-specific requirements.

In addition, the Senate bill would include in the definition of commercial items those services that are procured for support of a commercial item. The House amendment would include, in addition to such services, services that are offered and sold competitively, in significant quantities, in the commercial marketplace at established catalog prices or standard rates and under standard commercial terms and conditions.

The conference agreement would include those commercial services that are offered and sold competitively in substantial quantities in the commercial marketplace, based on established catalog prices for specific tasks performed, and under standard commercial terms and conditions.

The definition would cover only those commercial services that are sold based on established catalog prices for specific tasks performed. It would not include services that are sold based on hourly rates without a fixed catalog price for a specific service performed.

(2) *Nondevelopmental Items.*—The two definitions of the term "nondevelopmental item" differed in that the Senate bill would include all commercial items in the definition of commercial items. The House bill would include in the definition only those commercial items that are in use by the Federal government or by a State or local government. The conference agreement contains the Senate definition. In those cases where the bill would address the category of items that are nondevelopmental items but not commercial items, the phrase "nondevelopmental items other than commercial items" is used.

Regulations on acquisition of commercial items (sec. 8002)

The Senate bill contained a provision (sec. 8003) that would require the issuance, in the Federal Acquisition Regulation (FAR), of certain regulations regarding uniform terms and conditions for commercial items acquisitions; the use of market acceptance criteria; the use of firm, fixed price contracts; contract quality requirements; and the treatment of transfers between affiliates.

The House amendment contained a similar provision (sec. 7002).

The Senate recedes with an amendment, which would make technical and clarifying changes and would address the differences between the two provisions as follows.

(1) *Uniform contract clauses.*—With respect to uniform contract clauses, the conference agreement would require the inclusion, in the FAR, of a list of contract clauses to be included in contracts for the acquisition of commercial end items. This list would include, to the maximum extent practicable, only those clauses that are required to implement provisions of law or executive orders applicable to acquisitions of commercial items and those that are determined to be consistent with standard commercial practice.

In addition, the FAR would be required to limit the contract clauses that the Federal government could require a contractor to apply to any of its divisions, subsidiaries, affiliates, subcontractors or suppliers. These clauses would be limited to those that are required to implement applicable provisions of law or executive orders applicable to such subcontracts and those that are determined to be consistent with standard commercial practice.

The use of contract clauses and the requirement for subcontract clauses would be limited, to the maximum extent practicable, to those set forth in the regulations. The provision would also provide for waivers of required contract clauses in appropriate circumstances.

(2) *Market Acceptance.*—The conference agreement contains the provision on market acceptance from the Senate bill, which would provide that, in addition to meeting market acceptance criteria, an item must otherwise meet the agency's item description or specifications. The provision would also provide that the criteria for determining market acceptance must be based on the minimum needs of the agency and the entire relevant commercial market, including small businesses.

(3) *Firm, Fixed Price Contracts.*—The Senate bill would provide that firm, fixed price contracts (with or without an economic price adjustment clause) should be used for the acquisition of commercial items "to the maximum extent practicable". The House provision would contain an absolute requirement for the use of such contracts, without the qualifying phrase. The conference agreement would adopt the Senate language, with a further modification prohibiting the use of cost-type contracts for the purchase of commercial items.

(4) *Term of contracts.*—The House amendment would provide that, to the maximum

extent practicable, contracts for the acquisition of commercial items should not require contract performance for a term longer than the customary industry practice for the item being acquired. The Senate bill contained no similar provision. The conference agreement does not include this House provision, which is unnecessary in light of the provision described in the preceding paragraph.

(5) *Savings provision for existing DOD authority.*—The Senate bill would provide that the authority of the Department of Defense to enter contracts for commercial items under existing provisions of law would continue until the regulations implementing this section become effective. The House amendment would provide that the Department's authority to enter such contracts would cease on October 1, 1994. The conference agreement would adopt the Senate provision.

List of inapplicable laws in the Federal Acquisition Regulation (sec. 8003)

The Senate bill contained a provision (sec. 8004) that would address the applicability of certain statutes to acquisitions of commercial items.

The House amendment contained two similar provisions (secs. 7105 and 7204).

The House recedes with an amendment that would address the differences between the two provisions as follows,

(1) The Senate provision would authorize the waiver of covered future-enacted statutes in the Federal Acquisition Regulation (FAR) (unless specifically prohibited by the statute), but would not automatically render any statute inapplicable. The House provision would automatically render future-enacted statutes inapplicable (unless specifically prohibited by the statute), without the requirement for any action by the FAR Council.

The conference agreement would amend the Office of Federal Procurement Policy Act to require that the Federal Acquisition Regulation be revised to include a list of statutes that are inapplicable to contracts for the acquisition of commercial items. Any provision of law that is properly included on the list would be inapplicable to any such contract. Nothing in the provision would waive the applicability of any statute that is not included on the list, or create any private right of action or other legal rights not expressly provided in this section, based on the alleged inapplicability of a provision of law that is not included on the list. The conferees intend that the FAR should be revised, upon enactment of this Act, to list as inapplicable to contracts for the acquisition of commercial items each of the provisions of law that would be made inapplicable by this Act.

The conference agreement would further provide that any future-enacted provision of law that, as determined by the FAR Council, sets forth policies, procedures, requirements, or restrictions for the procurement of property or services (other than a provision of law that imposes a civil or criminal penalty or expressly precludes a commercial items exemption) would be included on the list unless the FAR Council determines that such an exemption would not be in the best interest of the United States. If such a provision of law is not included on the list and the FAR Council has not made the required determination, any interested party may file a petition to require appropriate action by the Administrator for Federal Procurement Policy.

(2) The Senate bill contained a separate provision stating that no provision of law, whether enacted before or after the date of enactment of this Act, would be applicable to subcontracts under a contract or subcontract for commercial items (with specified exceptions). The House amendment contained no similar provision. The conference agreement would adopt a modified version of the Senate provision.

Under the conference agreement, the FAR would be revised to include a list of statutes that are inapplicable to subcontracts under contracts for the acquisition of commercial items. Any provision of law that is properly included on the list would be inapplicable to any such subcontract. This list would be established in the same manner as the list of statutes that are inapplicable to prime contracts, except that the list of provisions of law inapplicable to subcontracts would include provisions of law that are enacted both before and after the enactment of the bill.

The term "subcontract", as used in this provision, would include transfers of commercial items between divisions or affiliates of a single contractor. However, this subsection would not permit the exemption from any provision of law for a prime contract, or for a subcontract under a contract with a company that simply resells commercials items manufactured by another contractor without providing value added. The purpose of this limitation is to preclude the abuse of this provision through the use of "front companies". The conferees intend for the manufacturer of such commercial items to be treated as a prime contractor for the purposes of this provision and expect the FAR to be amended to provide guidance to contracting officers to ensure against abuse.

The provision authorizing petitions to the Administrator for Federal Procurement Policy would not be effective for a period of six months after the date of enactment. This delayed effective date is intended to provide the Federal Acquisition Regulatory Council an opportunity, prior to the filing of any petitions, to review existing provisions of law and determine which such provisions are appropriate for inclusion on the list of provisions inapplicable to subcontracts.

Subtitle B—Armed Services Acquisitions

Establishment of new chapter in title 10 (sec. 8101)

The House amendment contained a similar provision (sec. 7101) that would establish a new Chapter in title 10 of the U.S. Code relating to commercial items acquisitions.

The Senate bill contained no similar provisions.

The Senate recedes.

By placing these provisions in a separate chapter in title 10 of the U.S. Code, the conferees do not intend to make inapplicable any statute which otherwise applies to the acquisition of commercial items.

Relationship to other provisions of law (sec. 8102)

The House amendment contained, in the commercial items title, two provisions listing statutes that are not applicable to acquisitions of commercial items (sec. 7106 and 7205) and two provisions regarding the applicability of the Truth in Negotiations Act to commercial items acquisitions (sec. 7104 and 7203).

The Senate bill contained no similar provisions.

The Senate recedes with an amendment.

The conference agreement would require the establishment of a list of inapplicable statutes in the Federal Acquisition Regulation, and would place provisions addressing the Truth in Negotiations Act in 10 U.S.C. 2306a. 10 U.S.C. 2375, as added by section 8102 of the conference agreement, would incorporate by reference the provision requiring the list of inapplicable statutes and the applicable provisions of the Truth in Negotiations Act.

The conferees also recommend a provision stating that unless otherwise specifically provided, nothing in the new chapter of title 10 of the U.S. Code shall be construed as making any other provision of the title relating to procurement inapplicable to the procurement of commercial items. For example, the requirements of the Competition in Contracting Act and the Brooks Automated Data Processing Act would continue to apply to acquisitions of commercial items.

Definitions (sec. 8103)

The House amendment contained a provision (sec. 7102) that cross-referencing applicable definitions that are provided elsewhere in title 10 of the U.S. Code and the Office of Federal Procurement Policy Act, and clarifying that the commercial items provisions apply to procurements of commercial items by the National Aeronautics and Space Administration and the United States Coast Guard.

The Senate bill contained no similar provision.

The Senate recedes with a technical amendment.

Preference for acquisition of commercial items (sec. 8104)

The Senate bill contained a provision (sec. 8002) that would create a preference for the acquisition of commercial items and other nondevelopmental items.

The House amendment contained similar provisions (sec. 7103 and sec. 7202).

The House recedes to the Senate provision with an amendment, which would resolve the differences between the two provisions as follows.

(1) The Senate bill would place the preference in a single provision of the Office of Federal Procurement Policy Act, while the House amendment would place the preference in parallel provisions of title 10 of the U.S. Code and the Federal Property and Administrative Services Act. The conference agreement would adopt the House approach.

(2) The Senate bill would address requirements for the procurement of supplies. The House amendment would address requirements for the procurement of supplies and services. The conference agreement would adopt the House provision.

(3) The Senate bill would provide that requirements should be defined so that they may be fulfilled with commercial items or, to the extent that commercial items suitable to meet the agency's needs are not available, other nondevelopmental items. The Senate bill would also provide that offerors of commercial items and nondevelopmental items other than commercial items should be provided an opportunity to compete for agency requirements. In addition, the Senate bill would provide that market research shall be used to determine whether agency needs can be met by commercial items, or if no suitable commercial items are available, nondevelopmental items other than commercial items. The conference agreement adopts the Senate language, with a minor clarification, substituting the term "nondevelopmental items other than commercial items" for the phrase "other nondevelopmental items".

Under the conference agreement, contract requirements and market research would be designed to facilitate the use of commercial

items to the maximum extent practicable. Where suitable commercial items are not available, requirements and market research would focus on nondevelopmental items other than commercial items. In the procurement process, commercial items would compete on a level playing field with other products and services. Under full and open competition, the company that offers the best product at the lowest price should win the contract, regardless of whether or not that product is a commercial item. The conferees believe that, provided such a level playing field, commercial items are likely to prevail in a substantial number of competitions.

(4) The House amendment would provide that an agency may, until five years after the date of enactment, permit existing or prior sources of nondevelopmental items to participate in a competition for a commercial item. The conference agreement does not include this provision. Under the conference agreement, the only authority to limit a competition to commercial items would be provided by the market acceptance provision. Existing and prior sources of nondevelopmental items could compete in procurements under this provision, but would not benefit from the statutory exemptions available to sources of commercial items. Since the market acceptance provision would permit nondevelopmental items to compete with commercial items on a level playing field, the conferees determined that there was no need for a special "grandfather" provision.

(5) The Senate bill would provide that, in conducting market research, the head of an executive agency should not require potential sources to submit more than the minimum information needed. The House amendment contained no similar provision. The conference agreement would adopt the Senate language.

Inapplicability of certain provisions of law (sec. 8105)

The Senate bill contained a provision (sec. 8005) that would provide for the inapplicability of certain provisions of law to contracts for the acquisition of commercial items.

The House amendment contained several provisions that would address the same issue (secs. 7106, 7107, 7205, and 7206).

The Senate recedes with an amendment that would make technical and clarifying changes.

With respect to 10 U.S.C. 2324 (allowable costs), the conference agreement would exempt commercial items from the cost principles, but only in the case of items purchased under a firm, fixed price contract (with or without an economic price adjustment clause). The conference agreement would provide (in section 8002) that commercial items should be purchased, "to the maximum extent practicable" under such contracts.

The conference agreement would also exempt commercial items from the requirements of 10 U.S.C. 2397, 2397a, 2397b, and 2397c.

Presumption that technical data under contracts for commercial items are developed exclusively at private expense (sec. 8106)

The House amendment contained a provision that would exempt commercial items from 10 U.S.C. 2320 (technical data) and 2321 (validation of proprietary data restrictions).

The Senate bill contained no similar provision.

The Senate recedes with an amendment which would provide that, for the purposes of technical data provisions in 10 U.S.C. 2320 and 10 U.S.C. 2321, a commercial item will be presumed to have been developed exclusively at private expense unless a federal agency can document that the item was developed, in whole or in part, at federal government expense.

The conferees were concerned that a blanket waiver from these statutes could prevent the federal government from obtaining technical data rights on items developed with public funds. The conference approach would have the effect of exempting commercial items from the requirement to provide technical data (other than data on form, fit and function), unless the government can prove that an item was developed at government expense.

Subtitle C—Civilian Agency Acquisitions

Relationship to other provisions of law (sec. 8201)

The House amendment contained provisions listing statutes that would not be applicable to acquisitions of commercial items (secs. 7106 and 7205) and provisions regarding the applicability of the Truth in Negotiations Act to commercial items acquisitions (sec. 7104 and 7203).

The Senate bill contained no similar provisions.

The Senate recedes with an amendment containing provisions applicable to civilian agencies that are identical to the provisions applicable to the Department of Defense under section 8102.

Definitions (sec. 8202)

The House amendment contained a provision (sec. 7201) cross-referencing applicable definitions that are provided elsewhere in the Federal Property and Administrative Services Act and the Office of Federal Procurement Policy Act.

The Senate bill contained no similar provision.

The Senate recedes with a technical amendment.

Preference for acquisition of commercial items (sec. 8203)

The Senate bill contained a provision (sec. 8002) that would create a preference for the acquisition of commercial items and other nondevelopmental items.

The House amendment contained similar provisions (sec. 7103 and sec. 7202), which would place the preference in parallel provisions of title 10 of the U.S. Code and the Federal Property and Administrative Services Act.

The Senate recedes with an amendment that would adopt the House approach of placing the preference in parallel provisions in the two Acts. Section 8203 would conform the Federal Property and Administrative Services Act provision to the amendments to title 10 of the U.S. Code made by sec. 8104.

Inapplicability of certain provisions of law (sec. 8204)

The Senate bill contained a provision (sec. 8005) that would provide for the inapplicability of certain provisions of law to contracts for the acquisition of commercial items.

The House amendment contained several provisions that would address the same issue (secs. 7106, 7107, 7205, and 7206).

The Senate recedes with an amendment that would adopt the approach of the House bill. Section 8204 would amend the provisions applicable to civilian agencies.

Subtitle D—Acquisitions Generally

Inapplicability of certain provisions of law (sec. 8301)

The Senate bill contained a provision (sec. 8005) that would provide for the inapplicability of certain provisions of law to contracts for the acquisition of commercial items.

The House amendment contained several provisions that would address the same issue (secs. 7106, 7107, 7205, and 7206).

The Senate recedes with an amendment that would adopt the approach of the House bill and adapt it to the structure of the conference agreement. Section 8301 would address the applicability of generally-applicable provisions.

The House amendment would provide that Section 26 of the OFPP Act (Cost Accounting Standards) would not apply to commercial items procurements. The Senate bill contained a separate provision (sec. 2301) that would conform the applicability of the Cost Accounting Standards to the new exemptions in the Truth in Negotiations Act for commercial items. The conference agreement would exempt commercial items that are purchased under firm, fixed price contracts from the Cost Accounting Standards.

The Senate bill provided that several statutes not addressed in the House amendment would be inapplicable to acquisitions of commercial items. These statutes included: 33 U.S.C. 1368 (Clean Water Act certifications); 40 U.S.C. 327 (Contract Work Hours and Safety Standards Act); 41 U.S.C. 57 and 58 (Anti-Kickback Act contract clause and inspection authority); 42 U.S.C. 7606 (Clean Air Act certifications); and 49 U.S.C. App. 1517 (Fly American requirements). The conference agreement includes these provisions, with technical and clarifying amendments.

Flexible deadlines for submission of offers of commercial items (sec. 8302)

The Senate bill contained a provision (sec. 8006) that would provide for flexible deadlines for the submission of offers of commercial items.

The House amendment contained a similar provision (sec. 7302), which would authorize the use of flexible deadlines for the submission of bids or proposals for the procurement of commercial items only in limited circumstances to be set forth in regulation.

The Senate recedes.

Additional responsibilities for advocates for competition (sec. 8303)

The Senate bill contained a provision (sec. 8007) that would make competition advocates responsible for promoting the acquisition of commercial and nondevelopmental items and challenging barriers to such acquisition.

The House amendment contained provision (sec. 7303) that would address only barriers to the acquisition of commercial items.

The Senate recedes.

Provisions Not Affected (sec. 8304)

The Senate bill contained a provision (sec. 8008) that would provide that nothing in the commercial items title of the bill would be construed to amend, modify, or supersede certain provisions of law.

The House amendment contained a similar provision (sec. 7304), which also would include: (1) Sections 111 and 315 of the Federal Property and Administrative Services Act and 10 U.S.C. 2323 (pertaining to contracting goals for small business and small and disadvantaged businesses); and (2) all provisions of the Small Business Act.

The Senate recedes with an amendment that would specify sections 8(a) and 8(d) of the Small Business Act as the provisions of that Act that are not affected by the commercial items title. With regard to the requirements of section 8(d), the current law on subcontracting with small business and small disadvantaged business concerns already recognizes the unique circumstances

faced by commercial contractors. Office of Federal Procurement Policy (OFPP) Policy Letter 80-2, section 52.219-9(g) of the Federal Acquisition Regulation (FAR), and section 519.704(b) of the General Services Administration (GSA) Supplement to the FAR all expressly authorize commercial contractors to use "one company-wide, annual plan" in lieu of individual, contract-by-contract plans to meet subcontracting requirements. As the GSA FAR Supplement explains, a commercial products plan—

"means an annual subcontracting plan effective during the offeror's fiscal year for all of the offeror's commercial products, and which has goals based on the offeror's production of both commercial and noncommercial products. This type of plan may apply to the production of the offeror's entire company, or it may be limited to a division or plant." (Section 519.701)

Because contractors and subcontractors offering commercial items tend to rely on their existing network of suppliers rather than entering new subcontracts to fill government orders, the requirements applicable to the company-wide subcontracting plans of commercial companies differ from the requirements applicable to individual subcontracting plans of non-commercial companies. See e.g., sections 519.704(c)(2), 519.705-5 and 519.705-6(b) of the GSA FAR Supplement. For example, a single company-wide plan authorized by these regulations is likely to address subcontracting opportunities at both the prime contract and subcontract levels, obviating the need for the filing of individual contract-by contract or subcontract-by subcontract plans. Title VIII of the bill is not intended to require any change in such practices.

Comptroller General review of Federal Government use of market research (sec. 8305)

The Senate bill contained a provision (sec. 8009) that would require the Comptroller General to report to Congress on the use of market research by the Federal Government.

The House amendment contained an identical provision (sec. 7305).

The conferees agree to this provision.

TITLE IX—FEDERAL ACQUISITION COMPUTER NETWORK

Federal acquisition computer network architecture and implementation (sec. 9001)

The Senate bill contained a provision (sec. 4015) that would amend the Office of Federal Procurement Policy (OFPP) Act to provide that the OFPP Administrator, in consultation with the appropriate Federal agency heads, may develop and implement a government-wide architecture or design for interoperable electronic commerce with specified capabilities.

The House amendment contained a provision (sec. 4002) that would amend the OFPP Act to require implementation of a Federal Acquisition Computer Network (FACNET) within five years. FACNET capabilities are defined by a set of functional requirements for the Government, the user, and along general design lines. The section also would define the term "architecture" and require an annual report to Congress from the OFPP Administrator on implementation.

The Senate recedes with an amendment that would provide that FACNET must be Government-wide and provide interoperability among users and that full FACNET capability shall be implemented Government-wide within five years after the date of enactment of the Federal Acquisition Streamlining of 1994.

The agreement calls for the establishment of a Federal Acquisition Computer Network (FACNET) to require the government to evolve its acquisition process from a paper-based process to an electronic process. This electronic commerce process must provide a single face to industry and interoperability within the government.

The agreement sets forth parameters for a FACNET system along functional lines, with parameters established for government and private users, and for general functions. These functions are to be implemented by agencies within 5 years of enactment of the Act. FACNET capability can be implemented on a procuring activity basis, and procuring activities or even agencies as a whole may "piggyback" on the systems developed by other agencies.

The agreement allows agencies to use simplified procedures for all contracts below $50,000, while maintaining the streamlined Commerce Business Daily (CBD) notice requirement in sec. 4202 for contracts above $25,000.

The agreement waives the CBD notice requirement and increases the threshold for the use of simplified procedures to $100,000 for agencies or procuring activities which have interim electronic commerce capability. Interim capability includes electronic notice and response.

The agreement also requires any agency that has not achieved full electronic commerce capability by December 31, 1999 to revert back to $50,000 for simplified procedures. Full capability is 75 percent of suitable acquisitions above $2,500 and below $100,000 conducted through electronic commerce. It involves developing the capability to use electronic commerce procedures for processing certain orders, responding to questions about solicitations, and compiling data about the acquisition process.

The conferees intend that the Administrator is to ensure that functions provided under the FACNET architecture do not create competition between the federal government and private enterprises when providing the services described under this section. Furthermore, when developing the functions described under this section, the Administrator is directed to ensure that (1) the government adhere to commercial system ordering standards to the maximum extent practicable, and (2) every precaution be taken to avoid the requirement that additional assets (beyond those needed to meet industry standards in electronic commerce) be purchased by commercial vendors contracting with the federal government via electronic means.

Implementation of FACNET capability (secs. 9002-03)

The House amendment contained provisions (secs. 4003 and 4004) that would require implementation of Federal Acquisition Computer Network (FACNET), i.e., electronic commerce capabilities, at the Department of Defense (DOD) and civilian agencies' procuring activities within five years of enactment of the Act.

The Senate bill contained no similar provision.

The Senate recedes with a clarifying technical amendment.

GAO determination of eligible agency contracts (sec. 9004)

The House amendment contained provisions (sec. 4003 and 4004) that would require an agency to conduct 75 percent of its acquisitions above $2,500 and below $100,000 using electronic commerce before the agency could be certified as having full Federal Acquisition Computer Network (FACNET) capability.

The Senate bill contained no similar provision.

The Senate recedes with an amendment requiring the Comptroller General to issue a report, within three years of enactment, identifying classes of contracts which would not be suitable for acquisition through FACNET. The amendment also would allow the Federal Acquisition Regulatory Council to make a determination regarding which classes of contracts should be excluded for purposes of calculating whether an agency has achieved full FACNET capability.

TITLE X—EFFECTIVE DATES AND IMPLEMENTATION

Effective dates and applicability (sec. 10001)

The Senate bill contained a provision (sec. 10001) that would provide that the Act would take effect on the date of enactment, except as otherwise provided in the Act. Under the Senate provision, amendments made by the Act would take effect on the date on which final implementing regulations are prescribed.

The House amendment contained a similar provision.

The House recedes with an amendment that would make clarifying changes and provide that the amendments made by the Act would take effect on the date provided in final implementing regulations or October 1, 1995, whichever is earlier.

Implementing regulations (sec. 10002)

The Senate bill contained a provision (sec. 10002) that would establish a schedule for the promulgation of implementing regulations.

The House amendment contained a similar provision.

The House recedes with a technical amendment. The conferees note that acquisition streamlining requires giving maximum discretion to contracting officers. Therefore, the agency implementing regulations should not add additional requirements to the Federal Acquisition Regulation, and agencies should not restrict the discretion of contracting officers by requiring burdensome high level approval requirements.

Evaluation by the Comptroller General (sec. 10003)

The Senate bill contained a provision (sec. 10003) that would require the Comptroller General to evaluate the effectiveness of the implementing regulations.

The House amendment contained a similar provision. Under the House amendment, the Comptroller General would issue two reports. The first would be made not later than 180 days after the final regulations are issued, and the second would be made not later than 18 months after such regulations are issued.

The Senate recedes with a clarifying amendment.

Data collection through the Federal Procurement Data System (sec. 10004)

The Senate bill contained a provision (sec. 10004) that would specify certain data to be collected through the Federal Procurement Data System for acquisitions in excess of the simplified acquisition threshold.

The House amendment contained no similar provision.

The Senate recedes with a clarifying amendment.

Technical and clerical amendments (sec. 10005)

The conference agreement contains a provision that would make technical and clerical amendments to permanent laws affected

by the amendments that would be made by the Act.

Conferees from the Committee on Government Operations, for consideration of the Senate bill, and the House amendment, and modifications committed to conference:

JOHN CONYERS,
MIKE SYNAR,
STEVE NEAL,
TOM LANTOS,
MAJOR R. OWENS,
EDOLPHUS TOWNS,
JOHN M. SPRATT, Jr.,
BOBBY L. RUSH,
CAROLYN B. MALONEY,
MARJORIE MARGOLIES-MEZVINSKY,
BILL CLINGER,
AL MCCANDLESS,
J. DENNIS HASTERT,
JON KYL,
CHRISTOPHER SHAYS,
STEVEN SCHIFF,

As additional conferees from the Committee on Armed Services, for consideration of the Senate bill, and the House amendment, and modifications committed to conference:

RONALD V. DELLUMS,
NORMAN SISISKY,
LANE EVANS,
JAMES H. BILBRAY,
CHET EDWARDS,
ELIZABETH FURSE,
FLOYD SPENCE,
JOHN R. KASICH,
HERBERT H. BATEMAN,
CURT WELDON,

As additional conferees from the Committee on Education and Labor, for consideration of sections 4024(d), 4101(b), 4101(c), 6101–02, 8005(c)(2), and 11001–04 of the Senate bill, and section 4105 of the House amendment, and modifications committed to conference:

WILLIAM D. FORD,
AUSTIN J. MURPHY,

An additional conferees from the Committee on the Judiciary, for consideration of sections 1421–22, 1437, 2451, 2551–53, 2555, that portion of section 4011 that adds a new section 29(b)(2) to the Federal Procurement Policy Act, sections 4024(a), (b), (c), and (f), 410(b) and (c), 6001–04, 6053, and 8005(c)(3) and (c)(4) of the Senate bill; and that portion of section 4011 that adds a new section 4B(c) to the Federal Procurement Policy Act, that portion of section 4031 that adds a new subsection (c)(9) to section 23012a of title 10, United States Code, that portion of section 4041 that adds a new subsection (c)(2) to section 302A of the Federal Property and Administrative Services Act of 1949, sections 4051, 5003, that portion of section 7106 that adds a new section 2285(a)(12) to title 10, United States Code, that portion of section 7205 that adds a new section 314D(a)(4) to the Federal Property and Administrative Services Act of 1949, and section 7301(b) of the House amendment, and modifications committed to conference:

JACK BROOKS,
JOHN BRYANT,
HAMILTON FISH,

As additional conferees from the Committee on Public Works and Transportation, for consideration of sections 1056 and 1067 of the Senate bill and modifications committed to conference:

NORMAN Y. MINETA,
JAMES TRAFICANT,
BUD SHUSTER,

As additional conferees from the Committee on Small Business, for consideration of sections 1055(b)(2), 2554, 4102–05, that portion of section 4011 that adds a new section 29(b)(1) to the Office of Federal Procurement Policy Act, sections 4012, 4014(d), 4015(d), and 4074 of the Senate bill, and sections 4104 and 8002 of the House amendment, and modifications committed to conference:

JOHN J. LAFALCE,
NEAL SMITH,

As additional conferees from the Committee on Energy and Commerce, for consideration of sections 4024(g), 6003(a)(4) and (b)(4), and 8005(c)(6) of the Senate bill, and modifications committed to conference:

JOHN D. DINGELL,
AL SMITH,
CARLOS J. MOORHEAD,
Managers on the Part of the House.

JOHN GLENN,
SAM NUNN,
DALE BUMPERS,
JIM SASSER,
J.J. EXON,
CARL LEVIN,
DAVID PRYOR,
JEFF BINGAMAN,
RICHARD SHELBY,
BYRON L. DORGAN,
BILL ROTH,
STROM THURMOND,
TED STEVENS,
JOHN WARNER,
BILL COHEN,
LARRY PRESSLER,
JOHN MCCAIN,
BOB SMITH,
Managers on the Part of the Senate.

TRUTH IN BUDGETING

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

Mr. OBEY. I make the following announcement in the interest of truth in budgeting. Yesterday, a Republican Member of the House from California spoke on this floor about the need for a fat-free crime bill and was critical of the crime bill as being "a porked-up bill."

I checked with a request filed with the Committee on Appropriations and discovered that that same Member has requested over 748 million dollars' worth of unbudgeted items in just one appropriations bill.

His request included $20.8 million for San Diego State University; another item for $10 million; another item for $200 million; another item for $85 million.

In another bill he also requested $3.5 million for the sweet potato white fly program.

I would simply suggest that more of these reports may be in order due to the requirement to provide for truth in budgeting. I would urge those who express concern for pork to remember that lean bacon begins at home.

IT'S NOT POLITICS, IT'S POLICIES THAT ARE THE PROBLEM

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

Mr. EVERETT. Mr. Speaker, the President has been telling the country that the crime bill is being held up by politics in Washington.

Somebody should check the President's itinerary because at the moment he appears to be lost in a state of denial.

The problem with the crime bill is not politics—it is policies.

The problem with the crime bill is that it discards tough anticrime fighting measures like the sexual predator provision act that would protect communities against sex offenders and truth-in-sentencing laws.

The problem with the crime bill is it is including lots of soft, fuzzy social spending like arts and crafts programs, dance, self-esteem programs, and midnight basketball.

□ 1340

The problem with the crime bill, Mr. Speaker, is that it takes away what it should have more of and puts in what it should have none of. The problem with the crime bill is that the White House's idea of law enforcement is to send America a doughnut and a cup of coffee, but leaves the cops in the squad room.

THE CRIME BILL

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

Ms. DELAURO. Mr. Speaker, one of the most fundamental responsibilities of Government is to ensure the safety of its people. That means putting criminals behind bars, taking guns off our streets, and making sure we have enough police to do the job. Each day we fail to pass this crime bill, we fail our responsibility and put our people at risk.

The night before last, Stratford, CT, a small town in my district, was hit by the kind of random violence that's become all too commonplace in America. At 3:40 in the morning a drive-by shooting took place, shattering the windows of a home and the peace of a neighborhood.

Twenty-nine shell casings from three high-powered weapons were found littering the sidewalk and the street. By some miracle, no one was injured. But, that does not mean there were no casualties. The casualties of this senseless crime are the people that now have to live in fear, unable to go to sleep at night, afraid for their children, worried about their safety.

Today, we have the opportunity to act on the most sweeping anticrime measure ever to come before Congress. The people of Stratford, CT, and people who live in small towns and big cities across this country are waiting for us to act. Our families and our communities need our help. Vote "yes" on the rule and let us pass the crime bill.

VOTE "NO" ON AN INEFFECTIVE CRIME BILL

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

Mr. EWING. Mr. Speaker, we all spent probably 15 hours in this place yesterday waiting to do the people's business. Today when I come in, I find that the conference report is done, but not printed. I cannot see it. I find that the rule has been waived that allows that bill to lay on the table.

Mr. Speaker, this bill is too expensive; it is too big. The American people want a tough crime bill, not a social bill. They all know that we spend too much on Government and that Government interference in local affairs is too great.

Mr. Speaker, this is a poor bill. Crime will not go down in our communities, only the deficit will go up. A "no" vote is what is entailed.

URGING MEMBERS TO SUPPORT THE TRAFICANT AMENDMENT ON UPCOMING IMMIGRATION BILL

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

Mr. TRAFICANT. Mr. Speaker, all we have to do is watch the news. America has a great problem with illegal immigration. It is very simple. America has this problem because Congress tolerates and accommodates illegal immigration.

Mr. Speaker, the American people are fed up. They are tired of seeing billions of dollars going toward helping illegal aliens and immigrants while Congress is cutting back dollars and programs and support for American citizens and American taxpayers.

Let me say this, Mr. Speaker. Hiring a few Border Patrol agents will not help. I think it if time for a national security reason, to put our military troops in some form or fashion on our borders. The truth is they are falling out of chairs without armrests over in Europe. The Members know it, I know it, and all we are doing is punishing the American taxpayer by hiring more Border Patrol. When that immigration bill comes up, that amendment that I have offered should be considered on that bill.

CORRUPT PROCESS IN PRODUCING CRIME BILL PROHIBITS MEMBERS FROM FULL CONSIDERATION BEFORE VOTING

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

Mr. COX. Mr. Speaker, under the rules of this House, Members are entitled to 24 hours to read a conference report before we vote on it. Most of the Members here may not know the majority leader convened the House at 1:39 a.m. this morning and went out at 1:47 a.m. this morning, when none of us were here, specifically for the purpose of waiving our right to read the bill. Any one of us who had been here could have objected, because it requires unanimous consent.

As a result, Mr. Speaker, the only copy of this conference report that I will get a chance to see looks like dozens, indeed, scores of different documents and pieces of paper all held together in a binder clip with lots of Post-it notes, blue ink, red ink, and it is not typewritten yet.

Mr. Speaker, this is a corrupt process. This is a $30 billion bill. We should read it before we vote. None of us would sign a rental car contract without reading it first, and yet we are going to spend $30 billion of the taxpayer's money without any opportunity to read it.

This is a corrupt process. It is antidemocratic. It is insensitive to this Member and to the American people.

URGING SUPPORT FOR THE CRIME BILL, WHICH AUTHORIZES PROGRAMS BUT DOES NOT APPROPRIATE FUNDS

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

Mr. SMITH of Iowa. Mr. Speaker, this bill today is a better bill, both for Iowa and the United States, than we had 9 days ago, but let me point out, neither bill appropriates money. They only authorize money to be appropriated later. We have been appropriating money for these same purposes since 1981, without an authorization.

Mr. Speaker, not one crime has been committed in the last 9 days because the bill did not pass 9 days ago, not even one in the whole United States. Money was appropriated last week for next year for the same purposes as those in this bill. We appropriated money a year ago for police, prosecutors, prisons, and crime fighting without this bill.

What the bill last week did was to raise expectations that social programs would squeeze out some of the crime fighting programs. This bill that we have before us today, Mr. Speaker, does block grant 13 of those programs. That is good. That is a good thing in the new bill because it gives local officials more opportunity to use it for the program that will best fit the need in their county.

However, the final decision on appropriations for programs in this bill will be made next year in an appropriation bill at that time will be decided by a majority of this whole House, not by a majority of either caucus.

Mr. Speaker, this bill does change substantive laws on rules of evidence, and applies the death penalty to more local crimes, even the Supreme Court Justices who fashioned that law in 1972 now say that was a failed experiment, but that is in both the bills. I think we should pass a bill today and get it over to the Senate.

Those who said we should have settled for the original bill were simply wrong and those of us who voted to insist on changes have been proven right.

Waiting 8 days to pass this crime bill instead of the original one represents a big victory for crime fighting in both Iowa and the United States.

URGING MEMBERS TO PUT ASIDE PARTISAN POLITICS AND VOTE FOR A BETTER CRIME BILL

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

Mr. MACHTLEY. Mr. Speaker, 6 days shall we labor and do all of our work, but on the seventh day let us do the work of the people in this country. Let us on this day gladly work together to pass a crime bill.

Mr. Speaker, when we joined together and stood firm, Republicans mostly, and some Democrats, and voted down the rule, I think it was an important issue. We felt we could get a better bill. Today, I believe we are going to see a better bill. Each of us could, no doubt, draft a bill which would be better suited for ourselves, for our States, and even for our constituents. However, the job of this Congress is to draft a piece of legislation which can pass with 50-plus 1 percent of this House, and which will be for the country at large.

Let us do that today. Let us work together in what I believe is a good bill, a good compromise, one which will save the taxpayers money, one which will, in fact, have block grants, one which will put back tough policies for fighting crime, and one which I consider to be a good bill.

Mr. Speaker, let us take the bipartisanship approach, let us take out of this approach partisan politics and pass what the country is waiting for, a good crime bill.

REQUESTING COSPONSORS FOR H.R. 5006, LEGISLATION RESTORING THE SUPER IRA

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

Mr. PICKLE. Mr. Speaker, Congressman BILL THOMAS of California and I have introduced the new super IRA bill. A similar bill has been introduced in the other body with approximately 60 cosponsors, and now some 60 Members of the House are cosponsoring our legislation.

The individual retirement account is a savings incentive, very popular with a broad cross section of Americans. However, the 1986 Tax Reform Act made changes that by pared back deductibility of IRA contributions. Frankly, we put an attractive and successful retirement vehicle into premature retirement.

Destroying the IRA could not have come at a worse time. Our national saving rate—a paltry 4 percent—continues to decline as our foreign competitors increase their national savings. In fact, Federal Reserve Chairman Greenspan has characterized our national savings crisis as the key domestic policy problem of this country.

We must come to grips with this problem and take aggressive action. We must get all Americans involved in the effort by providing incentives for them to increase their individual savings. With that important priority in mind, Congressman BILL THOMAS and I, and others, have introduced H.R. 5006 to restore the universal availability of the fully deductible IRA.

In addition, the bill will improve on the traditional IRA by allowing individuals to choose between tax deductible IRA's or contributions to new IRA's from which earnings would not be taxed when they are withdrawn. This super IRA legislation will not only encourage savings for retirement, but it also will encourage savings for two of the biggest investments that people have to make in their lifetimes—their children's education and their homes. We would no longer penalize IRA withdrawals for these purposes.

We would also correct the current situation in which a tax penalty is imposed on people who are forced to pay for costly medical expenses. Finally, the Pickle-Thomas Super IRA permits spouses who work at home to have their own fully deductible IRA.

Mr. Speaker, this legislation is similar to that which some 286 Members—an overwhelming, bipartisan majority—cosponsored in the last Congress. A version as included in H.R. 11 which was vetoed for unrelated reasons.

Mr. Speaker, this is one of the few policy options that we can take that help Americans across all socioeconomic, geographic and cultural lines. Let us move quickly on doing something good for America by passing the Pickle-Thomas Super IRA.

I urge Members to let us know if they would like to be listed as a cosponsor.

TIME TO END ONE-PARTY CONTROL AND ELECT REPUBLICANS WHO CAN GET THIS CHAMBER TO WORK IN A BIPARTISAN MANNER

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

Mr. HORN. Mr. Speaker, 40 years ago yesterday, on August 20, 1954, the New York Giants beat the Pittsburgh Pirates four to nothing. Rocky Marciano was heavyweight boxing champion of the world. Grace Kelly starred with Jimmy Stewart in the Movie "Rear Window."

And on August 20, 1954, Speaker Joe Martin of Massachusetts banged down the gavel to close the last session of Congress—the last time Republicans were in the majority.

That is right—the Democrats have controlled the House of Representatives for 40 straight years.

The last 40 years have seen both productive and unproductive sessions of Congress. The one constant has been Democratic control of the House.

I have seen 40 years of control generate a belief among some Members of the majority party that they can pass legislation without any bipartisan consultation and support. Is it any surprise, that after 40 years of one-party rule, many political commentators refer to this House as the "Imperial Congress"?

I hope that, as the Democrats look back on 40 years of one-party dominance and look forward this November to the first real challenge to their control in 12 years, the Democrats will realize that the major success of this Congress was a bipartisan one: NAFTA—the North American Free-Trade Agreement. I also hope that they note the failure of their partisan approach to crime. That approach has brought this House to the chaos of the last 20 weeks. But the change is coming as we witness the rapid progress made in recent days by a bipartisan coalition of Republicans and Democrats working on a realistic crime bill. the last 40 years will be kept in mind as we debate health care in the coming weeks: bipartisanship works, one-party rule—and the arrogance which goes with it—fails.

Forty years after the end of Republican control of the House, it is time for a change and the time for a new beginning. I look forward to seeing a Republican majority in Congress next January—a majority which can reach across the aisle and incorporate the best ideas regardless of their origin.

The country expects constructive legislating, not destructive partisanship.

□ 1350

THE CRIME BILL IS NOT ABOUT PORK

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

Mr. FARR of California. Mr. Speaker, this bill is not about pork, it is about chicken. It is about Members that are chicken to stand up to the special interests of the gun lobby in this place. It is not about pork. It is about violence in America. It is about Members who forgot why they came here, to promote the domestic tranquillity. Members came here to enact laws that would protect this country and protect the children in this country, and while we have been waiting to enact this law, children have been killed by drive-by shootings, by senseless guns that should not be on the street.

Members, we are going to go home soon. If we vote for the rule, we vote for the bill and we vote against recommit, we can go home and be proud that we did something to make America a better place to live and take a big bite out of crime.

PARLIAMENTARY INQUIRIES

Mr. WALKER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). The gentleman will state it.

Mr. WALKER. Mr. Speaker, is the language that was just used by the gentleman appropriate where he referred to Members as chickens because they will not stand up to special interests? Is that appropriate parliamentary language?

The SPEAKER pro tempore. Members should not characterize other Members in such a way.

Mr. WALKER. Excuse me?

The SPEAKER pro tempore. Members should not refer to other Members in such a way.

Mr. WALKER. I thank the Chair. So the gentleman was out of order with that language?

The SPEAKER pro tempore. The Chair has responded to the gentleman's inquiry.

Mr. WALKER. Mr. Speaker, I have a further parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. WALKER. Is it not the duty of the Chair to sanction Members who utter unparliamentary language?

The SPEAKER pro tempore. It is the duty of the Chair, the gentleman is correct.

Mr. WALKER. And the Chair did not——

The SPEAKER pro tempore. When it is raised in a timely way, it is the duty of the Chair to do so. It was not raised in a timely manner.

Mr. ACKERMAN. Mr. Speaker, it was my understanding that the gentleman said that this was not about pork, it was about chicken. He did not refer to any Members. If any Member thinks that he referred to them in that way, then that is their problem. I did not hear that.

Mr. WALKER. Mr. Speaker, was that an appropriate parliamentary inquiry?

The SPEAKER pro tempore. The Chair has only answered a general parliamentary inquiry. The Chair has not

ruled on the words of any particular Member.

THIS CRIME BILL IS NOT THE RIGHT ANSWER

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

Mr. HOKE. Mr. Speaker, we have established that this bill is not about chickens. What I would like to suggest is that this bill is about political demagoguery and the exploitation of the legitimate fears, the legitimate anxiety and the legitimate concern that the American public has got about crime. The problem is that what the bill will not do is answer any of those legitimate fears, anxieties and concerns, because what it will do is give politicians in this House on both sides of the aisle the opportunity to go back to their constituents and claim that they have done something real and substantive. The best thing that happened a week ago when we defeated the rule is that the sunshine poured in and the American public as well as the Members in this House actually learned what was in the bill and we found out that however it is characterized, there was a tremendous amount of social spending that is very, very difficult to justify as crime prevention and a bill that works against crime. That is what we did find out. Now we are being asked in the next 4 hours to vote on another bill that we simply have not seen and have not read.

PASS THE CRIME BILL

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

Mr. MEEHAN. Mr. Speaker, before I got elected to the Congress, I was the first assistant district attorney of Middlesex County. I oversaw a county with 13,000 criminal cases a year. I am shocked at how little Members of Congress really know about crime. To call pork efforts to put victim witness advocates into courts across this country, to help women who have been battered by abusers, to call that pork is an outrage. I think every Member of Congress that does not have the courage to stand up on this bill ought to spend a month during the recess in a district attorney's office across this country and learn what real crime is all about.

Let us pass this bill today, forget the bickering and get something done on this issue. I, for one, as someone who has prosecuted violent crime, am tired of the rhetoric I have heard all across this country. Let us pass this bill and get it done today.

THERE'S A LOT OF FAT IN THE CRIME BILL

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

Mr. GOODLATTE. Mr. Speaker, whether you call it chicken or pork, one thing is certain, there is an awful lot of fat in this bill. We should send this bill back to the conference and do what is right, and today we finally have the opportunity to do that by supporting a 100-percent fat-free bill—no pork, no chicken. Give the American people what they want, that is, to support the Brewster-Hunter alternative.

Let us vote against the rule. Vote for the motion to recommit if the rule should pass and give the people grants to correctional facilities, grants to States to pay for prisons, grants to State and local law enforcement, border enforcement, punishment of sex offenders, abolishment of country-club comforts for inmates, establishing truth-in-sentencing, and establishing mandatory penalties for offenses with firearms.

These are the things the American people want, not the rest of what is in the President's bill. Send it back.

REPEAL THE CUBAN EMBARGO

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

Mr. SERRANO. Mr. Speaker, yesterday nearly 1,000 Cuban refugees were picked up by our Coast Guard off the coast of Florida. This is the largest 1-day total since this crisis began. This happened 1 day after a new policy which does not allow Cubans who reach our shores to stay.

This policy calls for detaining Cubans and sending them to Guantanamo. In order to do this the Cuban Adjustment Act which allows all Cubans to stay was either rescinded, repealed, or suspended—no one seems to know exactly which.

For years we have accused Fidel Castro of incarcerating his people within Cuba. Our new policy arrests Cubans and incarcerates them in Guantanamo, Cuba. Is there not a contradiction in all of this?

It should be obvious to everyone that this situation is only going to get worse. The people in Cuba are suffering and leaders in Florida believe they have an immigration problem on their hands. It is time to end this madness by repealing the Cuban embargo. Support H.R. 4941 and end the embargo now. Let us begin negotiations before it is too late.

TOP 10 REASONS CLINTON WANTS A CRIME BILL

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

Mr. HEFLEY. Mr. Speaker, since President Clinton never bothered to send a crime bill to Congress in the first place, many Americans may wonder why he so wants one now. Well, I have here the top 10 reasons why the President is suddenly so serious about crime.

No. 10. Midnight basketball a great replacement for striking baseball.

No. 9. The ACLU told him he wanted a crime bill.

No. 8. Opportunity to be first President to prosecute his entire administration.

No. 7. Could get all those nifty social programs liberals love.

No. 6. Maybe this presidential immunity thing applies here too.

No. 5. More Federal spending? Deal him in.

No. 4. Doesn't apply to broken promises to the American people.

No. 3. Self-esteem programs would do wonders for White House staff.

No. 2. Crime bill: conservative name, liberal policies, what a great idea.

No. 1. Three words: politics, politics, politics.

Only after he discovered it was politically popular did he decide to get behind a bill. And now, after he has talked about the idea, he thinks he has done his job to fight crime.

LOWER THE RHETORIC AND PASS THE CRIME BILL

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

Mr. HUGHES. Mr. Speaker, the gentleman from Connecticut had it right today. Let us lower the rhetoric today. This morning when we broke up in conference, we had all the material that every Republican on the conference committee could read. We did not move ahead until that material was available. It is not voluminous. It is something you can read in about a half-hour, three-quarters of an hour. It is available. It is being presented to both sides.

Mr. Speaker, I keep hearing pork, chicken. That is not what it is all about. Up until about 1 this morning, the NRA was still trying to twist arms and work over Members to try to prevent this initiative from moving ahead. They have weighed in very heavily. Ask any law enforcement officer about the so-called pork. Most of this in the bill has to do with law enforcement, prison construction and operation. It does not have to do with prevention. On the prevention side, for instance, one of the things they keep referring to as pork is developing alternatives for

youthful offenders so that sentencing judges have more options. Ask your law enforcement officers. That is not pork. That is responsible legislating.

A SOFT CRIME BILL

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

Mr. BARTLETT of Maryland. Mr. Speaker, there is an old proverb that says you can't make a silk purse out of a sow's ear. We have worked very hard to try and do that on the crime bill, but you still can't make a silk purse out of a sow's ear. Charlton Heston may not be Ben Hur and he may not be Moses, but he is right when he says that what the American people have not been told about this crime bill is a crime, and he is not just talking about pork, he is talking about the so-called crime aspects of the bill. For instance, 100,000 policemen on the street. It is not 100,000, it is merely 20,000 that is paid for by this bill and it may not be policemen because they are not going to be selected by police, they are going to be selected by citizen groups from the community.

□ 1400

This is a bad bill. It has not been made enough better that we can vote for it.

Please support the Brewster-Hunter bill that everyone can go back home and take credit for helping to pass a bill really tough on crime.

A WATERSHED VOTE IN THE HOUSE OF REPRESENTATIVES: ONLY TIME WILL TELL

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

Mr. MAZZOLI. Mr. Speaker, only historians really have the opportunity to evaluate an age with accuracy and with objectively because historians look backward and, thus, can analyze what happened. When historians look at the modern history of Congress, they may look at the vote last Thursday as the crime bill rule as a watershed vote, a vote which ushered in a new area of relationships here in the House between the parties and among all Members of the two parties.

When I go back home, and maybe my colleagues have had similar experiences, my people at home are not always asking why don't you folks do something, but they often ask why don't you do something together, why do you not try to work together more than you seem to.

So if the vote last Thursday, with all of its pain and torment and confusion, does usher in a new era of working together, not at the end of the process but from the start and right on through, then it will have been a worthy exercise, and maybe as history moves ahead this may prove to be the watershed vote in the House of Representatives.

TACTICS FOR SELLING THE CRIME BILL

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

Mr. KIM. Mr. Speaker, I would like to point out that yesterday's editorial in the Wall Street Journal today says that President Clinton is attempting to sell the crime bill to California by pointing out that California stands to receive $900 million or about 10 percent of the $9 billion earmarked for social programs. But since California counts for 14 percent of Federal tax revenue, its tax share should be $1.15 billion. Therefore California will pay almost $250 million more in taxes than it will receive back. California will be the biggest loser.

Meanwhile, Arkansas will receive a $37 million windfall. This is not fair.

But California is not the only loser. Among others, the State of New York will lose $224 million, New Jersey $138 million, Illinois loses $105 million, Pennsylvania $58 million and the list the goes on.

Before Members vote on this Democrat crime bill, please support the Hunter-Brewster bipartisan bill.

CRIME WILL NOT WAIT FOR PASSAGE OF THE CRIME BILL

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

Mr. FILNER. Mr. Speaker, I rise today in strong support of the crime bill. This bill sets out to do many historic, important things that can truly make a difference in the lives of our constituents back home and in the lives of all Americans.

This crime bill is a major accomplishment. Let me tell you why I support it.

Recently, the San Diego City Council renamed a street in my district. Now that is not so unusual, it happens all the time. But this time it was special—they renamed it "Willie James Jones Avenue." Willie was not an inventor, or a local educator or a philanthropist. But he could have been—if his life was not taken away at an early age due to violent crime.

Willie was a student body president and a star athlete at Lincoln Prep High School in my district. At age 18, he was ready to do great things. He had just accepted a 4-year scholarship to Cornell University—my alma mater. He was ready to go to college and work hard to become a doctor and worked during his summers as a lab assistant to continue his education.

I had the opportunity to meet Willie when we hosted Secretary of Veterans' Affairs Jesse Brown in San Diego last March. Both Secretary Brown and I were impressed with this young man and his dedication to working hard and planning for a productive future.

Willie was killed on June 16 by a single bullet fired from a passing car, as he and his friend left a sober graduation party, attended by 60 students and parents.

Willie was the type of kid that all of us hope to have. He was a role model to his friends and a joy to his family. But all of the promise of his life was cut short due to an act of violence.

This crime bill alone is not the whole answer—but it is a great beginning. It is because of years of neglect in dealing with violent crime that young people like Willie are lost forever. Their contributions are lost—due to senseless brutal acts of crime. Let us pass this bill and ensure that others like Willie can be saved from violence. Today, I vote for this crime bill for Willie Jones—and for the many others who have lost their future because we have waited too long to act. Today, finally, let us act.

PASSING A CRIME BILL FROM HELL ON THE SABBATH

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

Mr. KINGSTON. Mr. Speaker, here we are on the Sabbath and instead of keeping it holy we are here to pass a crime bill from hell, one that has little vision, little originality and little more than politics as usual, and a bill that has neither been read nor seen.

But there is an alternative good bipartisan bill. The Brewster back-to-basics bill will fund new prison constructions, new police officers, and cut prison perks like TV's. It puts prisoners to work. This is the bill that the folks in the town meetings have been talking about.

Criminals need arraignment, not entertainment. Let us support the Brewster back-to-basics bill and go home and teach those Sunday school classes we all brag so much about in our brochures. Let us remember that this is the Sabbath, and maybe do a little more praying and a little less politics.

END GRIDLOCK—PASS A CRIME BILL

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

Mr. MENENDEZ. Mr. Speaker, it is time to end the disinformation and the

motions for delay and time to end gridlock. The equivalent of what some are seeking to do here is having you dial the police at 911, asking for their help to help you in the case of a crime and having the police not respond.

The fact of the matter is what we have is the American people saying please help us with violent crime. We are dialing 911, Congress, and you are not responding.

Every day men and women put on a vest and put their lives on the line for us. It is time for Congress to put on a vest against the special interests and answer the American people. Today is the time for action. Today is the time to pass this crime bill.

PASS THE HUNTER-BREWSTER COMPROMISE CRIME BILL

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

Mr. STEARNS. Mr. Speaker, let me speak to all of my colleagues, both Democrats and Republicans. We have not had a chance to see the conference report bill. There is not one person in this House today who has seen the entire final conference report, so why are we voting on it? And why do you not say to your leadership and why do we not say to our leadership, "Hold it, hold it. Let's take a look at the conference report and see what exactly has been agreed upon."

This conference bill was $28 billion when it left the House. Today, it is $30 billion, even after the reductions. If it was a bad bill when it was $28 billion, why is it a better bill now when it is $30 billion?

And for all of the folks who complain that Republicans complain about the pork, they all should know that there are 226 crime prevention programs already in existence. These 30 new programs just duplicate what is already available in federal programs. We do not need them. That is why all of us are strenuously saying let us vote for the recommit of the conference report which allows us a vote on the back-to-basic crime bill offered by the gentleman from Oklahoma [Mr. BREWSTER], a Democrat colleague, and the gentleman from California [Mr. DUNCAN HUNTER]. This bill goes a long way to restoring legislation that fights crime with no pork, no duplication of programs, and it is something all of us can be proud of. And also, we can all have a chance to read this bill because it has been written and is available. Please contact Representative CHRIS COX, California, if you would like a copy of this bill. You can not read the conference report bill because it is not available. Please vote for the Hunter-Brewster back-to-basic crime bill.

LOBBYING GROUPS ARE HOLDING UP THE CRIME BILL

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

Mr. BECERRA. Mr. Speaker, I was greeted by this particular notice when I walked into my office this morning to go ahead and come here to be prepared to vote for a crime bill. Let me read what it says. It is from the gun owners of America.

> Before you vote for the crime bill, remember, when the gun lobby goes after you it does have an adverse impact.

Let us be real, let us talk about why we are stalling, we are not getting a crime bill out. It is not because this is pork. It is not because the people in this country do not want it. It is because there are certain lobbying groups that do not want us to get 100,000 cops on the street that we need, they do not want us to have the extra money for prison space that we need, and they do not want to help us give money to the local police that have DARE Programs for the boys' and girls' clubs that are keeping kids off the streets.

I say it has been 6 long years since we have had a comprehensive crime bill, and it is time for this new Member of Congress to say to all of those who are willing to obstruct: It is time to get a crime bill out.

Vote for the people and with the people in your district, not with the groups that are sending you these faxes and telling you stop the crime bill from going to America.

A VIEW OF THE CRIME BILL FROM ONE PRISON SUPERVISOR IN WYOMING

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

Mr. THOMAS of Wyoming. Mr. Speaker, I would like to share with my colleagues a letter I received from a lady in Saratoga, WY, who is a supervisor at the penitentiary. She says:

> Even though I am not a member of the NRA, I am glad that someone was able to block the crime bill. I just hope that the Republicans in the House and Senate will be able to stick to their guns (so to speak).

She says:

> There was something in that bill for everyone to hate, and not much to do anything about crime. Crime has to be tackled at the local level. We don't need any more Federal programs and laws. We can't enforce the laws already on the books and we don't have the money for any more frivolous programs.

This is from the penitentiary in Wyoming, a supervisor who works there.

□ 1410

WHY I OPPOSE THE CRIME BILL

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

Mr. SMITH of Texas. Mr. Speaker, I have always felt that membership in this body carried with it the fundamental responsibility to protect our constituents: To provide them safety in their homes and to assure them that every cent Congress extracted from them was essential and well-spent. Sadly, this crime bill does neither of these things.

This bill cannot guarantee to my constituents that the $4 billion it would demand from them for social programs would be well-spent, even if it is well-meant. Even if it could, this is not the place for it.

This social spending, if it should take place at all, should be put somewhere else and debated at some other time.

Nor can this bill keep its promise to my constituents to protect them as well as it claims. It totally ignores the need for a complete overhaul of our criminal alien deportation process so that these individuals can be quickly and permanently removed from the United States.

Even the popular three-strikes-and-you're-out provision of this bill is flawed. The third strike must be a Federal crime. Only 5 percent of violent crimes are Federal crimes. So, this bill will only affect a few hundred criminals every year.

Finally, this bill relies heavily on a favorite bait-and-switch: gun crimes. This bill generously extends meaningless gun control provisions that will not save any lives. The banned weapons are used only in a sliver of 1 percent of violent crimes and the criminals who do use them will simply switch to other weapons or get them illegally.

On the other hand, the bill refuses to severely punish the criminals who actually use guns when they commit a crime. Unbelievably, the bill does not make the use of a gun in a State crime a Federal offense for which there would be a guaranteed sure and swift punishment.

This bill will not allow me to keep my fundamental promise to my constituents: to protect them and their tax dollars.

Mr. Speaker, we would be much better off if we directed more money toward hardheaded law enforcement instead of softheaded social programs and empty-headed gun control. So would the American people.

PASS THE CRIME BILL

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

Mr. VENTO. Mr. Speaker, it is a difficult weekend for Members. Many of us stayed and encouraged our leadership to stay and try and work out the crime bill.

Today we are faced with a crime bill that someone said, "I have not read all the provisions of;" well, there has been work on it for over a year. Many of the provisions, I think, are well understood by Members and have been read and reread.

That is why it comes as some surprise that, instead of moving forward and acting, voting this bill up or down, some are proposed today under the rule to provide an alternative to send this back to conference, that they really do not want to finish this crime bill work today or tomorrow on common ground. In fact, they want to substantially gut what is in the crime bill, to destroy what ostensibly is a compromise by, for instance, cynically taking out various provisions that many of us feel very strongly about, like the death penalty. I strongly oppose the death penalty—but I understand the votes on this floor.

We ought to understand the reality. Both the House and Senate version has the death penalty provision in their bills, strongly supported by the House and Senate; so send it back to conference, send it back to languish, postpone dealing with the crime bill.

We will be back here in October, and that bill will have the death penalty back in it. The ultimate objective, perhaps the only objective is to eliminate the assault weapon ban, to eliminate the death penalty appeal process, to destroy the bill, to defeat it, to defund it, and to leave the people without a crime bill before we leave this House today or tomorrow. Support the crime bill today. Support the police and enforcement, the prevention, and the prison funding. Support the crime bill and the people of this Nation, who want the crime issue addressed.

THREE MAJOR THINGS THAT WILL REDUCE CRIME

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

Mr. ARCHER. Mr. Speaker, this bill is loaded with a large amount of expenditure of the workers' tax dollars in this country.

It is interesting that when emotions rise up in America about a problem, the answer from this body in this capital is send more billions of dollars at the problem. That is not the efficient way to solve the problem, and in the end, this bill that is being offered today will not have any measurable impact on crime other than to make people feel good that they did something.

If the Federal Government really wanted to do something to affect crimes and reduce it, they would do three major things: They would address habeas corpus and eliminate the endless appeals that keep people on death row for 15 years without execution; they would change the exclusionary rule so that evidence that could prove guilt could be admitted in the courtroom instead of being denied on technicalities; and they would get the Federal Government out of running the penitentiary systems of the States in this country, and none of that is in this bill.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). The Chair will remind members in the galley that they are guests of the House, and it is contrary to House proceedings to manifest any approval or disapproval of the proceedings of the floor.

THE CRIME BILL RULE

(Ms. MCKINNEY asked and was given permission to address the House for 1 minute.)

Ms. MCKINNEY. Mr. Speaker, I rise today in support of the rule on the crime bill. This crime bill is the most balanced approach to crime that this country has seen in a long time. It contains an ounce of prevention and a pound of punishment. Unfortunately, Mr. Speaker, it also contains a ton of politics.

The gun lobby has spent millions of dollars to keep assault weapons on our streets.

The Republicans want to kill the bill to embarrass the President and the leadership of this House.

The people on the front lines are calling for the passage of the crime bill. Public Safety Director Tom Brown and CEO Leane Levitan, both from my home, Dekalb County want the crime bill. Even the minority whip's own police chief wants the crime bill.

President Clinton and over a hundred new Members of this body were elected to office to make our Government work for the people. Today, we either make good on our promise of change or resign ourselves that the special interests were just too strong for us to overcome. I implore all of my colleagues to leave politics at the door. Vote for the American people. Vote for the rule.

WHITE HOUSE OFFERED A COMPROMISE TO THE NRA

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

Mr. WELDON. Mr. Speaker, I ran for local office as mayor of my hometown because we had become the headquarters of the Pagans motorcycle gang, one of the five largest motorcycle gangs on the east coast.

For the 5 years I served as mayor, we fought the Pagans and their drug dealing every day. We did not play midnight basketball with them. We did not offer them any courses in career options. We beat them, and eventually drove them out of town, because we locked them up. We beefed up our police department by providing more officers and more support.

We cooperated and worked with the DEA, the ATF, and cooperative law enforcement agencies at all levels.

We sent them to jail where they are still today.

Both the efforts we are going to see on the House floor today are far better improvements over what the President offered to us.

But let me make one comment in response to my colleague from the other side. He said the NRA and the gun lobby are fighting for the assault weapon issue. The Republican negotiators have never mentioned that issue. As a matter of fact, it was last evening that the White House offered a compromise to the NRA on the 10-clip item on assault weapons.

Remember that: The White House.

DO NOT PLAY POLITICS WITH THE AMERICAN PEOPLE

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

Mr. ENGEL. Mr. Speaker, the American people want a crime bill. The American people are fed up with the proliferation of guns on our streets.

The American people understand that we need to put more cops on the beat, build more prisons, and at the same time give our youth, particularly our inner city youth, a chance. It is far, far better for young people in my district to have a place to go rather than hang out and have idle time.

Mr. Speaker, it is not pork. It is just plain good, common sense. Law enforcement officials and police all over the country want this crime bill. Let us pass it.

Let us say something about the politics that is being played in some quarters here. Those who would, for political purposes, attempt to deny the President a victory here or attempt to deny the Democrats in Congress a chance to strike a blow against crime are only playing politics against the American people.

My colleagues, support the rule. Defeat the motion to recommit. Defeat the special interests. Support the crime bill.

WHAT HAS CAUSED THE CRIME WAVE IN OUR COUNTRY?

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

Mr. DORNAN. Good morning, Mr. Speaker. How are you today?

I am pleased that we are going to be adjourning at some point this afternoon and heading back to our districts for about 3 weeks. Maybe they will give us back a little of the week that they have stolen from us, the leadership.

I think we are going to learn a lot from our constituents, our taxpayers, that, yes, they wanted a crime bill, a crime bill to fund criminals.

Now, the gentleman from California [Mr. HUNTER] and I were having breakfast together two mornings ago with a grandmother of nine, mother of five, happens to be my wife, Sally, and she looked at the two of us as she gave us our waffles and said, "Why can't we have a clean crime bill on prisons and criminals and take all the rest out and argue it in separate bills like the gun bill?" And DUNCAN looked at me and said, "What do you think?"

He called his staff. Eventually, the gentleman from Oklahoma [Mr. BREWSTER] was on board, and that is going to be a fascinating vote.

I am going to do a 5-minute before I go home this evening, Mr. Speaker. I am going to bring up something I have thought about for 35 years: What has caused the crime wave in our country of violence, conservative philosophy or liberal philosophy?

PUT THE PUBLIC GOOD ABOVE PRIVATE INTERESTS

(Ms. ESHOO asked and was given permission to address the House for 1 minute and to revise and extend her remarks, and include extraneous matter.)

Ms. ESHOO. Mr. Speaker, I rise today to urge my colleagues to put principle above politics and the public good above private interests by supporting the crime bill.

Tremendous work has been performed under incredible pressure by Members on both sides of the aisle to produce a reasonable compromise on the crime bill. Yet the gun lobby and its minions are still plotting to deny the American people a strong anticrime package that they want and deserve.

Most of us received this fax this morning from Gun Owners of America threatening anyone who votes in favor of the assault weapons ban with defeat in November. They list Jim Florio, Mary Sue Terry, and Dave Roberti as alleged victims of their political clout. They could not be more off target.

It is pathetic for the gun lobby to be talking about its short list of alleged political victims when we should be concerned about the much longer list of gun victims.

The American people know what is going on in their own streets outside the beltway. They should not be denied relief because of what is going on with lobbies inside the beltway.

Mr. Speaker, it is time for Congress to put special interests in their place by casting "aye" votes, A-Y-E, instead of "me" votes.

BEFORE YOU VOTE FOR THE CRIME BILL, REMEMBER . . .

"When the Gun Lobby goes after you, it does have an adverse impact,"—soon-to-be former State Senator David Roberti, Los Angeles Times, June 9, 1994.

RECENT ELECTIONS WHERE GUN CONTROL PLAYED A PIVOTAL ROLE

Jim Florio of New Jersey: The Washington Post (11-5-93) reported that "gun owners provided the margin of victory in Whitmans' race."

Mary Sue Terry of Virginia: The Washington Times (11-5-93) reported that Terry's loss sent a "strong clear signal" that those who championed "more gun control to fight crime were out of step with the voters."

Joe Prather of Kentucky: Campaigns & Elections (July 1994) reports that the Christian Coalition distributed up to 90,000 copies of a "voter guide" that said Prather supported "registration of firearms"—a big issue in the second district.

David Roberti of California. "When the Gun Lobby goes after you, it does have an adverse impact," said soon-to-be former state senator Roberti to the Loss Angeles Times (6-9-94). Gun owners forced a recall election to oust the anti-gun senator earlier this year. This special election cost Roberti thousands of dollars per day, thereby depleting his financial resources. As a result, he cost his primary election for state Treasurer to a person whose name recognition ranked below all other state contenders.

SINGLE-ISSUE VOTERS ARE OVERWHELMINGLY PRO-GUN

Campaigns & Elections (March 1994) stated that gun control can easily "backfire as a campaign issue." The reason is twofold, says the article. Nearly half the voters have a gun in their homes and gun control can be perceived as a "personal threat." Furthermore, gun control is not a passionate issue for proponents of restrictions, but is an extremely passionate issue for gun rights supporters.

Translated: gun owners are much more likely than gun control advocates to be single-issue voters. Be forewarned, there is incredible voter anger brewing outside of the Beltway.

Vote "no" on the rule note "no" on the bill. Gun Owners of America will consider a vote for both the rule and the bill (H.R. 3355)—because of the gun ban in it—as a gun control vote. Our rating will be published by Guns & Ammo magazine this fall. Please support the Hunter-Brewster alternative instead!—Gun Owners of America, 8001 Forbes Place, Suite 102, Springfield, VA 22151, (703) 321-8585.

□ 1420

JOIN THE BREWSTER-HUNTER BIPARTISAN BILL

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

Mr. ROHRABACHER. Mr. Speaker, the question is now whether we want a tough crime bill. The question is which bill which we will be voting on today is a tough crime bill and which is a social welfare spending bill. The President's so-called crime bill has been wrong in substance and has been handled in an incompetent and corrupt fashion. Otherwise there would not have been a session here last night in the wee hours of the morning in order to pass a procedural rule without us having a chance to have our say on it or even know that we were in session.

I urge my colleagues to join with a bipartisan effort of the gentleman from Oklahoma [Mr. BREWSTER] and the gentleman from California [Mr. HUNTER], and I urge my colleagues to oppose the Clinton bill. It is loaded with social welfare spending, and let me note this, that we have taxed away so much money from our local people that now, in order to build more prisons and hire more people, they have to ask for money from the Federal Government. Well, the Brewster-Hunter amendment says we will give it back to them because we took it from them in the first place. The President's bill, loaded with social welfare spending, says, "yes," we will give some money back for prisons, but they have got to use it exactly the way we tell them to use it.

LISTEN TO THE AMERICAN PEOPLE

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

Mrs. SCHROEDER. Mr. Speaker, I think one of the reasons people get so angry with Members of Congress is they think we do not listen, we do not listen to the people who are on the ground doing certain things and, therefore, we make mistakes. Today we have a chance to show how well Members of Congress listen. If we listen to our mayors, if we listen to the law enforcement officers in this country who are out trying to hold the line every day against crime, if we listen to our district attorneys, if we listen to the people who are out all over this country trying very hard to turn this rapidly growing level of violence around, they are telling us to vote for this bill, that they need both prevention and tough laws, that this is the right formula. I think it is very arrogant to come down here and say, "Well, it's nice." They all say that, but we know more.

I say to my colleagues, "When you look at the politics of that group, there are politics on both sides, Republican and Democratic mayors, and police chiefs and everyone coming forward. Let's vote for America, and let's listen to America for a change."

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). The Chair reminds our guests in the gallery that they are guests of the House and it is contrary to House rules to show any manifestation for or against the proceedings of the floor.

AMERICANS FAVOR DEATH PENALTY IN VIOLENT CASES

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

Mr. GEKAS. Mr. Speaker and Members of the House, the gentlewoman from Colorado [Mrs. SCHROEDER] is absolutely correct. Let us listen to the people.

An overwhelming majority of the American people favor the imposition of the death penalty in appropriate heinous, deadly, violent cases like the Trade Center murders, explosive murders, that resulted in eight deaths, and no death penalty applied; for sexual rape murders, for robbery murders, for those kinds of things that have torn us apart as a society: Violence. Yet we in the House first received a death penalty provision in this crime bill that was unenforceable until the Gekas amendments were passed by the House overwhelmingly, notwithstanding the objection of the Democrat leadership in the Committee on the Judiciary, and now they have been ripped out of the death penalty provisions, possibly making them unconstitutional.

Mr. Speaker, we need to listen to the American people, as everyone is saying, who want a proper procedure for the death penalty to allow juries to determine whether the death penalty is to apply for violent killings.

AMERICANS WANT A TOUGH CRIME BILL

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

Mr. CLEMENT. Mr. Speaker, like my other colleagues, I have been deliberating for months now about a crime bill, and I know, ever since I have been a Member of Congress, and I have been a Member of Congress for 7 years, I have seen so many families devastated because of crime, and I know that not one neighborhood, not one community in America, is immune from crime any longer. People are fearful for their life and know that we have got to fight crime at the local, State and national level.

Now we have an opportunity to pass a crime bill, and I hope we will show some political courage and pass one. I know it is difficult at times for Members because they are pulled in one direction or another, but it does offer us hope for the future.

I know it is not attractive to just build prisons, but the fact is, as my colleagues know, the people at home say, "I don't like this revolving door policy where criminals are in one day and out the next." They want a tough crime bill, and, when we lock these prisoners up, we want to keep them locked up.

Vote for the crime bill.

BREWSTER-HUNTER GIVES AMERICANS THEIR MONEY'S WORTH

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

Mr. HUNTER. Mr. Speaker, my thanks to Sally K. Dornan of Donegal Hill that my colleague, the gentleman from California [Mr. DORNAN] just happened to mention.

Mr. Speaker, the chairman of the Committee on Appropriations took the well and talked about the programs that I have requested, including the pesticide program for the $200 million in losses that my farmers have taken in the Imperial Valley, and characterized that as pork, and advise me that, if I was going to want to cut pork, that should begin at home, but let me just say, Mr. Speaker, what I have not asked for.

I say to my colleagues, "I haven't asked for midnight basketball games, and I haven't asked for arts and crafts, and I haven't asked for dancing lessons, and you know something? I don't think the American people asked for those things either in a crime bill. Do you know what they do want? They want more prisons."

Mr. Speaker, the Brewster-Hunter bill that will be offered on the motion to recommit gives us a billion dollars for more prisons, more than the conference report. They want more police, and the Brewster-Hunter bill gives $2 billion more in cops, and the Hunter-Brewster bill gives not a dime in social spending.

The American people are paying for this. Let us give them their money's worth.

PUT POLITICS ASIDE AND PASS A CRIME BILL

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

Mr. RICHARDSON. Mr. Speaker, passage of this motion to recommit kills the crime bill for all practical purposes. What it does is it will reopen the entire conference. There will be total chaos, and every issue can be revisited. Make no mistake. This will be the vote of the day. If that package of recommit wins, we will not be here to do a crime bill.

Mr. Speaker, what we have here today is an opportunity to put politics aside and pass a crime bill. We commend those Republicans that joined Democrats in achieving a bipartisan compromise. Let us pass it now and go home.

VOTE FOR THE MOTION TO RECOMMIT

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

Mr. ARMEY. Mr. Speaker, just 1 week ago we had a bad crime bill brought to the floor, and my good friend, the gentleman from New Mexico [Mr. RICHARDSON] told us at that time, if we defeated the bill, we would kill the crime bill, that we would not revisit the issue, that we would not have an opportunity to do something on crime. Well, we defeated that rule. That bill did not get to the floor on that day. We did the right thing.

And here we are today, on a Sunday afternoon, after a serious week of negotiations, coming back to the floor for another look at crime on behalf of the American people with still another inadequate bill. This bill that we will look at today is not even good enough for Government work, and that makes it inadequate for the American people, and today we are told that, if we vote for the motion to recommit, we will kill the crime bill, there will be nothing else that can be done.

We still have the rest of the year to get it right. Vote for the motion to recommit.

□ 1430

PORK IS IN THE EYE OF THE BEHOLDER

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

Mr. SANDERS. Mr. Speaker, let us talk a moment about pork. When some Members here fight for huge tax breaks for the rich, that is not pork. When some Members here fight for supersonic super colliders and billions and billions of dollars for big industry, that is not pork. When Members here vote for star wars and space stations and level funding for the CIA despite the fact that we have seen the end of the cold war, that is not pork.

But when some of us ask, Why is it that we have the highest rate of incarceration in the world; why is it that we have the highest rate of childhood poverty in the industrialized world; why is it that our kids drop out of school; and why is it that we are not feeding hungry kids and providing jobs for our kids and educational opportunities for our kids? They say that is pork.

Mr. Speaker, let us get our priorities right. Let us protect the people. Let us protect them against crime.

TIME TO ACT, PASS THE CRIME BILL

(Mr. LEHMAN asked and was given permission to address the House for 1

minute, and to revise and extend his remarks.)

Mr. LEHMAN. Mr. Speaker, welcome to Sunday afternoon in the House of Representatives. Only here are crime prevention measures like drug rehabilitation programs and gang resistance education labeled pork. Only here are activities for unemployed youth seen as frivolous.

Three-fourths of the money in this bill goes to punishment; one-fourth goes to prevention. I will repeat that: Three-fourths of the money in this bill goes to punishment, and one-fourth goes to prevention. All of the funds authorized for either purpose are realized by eliminating 270,000 Federal jobs.

This bill is well balanced in its approach. This bill is fiscally responsible. Of course, it is not perfect. Five hundred thirty-five Members are never going to be able to get together and agree on everything, but we have a responsibility to the American people to find a consensus.

Mr. Speaker, the time to talk is over. The time to act is now. Let us get on with it and pass this bill.

SOCIAL PROGRAMS, BIG GOVERNMENT SPENDING NO ANSWER IN FIGHT AGAINST CRIME

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

Mr. MICA. Mr. Speaker, today we are debating a crime bill, but really we should probably be debating welfare reform. We are debating a crime bill, but we should really be debating a bill that deals with job creation. We are debating today a crime bill, but we should really be debating measures that encourage investment, encourage personal savings, and promote international trade competitiveness for the United States.

Let us face it, Mr. Speaker, for 30 years we have had just about every social program one could name. We have had decades and decades of government spending. If that were the answer, we would be in great shape. We have over 500 Federal welfare programs. We currently have 266 Federal prevention programs. We have 150 Federal job training programs. But until we deal with increasing jobs, self-respect, and self-discipline, we are not going to solve the problems of crime in this country.

FLORIDA LAW ENFORCEMENT OFFICIALS SHOW INTEREST IN PREVENTION PROGRAMS

(Ms. BROWN of Florida asked and was given permission to address the House for 1 minute.)

Ms. BROWN of Florida. Mr. Speaker, I am a new Member of Congress, and I have had a series of town meetings throughout my district, particularly in the Ocala-Marion County area in the district shared by me and the Member who previously spoke.

In my series of workshops, my sheriffs and police chiefs have come to me and indicated they were very interested in the prevention piece in this bill, and in fact I did a poll throughout Florida, and the No. 1, the No. 2, and the No. 3 issue were crime, crime, and crime.

It would be good if the Member representing Marion County and the Members representing Florida would listen to the people and the sheriffs and agree to produce a bill that, yes, is tough on crime but also has this prevention piece. Let us tell that Member from Marion County.

CRIME BILL IS WELL BALANCED, RECEIVES SUPPORT FOR MYRIAD REASONS

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

Mr. TORRICELLI. Mr. Speaker, in the passage of the crime bill, Members across the aisle will be celebrating the stand that we have taken but fundamentally for different reasons. For some of us the building of prisons, and the hiring of new police officers, and the banning of assault weapons will be an important stand. But the Members on the other side of the aisle will be cheering because they have taken away some of the prevention measures, as if doing away with mandatory spending on boys' clubs and the chances for some for recreation and a summer job is a victory for crime prevention.

Do they not understand that for every young man we put in jail four others will take their place? As long as poverty is the rule for the young in America, do they not understand that until there is some basic recreation and some opportunities and options in life in the cities, there will be 10 waiting in line for every drug dealer we ever put in jail?

A balanced crime prevention bill is incarceration, it is more police, it is gun control, but it is also doing something about the quality of life and opportunities in America.

Mr. Speaker, we cheer this bill for different reasons.

ADOPTION OF RECOMMITAL MOTION WOULD KILL CRIME LEGISLATION

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

Mr. LEVIN. Mr. Speaker, make no mistake, passage of the motion to recommit is the death penalty for an anticrime bill, for three strikes and you're out, for $10 billion for prisons, and for 100,000 new cops on the beat.

I hear talk about the need for flexibility in this bill. The cops on the beat provision has an aspect that I helped introduce. It says that the Attorney General may make grants to States and units of local government and multijurisdictional or regional consortia.

In suburban areas like the one I represent, communities like to join together, pool police, and crack down on violence, on gangs, and on drug dealers.

Now the bill provides that these regional task forces can receive these Federal grants.

Mr. Speaker, if Members want flexibility, it is in the bill. This is a tough, smart anticrime bill. Anybody who votes for the motion to recommit is voting to kill a crime bill this year.

QUESTIONING THE CHANGES PRODUCED BY THE HUNTER-BREWSTER LANGUAGE

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

Mr. BILBRAY. Mr. Speaker, like many on the minority side, I voted against the assault weapons ban and the Brady bill because I believe that that was best handled by the States and local communities. Nevada has its own Brady bill in southern Nevada to prevent delay.

But I am deeply concerned about the Brewster motion to recommit. I do not understand, as we go through the progression of events in this debate—and maybe they can explain it—why they took out the no-death penalty for cop killers, why they took out the three strikes and you're out, why they took out the money for a crackdown on sex offenders and spousal abusers. Brewster-Hunter drops $1 billion from local cops and prosecutors to crack down on sex offenders and spousal abusers, and it takes out $300 million for battered women shelters.

These things are of deep concern to me, and as this bill progresses and as the conference committee report is heard, maybe they can address these problems, because I am deeply concerned that these are being stricken out, and while I do not agree to the statements about protecting the second amendment, I do not understand this motion to recommit.

PROPOSED MOTION TO RECOMMIT WOULD PROVIDE A BARE BONES ANTICRIME BILL

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

Mr. CUNNINGHAM. Mr. Speaker, let me answer the question of my colleague, the gentleman who just spoke.

First, there are a lot of us that wanted the $1.8 million for the violence

against women put into the motion to recommit in the Brewster-Hunter bill. A lot of us wanted the death penalty language in there as well. We wanted a lot of things.

This bill is not comprehensive. What we are asking for is a bare bones minimum. This is a crime bill. We are looking at the heart of the crime issues and putting those things in there.

For example, the Dunn-Deal language on sexual predators is included. We also put the Susan Molinari language for rape victims in there. There are other things that we are saying are for socialized spending, and if those who stand for that on principle and want to put it in there, let us have an opportunity to vote on it. As to the gun language in there, it does not kill the assault weapons ban in there. It is still alive in the Senate.

Mr. Speaker, what we are looking at is the bare bones minimum, with no pork, no matter how we define it.

So we decided we were going to put these things in there and have a vote on it.

□ 1440

AMERICAN PEOPLE WANT A TOUGH AND REALISTIC CRIME BILL

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

Ms. PELOSI. Mr. Speaker, the American people want a tough and realistic crime bill. Tough in that it punishes those who commit crimes that threaten the personal security of every American. But realistic in that crime prevention is our greatest safeguard to personal security.

We cannot have a tough and realistic crime bill without an assault weapons ban.

Mr. Speaker, much has been said in this debate in the name of hunters. In all fairness to hunters, I believe they have gotten a bad rap. Many hunters are calling my office to dissociate themselves from the NRA's promotion of assault weapons. Frankly, they are embarrassed that the NRA would say that the weapons banned in this legislation have any use in hunting. These sportsmen do not want their legitimate concerns about hunting regulation to be hijacked by the NRA's assault weapon lobby.

It is not enough to offer our condolences to the families of the victims. It is not enough to punish the people who caused the death of their loved ones. This offers small comfort to Steve Sposato, Michelle Scully, Carol Kingsley, and the other friends of the victims of violent crime.

Saving the lives of innocent men, women, and children, would be the best legacy we can offer these families. Preventing access to weapons whose only purpose is to kill, and kill easily, will make the lives of all Americans safer. Then, we will start to bring to an end the tragic rollcall of victims of violent crime.

EFFECTIVE AND LEAN CRIME BILL NEEDED

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

Mr. ZELIFF. Mr. Speaker, the people of America have told this Congress loud and clear to do three things when we consider the crime bill: Make it effective in fighting crime, make it tough on criminals, and keep it lean. The crime bill that failed on the House floor last week was not effective and it certainly was not lean.

I have been on record that a conference committee should do four things: Remove the $9 billion pork and social programs from the bill; restore the tough anticrime measures such as truth-in-sentencing and mandatory minimums; remove the so-called assault weapons ban; and four, stop the diversion of funds that would have paid for new social programs through reductions in the FBI and DEA.

Unfortunately, the rewritten crime bill does not accomplish all of these goals. But there is a bill before us that does, the Brewster-Hunter substitute.

The Brewster-Hunter substitute provides grants for prisons, grants for State and local law enforcement, habeas corpus reform, and exclusionary rule reform. This substitute includes truth-in-sentencing, strengthened U.S. border enforcement, mandatory registration of sex offenders and community notification, and mandatory prison terms for crimes committed with a firearm.

Best of all, the Hunter-Brewster substitute is completely pork-free.

CRIME BILL BENEFITS ALL STATES

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

Mr. HOAGLAND. Mr. Speaker, I just want to take a moment to show this chart, which I think illustrates very well the benefits for States like Nebraska in this crime bill. Now, let me say, first of all, that many of the figures shown here have to be decreased by 10 to 15 percent because of the cuts that have been made in the new crime bill. But this chart here shows benefits to the country and benefits to the State of Nebraska.

Let us first talk about some of the benefits to the country. A total of 100,000 new police officers on the streets nationwide. That translates up to 900 additional police officers for our State of about 1½ million people. Truth in sentencing, forcing violent offenders to serve at least 85 percent of their sentences, a ban on military-style assault weapons, tough punishment like three strikes and you are out, and other provisions nationally that will help.

Let us look at how that translates for Nebraska. For prison construction we have well over $11 million, for prevention, well over $3 million, and the other benefits shown here.

I urge Members to support the bill.

AMERICAN PEOPLE TIRED OF PROMISES AND NO PRODUCTION

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

Mr. LIVINGSTON. Mr. Speaker, all the charts in the world will not change what all the experts recognize and that's that the 100,000 police officers we are talking about really amount to 20,000 police officers, which if spread over the country, mean one additional policeman per average city in a 24-hour period. That is not very much help in extra manpower for law enforcement.

The American people are tired of promises with no production. They do not believe the President on the crime bill. They do not believe the Congress. Collectively we have promised a good crime bill, but we have produced only an illusion of effective law enforcement and of punishment of violations of the safety and integrity of civilized society.

Mr. Speaker, we have a chance to be straight with the American people. Let us reject the fluff and false promises of the product of the crime bill conference, and pass a tough, real crime bill. The Brewster-Hunter bill provides some hardcore sure punishment for people who break the law, and it should be passed.

SUPPORT THE CRIME BILL

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

Mrs. KENNELLY. Mr. Speaker, today, I stand in support of this rule and this bill.

This is a complicated bill, a huge bill. There are those who favor it, like myself. There are those who have basic disagreements with this bill. That is our democratic system.

But those of us who live in cities need this bill. We who worry about our suburbs need this bill because we cannot keep are communities safe if our cities are havens for drugs and gangs.

So we must as a country have a consistent policy. Violent criminals belong in jail. Assault weapons do not belong in the hands of gang members. We

must protect our children from violence and also prevent them from becoming involved in criminal activities.

This bill protects us as a nation, helps us as a country. We should pass it now.

CRIME BILL IS PORK LADEN

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

Mr. BURTON of Indiana. Mr. Speaker, do we want $7,000 million more in pork? I hope everybody gets that, $7,000 million more in pork. The compromise bill is going to provide $7,000 million more in pork. They are going to have two social workers for every new policeman put on the street. Not 100,000 new policemen, 20,000 spread across the country, but there are going to be two new social workers out there watching midnight basketball and everything else trying to solve our crime problems, when what we really need are more policemen, more prisons, and strong sentences to take these people off the street to protect Americans.

Mr. Speaker, this is a pork laden giveaway program that the American people simply do not want. We ought to kill this turkey.

CRIME BILL IS PREVENTION, NOT PORK

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

Ms. SCHENK. Mr. Speaker, there have been references to how tired people are and how tired the American people are. Well, I am tired, too. I am tired of the cynicism and the hypocrisy and the misrepresentation of what this bill is about.

The American people want more law enforcement. This bill has over $13 billion for law enforcement. The American people want more money for prisons. This bill has $9 billion for prisons. And, yes, the American people want money to prevent future crime, to give our young people, those who can go over to a life of crime, an alternative. This provides alternatives.

Prevention? Well, we are not talking about square dancing and arts and crafts. We are talking about drug courts and drug treatment for State and Federal prisoners and gang resistance education. That is what this is. This is not pork no matter who calls it pork. This is not social welfare. This is prevention, and I urge my colleagues to pass the bill.

SUPPORT DUNN-DEAL LANGUAGE IN CRIME BILL

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

Ms. DUNN. Mr. Speaker, I want to talk to the American people for a minute about the Dunn-Deal language on sexual predator registration tracking and community notification. I have worked hard on this language. It came out of Washington State. It has been proven to be effective there and constitutional there.

It went through the Senate. It was approved by a majority, in fact unanimously by that body, and by a majority of 407 to 13 here in the House of Representatives. The conferees did not put this important language into the conference the first time around. So I was one of two conferees who sat there and negotiated for 5 hours to get the Dunn-Deal sexual predator notification to communities in the crime bill. It is in the conference report now.

I would simply say, Mr. Speaker, that this one small portion, which is so important to me, which is in the conference report, does not make a basically bad bill good. I urge all my colleagues to vote against this report. Dunn-Deal sexual predator community notification is in the motion to recommit. It is a freestanding bill. It will be in a discharge petition. We will pass it.

STOP ALL THE LAME EXCUSES, SUPPORT THE CRIME BILL

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

Mr. KLEIN. Mr. Speaker, since the rule was defeated a week and a half ago, I have been home and I have met with literally thousands of people in my district who have said to me, how could you let this bill fail? We need protection against crime. We need more cops on the street. We need more money for prisons. We need more of all of the things that are in this bill. Go out and get this bill passed. And that is what I am about to do.

I heard the gentlewoman from Washington [Ms. DUNN] talk about a stronger language for sexual predators. I was one of those who fought for it. I strongly believe in it. But like all of the people who are voting against this bill, they have got one excuse after another. They do not want the bill. They do not want to fight crime. All they want to do is come up with lame excuses.

Let us stop the excuses. Let us give the American people what they want. Let us give them action. Let us give them a crime bill that they can be proud of. Let us vote for this bill.

□ 1450

A STRONG CRIME BILL

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

Mr. EDWARDS of Texas. Mr. Speaker, the process has worked. Reasonable Democrats and Republicans have come together to craft a strong crime bill.

The bill is tough on punishment and smart on prevention. It is paid for by cuts in Federal spending. It is supported by many Democrats and Republicans alike and the vast majority of law enforcement officials across America.

To Americans listening to this debate, I say, ignore the small handful of Members on both sides of the aisle who are even now more interested in attacking each other than in attacking crime. They just do not get it.

Honest differences still exist, as should be the case in a democracy. But today many Democrats and Republicans in Congress have come together, put aside their political differences and put together a commonsense crime bill. The process has worked.

A BETTER CRIME BILL

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

Mr. WALKER. Mr. Speaker, there is no doubt that the bipartisan negotiations did improve the bill that will be on the floor today. But the fact is, even the improved bill is not a good bill. There is a better choice.

The better choice will be offered in the motion to recommit, and there is a real contrast between the two.

In the motion to recommit and the bill Members have before them today, at that point they will have a choice of putting the money into police, prisons and into border guards, putting the money where the American people know it should be and getting tough on crime.

In the other bill, the bill produced by the majority and the bipartisan coalition, they will have the choice of having some money in prisons, some money in policy, some money in border guards, but also a lot of money in social programs.

The real choice between the two programs comes down to this: When you dial 911 for an emergency because you are being mugged, do you want to get a policeman on the other end as the result of passing the bill here today that will put the money into police, or do you want a social worker on the other end that will explain to you that the mugger is simply a poor person who has been terribly hurt in their life and so, therefore, you ought to understand them.

I would suggest you want a policeman on the other end, not a social worker.

STANDING UP TO THE NRA

(Mr. TORRES asked and was given permission to address the House for 1

minute and to revise and extend his remarks.)

Mr. TORRES. Mr. Speaker, like the American people, like the people in my own district, I have a vested interest in this bill. I have a provision in this bill that would deal with those gang members that drive by my streets at night in my district and shoot down innocent people, people like we heard about earlier in San Diego, Willie, a bullet through his head, the Persian Gulf veteran who was gunned down by a 15-year-old punk with an assault weapon, the innocent grandmother, the innocent child that gets killed.

Every weekend I go home and I am tired of wakes, I am tired of funerals.

Mothers, fathers tell me, "Congressman, do something. Do something back there."

I am doing something. I am going to vote for this crime bill today. I am going to make sure that these gang members go to prison and pay the penalty for killing people.

It is in this bill, and this is the only way we are going to do it.

When the NRA sends me an insidious letter like this saying that there can be an impact because I am going to vote for this bill, I say, come on, I am ready to take you on.

NO MONEY FOR PRISONS IN MICHIGAN

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

Mr. CAMP. Mr. Speaker, there are those supporting this crime bill because of how much in Federal tax dollars will go to their States. Michigan is one State that does not get back from the crime bill what the people of Michigan gives in taxes to the Federal Government.

We in Michigan will pay $33 million more in taxes than we will get in taxes than we will get in moneys under the President's crime bill, $30 million under the compromise bill.

Not all States will be treated like Michigan. Arkansas is a $37 million winner.

THE CRIME BILL

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

Mr. EHLERS. Mr. Speaker, since I am also from Michigan, I would first like to add to the previous speaker's comments. In addition to the number he quoted, Michigan is a loser by several hundred million additional dollars, because we have already built all our new prisons and therefore we will not get a cent from the bill to construct prisons.

I would also like to clarify todays debate by reading from an independent source. We have heard a lot of debate here this morning, but a few additional aspects have to be pointed out.

In a column by Richard Cohen in the Washington Post on August 17, he starts out:

> If Bill Clinton were a legislative package, he would be the crime bill. Both liberal and conservative, lacking a core concept, oversold and possibly underfunded, it is the legislative version of the famous pudding Winston Churchill would not eat because he said it lacks theme. It is a political response to a political problem that, if enacted, will leave the streets no safer than they are today.

He then concludes by saying:

> The problem with the crime bill is that it has no animating doctrine. It is so at odds with itself that if it were a person it would be institutionalized as schizophrenic. That sometimes happens to legislation that has to appease both liberals and conservatives, lynchers and death penalty opponents, and the opportunists in Congress with needy alma maters. But when Clinton makes it his legislative Alamo, when he retroactively elevates it to a core campaign issue, exactly what is he fighting for? The appearance of the thing, it seems. A political issue, crime, is met with a political solution.

I urge that we develop a workable solution, not a political one.

IN SUPPORT OF THE COMPROMISE

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

Mr. BOEHLERT. Mr. Speaker, when I came to Washington, I came to be part of the solution, not to stand idly by and be a perpetuater of the problem.

The American families are reaching out to us. They tell us they are concerned about safety in their home. They are worried about their kids in their neighborhoods. They see crime of epidemic proportions.

They do not want sanctimonious sermons from us here in Washington. They want a helping hand.

Ten days ago, I voted for a rule to move the process forward in our war against crime. That rule failed. Everything came to a standstill.

But in the intervening 10 days, to the credit of Republicans and Democrats alike, they worked diligently to fashion a bill that I think is worthy of our support. It emphasizes punishment, as we must, but it does not ignore prevention.

I fail to see, I fail to see how any investment in preventing crime can be viewed as pork. It is an investment in our future.

THE REPUBLICAN THEME

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

Mr. WILLIAMS. Mr. Speaker, I want to associate myself with the remarks of the gentleman who just spoke, the Republican gentleman from New York. I do so being one of the people that is the problem here. I am one of those who voted not to let the crime bill come up. I am a Democrat. I opposed my leadership. I opposed our President.

So now, after about 3 days of negotiations, what have we been treated to this morning? Our friends on the far right taking the well, still not satisfied with the compromise. Still not satisfied. They found one thing to be for, the one thing that kills the crime bill for the rest of the year is the one thing they are for. I was not sure that President Clinton had it right a couple months ago, but I think he does now.

Republicans, almost throughout their history and yet today, can do one thing real well, and it is this, "no, no, no, no, no, no, no, no, no."

Today we ought to say "yes."

MORE ON THE CRIME BILL

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

Mr. KNOLLENBERG. Mr. Speaker, I would just like to suggest to the gentleman who just stood here in the well that there is an alternative to this. It is called bipartisanship.

I would like to suggest to the gentleman who was just up here that there is an answer to this whole thing about no, no, no, no. It is yes, yes, yes, and it is a bipartisan bill. It has been talked about.

We had one bill in this House since I have been here, I am a freshman, one bill that has been partisan. That was the budget bill. We have an opportunity now to pass something that both sides of the aisle can agree on. There is such a bill. It is a back to basics crime bill, including grants to correctional facilities, border enforcement, grants to State and local law enforcement, three strikes and you are out, punishment of sex offenders, establishes truth in sentencing. And it puts and keeps away those criminals that we have not done a thing yet in the conversation so far to control crime.

Let us do something about that. Let us keep the expenditures on social programs down to zero. Let us talk about that some other time. Let us pass now a bipartisan effort. Let us send this thing back.

Vote for the motion to recommit. Vote to cut the social spending. Let us vote for what America wants. Let us vote for the Brewster bill.

□ 1500

THE RIGHT TO KNOW WHAT IS IN THE BILL BEFORE WE VOTE ON IT ACT OF 1994

(Mr. MANZULLO asked and was given permission to address the House

for 1 minute and to revise and extend his remarks.)

Mr. MANZULLO. Mr. Speaker, there is a bipartisan statement to which everybody should agree, and that is that no Member in this House should spend $30 billion without having had the opportunity to read this bill. I wish I had time to make a sticker that said "Read the Bill."

I am one of the few Members of the House that read the first bill we voted on, the second bill we voted on, and I have been up in the cubicle in the Committee on Rules pleading with them not to waive rule IX12(a) that says that Members of this House should have at least 2 hours to read all of the details of the deal that was made last night at midnight. We will be back here later on, 435 Members of Congress, voting on a bill that nobody has had the opportunity to read the amendments to. Let us say "yes" to that type of opportunity.

Mr. Speaker, maybe we could call it the Right To Know What is in the Bill Before We Vote on It Act of 1994.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, and under a previous order of the House, the following Members will be recognized for 5 minutes each, without prejudice for resumption of business.

AN EXAMINATION OF INCREASED COSTS IN THE CRIME BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. OBEY] is recognized for 5 minutes.

Mr. OBEY. Mr. Speaker, I take this time because I think that there has been an awful lot of bloviating on both sides of the crime issue, and I want to confess, frankly, that I do not know how effective this crime bill will be. All I know is that there has been a 6-year effort on the part of people in both parties to try to find a way to attack what the American people see as one of the most pernicious problems facing this country, and they would kind of like to think that we could put politics aside and do some things that are real.

Mr. Speaker, I, frankly, am mystified by a lot of rhetoric associated with the debate the last week. I hear, for instance, a good many of our friends on the Republican side of the aisle, and some on our own, who suddenly have demonstrated a new-found interest in the costs associated with this bill, and are saying that there is way too much money in this bill to fight crime.

Mr. Speaker, I thought it would be a good idea to go back and look at the record. I went back and I, first of all, looked at the first amendment that was offered by the committee chairman, which raised spending above the amount recommended in the committee bill, the en bloc amendment offered by the gentleman from Texas [Mr. BROOKS]. It offered additional funding for a good many items: $12 million for the establishment of boys' and girls' clubs, $100 million for the establishment of community based justice grant programs, et cetera, et cetera.

I look at the vote on that amendment, Mr. Speaker, and I see 242 Democrats voted for it, and only 2 voted against it. I see 147 Republicans voted for it, only 23 Republicans voted against it. Mr. Speaker, I would ask the question: "If you do not like the money that is in this bill, where were you and where were your votes when this amendment was adopted?" It was whooped through here with an overwhelming majority of both parties.

Mr. Speaker, then we had the $10 billion amendment providing for Federal assistance to States for prison construction. I see 170 Republicans voted for it. I see only one Republican voted against it. I see 205 Democrats voted for it and only 49 voted against it. Again, for those who have suddenly found a concern about the dollars in this bill, I ask them: "Where were they when they were whooping through amendments like that?"

I did not vote to add that additional spending, because I thought that States have their own bonding capacity. My State is talking about cutting $1 billion in property taxes. It seems to me we have a huge deficit. I think it is a legitimate question about how much we can afford on that subject.

Mr. Speaker, we had another amendment which provided for 6,000 additional border guards. I see 224 Democrats voted for it, 12 voted against it. One hundred and seventy-two Republicans voted for it. There were no nos. That added a good amount of spending to the bill. If you are concerned about spending in this bill, where were you when amendments like that were added? It seems to me, it is pretty clear to me that the concern about spending is a late-found concern on the part of many people in this institution.

Mr. Speaker, now we are told that we ought to take out all of the prevention money in the bill. They call that a clean bill. I call that a crazy bill. If we were, in the area of health care, to only fund treatment and not fund prevention, we would be literally laughed out of the political arena, because our constituents understand that prevention is crucial in all fields.

Mr. Speaker, there are those who laugh at midnight basketball. I would suggest that any time that you can get kids off the street in the middle of the night, and have them engaged in anything else, including recreational activity, it is a net positive public good, and I make no apology for it.

You can laugh at job counseling that is in this bill, if you want. Anybody who has ever dealt with youngsters with limited opportunities and limited understanding of how to get them, Mr. Speaker, ought to understand that there is no need to make an apology for those programs.

You can laugh if you want at the money provided in this bill to try to break up gangs, but when you watch the gangs in my own hometown cruising the streets, I do not think you are going to laugh quite as loud about that. I really do not think so.

You can, if you want, Mr. Speaker, laugh at the money in this bill to try to provide protection for women from domestic violence. I do not happen to find that a laughing matter. No woman who has ever been abused at home will find that a laughing matter, either.

Mr. Speaker, I would suggest that this bill may not be perfect. It is far from perfect. There are items in this bill I flatly and strongly disagree with, but it is a consensus reached by 535 people from differing districts all over the country, and the administration—numerous people working hard on both sides of the political aisle. Believe it or not, they are working according to the dictates of their conscience, despite the cynics—in this Chamber and out who would try to convince the public otherwise.

Mr. Speaker, our choice today is to do something or to do nothing. It seems to me, after a 6-year fight to put together an attack against crime, we ought to pass this and move on.

I do not know how effective this is going to be, because I suspect half the claims for this bill are overblown, but I would suggest that I know that 90 percent of the claims addressed against this bill are cynical and political, and we ought to dismiss them and do what we think is right for the country.

THE COST OF PROGRAMS IN THE CRIME BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. CUNNINGHAM] is recognized for 5 minutes.

Mr. CUNNINGHAM. Mr. Speaker, let me answer some of the questions. First of all, in the original bill in the House, which this Member voted for, it did have the assault language in that, it had $10 billion for prisons. The conference report came out with $6.5 billion for prisons. The group that worked to improve the bill had a $1.4 billion add-on that, which makes a total of $7.9 billion for prisons, not even what we had coming out of the House.

□ 1510

We asked and the Prisons Bureau asked for $13.5 billion in prison money. We only have $7.9 billion. So we do not

even have the amount that came out of the original House bill, but yet we went from $22 to $33 billion in the conference report from the House. That is wrong.

Second, they reference anybody laughing at the domestic violence act for women. We would like that included in the Hunter-Brewster bill. We would like a lot of things, including the death penalty. We tried to take the controversial issues out and were willing to have a separate vote on the social spending, and those items which are secondary to fight crime. Education is a way to fight crime. A lot of the social things are a way to fight crime, but we are looking to hit it in a very difficult way.

Only 1 of the 30 social programs with the group that negotiated very well on both sides of the aisle to try and improve the bill, but only 1 of the 30 welfare spending programs were taken out. There are 13 related in block grants. The remaining are still in the bill with only a 10-percent cut. So I would say to the gentleman, the House bill that we passed out of here has far more prison money than is even in there now. That is why we are supporting the Hunter-Brewster bill.

Mr. MYERS of Indiana. Mr. Speaker, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. Has anyone explained why we are here on Sunday afternoon? What is the urgency about this legislation? We know there is a crime situation in the country. We appropriated money the other day for the regular appropriations for more prisons, for more policemen, for all the issues that are in this one, but what is the sense of urgency? Some of the items here have been around for 4 years. Three years ago now, President Bush sent a message down similar to this, not all the social programs. The Democrat-controlled Congress did absolutely nothing with that request that he sent down for similar legislation. So now on Sunday afternoon when Members ought to be relaxing with their families or back in their own districts talking to their constituents, why are we here this afternoon? If it is to say to this Presidency, we have a better chance of raising the *Maine*, I think, than doing that.

Mr. CUNNINGHAM. I think there is a sense of urgency. I do not personally mind being here today. I would like a chance to read the bill which not many of us have had a chance to get through. But I think we need to pass this crime bill yesterday or day before, even months ago or years ago.

So I think we do need to get down at the hard facts of the bill today.

Mr. MYERS of Indiana. If the gentleman will continue to yield, I might vote for a crime bill, but you said "this crime bill?" No; I disagree with you entirely on that. I am not going to vote for this one.

Mr. CUNNINGHAM. I am talking about the Hunter-Brewster language.

SUPPORT THE CRIME BILL

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). Under a previous order of the House, the gentleman from Illinois [Mr. DURBIN] is recognized for 5 minutes.

Mr. DURBIN. Mr. Speaker, last week one of my heroes and great friends in politics, a gentleman by the name of Cecil Partee who had served as President of the Illinois State Senate, passed away. Cecil Partee had the greatest sense of insight into politics and politicians. He used to say to me, "Durbin, every time a politician makes a decision, there is a good reason and a real reason."

Listen to the speeches here today. We have heard a lot of talk about how important an issue crime is for America. I think it is one of the most important. I am looking up in the gallery here at hundreds of people who have journeyed to our Nation's Capital who have thought at some moment while they were sitting there or during the course of their vacation or trip about a concern they might have about whether they or some member of their family might be a victim of crime in this city or some other city. We are all sensitized to it. It gets dark outside, you get a little worried. You worry about your daughter living in the city of Chicago and how safe she will be at night. It goes on across America, not just in Washington or Chicago, but in my hometown of Springfield, IL, and in every hometown represented in the gallery. So you think to yourself, if this problem is so important and the American people are so concerned about it, why did Congress get so tied in knots over it? This seems pretty simple.

We know what we want. We want more cops out there to protect our families. People who commit crimes should go to jail and those who commit violent crimes should stay there. We have to give the police the resources they need, give the prosecutors the resources they need. Build the prisons if we need them. I think most people would also agree, we need to try to grab these kids before they turn to drugs, before they turn to violence, before they turn to gang activity and try, just try, to put them on the straight and narrow. Are we going to fail? You bet we are. But we ought to try, because we know the expense of failure, the expense of a life of crime not only in the wasted lives of the criminals but what it costs us as taxpayers. You know, this all seems pretty simple. It seems like the ABC's of crime and you wonder how did Congress get in such a mess.

Let me go back to my friend Cecil Partee. We have heard a lot of good reasons why people oppose this bill. The real reason the rule lost a week ago was over the issue of assault weapons and over the strength of one major lobby group, the gun lobby here in Washington. Had the gun lobby in Washington released their votes and given Members of Congress a green light, we would have passed the rule and the crime bill, gone home and said at least we are trying, we are listening and we are trying. But the gun lobby put the pressure on and as a consequence many Members of the House said, "No, we can't vote for the rule" and that was the end of it. So today we have another reprise, we have another go-around on the same issue. Guess what, the players are the same, the people who come here and say, "We want a stripped-down bill, no pork, let's get down to basics. Vote for the Brewster-Hunter bill." I want to give a little insight for those who are trying to follow this program and wonder what the players are really saying.

The National Rifle Association and the gun lobby support the Brewster-Hunter bill because it strips out the assault weapons ban. This is their last gasp, their last chance. They are putting all the money on the line. They may win it. I hope they do not. I am going to vote against them. Because after you take a look at that Brewster-Hunter bill, it reminds me of what my favorite governor in the United States, Ann Richards of Texas, once said about another issue. She said, "You can take a hog, you can put lipstick on it and call it Monique, but it's still a pig." when you take a look at the Brewster-Hunter bill, you can call it whatever you want, streamlined, no pork, get serious and so forth. It is the National Rifle Association's bill removing the assault weapons ban. It is "Monique." and we all know it.

So I hope when this is all over, that we not only do the right thing on crime but that we also say to the gun lobby, "What has happened to you folks?" There was a time in the history of the National Rifle Association when they worked as tight as could be with police groups. They used to agree. They would come together to Congress and say we have sportsmen and hunters who are responsible, safe people. They love their law enforcement people and want to work with them, and they would come with a program and Congress would embrace it and there would not be any debate. But over the years, things started to separate. The police groups started moving in this direction and the gun lobby started moving in the other.

This Congressman has decided that when it comes to a problem in my neighborhood and my family, when I pick up the phone and dial 911, I am not looking for a National Rifle Association lobbyist, I am looking for that man or woman dressed in the uniform,

the policeman who put the badge on this morning and put his life on the line to protect me and my family.

When it comes to issues of crime, I do not care how big a political action committee the gun lobby has, I do not care how many free bumper stickers they give out to intimidate Members of Congress. I think we have a moral responsibility to stick with the police, to stick with the deputies, to stick with the men and women who put their lives on the line. I am not an expert on crime. The real experts are the people on the street protecting us and that is why today I am going to be voting for the rule, against "Monique" the Brewster-Hunter crime bill put together by the National Rifle Association, and I will be voting for the real crime bill. It is a good one. It strikes a balance. It is tough but it puts prevention funds in there, too.

The toughest cops in my district, when I sit down with them, tell me what I said earlier. Tougher sentencing, put them in prisons, give us the resources, and then they say, "Congressman, that isn't enough. We've got to step into the lives of these young people before they go wrong and try to help." Try with the drug rehab, try with the activities for youth who might go astray. That is a balanced approach, that is a tough but sensible approach.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). The Chair reminds persons in the gallery again that they are visitors of the House and any manifestations showing approval or disapproval of the proceedings on the floor are contrary to House rules.

SUPPORT THE CRIME BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut [Mr. SHAYS] is recognized for 5 minutes.

Mr. SHAYS. Mr. Speaker, I have met some of the finest men and women I have ever met anywhere who serve in this House and I say that sometimes to people back in my district and they say, "You've got to be kidding." I love being a Member of Congress. I love the opportunity I have to serve the people of the Fourth Congressional District, and I truly have incredible respect for my colleagues on both sides of the aisle.

I know we are very tired, I feel in some cases some harsh feelings are expressed because no one likes to be caught in the position where if they vote against a crime bill, it is viewed that they are not wanting to be tough on crime. There is that political axiom that says that controversy is the enemy of the incumbent, that somehow if you stir things up, you get people angry on both sides and then you lose out.

□ 1520

There is no question there is a lot of controversy. I know that Members who voted for the rule are being criticized. I know Members who voted against the rule are being criticized. I know we went back to our districts and explained why we did what we did, and now we are kind of not boxed in, but certainly have staked out our position so now we have to explain what we did last week, and now what we do this week.

We all have the same incredible feelings. We are getting people speaking to us from both sides on that issue. But I am troubled by a number of things.

We are going to be criticized if people think there is pork in the bill, and we are going to be criticized if people think this is a crime bill and we did not vote for it. There is just going to be criticism that way. But when I look at what happened last week, I know that spending went up in the conference report from $27.8 to $33.5 billion. But it was not because of any increase in prevention funds. It was because we went from $3.4 billion to $8.8 billion in putting more cops on the street.

I have to tell Members I represent a district that knows that the best way to deal with crime, in my judgment, is to deal with law enforcement, to have more prisons, and also to have preventive programs. There were a group of Members on both sides of the aisle who tried to see if we could make this bill a better bill. I think they have succeeded. They brought the bottom line of the spending from $33 billion down to $30 billion. They have brought it down below the level of the trust funds. It is more responsible fiscally.

We have cut one third from the enforcement side, which is three quarters of the budget. They have cut two thirds from the part that is prevention which is one fourth of the budget. We have a situation here, Mr. Speaker, where my colleagues on my side of the aisle have rightfully asked for changes and Democrats have made those changes. We have taken 13 of the categorical grants, some grants that people have a difficult time with, and we have combined them into one program so people in the districts can decide what program they want.

The bottom line for me is that I believe this is a bill that has as many Republican fingerprints as Democratic fingerprints, and I know it is a bill that we all have to compromise on. I believe in a full life sentence. I do not believe in the death penalty, but I am not going to vote against a good bill that includes the death penalty.

I hope in the end when we vote on this bill we simply vote our conscience and go back out to our districts and explain our vote.

One thing to the Democratic side. My colleagues on that side of the aisle had a situation where they could have gone their own way, but would have had to take the assault weapons from it, and they have worked with the Republicans to keep the assault weapon ban in, and had to compromise, and had to compromise maybe more than they wanted to. But I think if my colleagues will look at the bill they will see that it is a better bill with those compromises.

If Members are unhappy with their leadership and what they have done, recognize it was an attempt to keep the assault weapon ban in. Let us face it, the vote last week really centered on that whole issue.

I hope we get out a strong bill which has the preventive side, which my district needs, particularly the urban areas and I hope we vote out this bill which provides an increase for prisons of $9.9 billion because it is all real money, that still has for enforcement $13.4 billion. I hope we vote out this bill and do it today.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). The Chair will now end 5-minute requests for special orders and resume legislative business.

FURTHER CONFERENCE REPORT ON H.R. 3355, VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1993

Mr. DERRICK, from the Committee on Rules, reported the following privileged resolution (H. Res. 526, Rept. No. 103-713), which was referred to the House Calendar and ordered to be printed.

H. RES. 526

Resolved, That upon adoption of this resolution it shall be in order to consider a further conference report to accompany the bill (H.R. 3355) to amend the Omnibus Crime Control and Safe Streets Act of 1968 to allow grants to increase police presence, to expand and improve cooperative efforts between law enforcement agencies and members of the community to address crime and disorder problems, and otherwise to enhance public safety. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read. The conference report shall be debatable for 80 minutes, with 20 minutes controlled by the chairman of the Committee on the Judiciary, 40 minutes controlled by the ranking minority member of the Committee on the Judiciary, and 20 minutes controlled by Representative Castle of Delaware. The previous question shall be considered as ordered on the conference report to final adoption without intervening motion except one motion to recommit, which may contain instructions only if offered by Representative Michel of Illinois or his designee.

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 526 and ask for its immediate consideration.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read the resolution.

The SPEAKER pro tempore. The gentleman from South Carolina [Mr. DERRICK] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Florida [Mr. GOSS], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 526 waives all points of order against the conference report on H.R. 3355, the Violent Crime Control and Law Enforcement Act, and against its consideration. The rule further provides that the conference report shall be considered as read.

This rule will allow the House to consider the conference report for H.R. 3355, the omnibus crime control bill. The rule also allows for one motion to recommit. The motion to recommit may contain instructions, but only if offered by Representative MICHEL or his designee. The motion to recommit may not contain instructions under any circumstances unless offered by Representative MICHEL or his designee.

Mr. Speaker, the conferees have worked diligently over the past several days—almost nonstop—to craft what is truly a compromise anticrime package. The American people have demanded that we take tough action against this Nation's growing crime problem.

The conference report will do just that. It is time we respond to the American people, and bring this legislation to a conclusion.

The anticrime package is tough, smart, and comprehensive. The crime measure includes provisions and programs that have been long supported by Members on both sides of the aisle. The conference report is a carefully crafted measure that balances more police and stronger punishment with needed prevention programs.

This conference report also reflects a good faith effort at compromise. The compromise agreement reduces spending authorization in the bill by $3.3 billion. Thirteen individual grant programs have been consolidated into a $379.7 million local crime prevention block grant.

The requirements for community notification of sexual offenders and those who commit certain crimes against children have been strengthened.

The measure's prison funding provisions have also been revised. Under the agreement, 50 percent of the funding will be reserved for States that have implemented truth-in-sentencing laws. The remaining 50 percent of the prison funds will be set aside for discretionary grants to the States.

Let there be no mistake. The heart of this crime control bill strengthens law enforcement efforts. The package embraces such popular goals as 100,000 new police officers on the streets; a police corps and law enforcement scholarship program; the three-strikes-and-you're-out law to put repeat violent offenders behind bars for life; more Border Patrol, drug enforcement, and FBI agents; more prison space for violent criminals; boot camps for youthful offenders and prevention programs to combat violence against women.

Another essential provision in the crime package is the ban on 19 specified types of military-style assault weapons. Gun violence continues to be a growing problem.

More law enforcement and punishment will not control crime if we continue to ignore the easy accessibility to dangerous firearms. Weapons of war have no place in a civilized society. They serve no purpose but to kill as many people as quickly as possible.

Members of this body should not sacrifice an entire bill of crime-fighting provisions in order to defeat the ban on assault weapons. The gun proponents wrongly believe that no firearm is bad—even weapons that outgun law enforcement officials and threaten the safety of our communities. The will of the American people should not be averted by shooting down responsible anticrime legislation.

Mr. Speaker, previous debate and recent Charlton Heston TV ads left many Members and voters with the wrong impression that the entire crime bill is some new social giveaway program when in fact less than one-sixth of the crime bill is aimed at the youth crime prevention programs.

But I ask the House to consider this fact. The United States has the highest incarceration rate and the highest crime rate in the industrialized world. We are only kidding ourselves if efforts are not made to prevent future crime now.

What is wrong with providing after-school, weekend and summer programs for young people? What is wrong with supporting youth education, employment, training and recreation activities? Absolutely nothing. Youth crime prevention is just law enforcement on the front end.

The anticrime conference report combines police, punishment and prevention into one responsible, and workable measure. No one part of this formula can be surrendered. Otherwise, all we would have is a band-aid approach.

Mr. Speaker, House Resolution 526 is a fair rule that will allow this House to consider the most sweeping Federal anticrime bill in U.S. history. I urge my colleagues to support the rule and conference report.

□ 1530

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

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

Mr. Speaker, we have a bad rule here. We are waiving all points of order again.

We do not know what has been left out. We do not know what has been left in. We do not know what has been left over.

Even Chairman BROOKS could not provide us a list of all the things we are protecting here. So nobody really knows. Chairman BROOKS testified that he wants every waiver he can get to protect everything he can. Unfortunately, when we do that kind of thing, it gives the perception that we are trying to hide something from the American people, maybe even hide something from ourselves, and that gets us into trouble.

Look what happened last week. After we had a chance to read the conference report, we found lots of things. Some of those things have actually been fixed. But we all have to say it was a rather distasteful experience, and it has been a tough week.

So I think by going into these waivers we are making a mistake. We are waiving the 3-day-layover rule. Frankly, the way this thing has been handled, we would have had to waive the 3-minute-layover rule.

The Committee on Rules was supposed to meet at noon today. The report, the documents, came in at 12:32. Obviously, we did not have the documents for the appointed time of the Rules meeting, and, in fact, we did take a few minutes to digest them, a few minutes, but we certainly cannot say that we have read the conference report.

How many Members of this body can say, "Yes, I have read it?" How many can pass that test and say, "I am making my vote after I have read this conference report"?

This is a report we know has budget problems in it, scope problems, germaneness problems. I have a partial list of things being protected here. We do not know exactly what it is.

Second problem: This is a complicated bill. There is a lot in it. We do not have a lot of time to debate this. Members are going to be shut out from debate on both sides. This is a strangulated procedure.

We should go back and start again and give it what it needs.

Where are we on merit? We are going to hear in the debate ahead a little bit of the merit, the problems we have. The big problem is this: We have a surrealistic atmosphere here. White House rhetoric has way raised expectations, raised up promises this bill cannot meet or no bill could probably meet.

We are going to hear there are some things that have been fixed. We are

going to hear what I think is the truth, that what was a terrible and very counterproductive bill is now a bad bill that is moderately counterproductive, but it is still full of fat, and it is still full of false promise. We cannot pay for it even though we have cut some of the pork out. We have canceled some of the "Get out of jail free" cards, but we have not at this point given it the full real "third strike and you are in jail" process, because we have a foul ball with a third felony problem.

We do not have real truth in sentencing, and we do not have enough money for prisons.

Those are just a few of the problems we are going to hear about.

ROLLCALL VOTES IN THE RULES COMMITTEE ON RULES FOR THE CRIME CONFERENCE REPORT

WEDNESDAY, AUGUST 10, 1994

1. Solomon Motion on Three-Day Layover Waiver—A motion not to waive the requirement that conference reports be available to Members for three-days before they are voted on. Rejected: 4–6. Yeas: Solomon, Quillen, Dreier and Goss. Nays: Moakley, Derrick, Frost, Bonior, Wheat and Slaughter. Not Voting: Beilenson, Hall and Gordon.

2. Derrick Motion to Report the Rule—A motion to report the rule that waives all points of order against the conference report and its consideration and dispenses with the reading of the report. Adopted: 6–4. Yeas: Moakley, Derrick, Frost, Bonior, Wheat and Slaughter Nays: Solomon, Quillen, Dreier and Goss. Not Voting: Beilenson, Hall and Gordon.

TUESDAY, AUGUST 16, 1994

1. Solomon Substitute Rule—A substitute rule to recommit the conference report to conference with instructions to make changes necessary to bring the conference report back within scope, in place of the rule moved by Rep. Derrick waiving the two-thirds vote requirement for the same day consideration of a rule for the consideration or disposition of the crime conference report. Rejected: 3–6. Yeas: Solomon, Quillen and Goss. Nays: Moakley, Derrick, Beilenson, Frost, Wheat and Slaughter. Not Voting: Bonior, Hall, Gordon and Dreier.

SUNDAY, AUGUST 21, 1994

1. Derrick Motion to Report Rule—A motion to report a rule waiving all points of order against the conference report and against its consideration, providing for 80 minutes of debate, and one motion to recommit which may contain instructions if offered by Rep. Michel or a designee. Adopted: 6–4 Yeas: Moakley, Derrick, Beilenson, Frost, Wheat and Slaughter. Nays: Solomon, Quillen, Dreier and Goss. Not Voting: Bonior, Hall and Gordon.

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

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

Mr. Speaker, let me just reply to what the previous gentleman has said and say that, you know, the chairman of the Committee on the Judiciary made the statement that this bill, or various parts of it, have been around for 4 years. It has certainly been before this Congress since the beginning of this Congress, and it has certainly been before this House, and we have been concentrating on it for the last week.

The conference report has been out for several hours, and we on this side have yet to see the motion to recommit. So I do not think that is a reasonable position to take.

Mr. GOSS. Mr. Speaker, will the gentleman yield?

Mr. DERRICK. I yield to the gentleman from Florida.

Mr. GOSS. Mr. Speaker, briefly, I agree. I am arguing for more time and a more deliberative process. I would love for you to have more time to think about the motion to recommit, and I think we should have more time to debate what is on the floor, which is the conference report which nobody has read.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1½ minutes to the distinguished gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, today's debate is good. Division in the House is good.

The problem in America is both parties have gotten so much alike the American people cannot tell them apart. Maybe today they can.

Today's debate is not about pork. Today's debate is not about basketball. Today's debate is about guns, and a Congress that cannot tackle the politics of guns in America is a Congress that cannot tackle the crime problem in America, and also a Congress that cannot govern.

Ladies and gentlemen, it is very simple. I own a gun. I own a semiautomatic weapon. I am a former sheriff. I am against any more inroads, but the firepower on the streets is so great, it is greater than our own police departments.

Today and last week we had calls from all over. The NRA called you. The police called you. The people who did not make any phone calls, though, are buried in graves 6 feet underground. No one got a phone call from any of those victims.

I say today, let us vote for the rule. Let us vote for the bill. Let us stand for something.

And one last thing: When your constituents dial 911, they sure as hell do not want to get Charlton Heston on the phone. Think about it.

Mr. GOSS. Mr. Speaker, I yield 5 minutes, with great pleasure, to the distinguished gentleman from Georgia [Mr. GINGRICH].

Mr. Speaker, we are a little bit at odds here. He needed to have a copy of the conference report. It turns out we do not have one.

Mr. GINGRICH. Mr. Speaker, if I could ask the Democratic managers of the bill if they could give me, loan me, just for a minute, I will give it back immediately, a copy of the conference report. I want to make the point to Members we literally on our side of the aisle at this moment do not have a copy, which I am told is 7½ inches thick, I mean, the full conference report. I do not mean the amendments. Is that the full report?

I want to start with why Members might be a little reluctant on the rule. This is this current conference report, just so the American people understand; there is no reason to rush this through except the public relations needs of the White House.

This is the current conference report, done late last night, not available. No Member has had a chance to read it through. It is a little strange, just as an approach, as a way of governing; it is not what they teach.

I am going to give it back right now to a Democratic staffer so there will be no question we on the Republican side would have stolen one of the rare copies available right now. Thank you, JERRY, give it back over there, and he is temporarily a staffer. We will get him back to our side in a minute.

Let me just share with our colleagues where we are and what has happened. Ten days ago the rule was defeated on a very bad bill. The rule was defeated because the crime bill written in a secret conference, brought to the floor at 7 o'clock at night after Members had voted, rushed to the Committee on Rules at 8 o'clock at night, was then brought up the next day exactly like today with nobody knowing what is in it, and the House said, "No, we will not take it up," and it was sent back.

□ 1540

In the intervening 10 days a lot of negotiations have gone on. I was here until 6 a.m. On Saturday morning. I was here until after 2:30 last night. And a lot of honest and fair negotiations have gone on. I want to frankly praise, maybe at the risk of hurting him in his own caucus, but I want to praise DICK GEPHARDT, who stayed here endlessly, trying to find a positive solution. And I want to praise Leon Panetta, who came up from the White House and worked tirelessly. I must say that people like MIKE CASTLE, JOHN KASICH, SUSAN MOLINARI, RICK LAZIO, JENNIFER DUNN, DICK ZIMMER, PETER TORKILDSEN, a lot of people worked very hard.

I have to admit they have improved the bill. Compared to the terrible bill that came out 10 days ago, we are up to a sort of bad bill. But it is improved. The improvements tell you how terrible the other bill was.

They have stopped the liberal Democrats' effort to release 16,000 convicted drug dealers. They have made sure that communities will be notified if sexual predators are released from jail. They have added a provision for full information about rapists and child molesters in cases where the judge determines it is both relevant and reliable.

They have insisted on block grants. They have cut out $3.3 billion in spending. Now, that tells you how terrible

the original bill was, that with all of that effort they are only about one-third of the way through the bill. The truth is the Democratic leadership got exhausted.

Members who have worked on that and gotten their commitments I think have an obligation to help and work on the bill that they worked on so hard. But other Members have an equal obligation, which is to read the bill carefully, to recognize as GEORGE GEKAS tells you, that this bill in its current form is worse on the death penalty, and if you believe in the death penalty it makes it procedurally less likely to be sustained than current law.

To listen to ALAN SIMPSON, he will tell you they knocked out and refused to put back in the judge's right to order deportation of criminal aliens, convicted criminal aliens. Under this bill, a judge will not be able to order the deportation at the time of sentencing. Instead they will get out of jail. Armed robbers or rapists, a murderer, a drug dealer, will get out of jail as an illegal—convicted alien who is now a felon, has to get out of jail before we start the deportation process. As a result of which they go on and hide.

The Democrats would not allow us to put that in the bill to give the judge the power to order deportation for convicted criminals.

This bill still has, as JOHN MANZULLO points out, terrible standards under community policing, where nonpolice groups are going to define—community groups will define for the police what police are and whether or not they get any money, which is a transfer of power away from the police, not to it.

This bill still has Federal control of prisons in a way that is almost goofy.

Finally, this is, as BILL GOODLING has pointed out, the 226th current existing Federal juvenile delinquency program. There is another series of books on the 150 job training programs.

We are not against prevention. We just think that prevention done by the Federal Government by Federal bureaucrats in Washington, DC, has not worked. If it had worked, Lyndon Johnson's Great Society would have led to a crime-free society in America.

We do not particularly want to be browbeat about our lack of concern because you are going to have more bureaucrats filling out more paperwork to have Washington control more of America.

I would urge my colleagues, resist the rule and vote "no." If the rule does pass, I think there is a good motion to recommit you should vote "yes" on.

Reluctantly, I have to say this bill is still not worthy of our vote and should not get it on final passage.

Mr. DERRICK. Mr. Speaker, let me say this: That the prior speaker has waved around our report. We have had that available for several hours. The motion to recommit that he has just suggested we still do not have in any printed form. Let me tell you he is asking you to vote for a motion to recommit that takes all of the assault weapons out, the assault weapons that are killing people on the streets of this country. It does away with all for the three-Strikes-and-you're-out, something that the people of this country want very much. It does away with the death penalty, which the people of this country believe in very strongly.

Mr. Speaker, I yield 1 minute to the gentleman from Nevada [Mr. BILBRAY].

Mr. BILBRAY. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise because, you know, I voted against the Brady bill, I voted against the assault ban because I believe in the second amendment. And I know that many feel that this is the No. 1 issue. But the No. 1 issue is not the Brady bill, it is not the assault ban issue; it is: crime.

That is why I have been contacted by the Las Vegas Metropolitan Police, the largest police agency in the State of Nevada, asking me to support this crime bill.

I have been called by numerous other law enforcement officials, D.A.'s, A.G.'s, saying this bill is not perfect and we recognize it is not perfect, but we need this bill because 39 percent of the people in my district recognize that crime is the No. 1 issue.

I recognize and support the second amendment, but I realize it is not all-encompassing. It is not the biggest issue in the world.

Fighting crime.

What is the motion that is going to be made to recommit? It takes out the death penalty for cop-killers, it takes out the death penalty for drug kingpins, it takes out the death penalty for terrorist murderers.

We need to pass this bill. We need to turn down the motion to recommit and get on with the rest of the business facing Congress in this session.

The SPEAKER pro tempore (Mr. HOYER). The Chair would advise the gentleman from South Carolina [Mr. DERRICK] has 19½ minutes remaining and the gentleman from Florida [Mr. GOSS] has 22 minutes remaining.

Mr. GOSS. Mr. Speaker, I yield 3 minutes to the distinguished member of the Committee on the Judiciary, the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. I thank the gentleman for yielding this time to me.

Mr. Speaker, I want to make a point that there were some very well-intentioned efforts by some Members on my side of the aisle working with the majority to try to improve this particular product out here today. We started with a bad bill. They improved it some. But unfortunately it is still a bad bill.

The amount of improvement does not justify, in my judgment, and I think the majority of my side and quite a number on that side, voting for this bill today.

Let me go through exactly—and I spent hours and hours and hours sitting in on all these discussions. I have a pretty good idea of what is in here, what exactly we have in the final product and how it is different or is not.

First of all, on the cops on the streets, it is exactly the same as came out of the conference committee the last time we had the vote out here when we voted the rule down. It was a sham then, it is still a sham now. We do not have 100,000 cops in this provision, we have, as Professor Emilio says, we have perhaps 20,000 at most, maybe 2,000, depending on how you calculate it, the money for it. It is an unfunded mandate. We are only paying for a fifth of the cost of these cops. The States would have to pay for the other four-fifths.

It is a very bad provision, as far as police are concerned. And that is a third of the $30 billion bill, or almost that.

Yes, they knocked out $3 billion, but where did they whack it off? Prisons. There is less money, no matter how you look at this realistically, for prisons on this bill: $7.9 billion for new prison construction in this versus $8.5 billion in the original bill of the $33 billion amount.

You will have people arguing about how that is funded or is not funded, but it is less money for prisons; $1.8 billion, by the way, is still in here for criminal aliens, I will not argue that. But that is not for prison construction. But that is less money than the $13 billion that the House passed; it is less money by far that the Bureau of Prisons says is necessary, $10.5 billion to $12 billion for us to give to the States so they can build the prison beds necessary to take those violent offenders off the streets, lock them up and throw away the keys.

In the prevention area, the Great Society social welfare programs are still here. We had a $9 billion amount, roughly, that was in that original proposal that we voted the rule down on. We now have somewhere in the neighborhood of $7 billion. So they changed it by $2 billion, but there is still $7 billion.

You still have model-intensive grants at $625 million, without any definition of what you are going to use the money for; 15 cities get this divided up however the Attorney General wants. And you still have $567 million for the so-called community schools for teaching art classes, dance lessons, and community involvement money here that is a little bit less than before, but it is still there. It should be in the HUD program. On and on.

Local Partnership Act might be improved around the edges, $1.6 billion still.

What is not in this bill? There has never been in this bill any reform that

would end the endless appeals of death row inmates; there has never been a bill out here that the public wants with respect to changing the laws of search and seizure so that the rules of evidence would permit us to get the evidence in to convict where people are getting off on technicalities.

And we did not do anything, as Mr. GINGRICH said, that should have been done to allow the expediting, getting rid of criminal aliens who have been convicted. We could have done it. It was a Simpson provision in the Senate bill. They had already passed that in the Immigration Subcommittee in its form. It is beyond me why we do not address criminal aliens.

□ 1550

And there is nothing in here we did not accept even though the motion to instruct was out here on the floor.

There is nothing in here that will make it a Federal law to commit a crime across this country using a gun. The gun itself, the use of the gun, should be a crime with a minimum mandatory penalty for that, was in the Senate bill, something we passed on the floor; it is not in here.

And, as has been said, there is nothing in here of the Gekas provision that would really make the death penalty provisions work where the aggravating factors outweigh the mitigating factors. By golly there ought to be a death penalty for sure when that is decided.

This is a weak bill. It was a bad bill, as I said, to begin with when it came out. It is still a bad bill now. It has been modestly improved; I give credit for those who did it, but the fact of the matter is this bill is still a very bad bill, and the rule should be voted down, and this thing should be sent back to conference to get rid of the Great Society social welfare programs and put some money in prisons and law enforcement, where it should be.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the distinguished chairman of the Committee on the Judiciary, the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I want to say that it is kind of difficult to believe that for the last 10 days what has held this crime bill up is not whether one is for or against the legislation, whether one even wants the House to vote on it at all. I say to my colleagues, "Don't delude yourself into thinking the American public is impressed with this maneuver. No, the procedural vote isn't about whether to gut 2 years of work; it's about throwing away almost 4 years of work."

As the American people continue to live in constant fear in their workplace, in their neighborhoods, yes, even in their very homes, many Members have had their share of disappointments in the process of crafting this rather historic bill. Most of my colleagues are keenly aware of my own profound disappointment at the inclusion of what I call the ill-conceived ban on assault weapons so broadly cast as to insult the dignity and the good name of legitimate law-abiding gun owners all across the country. I was outvoted by both sides in the conference in attempting to strip out this punitive ban. An amendment to bring some sanity to the ban was rejected by the U.S. Senate conferees, and to this day I say plainly that the assault ban provision should never, never have been included in a crime bill. It was not in the crime bill we passed in the House.

Two hurricanes in one bill spawns a lot of tornadoes, but now should we vote to prevent Congress from even voting on whether to put a hundred thousand cops on the streets of our towns and cities or to deny consideration of funds for our States to build prisons so they can put away violent offenders for good? No, I am not going to do that on a procedural vote, and I say, "If you want to go back home, say you voted for gridlock and against the crime bill, here is your chance. Vote against the rule." I urge my colleagues to support this rule.

Mr. GOSS. Mr. Speaker I yield such time as he may consume to the distinguished gentleman from Colorado [Mr. ALLARD].

Mr. ALLARD. Mr. Speaker, I rise in opposition to the rule and the same old soft-shoe solutions in the crime bill. I support the bill with real solutions—the Brewster-Hunter alternative bill.

Mr. Speaker, for the first time in several months we finally have before us a barebones, back to basics, honest-to-gosh, crime bill. Why can not the President and House leadership acknowledge that the Brewster-Hunter crime bill addresses the problem in a way that the American people can support?

I have said for months, to those who would listen, that I want to do something about crime and that I will vote for a bill that gets tough on criminals, cuts down on legal loopholes for sharp defense lawyers, and helps State and local police departments.

In the Brewster-Hunter crime bill you will find a lot of things designed to punish criminals and cut down on crime. But more important is what you will not find. You will not find close to $8 billion in new social spending for things like midnight basketball, dance lessons, and art classes.

But perhaps most importantly, the Brewster-Hunter bill does not contain a host of new, unfunded Federal mandates to State and local governments. You will find a bunch of new mandates in the President's package—requiring local governments to spend more without having a means to pay for them.

Lastly, what you will not find in the Brewster-Hunter bill are a bunch of last minute, Christmas tree ornaments that have nothing to do with crime. You will not find an earmark for a $10 million new building on a college campus—like you will find in the President's bill.

The crime bill should not be about gun control—the House has dealt with that issue in separate legislation. Neither should the debate be about establishing new racial quotas for administering the death penalty.

The Duncan-Brewster bill is 100 percent fat-free. Instead of mandates it provides grants for building new prisons and hiring additional police officers. The bill also provides funding to border patrols to crack down on illegal aliens. It stiffens penalties on sex offenders, reforms the excruciatingly slow habeas corpus appeals process, and provides a good faith exception to the exclusionary rule, which now allows critical evidence to be tossed out on a technicality.

In summary, Mr. Speaker, what you do not find in the Brewster-Hunter bill is just as important as what you do find. And what I do find, and what the American people will find, is that this is the kind of crime bill worthy of support. Therefore, I oppose the rule and H.R. 3355 provided for in this resolution.

Mr. GOSS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Wisconsin [Mr. SENSENBRENNER], a member of the committee.

Mr. SENSENBRENNER. Mr. Speaker, this is not a question of gridlock. This is a question of doing it right. And this bill is not right. I would like to address the funding fraud in this bill.

The first conference committee report that was not considered contained a total authorization of about $33½ billion and contained a trust fund of approximately $30.2 to $30.4 billion. We call the difference between the total authorized amount and the actual real money contained in this bill funny money because everybody in the conference committee knew that, while we authorized these programs, the Congress would not appropriate the money to fund them. So, after the rule was voted down, the President said, "Well, let's have a 10-percent cut, and let's bring the total cost of this bill down to about $30.2 billion." That really did not save the American taxpayers much money, if any, at all, and here is why:

Because most of the cut was in funny money, money that never would have been spent, money that never would have been appropriated. So, as a result, the port, the fat, the amount of money that is taken out of the hide of the taxpayers of the United States of America, really is reduced by, at most, $200 million under the most generous estimate, and, at least, by nothing at all. This is the type of charade that the American people do not like, and it seems to me that, if we are to cut the fat out of this bill, and we are to pass a lean and mean bill that the American taxpayers cannot support, let us talk about cutting real money rather than talking about funding money.

Mr. Speaker, the bill that is behind the motion to recommit does that, and I would urge the Congress to support it. Failing that, I would urge that this bill be rejected and the rule be voted down.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1½ minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, the greatest opponent we have is gridlock, and the lesson of this bipartisan compromise on crime is that Democrats and Republicans can work together despite all the histrionics of the last week. If we put the people above special interests and partisanship, we can get things done.

Mr. Speaker, I ask, "Why can't we do the same thing on health care before it's too late, or welfare reform, or Haiti, or Bosnia, or the present crisis in Cuba?"

Mr. Speaker, the Gingrich-Hunter bill, this is what it does: No death penalty, no three strikes you're out, no Violence Against Women Act, no pawnbroker Brady exemption, no police score, no criminal alien reimbursement, no Molinari provision, no crime prevention money, no funding for Federal law enforcement, no funding for Federal or State prosecutors, no Byrne grant funding, and no rural crime control.

Mr. Speaker, we have a chance to end gridlock. Let us go home and pass a crime bill.

Mr. GOSS. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Speaker, my colleagues, I just wonder when that myth is going to be put to rest that there are a 100,000 cops in this bill. Anybody who can add and subtract and is willing to do so can figure out there are 20,000 cops in this bill, and spread that out across the country, and it will not make much of a dent in crime.

Now the problem with this bill is there is $7 billion still in there for social welfare spending, and I do not think it is cynical of us to say we do not object to the programs, we object to the redundancy. There are 266 programs now out there, funded and being operated, targeted to youth. I have got the book here, my colleagues. It is a telephone book of existing programs at $25 billion a year.

Now what we are doing is proliferating, not consolidating. We should consolidate, make them more efficient, simplify them, make them effective. Instead we just spray them out like a hose. Is that being cynical?

I ask my colleagues, "Why is it wrong to take seriously your solemn pledge to your constituents that you are going to fight unnecessary wasteful spending?" That is all we are doing.

The programs were for prevention, and I say to my colleagues, "I'm for arts and crafts and learning how to crochet, if that's your thing, but I will say this: You'll never learn the difference between right from wrong, shooting a free throw. It just won't happen."

Now liberals who have dominated this country since the great days of FDR are bewildered by the unexpected explosion of criminality.

□ 1600

They believe that if they level incomes, if they take care of you from cradle to grave, if they give you health care, you are going to be a fine person and the criminal impulses will just go away. And they cannot understand why that has not worked out.

Their answers to the social pathologies that are the direct result of the excesses of the liberal welfare state is more of the same. Have you forgotten Lyndon Johnson's Great Society, the omnibus crime bill, and Straight Streets Act of 1968? It, too, was this thick; millions of dollars for the same programs, and the statistics keep mounting.

The scientific method is as you look at something, you observe it, you see how it works, and then you alter your approach according to the results. We just keep sending the programs out. You wonder why.

We live in a society where the only sin is smoking; it may be despoiling the environment; in high schools, where condoms are more available than anything else in the buildings; and if you flash a copy of the Ten Commandments, you get sued or arrested. That is what is wrong with society. And you have no answer to that.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the distinguished gentleman from Delaware [Mr. CASTLE].

Mr. CASTLE. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, we all are coming at this from our own perspective. My perspective is having gone home last week after having voted no on the rule, and I sat down, and for the first time I was able to read through the entire conference report. In that conference report I saw the nuggets of what could be a good crime bill for the entire United States of America. Not Republicans, not Democrats, not Delaware, not California, but everybody in the United States of America.

I came to the realization if we sat down and worked together, that we could make the changes which are necessary in order to put together a package which is going to benefit those people even more.

A group of us, some on the Republican side and some on the Democratic side, have reached out and joined hands in an effort to improve this piece of legislation. We decided that if we were able to work together, that we could do this.

I come from a background of having been a Governor, of having been involved in the execution of prisoners, having dealt with truth in sentencing coming into effect when I was Governor of the State of Delaware, with expanding our police.

But I also dealt with the areas of prevention. I realized in the so-called prevention programs, which are such a problem for everybody, we have a program called dealing with women in violence. I do not think any of us can be against trying to help with that particular problem in this country. We have drug treatment for criminals in that area. Do we want people still using narcotics to get out of our prisons? I think that is a very dangerous thing as well.

We realized where we would have to give in certain different areas in order to make this work, but we would have to gain things back. Yes, I believe there was too much pork, there were too many social programs. And we went in and negotiated out about 25 percent of those programs, or some $2 billion, in order to make it better from that perspective as well.

Should we give money to the States? We have made the decision to do that. This bill has in it police, it has in it prisons, it has in it efforts for us as a group to reach back into our communities and to help people prevent the ravages of what can happen to them if crimes are committed against them.

It is a good piece of legislation. There are other good pieces of legislation. There may be alternatives to this, I do not know. But we have looked at this carefully and it is indeed a piece of legislation which has a bipartisan effort in it. That is significant as well. It has shown by working together we can take a bill that maybe one side will not like or the other side will not like, and we can put the elements together, which can make a difference, so that we can come back and say to everybody in this country, this is a bill which represents all those best interests.

Yes, there may be some things we would criticize, but this is a bill we should support. So I would urge all of us to support the rule and support the crime bill conference report.

Mr. GOSS. Mr. Speaker, I yield 2½ minutes to the distinguished gentleman from the Commonwealth of Pennsylvania, a member of the committee, Mr. GEKAS.

Mr. GEKAS. Mr. Speaker, if I did not know better, I would believe that the author of this bill was David Copperfield, the magician-illusionist. Because by one wave of the wand, an anticrime bill is turned into a massive spending bill. A crime bill that does not address death row appeals, where Americans see people lined up on death row filing appeal after appeal for years, avoiding the final penalty, for a vicious killing perpetrated by one of these convicted killers. This bill has not even addressed that, or begun to address that serious problem.

Here is a bill, a fighting crime bill, that does not in the least address the problem of the exclusionary rule, where a convict caught redhanded in the perpetration of a crime goes in front of a judge, and because of some

technicality, the judge dismisses the case, and the criminal leaves the courtroom laughing at the judge, laughing at the system of justice, and laughing at everybody in the country.

This crime bill does not address that serious problem. Ask the American people. Are they concerned about it? They certainly are.

Then you take the insult that was perpetrated by the framing of the rule and the final action of the conference, where this House adopted overwhelmingly the Gekas amendments to the death penalty. What are they? Are they just something that I dreamed up?

I took the language from the various States where the death penalty has been approved constitutionally and simply transformed that into the pending legislation for the death penalty which we are considering.

Is that not the right thing to do? If the Supreme Court has said that Pennsylvania and Texas and x and y States in their instructions to the jury on the death penalty using this particular format is constitutional, the Supreme Court says so, why not lift that language and put it in our death penalty bill?

The House agreed with that. We adopted the Gekas amendments for that very same purpose. Then what happens? The leaders of the Committee on the Judiciary on the House side, the conferees, rejected it, rebuked the action by the full House, and did not even offer to consider it in conference. So now we have a death penalty that takes a great gamble, a great chance, as to whether or not it is constitutional.

Mr. Speaker, this rule should be defeated until we do things right.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from California [Mr. EDWARDS], the chairman of the Subcommittee on Civil and Constitutional Rights of the Committee on the Judiciary.

Mr. EDWARDS of California. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, perhaps one would think that I would be against this bill because two of the important portions of the bill that did not make it that were reported from my subcommittee, racial justice and habeas corpus, lost. They did not make it; they are not a part of the bill. Both of them should be in the bill. Racial discrimination in sentencing is a national disgrace.

However, I think that in the last 30 years I have never voted for one of these bills before. But I am going to vote for this bill. I am going to support the rule, and I am going to support the bill.

Why? Because for the first time in a crime bill, we are reaching down in our society for the roots to cure the problems in our society that result in all of this crime. All of the other bills have been more prisons, more punishments. For the first time, we have a preventive program. My colleagues, they will work. They will work, because they will go into the drug problem in this country. The drug problem in this country is filling our jails. Sixty percent of the prisoners in Federal penitentiaries today are drug problems. Seventy percent next year.

Mr. Speaker, support the rule, support the bill.

Mr. Speaker, as a member of the conference committee, I would like to explain the intent of the conferees with respect to several provisions in the conference report that arose out of, or directly concern, matters within the jurisdiction of my subcommittee.

First, driver privacy.—The conference report includes a provision establishing certain protections for information supplied to State motor vehicle departments by motor vehicle registrants or drivers. Mechanisms have been provided for individuals to be made aware of their right to restrict access to this information about themselves. Where a State establishes an opt-out mechanism and individuals do not act to limit access to this information, a procedure has been put in place for the disclosure of this information to a variety of users, including bulk users for marketing purposes.

As I explained when the House originally approved this provision on April 20 of this year, our intent is to give the States flexibility in administering, implementing and operating an opt-out mechanism. The conferees have made it abundantly clear that individuals must be made aware "in a clear and conspicuous manner" of the right to restrict access to information about themselves. This notice may be provided in accompanying materials the State provides for the individuals to fill out with whatever form the State uses for issuance or renewal of operator's permits, title, registrations, and so forth. Use by the State of a clear and conspicuous accompanying form would be appropriate where the actual form for issuance or renewal does not have enough space to set forth the opt-out.

It should be noted that the ability to restrict access to personal information from State motor vehicle records is not intended to impede those States that choose to implement opt-out systems from funding flagged lists to multipurpose users. Additionally, States would not be restricted from utilizing third party service providers for this purpose.

I also want to make it very clear that this legislation should not be seen in any way as a precedent for limiting open access to other public records. An individual cannot conceal a license plate when traveling by automobile. In the case of other records, those concerned about their privacy may be able to take reasonable steps to withhold their name and address from strangers and thus limit access to personally identifiable information. Therefore, this legislation has been crafted to apply only to specific personal information contained in motor vehicle records. It does not apply to any other system of public records maintained by State and local governments, nor is it intended to provide any inference or precedent for limiting access to such open, public records.

Second, material support for terrorism.—I would also like to take this opportunity to discuss the section on material support for terrorism contained in this bill. The intent of the conferees is to provide a very narrow criminal statute for a very specifically defined category of acts in support of terrorism. This provision is not intended to authorize wide-ranging investigations of groups of activists in this country.

During the gulf war, the FBI conducted a number of inappropriate interviews of leading members of the Arab-American community. Without any basis other than their ethnic background, Arab-Americans were asked about their political beliefs and whether they knew any terrorists or anyone who wanted to blow up a Federal building. These interviews cast a cloud of suspicion over the entire community. I want it to be perfectly clear that the material support provision in the conference report should not be viewed as providing any authority for such interviews in the future.

I would also like to make clear that the conferees do not intend these provisions to be read in any way as supporting the Government's position in the deportation case against Palestinians in Los Angeles, which has become known as the "LA Eight" case. In that case, the defendants provided support for the legal, humanitarian and political activities of a group that also committed terrorist acts. They are not accused of "knowing or intending" that their support be used in the preparation or carrying out of a crime as required by this bill.

Nonetheless, the INS is perusing the deportations based on what I believe is an erroneous interpretation of the Immigration Act. Nothing in the conference report should be read as providing support for the Government's interpretation of the immigration laws in the LA Eight case. To the contrary, the conference report indicates that political and fundraising activities are not to be considered support for terrorism.

Third, registration of sex offenders.—Finally, I would like to explain the provision to encourage the States to adopt registration programs for certain sex offenders. The conference report language is modeled in some respects after the Washington State statute on sex offender registration. In particular, the community notification provision in the conference report is drawn from the Washington State law. The conferees intend that the community registration provision in the conference report be given the same interpretation that the Washington Supreme Court gave to the community notification provision in the Washington State law. In *State* v. *Ward*, 123 Wash. 2d 488, 869 P. 2d 1062 (1994), the State Supreme Court held that the language in the Washington statute authorizing the release of "relevant" information when "necessary for public protection" "placed significant limits on first, whether an agency may disclose registrant information, second, what the agency may disclose, and third, where it may disclose the information."

The conferees intend, as the Washington State legislature intended, to limit the disclosure of relevant information to the public to those circumstances which present a threat to public safety. As the Washington State Supreme Court held, "We note that the statute, on its face, requires the disclosing agency to

have some evidence that the offender poses a threat to the community. Absent evidence of such a threat, disclosure would serve no legitimate purpose.".

The disclosure is appropriate, the Washington court noted, "the statute also limits what a public warning may disclose." The "relevant and necessary" standard "imposes an obligation to release registrant information reasonably necessary to counteract the danger created by the particular offender."

Finally, the conferees intend, as did the Washington State legislature, that the disclosure must be rationally related to the furtherance of the goal of public safety. "Accordingly," the court held, "the geographic scope of dissemination must rationally relate to the threat posed by the registered offender. Depending on the particular methods of an offender, an agency might decide to limit disclosure only to the surrounding neighborhood, or to schools and day care centers, or, in cases of immediate or imminent risk of harm, the public at large."

The provision in the conference report also allows dissemination to governmental agencies conducting background checks for employment and screening purposes. The provision is not intended to preempt the rules that individual States may have for conducting such checks. Specifically, the provision does not preempt State requirements that applicants be fingerprinted or that a fee be paid for employment or licensing checks.

Mr. GOSS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from the Commonwealth of Pennsylvania [Mr. GOODLING], a member of the conference committee.

Mr. GOODLING. I thank the gentleman for yielding. I think the greatest disservice we may have done to this institution during this last week, both in 1-minutes and in special orders and also in our debate last week, is to somehow or other indicate to the American public that we in this Congress in the last 30 years have had no concern about preventive efforts as far as young people at risk.

□ 1610

I happen to be a former teacher, counselor, coach, principal, and I know all about the need for preventive efforts.

What we have done is we have overdone, overkilled the whole preventive business and, therefore, get nothing for our buck.

At it was mentioned, there are 266 programs on the books. Later on, I will enumerate that everyone that was in the program that we had before us last week is already on the books.

I have been down here pleading for the last 2 years, every time somebody comes up they want to get their name on a new program.

I come down and I say, "Do you realize it is already authorized? Do you realize it is already appropriated?"

They are very kind, very nice. "Yes, we realize that." And there is another one on the book.

So they make an application for everyone. They cannot commingle any funds or they will probably be in jail and, therefore, there is no effective program out there, even though we spend billions.

Let us consolidate once and for all.

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

Mr. COYNE. Mr. Speaker, I rise in support of the rule and the bill.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from New Jersey [Mr. TORRICELLI].

Mr. TORRICELLI. Mr. Speaker, at some point in this debate no matter on which side we find ourselves, we must ask, what is wrong with us? What is wrong with a society with such decent people to achieve such an extraordinary standard of living that we not only commit more robberies than any other country but more than most in the industrialized world combined. Not simply kill more of our Federal citizens but more than all of our allies combined.

I know too many of my colleagues, they believe that the answer is more jails. This bill builds more jails. It hires more police. It provides for death penalties. But in fact, we must admit to ourselves, if these were the answers, we would not have more, we would have less. Because we already have more police and more jails. There is something much more fundamentally wrong.

Certainly, that something is American life, the providing of boys clubs, of recreational opportunities, summer jobs, some training goes to the essential truth that people with options, people with choices in life, people who live decent lives do not commit crimes.

This bill does both. It deserves our support.

Mr. GOSS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from California [Mr. COX].

Mr. COX. Mr. Speaker, I would like to address my colleague's question, what is wrong with this bill?

It brings to mind George Kennedy and Paul Newman in that movie "Cool Hand Luke," when they stood in the chain gang and the boss man said, "What we have here is a failure to communicate."

The American people have said, we are made as hell and we are not going to take it anymore. And Congress is about to deliver a crime bill that says, we are miffed and annoyed and we really do not stand for anything anymore.

We have got to get tough with the problem of crime, and that is why a bipartisan group, substantial group of our membership here have put together elements of the Hunter-Brewster bill that we would like the conference committee to consider for inclusion.

A motion to recommit will not pass Hunter-Brewster. It will give the conference committee the opportunity to include the following provisions, all of which are missing from the bill that is before us now:

Eliminate the enormous legal loophole called the exclusionary rule, a criminal trial should not be a game. It should be a deadly serious effort to find out the truth.

Second, let us eliminate the endless appeals through the reform of what we call habeas corpus.

Third, let us cut the Federal strings on local control of justice.

Fourth, let us support strengthening the Border Patrol to deal with the problem of criminal aliens. Let us replace the expansive parole system we have got with truth-in-sentencing.

These are some of the most important elements of Hunter-Brewster. The American people have said they want a crime bill with teeth in it. Let us not given them polygrip.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1 minute to the distinguished gentleman from Ohio [Mr. KASICH].

Mr. KASICH. Mr. Speaker, we will come back to do this in greater detail later. Last week we defeated the conference report because we said there was too much spending, too little for prisons, not enough for police. And we needed to cut social spending.

And what was the bipartisan compromise that we have reached? We have decreased the total cost of this bill from $33.5 down to $30.2 billion. We thought there was too much spending. We have reduced it. The trust fund spending for prisons and incarcerated aliens has gone up from $8.3 to $9.7 billion. We said we did not spend enough on prisons. We have increased prisons.

We said that there was not enough money for police. There was a proposal to cut police. That proposal was rejected, and we will spend $8.8 billion to put police on the street.

We said there was too much spending for social programs. We went in and we negotiated the social spending programs and forced the Democrats to concede to us. And we reduced the total amount of social spending from $5.9 billion to $4.3 billion. We cut total social spending by $2.5 billion, $2.5 billion in this House.

My colleagues, this is what the folks at home have been asking for. We will come back in greater detail to explain this, but we achieved what it was that kept us from passing the conference report last week. We made the fixes. We made the changes.

This ought to be passed.

Mr. GOSS. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from Washington [Ms. DUNN].

Ms. DUNN. Mr. Speaker, 10 days ago a bipartisan majority decided that we were rushing to consider a crime bill

that was costly and misguided. Let's talk about what's has changed.

The bill we were given 10 days ago was being rammed through the House without time for review. Nothing's changed. We are trying to ram another bill through that no Member has read. This rule is no different.

My constituents and my crime control advisors have been clear; they want more police, more prisons, community notification when violent sex offenders are released—and beyond that they want the Federal Government to get out of the way.

Ten days ago, many of us complained that the conference report had cut prison funding below the level of the House bill. Nothing has changed. The House bill had $13.5 billion for prisons, this one has $9.7 billion.

We said then that the claim of funding 100,000 police was a sham. It is still a sham. Just 20,000 police—not 100,000—are fully funded. It is still a hoax.

Ten days ago a bipartisan majority decided that the crime bill had $7 billion for social programs that would not reduce crime. Two-thirds of that money remains.

Ten days ago I rose to complain about bogus language that supposedly allowed local police to notify a community when a sexual predator was released into their midst. After nearly 4 hours of tough negotiations, we conferees finally succeeded in reinserting true community notification language that should have been there in the first place—language that had been approved by 407 Members of the House, and unanimously accepted in the Senate. No question, this is one small victory for the women and families in this nation.

But, Mr. Speaker, the bill we are considering is a massive bill that still misrepresents the number of police it funds, that still underfunds prisons, and that still overfunds 266 duplicative social programs that don't stop crime!

The American people deserve better. Defeat this rule, and give America a serious crime bill.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from New York [Mr. FLAKE].

Mr. FLAKE. Mr. Speaker, I rise today as a clergyman. And one would ask the question, where do I stand on this bill because it has death penalty provisions in it?

I answer the question simply that the reality is when we talk about the death penalty, on the one hand we talk about those who are on death row. But on the other hand we talk about those who are in the communities who are dying every day.

As a clergyman, I stand beside the coffins of young people who have not been given an opportunity to live.

Given that juxtaposition, it makes sense to me that we start dealing with the reality of the problems faced by people in those communities.

Additionally, for those who talk about social programing, we need more cops, we need more jails simply because the recidivism rate is so high. Too many young people go into jail and come out without any rehabilitation. Come to the streets where there are no programs for them.

The programs are designed so that they might be able to get the skills so they do not keep coming back to jail. If we could keep them out of jail, we do not need the cops. We do not need the jails.

□ 1620

We can create a society where everybody understands the kind of values that are just for each and every citizen of this country. I ask that we support both the rule and the bill today, because I think it is important that we now have an equal balance that gives an opportunity to rehabilitate, while at the same time creating an opportunity for those who do not have it.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1 minute to the distinguished gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Speaker, the vote on this rule is the gridlock-buster. There are no excuses left, no cover to hide behind. We have negotiated around the clock in a very arduous process with all sides from both parties. Every issue and every program in the bill has been gone over with a microscope. There are no excuses left. We know, and the American people know, that a vote against this rule can only be a vote for gridlock and a vote against good government, a vote for partisan politics and against public interest, and worst of all, a vote against this rule will be a vote against the tens and thousands of men, women, and children whose lives will be saved by the measures, both punishment and prevention, that are in this bill.

Mr. GOSS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Illinois [Mr. MANZULLO].

Mr. MANZULLO. Mr. Speaker, envision the Attorney General being in charge of State prisons, not only as to the manner of operation of them, but with regard to the construction materials and architectural plans. Under sections 20101(b)(4) and 20406(c)(1), those are exactly the powers that are given.

This bill is fatally flawed, because any Governor who accepts funds for prisons under this bill must accede to the fact that the Attorney General knows better than that Governor with regard to how to run that prison.

Mr. Speaker, that is why this bill must be defeated. That is why this rule must be defeated, because what the plain language of the bill says is the Attorney General must have assurances of a comprehensive correctional plan on how to manage and operate a correctional facility. That literally means the federalization of the State prison system in this country.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Speaker, today we again debate the crime bill. Much we agree upon. Violent criminals belong in jail. Assault weapons should not be in the hands of gang members. We need more police.

However, Mr. Speaker, as this debate goes on, we have much disagreement. It is very clear that we are far apart, so I ask my colleagues to remember one meeting among the many meetings that were held last week, the meeting where we met with the police chiefs and mayors from across this country.

Mr. Speaker, mayors have the hardest job in this United States. They want to do their job, and they said to us, "We need help," Republicans and Democratic mayors.

To be a police chief, you had to have been a tough cop. You had to be able to understand crime. These police chiefs asked us, in fact, they literally pleaded with us, to give them help. They had run out of their assets.

Mr. Speaker, I ask my colleagues today to pass this bill, to send help to those that need it in fighting crime, the good people of this country.

Mr. GOSS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Ohio [Mr. HOKE].

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

Mr. Speaker, a remarkable thing happened after we defeated the rule on this bill a week and a half ago. That was that many of us went home and read it.

Members heard the gentleman from Illinois [Mr. MANZULLO] say that he has read it; they heard the gentleman from Delaware [Mr. CASTLE] say that he has read it; and I have read it. An amazing thing, we all got to read the bill.

Some of us came up with one set of conclusions, others came up with a different set of conclusions. The fact is that without reading the bill, we cannot know what it in it. When we do read the bill, we find out that maybe there are things we like, maybe there are things we do not like.

Mr. Speaker, what we have done with this rule that is so bad, and the reason that I am going to vote against it, is that we have once again waived the 3-legislative-day requirement that must take place before we can actually vote on a conference report. Why do we do that?

Mr. Speaker, we waived the requirement that there be 3 legislative days between the publishing of the conference report and the voting on that report. The reason we made these House rules in the first place is so that

not only us, not only these Members in this House, but also the public and the media have the opportunity to find out what is in the bill. If we know what is in the bill, then we can, in the case of this particular bill, defeat it.

Mr. Speaker, I am opposed to it. I do not want it. It is social spending. It should not be there. However, without knowing—and let me finish by saying one final thing, that the chairman, the distinguished chairman, challenged me. He said, "If in fact that waiver is restored, will you vote for the rule?" I said, "If you will commit to giving me that restoration of the waiver, then I will vote for the rule." He refused to make that commitment.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from Arizona [Mr. COPPERSMITH].

Mr. COPPERSMITH. Mr. Speaker, after many days and nights of hard work by Members of both parties, we can do the right thing today. We can vote for the safety of our families and against partisan politics and special interests. Let us give ordinary citizens, people more concerned about their family's safety than with scoring political points, what they want, what they deserve, and what they need—this crime bill.

For example, Mr. Speaker, look at just one provision on the prevention side of this bill. Some $1.6 billion out of $6.9 billion, almost one-quarter of the total, is devoted to fighting violence against women. Social spending? Pork? No way. States and local governments can use these funds to hire new police officers and prosecutors, or to train existing cops and prosecutors, not social workers. If you are serious about fighting domestic violence, you must support this bill.

Finally, Mr. Speaker, after all this debate, all the objections to this bill—racial justice, death penalties, three strikes, habeas, sexual predators, whatever—it has come down to the fight to ban assault weapons.

Today, Mr. Speaker, we should say "no" to those who traffic in fear and misinformation and weapons of war. Vote "yes" for the rule, vote "yes" for the bill.

Mr. GOSS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas [Mr. ARMEY], the conference chairman for our party.

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

Mr. Speaker, this is not a good crime bill.

Last week, we stopped a bill from coming to the floor that spent $33 billion and would have made the Nation less safe, and we did the right thing.

Today, we are back with a still inadequate bill, made less bad because some Republicans were finally allowed to have some input.

I appreciate the changes made by my Republican colleagues, but their input, as good as it is, is still too little, too late, and not enough to make this a good crime bill.

What we now have is a $30 billion bill that does some good things and uses a waiver of the Budget Act, in this rule, to get to the floor.

We should not waive the Budget Act to deficit spend $30 billion and do so little to make America safe.

Vote "no" on the rule.

Vote "yes" on the motion to recommit. And I ask my Republican colleagues who will support the rule to support the bipartisan motion to recommit as well, because while you have helped make the crime bill less bad, we still can do better.

Failing that, vote "no" on final passage. Those are good tough-on-crime votes.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I do not think the American public is confused about what is going on. One week ago, two weeks ago, the hue and cry around here was we need a bipartisan bill. We spent the last two nights working with Republicans in developing a bipartisan bill. Who did we not satisfy? We did not satisfy the NRA. Have Members been back to look at their faxes, been answering the telephone? It is the NRA again. They now have another one, their last hurrah. They now have another one. The next one is a motion to recommit. That is the new diversion.

Let me tell you, folks, it is an improved bill in many respects, and we also took out some awful provisions in my judgment in the negotiations. One of them was a sexual predator provision, which is unworkable. I have been in contact with the attorney general's office in Washington State, where this is borrowed from. They tell us that it is unworkable, a hodgepodge of inconsistent provisions. It is limited to attacks upon strangers—listen to this—strangers and those who have developed a relationship for the primary purpose of victimization, two categories. If it is a neighbor, they do not have to register. If it is a relative, they do not have to register. How in the world is any prosecutor going to show that anybody developed a relationship for the primary purpose of victimization?

I support notification. We are not going to have it with the Washington State approach that has been developed.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentlewoman from California [Ms. ESHOO].

Ms. ESHOO. Mr. Speaker, I rise to urge my colleagues to support this rule to allow the House to pass the crime bill.

Last week women Senators and House Members held a press conference to support the assault weapons ban and we heard stories from constituents who have lost their spouses as a result of deadly assault weapons.

I wish the NRA had been there. I wish they could have stepped up to the microphone, looked these people in the eye, and explained why they will not relent.

This legislation puts more police on our streets, more prison capacity in our States, more prevention programs in our communities, and more stringent penalties in our judicial system. And we finally address violence against women.

The NRA has repeatedly tried to kill the assault weapons ban by defeating the crime bill, and we cannot let them get away with it. The ban belongs in the bill, and the bill belongs on the President's desk to be signed into law.

I urge Members to support this rule and pass H.R. 3355, the Omnibus Violent Crime Control and Law Enforcement Act of 1994.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentlewoman from Washington [Ms. CANTWELL].

Ms. CANTWELL. Mr. Speaker, I rise today today to urge my colleagues to preserve the integrity of the conference report on the crime bill. In the last week since the House failed to act on a crime bill, some of our colleagues have tried to dismiss this bill's prevention programs as nothing more than congressional pork but yet during the same week five people were shot to death in my district, including a deputy sheriff and a 7-year-old girl. At least three of them were killed with an assault weapon. Prevention programs are not a substitute for tougher prison sentences but they are just as important. Ask any mother who has lost a child to violence whether she would rather punish the child's murder or prevent the child's death. Punishment may stop criminals from committing their third or fourth crime. Prevention programs can stop children from committing their first. But let me say this. I do believe it is truly disingenuous to negotiate on this bill, make changes, get them accepted, and then say no. We do not allow bait-and-switch tactics on the consumers. We should not allow Congresspeople to do it to our constituents. If we want to claim victory for these improvements, then say we still support the bill. Let us not say inside the Beltway. "It's my way or no way.

Please support the conference report and the rule.

Mr. GOSS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from the Commonwealth of Pennsylvania [Mr. WALKER].

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

Mr. Speaker, we have been told consistently today that one of the reasons

why we ought to approve this rule and waive all points of order against majors in the bill is because this is a tough crime bill and we need to waive these points of order so that we can get these tough provisions accepted. Well, I went down through and looked at some of the waivers and guess what, I found a tough waiver. It is the "Hawaii Five-O" waiver. You remember the old TV show of tough people doing tough things to fight crime. Well, here is the "Hawaii Five-O" waiver. It authorizes the establishment of a task force in Hawaii to facilitate the prosecution of violations of Federal laws and the laws of the State of Hawaii relating to the wrongdoing, conveyance, sale or introduction of—get this—nonindigenous plant and animal species.

The nonindigenous plant and animal species have risen up. Their lobby has put this in the bill. Gangs across the country, criminal gangs in the city streets are terror stricken about this particular provision. We have got to waive all points of order in order to get that provision approved yet today in this tough crime bill.

I would suggest that maybe when you hear about some of the things that are in this bill, it is time to get back to the basics. Let us put money for police, for prisons, for Border Patrol, for real, tough law enforcement. That is what we will get in the motion to recommit. Put the money in the right place.

The trust fund money in here, which is actually I will tell my colleagues who are concerned about the budget, is actually more than it was in the first conference report, the trust fund money ought to go for police, prisons, and for Border Patrol. It ought not go for task forces that are trying to keep us from having problems with nonindigenous plant and animal species. Vote against this rule. Waiving points of order against this kind of nonsense makes no sense. Let us turn down the rule.

If we cannot turn down the rule, let us at least vote for a back-to-the-basics approach in the motion to recommit, and if we cannot get that, vote against the bill.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from Indiana [Mr. McCLOSKEY].

Mr. McCLOSKEY. Mr. Speaker, I thank the distinguished chairman for yielding me the time.

Mr. Speaker, as a sincere opponent of the so-called weapons ban, I would like to urge a yes vote on the rule, a definite no on the motion to recommit and yes on final passage. Accommodating the NRA, particularly on the motion to recommit, is not worth the lives lost because of the zeroing out of the so-called social programs. Drug prevention and education and violence against women and like programs are important.

I disagree vehemently with Charlton Heston. He is not Moses, he is a mouthpiece.

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

The gentleman from Texas [Mr. BROOKS] pointed out that there is not enough money to keep the convicted felons that we have in this country in jail because there are not enough jails. I have to ask the question, why then are we putting $6 billion into programs that are duplicative of social programs we already have? That is the essence of what is wrong. That plus the fact we have got a bill here that we cannot pay for. Finally, it only deals with 5 percent of the crime problem in this country, and we have raised expectations, if we pass something that is here today, that crime is going to go away. I think that is a bit of a cruel hoax.

Mr. Speaker, I yield the balance of my time to the distinguished gentleman from California [Mr. DREIER].

Mr. DREIER. Mr. Speaker, I thank my friend, the gentleman from Sanibel, FL, for yielding me this time.

Mr. Speaker, we are regularly asking the question, why is it that we have such a serious crime problem in this country?

□ 1640

Everyone is analyzing it. We have listened to all kinds of specialists looking at the problem.

Well I happen to believe very strongly that it is due to a lack of individual responsibility, and quite frankly, violating the rules. There is an arrogance toward the law in this country, and tragically as we look at this rule there is an arrogance toward the rules of the House. And it is for that reason that I believe we should do everything that we can to defeat this rule.

If Members look at the work of the conference committee, they have worked diligently. But quite frankly, contrary to the reports that we have gotten from this well, trust fund spending increases by over $1 million. And as the gentleman from Florida [Mr. McCOLLUM] has pointed out, when we look at the issue of prison spending, which is critically important, it is cut by $800 million, and that is at a time when we are trying to deal with truth in sentencing, and three strikes you are out. The resources are not there.

This rule is unfair. It waives points of order, it waives that very important 3-day layover provision which should allow members time to look at this legislation which has, in fact, changed.

Defeat this rule and come back with a balanced, fair bill that the American people and this Congress can support.

Mr. DERRICK. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore (Mr. HOYER). The gentleman from South Carolina [Mr. DERRICK] is recognized for 3 minutes.

Mr. DERRICK. Mr. Speaker, we claim to be the greatest Nation in the world. We claim to be one of the greatest civilizations that the world has ever known. Yet we murder more people, we burglarize more, we have more crime in this country than any other industrialized nation in the world.

Here we are standing this afternoon talking about whether we are going to ban assault weapons. There are more men and women killed on the streets of this country every year on an annualized basis than we killed in Vietnam.

We are not talking about denying the right of our citizens to own a shotgun to hunt with or a pistol to keep in their house. We are talking about denying them something they can go "bzzz" and kill 20 or 30 or 100 people, just like that. That is what we are talking about.

But yet because of the special interests, because of the special interests in this country, we are scared to do that, because we are scared that we are going to lose a few votes in the next election, or that we might not even come back.

I have heard a lot of high talk about pork and about this reason and that reason for this. There is not but one reason, and that reason is guns. That is the only reason that we are having difficulty in getting this bill passed, because of the special interests in this country that unfortunately many of our Members cannot seem to deal with.

I ask Members to support the rule, which is a fair rule, which will allow Members to vote on guns. They can vote for the substitute and say to the American people that even though 80 percent of them believe that we should do away with assault weapons we are going to let them do it. We are going to let them keep them so they will no longer be safe on the streets, in their neighborhoods, and in their automobiles in this country.

We are also going to let Members vote for the substitute and say that three strikes and you are out, you are not going to have that even though the great majority of the American people want it.

We are also going to say do away with the death penalty in this motion to recommit. So the rule is going to let Members have their vote.

I ask Members to vote for the rule, to vote against the motion to recommit and to vote for the crime bill and let us go home and say to the American people that we understand what they are telling us, we support them and we are going to have a strong crime bill.

Mrs. UNSOELD. Mr. Speaker, for weeks the attention of the media, and consequently the nation, has focused on the maneuvering and posturing in Washington, DC, regarding this strange collection of conflicting legislative agendas we refer to today as the crime bill. Yet, just last Thursday far from the media

glare, this Congress approved and sent to the President for his signature a real crime bill: the 1995 appropriations for Commerce, Justice, State, and Judiciary.

This legislation puts real money next year where it will do the most good—in the hands of local law enforcement agencies. It includes new money for drug courts—$29 million; community policing—$1.3 billion; boot camps—$24.5 million; $100 million to upgrade the instant check systems established by the Brady Act, and $26 million for a vital new program to stem violence against women. We also approved $280 million for prison construction and we put $450 million into the Byrne Formula Grant Program, a program which funds local law enforcement efforts. In my state of Washington these grants support programs such as DARE [Drug Awareness Resistance Education] and multijurisdictional crime fighting task forces in many of our counties. These are some of the things that Sheriffs Bill Logan and Jerry Benning and other law enforcement officers tell me is what they really need—not election-year symbolism.

But today, Mr. Speaker, we are here to act on this crime bill.

Repeatedly, I seem to find myself defending individual freedoms that are misunderstood and maligned. And today, once again, I find myself having to cast a vote before, when I voted to support gays and lesbians in the military, the rights of responsible users of firearms, artistic freedom, a woman's right to decide, and the free speech of despicable bigots whose words make my skin crawl.

Neither my vote last week nor this vote today gives me any pleasure. Oh, I have cast difficult votes before, and will again, but the tragedy now is that this vote was not necessary.

"A rule is only a procedural vote, how could you oppose it?" I have heard it a hundred times. I have also asked myself that same question a hundred times.

But life is complex, and this crime bill is too complex to be only a single up or down vote. I cannot cast a procedural vote that would force me later to vote for expansion of the death penalty as the price of voting for those positive programs designed to prevent crime and violence. I cannot vote to erode the constitutional rights of responsible users of firearms as the price of voting for programs designed to build alternatives for our youth.

To vote for this rule would require us later to vote on the many deeply conflicting pieces of the crime bill as a single package. It would prevent me as well as others from voting separately our deeply held convictions on these matters of great conscience.

In April I voted for a crime bill that enabled minority death row inmates to seek reduction of their death sentences in certain circumstances by citing statistical data to show that death sentences for similar crimes in that jurisdiction were disproportionately imposed on minorities. This provision, which sought to address a shameful aspect of our Nation's legal history, was omitted from the present crime package. That's wrong.

I understand and I appreciate that there are some who believe that the mere possession of a firearm is an act of violence and who would dismiss any other view as just the NRA. Unfortunately, their use of such a label prevents them from seeing the individual men and women to whom the label is being attached. Their lack of personal knowledge renders them unable to relate to or understand the many law-abiding citizens who are not only responsible users of firearms, but also loving fathers and mothers, aunts and uncles, teachers, and law enforcement officers—loving and concerned citizens who deplore as much as any individual on this floor the senseless acts of violence that threaten the very fabric of our Nation.

The difference between these citizens and many of my colleagues is that these citizens fear that some new attempts to control violence are only an excuse to come one step closer to denying them legal ownership of firearms. They resent being a misunderstood and maligned minority. And these loyal Americans are deeply offended by the notion of some that the gun industry—by definition—endorses and promotes criminal violence.

Mr. Speaker, to many of my colleagues, laws that attempt to restrict the firearms themselves seem only sensible. To many others, such laws make them feel as though they are being directly assaulted, not because of anything they have done, but rather because of what they believe. I find bridging this chasm of differences in beliefs just as difficult as trying to explain that cherishing the first amendment may mean protecting hurtful, ugly, vile speech.

Mr. Speaker, I cannot support this rule and I beg that in the future, procedural votes do not cram us into a single up or down vote on contradictory votes of conscience. Allow us to vote our deeply held convictions before we must decide aye or nay on the overall merits of omnibus legislation.

Mr. DERRICK. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

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

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 239, nays 189, not voting 7, as follows:

[Roll No. 414]

YEAS—239

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barca
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Blute
Boehlert
Bonior
Borski
Brooks
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Castle
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Coppersmith
Coyne
Cramer
Darden
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gilchrest
Glickman
Gonzalez
Gordon
Grandy
Green
Greenwood
Gutierrez
Hall (OH)
Hamburg
Harman
Hastings
Hefner
Hinchey
Hoagland
Hobson
Hochbrueckner
Horn
Houghton
Hoyer
Huffington
Hughes
Inslee
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
King
Kleczka
Klein
Klug
Kopetski
Kreidler
LaFalce
Lambert
Lantos
Lazio
Leach
Lehman
Levin
Levy
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDermott
McHale
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
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Michel
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Pallone
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Payne (NJ)
Pelosi
Penny
Pickle
Pomeroy
Porter
Price (NC)
Pryce (OH)
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Ramstad
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Richardson
Ridge
Roemer
Ros-Lehtinen
Rose
Rostenkowski
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Roybal-Allard
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Sanders
Sangmeister
Sawyer
Saxton
Schenk
Schroeder
Schumer
Serrano
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Skaggs
Slattery
Slaughter
Smith (IA)
Smith (NJ)
Snowe
Spratt
Stark
Studds
Swett
Swift
Thompson
Thornton
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Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Walsh
Waxman
Weldon
Wheat
Whitten
Woolsey
Wyden
Wynn
Yates
Zimmer

NAYS—189

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehner
Bonilla
Boucher
Brewster
Browder
Bunning
Burton
Buyer
Calvert
Camp
Canady
Chapman
Clay
Clinger
Coble
Collins (GA)
Combest
Cooper
Costello
Cox
Crane
Crapo
Cunningham
Danner
de la Garza
Deal
DeFazio
DeLay
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fish
Fowler
Gallegly
Gekas
Geren
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Grams
Gunderson
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hayes
Hefley
Herger
Hilliard
Hoekstra
Hoke
Holden

Hunter	Murphy	Smith (MI)
Hutchinson	Myers	Smith (OR)
Hutto	Nussle	Smith (TX)
Hyde	Ortiz	Solomon
Inglis	Orton	Spence
Inhofe	Oxley	Stearns
Istook	Packard	Stenholm
Johnson, Sam	Parker	Stokes
Kim	Paxon	Strickland
Kingston	Payne (VA)	Stump
Klink	Peterson (FL)	Stupak
Knollenberg	Peterson (MN)	Sundquist
Kolbe	Petri	Synar
Kyl	Pickett	Talent
Lancaster	Pombo	Tanner
LaRocco	Portman	Tauzin
Laughlin	Poshard	Taylor (MS)
Lewis (CA)	Quillen	Taylor (NC)
Lewis (FL)	Rahall	Tejeda
Lewis (KY)	Ravenel	Thomas (CA)
Lightfoot	Regula	Thomas (WY)
Linder	Roberts	Thurman
Livingston	Rogers	Unsoeld
Lucas	Rohrabacher	Upton
Manzullo	Roth	Volkmer
McCandless	Royce	Vucanovich
McCollum	Santorum	Walker
McCrery	Sarpalius	Waters
McDade	Schaefer	Watt
McHugh	Schiff	Williams
McInnis	Scott	Wilson
McKeon	Sensenbrenner	Wise
Mica	Shuster	Wolf
Miller (FL)	Sisisky	Young (AK)
Mollohan	Skeen	Young (FL)
Moorhead	Skelton	Zeliff

NOT VOTING—7

Callahan	Rowland	Washington
Gallo	Tucker	
Reynolds	Valentine	

□ 1701

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Personal explanation

Mr. REYNOLDS. Mr. Speaker, I wish to inform the House that on rollcall vote 414, I was unavoidably delayed. Otherwise, I would have voted "aye" on adoption of the rule to provide for consideration of the conference report accompanying H.R. 3355, the Violent Crime and Control Act.

Mr. BROOKS. Mr. Speaker, I call up the further conference report on the bill (H.R. 3355) to amend the Omnibus Crime Control and Safe Streets Act of 1968 to allow grants to increase police presence, to expand and improve cooperative efforts between law enforcement agencies and members of the community to address crime and disorder problems, and otherwise to enhance public safety.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. HOYER). Pursuant to the rule, the further conference report is considered as having been read.

(For conference report and statement, see prior proceedings of the House of this date.)

The SPEAKER pro tempore. The gentleman from Texas [Mr. BROOKS] will be recognized for 20 minutes, the gentleman from Delaware [Mr. CASTLE] will be recognized for 20 minutes, and the gentleman from Florida [Mr. MCCOLLUM] will be recognized for 40 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

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

Mr. Speaker, the scourge of violent and drug-related crime is running rampant in America, and Congress—for the first time in 50 years—has the opportunity to pass an historic measure.

We stand at a crucial juncture of history where we can opt for the failed formula of the past—do absolutely nothing, or opt for striking a balance between hardnosed punishment and forward-looking prevention.

Unfortunately, the forces of gridlock and negativity appear to have reemerged precisely at a time when the American people are desperate about crime as never before. For months now, I and others have fought hard against these forces of delay, posturing, and flamboyant rhetoric in trying to pass a comprehensive bill.

This Chamber has a chance today to finally fight crime with action, not slogans. The purists must step aside; the obstructionists must get out of the way so that we can get results and get them now.

Each Member of this Chamber has his or her ideal of the perfect crime bill. But the American public has not asked for the perfect crime bill—they are way ahead of us in the realism category. No, what they want is a broad-gauged attack on crime now—in the workplace, at home, and in their neighborhoods. And they have it-in the conference report.

But it is only fair to make clear in this debate that as good as this bill is, it cannot be promoted as the sole solution to the problem of crime. Federal crime prosecuted at the Federal level constitutes only 4 percent of all criminal activity in the United States. The remaining 96 percent of criminal activity is remedied at the State and local level. For that reason, the conference committee has wisely not sought to federalize every crime under the Sun and displace States and localities from their primary role under our Constitution in fighting crime.

During this Congress, I introduced two pieces of omnibus crime legislation—first, in October 1993 and then in March 1994. On both occasions, the goal I stressed was balance—both in punishment and prevention. I think the new conference report—which largely keeps intact the original conference product—does strike the right mix in those areas. But I must be candid: The crime legislation I introduced did not contain an assault gun ban, did not contain provisions that gave the ATF unfettered discretion to ban almost any shotgun or pistol with no recourse by the law-abiding citizen—or even congressional review.

These provisions have no place in a major piece of crime legislation; and for this reason, the House considered it separately so that it would not divide the body and divert attention to the truly innovative and tough features of the legislation.

I am sorely disappointed that some thought it wise or an opportune moment to load it aboard the crime bill—for that decision has only contributed to the delay, drift, and discord we have faced in doing a relatively straightforward thing: fighting crime in our streets, in our neighborhoods, and in the workplace.

It speaks volumes about the arrogance that permeates those who cling to the flawed notion that somehow it is the gun—and not the person holding it—that is to blame. No, crime is about accountability and personal values; and the rest of the bill reflects that orientation even if the assault weapon provision does not.

Nonetheless, as the author of the original legislation and the chairman of the Crime Conference, I think it is important that we move forward today with the legislation and no longer defer our compact with the people to ensure their safety and productivity everyday.

□ 1710

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

Mr. Speaker, all of us in this Chamber come from different backgrounds. We are elected as Republicans and Democrats, but some of us come from more rural areas, some from more urban areas. Some places have more crime, some have less crime, and we have come to different conclusions on this bill, and it has divided us as political parties. But the bottom line is we should have one goal here today, and that is to make sure we make the right decision for the people of the United States of America and nothing else, and thank God we have been able to take the time in the last week to work together in a bipartisan way to take a crime bill, which a lot of frankly questioned, and to make the changes necessary and, inherent to that, to make it a crime bill which is in the best interests of the people of the United States of America. This is a series of changes in which police protection has gone up, the real money going into prisons has gone up, and some of the social programs have gone down in terms of the costs but are still good and effective. Violence against women and other things that protect against violence against women are other things that we need to do. Yes, there is an assault weapons ban in this bill. Yes, there are those who support that. We believe very strongly that we do not need assault weapons in America. There is a Youth Handgun Safety Act. There are many good things. We are going to hear from many good people who are going to speak on behalf of this bill. I hope we can listen to them carefully.

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

Mr. Speaker, there is no question. We all want a good crime bill. That is not an issue here today. There is no question that the most important thing that needs to be done at the Federal level is to help the States where most of these violent crimes are committed.

Mr. Speaker, I think we all recognize the most important thing we can do here today is to have a bill that helps the States to put swiftness and certainty of punishment back into the criminal justice system and across this country to begin to send a deterrent message again to those who would commit those heinous, violent crimes.

Many times I have been on the floor in the last 2 years to talk about the percentage, 6 percent of those who commit crimes out there are committing 70 percent of the violent crimes and only serving about a third, or so, of their sentence. It is this revolving door that is the single most important thing for the American public to have stopped. If we can take those who are committing these violence crimes and getting back out on the streets again, and lock them up, and throw away the keys, make them serve at least 85 percent of their sentences, basically abolish parole, as we do for all crimes at the Federal level, if we can get the States the resources, and the tools, and the equipment to do that, if we can send a message through ending the endless appeals of death row inmates, which we have not done and is not in this bill to do, and do a number of things of this nature, we could send a message that would indeed have an impact, and that is true crime prevention.

Many good people have worked on this bill in the past few weeks trying to, quote, improve a very bad bill. They have improved the bill, but it is still a bad bill, I think a very bad bill, because it does not fundamentally provide the kind of tools and resources necessary to put the deterrent message back out there and to give our law enforcement officials and State officials what it takes to stop this violent crime epidemic.

Let me quickly run through three or four things. First of all, in the area of the police that we are talking about in this bill, cops on the streets was a bad provision in the original conference report. It is a bad provision in this particular report. Not one thing has been changed about it. The funding level is the same, and everything else. Allegedly there is supposed to be 100,000 more cops on the street by this. Professor DiLurio of Princeton has written extensively about this. We have all read it. There have been other studies that show we are not funding 100,000 cops. We are maybe funding as much as 20,000, and that is stretching it.

□ 1720

This bill would provide the Federal Government pay for only one-fifth of the money that is going to be required for that number of cops to go on the streets. Four-fifths of this is an unfunded mandate to the local governments, and in addition there are a lot of other onerous provisions, including some that most of us would call quotas involved in the process of the police selection.

Under prisons, the prison money in the original bill that came out of conference a few days ago was actually greater than the money for prison construction in this conference report out here today. It was $8.5 billion. This has $7.9 billion in it. It is less money. You can argue about what little kitty it came out of, but it is less money.

If you remember, the bill that came from the House for prison construction to the States was $13 billion, actually $13.5. We have gone from that figure down to $7.9 in this bill. There is, of course, an additional $1.8 billion for criminal alien incarceration reimbursement to the States. That is not a figure for prison construction. If you remember also, the Bureau of Prisons at the Federal level has said that in order for us to provide enough money to the States so they can build the prison beds necessary to take the violent repeat offenders off the streets and lock them up for 85 percent of their sentences, is going to require at least $10.5 to $12 billion. We are far shy of that in this bill. It does not do that.

In addition to that, under prisons we have some pretty bad language in the truth in sentencing provisions in here. We did not get it out, and there are a lot of other problems in it.

Moving on very quickly to the so-called prevention area, many of us have talked for weeks about the new Great Society social welfare spending programs in the original conference report. They are still largely in this conference report. That is not say to say my colleagues did not work to improve it to some extent. There was roughly $9 billion in so-called prevention programs in the original bill. There is roughly $7 billion in this bill.

But of that $7 billion, a high percentage of it is still in the form of those kinds of things which I do not think most of the Members want to see or would approve of. Only $377 million of this went into a new block grant program. You still have the model intensive grant program at $625.5 million. This is the one which was open-ended in which there was simply 15 grants, which will still be there for the Attorney General to send where she wants to send to "provide meaningful and lasting alternatives to crime," whatever that is.

There is still the program on the so-called community schools that involves the grants to community-based organizations to carry out activities including arts and crafts lessons, dance programs, et cetera. This has $567 million for that. And the list goes on that did not change. This bill is still loaded with what we call the Great Society social welfare programs and an expansion of it at the greatest level in years in this bill. It has no business here. This is not crime prevention in the sense it should be.

Last but not least, what is not in this bill at all, what is not in this bill at all, of course, at the very beginning, we have nothing in here to end the endless appeals of death row inmates, which was never in discussion at this time, and it certainly should be. It is the No. 1 issue with local law enforcement around the country.

No. 2, what is not in the bill and was never allowed out here on the floor is the provision under the rules of evidence on search and seizure to let more evidence in under the good faith exception that has also been wanted.

Beyond that, what we have really debated that is not in here, and I have no idea why it is not in here, is the provision that Senator SIMPSON had in the Senate bill that would allow for expedited deportation of criminal aliens. Above all else, I do not understand why that is not in here. In addition to that, what we passed by a motion to instruct here by an overwhelming margin is not in, and that is to create a new Federal crime with minimum mandatory 10 year sentences for those people who commit an underlying State crime with a gun, just for the simple fact they committed a crime with the gun. That is the kind of deterrent message we should be putting into Federal law but we are not in this bill.

Last but not least on that list, the Gekas death penalty provisions, the type of reforms that will say if you have the aggravating factors outweighing the mitigating factors, you give the death penalty, is not in this bill.

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

Mr. BROOKS. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma [Mr. SYNAR], a distinguished member of the Committee on the Judiciary.

Mr. SYNAR. Mr. Speaker, today we write one of the sadder chapters of the House of Representatives history. It is with sincere sadness that I rise to oppose this crime bill. No one has worked more diligently on legislation to preserve the security that Americans deserve, the security from fear. But good intentions and hard work, as I have learned, do not always mean success.

We as Representatives have a special responsibility, a bond, with people, to listen, to make wise decisions based upon the facts, and to separate the emotional-political whims from reasoned judgment. Today we miserably, and I regret, cowardly failed that responsibility.

We have let our panic of political reelection drive us recklessly off course

from sound solutions. We have let our political expediency cloud our reasoned judgment, and we have let our ambition to do any deal destroy the best opportunity we had for the security for millions.

You know, our communities were counting on us to build a partnership, to fight and prevent crime. We could have done so much more.

Most importantly, our fellow citizens, millions of them who we will never meet, were expecting us not to run over their fundamental rights in order for us to satisfy our political lust to prove our toughness.

I respectfully submit to be willing to win at any price means that we lose the value of victory. Our Nation, our people, deserve a whole lot better.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. HOYER). The Chair would remind guests in the gallery that demonstrations of support or opposition to that which is said on the floor is against the rules, and we would appreciate their observing those rules.

Mr. CASTLE. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, a little over a week ago a bill came to the House of Representatives under a rule, and the bill was only given to the minority side only hours before it was to be considered. And we are talking about a bill of almost one thousand pages.

Noticeably upset, the Republicans voted this bill down. Only 11 voted for this rule, and we were joined by a substantial number of Democrats.

We learned a lesson that night. Criminal law is not a partisan issue and should not be made a partisan issue. Shortly after that defeat of the bill, the President took to the airways and gave one of the most scathing speeches that I have ever heard, condemning the Congress, condemning the Republicans, and saying we won a vote by some parliamentary trick.

Well, the House knew better, even though the President by that statement almost forever sealed that particular bill in defeat.

We came back, we reached out to the Democrats, they reached back, and we did come together. It is a flawed bill, but it is a bill that I will vote for. I agree with most of the comments made by the gentleman from Florida [Mr. MCCOLLUM]. It stopped way short. We need to go further. But I think we did move this process forward, we did show that we could come together, we could iron out some differences, and I intend to support the bill.

Mr. MCCOLLUM. Mr. Speaker, I yield such time as he may consume to the gentleman from Kentucky [Mr. BUNNING].

Mr. BUNNING. Mr. Speaker, I rise in opposition to the bill.

Mr. Speaker, I rise today in opposition to our so-called tough crime bill. Once again Congress is going to pull out the old USA Visa Gold and go on a major pork purchasing spree.

The price tag on this lard-laden legislation is greater than what was proposed by the other body in its bill and greater than that which passed this House in April. The bottom line on this bill is too high and when all is said and done the cost will simply be added onto the deficit.

I am well aware of the funding scheme that says that we will use the savings from the elimination of the 252,000 Federal employees to set up a crime-fighting trust fund. What a joke.

We have proposed to use the savings from the work force reduction to fund every other program known to man and now we are using it for this bill too. One need not be an accountant to realize that the funding scheme is a scam.

Actually, Mr. Speaker, I would consider the price of this bill a good investment if it really went to fighting crime. Unfortunately, the bill has been presented as the toughest thing since Elliott Ness when it is more like the Keystone Cops.

I think that we should have included a line item for porkaholics anonymous so that Members of Congress could seek treatment. Surely it would be cheaper for the taxpayers to fund that than this blue ribbon winning sow of a bill.

I did not think that it was possible but the bill is even worse now than when it first passed the House. Although it was stripped of the so-called racial justice provision, which would have established skin color as a criterion in handing down the death sentences, it still does not go after criminals.

Apparently it is more important for the Congress to pass anything that is called a crime bill rather than something that is really tough on criminals. We on the Republican side of the aisle have not even had the opportunity to read the conference report. We have not even been provided with a copy of this 7-inch-thick monstrosity.

The President likes to brag and thump his chest about his crime bill, but Mr. Clinton never sent us anything. Now he claims that this is the toughest crime bill ever produced by Congress.

That isn't really saying much. The American people are not fooled by this posturing; they know that 90 percent of all crime fighting is done at the State and local level. They also know that this bill is not about crime fighting it is about pork projects that could not pass unless they were called crime control measures.

Perhaps the worst thing about this bill isn't even the monumental cost for the dubious social programs. The worst aspect of this bill is the blatant assault on the constitutional rights of law-abiding citizens. I am, of course, referring to the gun control provisions in the bill.

Under the guise of fighting crime Congress is busy undermining the Constitution that all of us have sworn to uphold. The second amendment explicitly and unequivocally affirms the right of American's to keep and bear firearms.

The Constitution does not say that we can ban some guns but not others. It does not say that only pretty guns or antique collectible guns may be kept by citizens. The amendment quite simply says that the right of the people to keep and bear arms shall not be infringed.

It seems that there are those who would have those words mean nothing. To them I would say, those words do have clear meaning and our forbearers died to give them meaning.

If Members of Congress and the President do not want the people of this country to have guns to protect themselves, their families and their homes something is terribly wrong.

If those who support the abolition of firearms for private citizens believe that they are correct, then let them put their theory to the test. There is a clear procedure for amending the Constitution; use it. But, do not pretend to uphold the document while you corrupt it and erode the rights of those that you are supposed to represent.

I urge the defeat of this flawed and phony crime bill. Let us start anew and give the American people real protection, not this pork wagon.

Mr. MCCOLLUM. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. SENSENBRENNER], the ranking member on the Committee on the Judiciary's Subcommittee on Crime and Criminal Justice.

Mr. SENSENBRENNER. Mr. Speaker, much has been said in the debate on this bill about the 100,000 cops on the beat that this bill is supposed to pay for. I am here to say that it is not so, because once again the money has not matched up with the rhetoric—$8.8 billion is appropriated for community policing in this legislation.

Assuming that all of the money is used to pay for police and none is used for other authorized purposes such as training and equipment purchases, the maximum amount of Federal assistance is $14,700 per officer. It takes an average of $62,000 a year to pay, give fringe benefits to, equip, and train a police officer and have that police officer be out on the beat. So there is not a connection between the money that is in this bill and the rhetoric of 100,000 cops on the beat.

□ 1730

If the Federal Government fully funded the cops on the beat, we would be down to somewhere between 20,000 and 22,000. There is a cap of 75 percent Federal funding so that probably would increase it to about 27,500, again, assuming that all of the money is used to pay for police and none of the money is used for anything else. Because it takes an average of 10 police officers being trained and sworn in for each policeman that is actually on the streets, because of various shifts, vacation time, administrative work and sick leave and the like, we are talking about less than 3,000 new police officers on the street in any one given time.

With there being 20,000 police departments around the country, that it less

than one officer per police department. Please do not fall for the rhetoric that this is going to put 100,000 cops on the beat. The money is not there, and this bill should be defeated.

The SPEAKER pro tempore (Mr. HOYER). The Chair advises Members controlling time that the Chair is going to follow a different process than has been followed.

So the gentleman from Florida [Mr. MCCOLLUM] knows, I will recognize the gentleman from Texas [Mr. BROOKS]. Then I will recognize the gentleman from Florida [Mr. MCCOLLUM]. I will then recognize the gentleman from Delaware [Mr. CASTLE] and then go back to the gentleman from Florida, because he has twice as much time. And if we do not, if we continue to recognize both, they will utilize all their time, and the gentleman will have half his time remaining. The Chair thinks this is a better way to apportion the time.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, how much time have I consumed?

The SPEAKER pro tempore. The gentleman from Texas [Mr. BROOKS] has 13 minutes remaining. The gentleman from Delaware [Mr. CASTLE] has 18 minutes remaining.

Mr. BROOKS. Mr. Speaker, I would think then that we might want to go back to the gentleman from Delaware [Mr. CASTLE].

The SPEAKER pro tempore. The Chair recognizes the gentleman from Delaware [Mr. CASTLE], who has 18 minutes remaining.

Mr. CASTLE. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Pennsylvania [Mr. WELDON].

Mr. WELDON. Mr. Speaker, I rise to say that I will support the conference position today in spite of the President. I say I will support it in spite of the President, because I was never so embarrassed as a Member of this body than I was last weekend when the President threw a temper tantrum, when he went around the country railing about the principles of Members of this body on both sides of the aisle.

Mr. Speaker, that was outrageous. He claimed that he lost the vote on the rule because of the NRA. Yet many of us wrote to him that same day and said we were willing to sit down, and we did not even mention the assault weapons ban.

In fact, during the negotiations, Mr. Speaker, it was not the Republican side who raised the issue at all. In fact, it was the President's party who wanted to change regarding the definition of the 10 bullet clip.

Mr. Speaker, this President has got to understand one very important thing: There are Members on both sides of the aisle who have principles. Maybe that is not the case down at the other end of Pennsylvania Avenue, but it is the case here. In fact, in my opinion, Mr. Speaker, both bills that are going to be offered today are better than the one that he gave us.

I applaud by colleagues for their efforts.

Mr. MCCOLLUM. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Speaker, I am adamantly opposed to the bill. I urge every Member to vote to recommit it.

Mr. Speaker, well, here we are again, about to consider a so-called crime bill that has a few good provisions but is still loaded with close to $7 billion in pork, all to be financed from supposed savings from firing 250,000 Federal workers which we all know will never happen.

Mr. Speaker, hopefully these rules will allow one of us to offer a substitute—in the form of a motion to recommit—that will:

First, knock out all of the pork, and include only money for prisons, policemen, and Border Patrol guards;

Second, remove the gun ban, and replace it with additional penalties for criminals who commit crimes with guns;

Third, toughen truth in sentencing language;

Fourth, punishment for sexual offenders who prey on our women and children;

Fifth, reinstate mandatory minimum sentences for drug traffickers; and

Sixth, remove funding for federally funded luxuries in correctional facilities like body building equipment.

Mr. Speaker, the Brewster-Hunter bipartisan substitute that we hope to offer does not contain a single feel-good, high-cost social program.

They are all removed bringing the cost of the bill down from $33 billion to $26 billion.

To summarize our substitute, it will cost the taxpayers less and the criminals more.

Vote "yes" to recommit the bill so that we can strip out all of the fat and come back with a real anticrime bill that is tough on the criminal element of our society.

Mr. MCCOLLUM. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. GOODLING], the ranking member on the Committee on Education and Labor.

Mr. GOODLING. Mr. Speaker, I would like to ask my colleagues, what do they know about the Community Schools Program? What do they know about the Juvenile Justice Act? What do they know about runaway homeless youth? What do they know about the National Youth School Sports Program? What do they know about the Family Violence Grants Act? What do they know about the Community Block Service, Grant, as it relates to children at risk? What do they know about the Job Corps? What do they know about YTPA, Summer Youth? What do they know about the 21st Century Community Schools program? What do they know about family violence programs, grants that are presently here?

I ask my colleagues that because we have to stop this business of making ourselves feel good and go home and say, oh, we put more categorical programs out there. We have 266 at the present time. Are they effective? Of course not. They are not effective because they are run out of every different department downtown. They are not coordinated in any way, shape or form. We are getting no bang for our buck whatsoever.

Every bill, every new program that was put into the bill that we debated last week is already enacted in law. It is in law. Most of them are appropriated.

So all we do is say, oh, yes, we are interested in doing something about preventing crime. We pass another categorical program. We have accomplished nothing, folks, and we will not until we put them all under one roof. And we will not until those who apply for them can apply and not feel threatened that somehow or other if they are creative, they will get an auditor there who will put them behind bars.

They have to have a book, a book something like this, 300-some pages. Then that mayor or that county commissioner or whomever it is, it could be the director of Crispus Attueks. It could be the director of the YMCA or the YWCA. They have to sit down and figure out, who do I apply to; how do I fill out these grants. Will I get a few bucks and if I get a few bucks and I realize I got a few from program and a few from this program and I try to put them together so that they will be meaningful, so they will be worthwhile, so they will do something about prevention, no, the auditor will not allow that. We do not allow that. Our categorical program does not allow that.

So please, do not go home and say, boy, do I feel good. We really did something about preventing crime. We are really working to help youth at risk. We are not. It is just plain and simple. We are not. We are wasting taxpayers' money, because we refuse to coordinate the programs. And we only add these programs so we can put out a press release and so we can tell somebody, my name is on it.

Folks, we are not helping those young people. I have worked with them for a long, long time. We are hurting them. We positively have to coordinate our activities and make our bucks count.

Mr. CASTLE. Mr. Speaker, I yield 1 minute to the distinguished gentleman from New York [Mr. LAZIO].

Mr. LAZIO. Mr. Speaker, I rise in support of the revised bipartisan crime bill. In the past 72 hours, many of my colleagues have been working closely in a truly bipartisan manner to bring the crime bill conference to the floor today.

Compliments to the gentleman from Delaware [Mr. CASTLE], who has worked incredibly hard, and the gentlewoman from New York [Ms. MOLINARI],

and the gentleman from Ohio [Mr. KASICH] from our side and to the majority leader and the Speaker on the other side of the aisle.

But I must tell Members that the original crime bill was highly unsatisfactory and has changed in one very important way. The question that I had to pose to myself was, do we care more about convicted drug dealers or the health and well-being of our children in our neighborhoods. The question was for those of us who demanded drug dealers serve their full sentences. This revised bill strips the language that could have allowed the release of as many as 16,000 convicted crack dealers and drug offenders who would have been released into our communities under the original bill.

The result of this negotiation is pro-community, pro-law enforcement, and pro-American.

Mr. Speaker, I believe we must put the rights of our communities before those of the criminal. I rise today to urge my colleagues to support this revised crime bill and to move forward.

Mr. McCOLLUM. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia [Mr. COLLINS].

Mr. COLLINS of Georgia. Mr. Speaker, I rise in opposition to the bill and in support of the motion to recommit.

Mr. Speaker, I rise to oppose the conference report on H.R. 3355.

Mr. Speaker, "What we have here is a failure to communicate." This quote comes from a 1970's prison movie in which a prison warden thought the prisoners were missing the point of their incarceration. Mr. Speaker, the criminals that control our streets today have similarly missed the point of our crime control efforts. It is high time we pass a crime bill that sends the message to the criminals of this country: If you do the crime, you will serve the time.

The crime control debate has come full circle. With the bipartisan alternative, we are once again focusing on the two most important elements of effective control of criminals: Putting an end to the turnstile justice system through free and full funding of State prisons and habeas corpus reform.

Wesley Smith accurately identified the problem in a recent article appearing in the National Journal: Nobody knows better than the criminals that they can litigate the system to death and avoid the death sentence for up to 20 years.

Prison funding.—The people in the Third District have been calling for real crime control, and that means building more prisons to take the criminals off the streets.

Our judicial system has put the rights of the criminal in front of the rights of the victim. Judges concerned about prison overcrowding has led to the release of criminals before they have served even half their sentence.

We must fully fund the efforts of the States to build and maintain an adequate prison system that refuses to release a violent offender before his time is served.

Habeas corpus reform.—Wesley Smith makes the point in his article that in 1966 prisoners filed 218 suits in Federal court claiming inhumane treatment and overcrowded prisons. This threw open the turnstile justice system that is responsible for the skyrocketing repeated violent crimes. By 1993, prisoner suits had increased twentyfold. The litigation explosion has cost the States hundreds of millions of dollars in legal fees, money that should be spent on incarceration.

The bipartisan alternative makes the changes necessary to stop the endless appeals process for death row inmates and convicted felons that bog down courts and delay executions.

I have attended two executions in my home State of Georgia, and it took 15 years to bring these two coldblooded murderers to justice. These delays and appeals send the wrong message to criminals. They must be made to understand that once they are sentenced, the punishment will be carried out swiftly and efficiently.

The bipartisan alternative targets the crime control efforts that are effective and agreed to by a vast majority of the Members and the people. Let us pass what we agree on and talk later about what we cannot agree upon. The victims deserve this much.

Mr. McCOLLUM. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. KNOLLENBERG].

Mr. KNOLLENBERG. Mr. Speaker, I rise in opposition to the conference report and urge strong support for the motion to recommit.

Today, we again vote on the omnibus crime bill. This is the same old, fatally flawed piece of social welfare legislation that the Democratic leadership and President Clinton felt the American people deserved 10 days ago. They believe that a $30.2 billion package is more palatable to taxpayers than a $33 billion version.

Rather than objectively seeking to improve the nuts and bolts of our criminal justice system, the bill before us today is still only an unfocused mish-mash of trickle-down Government programs. It offers no evidence that its provisions will be effective in fighting crime. It suggests no overall strategy, and it sets no priorities.

Indeed, this crime bill is a flawed product of a flawed process. The President and its House authors used the bill as a goody basket to dispense favors to key Members and special interest groups—rather than judging its components strictly on their ability to deter crime.

We need to do something about punishing violent criminals in our community. We need more money for police officers and prisons. This is why I strongly support the bipartisan motion to recommit which will be introduced by Congressmen BREWSTER and HUNTER. It is a fat-free, crime-control measure that does not increase social spending, impose unfunded mandates or increase Federal control over local matters.

I will vote against the present crime control conference report, just as I voted against the crime bill rule 10 days ago and the original House crime bill 4 months ago. It is my greatest hope that once we deal with this piece of legislation that we can move forward and tackle this issue in a much more reasonable, responsible, and bipartisan manner.

□ 1740

Mr. McCOLLUM. Mr. Speaker, I yield 2 minutes to the gentleman from New Mexico [Mr. SCHIFF], a member of the committee.

Mr. SCHIFF. Mr. Speaker, a number of Members who supported the previous bill have taken the floor today to say that today's conference report, today's bill, is a better bill. That then raises the question, why did they support the last bill? I think the answer to that is, they did not believe that the last bill could be improved, that the effort would be made to do so.

However, we demonstrated in the House of Representatives a week ago that it could be improved. By the vote that we took to send the bill back to conference, Mr. Speaker, I believe we have a better bill today than we had a week ago.

Mr. Speaker, I want to sincerely congratulate both the Republicans and the Democrats who worked on the bill. Nevertheless, Mr. Speaker, if we can improve it after two all-night sessions, I believe it can still be improved more if we take some more time.

For that reason, Mr. Speaker, I oppose the conference report that is on the floor today. That does not mean I oppose a crime bill, of course, but I believe that we have demonstrated, those of us who voted to send the bill back to the committee, that it can be improved, that it was improved, and I believe it will be still further improved if we work on it further.

However, the question arises, what about the need to fight crime right now? I believe that that need is met by supporting what will be introduced by the gentleman from Florida [Mr. McCOLLUM] as a motion to recommit the bipartisan Hunter-Brewster bill. This will provide funding to police and to prisons and to the Border Patrol immediately, and those are the areas that time after time after time are so often publicly mentioned as in need of that kind of support.

Mr. Speaker, the criticism of that alternative is, it does not include everything. There are many Members who want to see much more enacted to assist law enforcement, and I agree with that. As a former career prosecutor, I believe efforts against career criminals are an extremely important tool for law enforcement. I support the strongest three-strikes-and-you-are-out provision we can write, and in some violent crime cases, two strikes.

In conclusion, Mr. Speaker, I think that alternative will get the most funding going where it is needed immediately, while we work on the rest of the bill.

Mr. BROOKS. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Colorado [Mrs. SCHROEDER], a distinguished member of the Committee on the Judiciary.

Mrs. SCHROEDER. Mr. Speaker, I sincerely thank the chairman of the committee, and I thank him for the strong leadership these last few long days, and all the people who worked very hard to make this an American crime bill. I think it is very important, Mr. Speaker, because we know if we do not work to prevent crime, we are really working to encourage it.

For people who say these prevention programs have not been tried and true, they have not listened to their local people, the local mayors, the local DA's, the local sheriffs, the local prosecutors who are saying "We need more prevention, not less."

Mr. Speaker, this bill is about balancing whether we are going to try and build the next generation or whether we are just going to keep building more and more jails for them. It is a balance between the two. It is giving these kids a hand up if they will reach out and take it, and if they will not, the jails will be there for them. We are really putting it on the line for the first time in 14 years.

It is also very historic in that for the first time we are putting resources in the resources-starved area of domestic terrorism that is so rampant in this country. We know there is just a real dearth of any kind of information about that, and the policing of that has been very, very poor.

Mr. Speaker, this is also a handout to communities to try and help train police, to help with more shelters, to get more 1-800 numbers, and to stop violence when it starts in the home and only tends to make more young criminals in the future.

Mr. Speaker, I think this is as balanced a bill as we will probably get. I liked the other bill better, to be perfectly honest. We are never going to get anything that is perfect here, but this is something that both sides of the aisle have worked on, and that the people who are in the field, not Charlton Heston, but the people in the field, have told us we need. We really ought to listen to them, because they are on the front line and they are the ones that are having to take the hits.

Mr. Speaker, I hope we have a resounding victory for this, and I think America will be very happy we finally listened.

Mr. McCOLLUM. Mr. Speaker, I yield such time as he may consume to the gentleman from Louisiana [Mr. LIVINGSTON].

Mr. LIVINGSTON. Mr. Speaker, notwithstanding my sponsorship of three-strikes-and-you-are-out, I oppose the conference report, and I urge an aye vote on the motion to recommit.

Mr. McCOLLUM. Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland [Mr. BARTLETT].

Mr. BARTLETT of Maryland. Mr. Speaker, because I am strongly supportive of a good crime bill, I rise in opposition to the conference report and in support of motion to recommit.

Mr. McCOLLUM. Mr. Speaker, I yield 1½ minutes to the gentleman from Texas [Mr. SARPALIUS].

Mr. SARPALIUS. Mr. Speaker, first it was the Brady bill. I remember standing here behind this podium and making the statement that if we pass that bill, it would be the beginning of a series of gun control bills. Now it is assault rifles. They said it was only 19, but the Bureau of Alcohol, Tobacco, and Firearms has said it is 180; that it would affect 50 percent of the gun owners in this country. What will be next?

Mr. Speaker, there are those in this Chamber who wish that nobody would own guns in this country except the drug dealers and the criminals, or we would have a gun law just like what we have here in the District of Columbia, where it is a felony to own a gun. It is against the law. Guess what city ranks No. 1 in homicides and murders? It is this city.

Mr. Speaker, we will not stop people from killing people by thinking that we can outlaw guns. I am offended by some of the Members in this room who have accused me and some of my colleagues, that the reason we are voting against this bill is because of the gun lobby.

Let me say, it is not easy being a Democrat voting against my President and voting against my party. However, just within the last hour in my office, my phone calls from my district are running 16 to 1 against it. I am voting against this bill, and I am voting for the motion to recommit, because that is what my constituents think is in the best interest.

Mr. CASTLE. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Oregon [Ms. FURSE].

Mr. FURSE. Mr. Speaker, along with the sheriffs and police chiefs of my district, I rise in strong support of the crime bill.

Mr. Speaker, I want to take this opportunity to voice my support for the crime bill. It is a bill which is both tough and smart. It combines strong prevention initiatives, such as funding for antigang programs, and protection against domestic violence, as well as tough on crime measures like "three strikes and you're out" and truth in sentencing.

I have been continually meeting with people and working on legislation regarding crime. Earlier this year I sent a survey on crime to the residents of my district and the message from Oregon was clear: People are worried about crime, and want action.

It would be wrong to pass crime legislation without first consulting with those people who are on the front lines everyday. To help advise me on these issues, I have developed strong ties with the law enforcement community in my district. I meet regularly with two law enforcement task force groups. The experts in this field want more prevention, more money for prisons and they are tired of being outgunned.

I am a member of the Congressional Law Enforcement Caucus here in Washington, DC. This bipartisan caucus serves as a sounding board for the law enforcement community to present ideas to the U.S. House of Representatives, and as a source of information concerning policy and grants for the law enforcement community.

While this crime bill is not perfect, I feel that it's a balance between working to stop crime before it occurs, and severely punishing those who have broken the law. I believe that only with a combination of prevention and punishment can we make our streets and homes safe and secure.

The provision in the crime bill which I most oppose is the one which expands the death penalty to over 60 more offenses. One reason I am against this provision is because I am concerned that the death penalty is not always applied in a racially fair manner. I voted in favor of Representative KOPETSKI's amendment to strike the death penalty from the crime bill and replace it with life imprisonment. Unfortunately, this proposal did not pass. I am also concerned with other provisions affecting the rights of due process guaranteed under the fifth amendment. Despite my concerns, I am putting aside my personal views and voting for the crime bill because it will help to reduce crime in my district and my constituents have clearly indicated that they support this legislation as a whole.

I am especially pleased that my Domestic Violence Community Initiatives Act was included in this bill. This act will help to break the tragic, and often deadly cycle of abuse. It is vital we make the place that should be the safest—one's own home—safe again. My domestic violence community initiative provides grants to local groups working together to prevent and stop domestic violence. It requires police, victims' advocates, medical and other community organizations to develop a strategy to begin to solve this problem.

There are two other elements in the crime bill that I worked particularly hard to pass: truth in sentencing and the assault weapon ban.

The State of Oregon already has truth in sentencing and it works. The truth in sentencing amendment helps keep violent offenders off the streets longer. I worked with the author of this amendment, Representative CHAPMAN of Texas, to bring this important issue to the House floor and am pleased that it was included in the final version. It also includes important funding for the building and expansion of prisons so violent offenders are not back on the streets simply because prisons run out of room for them.

Lasty, I actively participated in passing the assault weapon ban. I met with many of my colleagues, spoke out for this ban on the House floor and in news conferences to make sure the House did not bow to special interests. The American people overwhelmingly support this legislation and it is in their interest that I support this ban.

I commend the conferees for putting together a conference report that addresses all sides of the crime issue, and I look forward to President Clinton signing this much needed legislation into law.

Mr. CASTLE. Mr. Speaker, I yield 1 minute to the distinguished gentleman

from Massachusetts [Mr. TORKILDSEN], someone who has been so helpful in this area.

Mr. TORKILDSEN. Mr. Speaker, 10 days ago I stood with the majority of House Members to oppose a rule on the conference report. I did so out of concern with the process. This body had little or no opportunity to examine that measure, and the few details that were known were not reasons to support rushing the bill to the floor.

However, Mr. Speaker, today we have a conference report that, thanks to the work of the gentleman from Delaware [Mr. CASTLE], the gentlewoman from New York [Ms. MOLINARI], and others contains significant improvements over what was proposed last week. Social spending has been cut by $3.2 billion, while retaining the same amount of funding for hiring police officers and increasing funds for new prison construction.

Importantly, Mr. Speaker, this new bill is much tougher on criminals. By tracking sexual predators and prohibiting the early release of drug dealers, this measure will do more to help battle serious crime. Mr. Speaker, this new bill also contains block grants so local communities will have a say in crime prevention programs.

This conference report is not perfect, Mr. Speaker. It does not solve every problem in our criminal justice system, but it is a major step in the right direction. I urge all my colleagues to support passage of this significant legislation.

Mr. MCCOLLUM. Mr. Speaker, I yield 1½ minutes to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Speaker, I rise in opposition to the report. I also rise to say that I have been surprised and offended by some of the comments that have been made on the floor today, comments that infer that anyone who opposes this bill is automatically a captive of special interests.

Mr. Speaker, I am opposed to the bill because I believe it is a bad bill, and because I believe that most of the people whom I represent are opposed to the bill, as well. There are a number of reasons, I think legitimate ones, to be opposed to this bill, and they have nothing to do with special interests: federalization of crime and crime control.

Mr. Speaker, crime control is going to happen in the local area. This bill adds to the amount of regulation that the Feds will have over local folks. Only 5 percent of the crime is in the Federal area. We are not going to change that.

Spending, we do not have $30 billion to spend. It is supposed to be taken from reductions in the number of Federal employees. Let us see how much of that happens, and how many claims there are already to those savings. I think a number of them.

Certainly the idea of social programs is still there. I wonder why we should take the model that has been used so successfully in New York and Washington, DC, and apply it to the rest of the country.

I am a little offended by the idea that anyone who opposes this bill is suddenly designated as being driven by special interests. I oppose it. I plan to vote for the motion to recommit, because I think it is best for the people of Wyoming. I think it is best for this country.

□ 1750

Mr. BROOKS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY. Mr. Speaker, I rise in strong support of this bill.

Mr. BROOKS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, I rise in strong support of the conference report and in strong opposition to the motion to recommit and the cynical politics it represents.

Mr. Speaker, the crime bill we are about to vote on is the work of 6 years—a careful compromise designed to attack crime in a balanced and comprehensive fashion.

The bill before us will provide $30 billion to fight crime, with more than 75 percent of that total going to State and local law enforcement. It bans assault weapons—weapons that have given criminals greater firepower than cops. And it provides $6.9 billion to attack the root causes of crime and prevent it before it happens.

The motion to recommit guts this approach. It strips out the assault weapons ban. It cuts $1½ billion from the funds for State and local law enforcement. It carries no death penalty provisions. It lacks the balance, the vision, the comprehensive approach of the bill we have been working on for the past 6 years.

Vote down the Brewster-Hunter's last-minute, piecemeal approach. Defeat the cynical politics it represents. And pass the real crime bill.

Mr. BROOKS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California [Ms. SCHENK].

Ms. SCHENK. Mr. Speaker, I rise in strong support of the conference report and in opposition to the motion to recommit.

Mr. Speaker, the conference report will put more police on our streets. I will do so because it bans 19 specified types of semiautomatic assault weapons. I will do so because it will help combat violence against women.

But, Mr. Speaker, I will also support the conference report because it still contains provisions for some significant crime prevention measures such as the Local Partnership Act, which are important to cities like San Diego. I want to quote a portion of a letter I received from Susan Golding, the Republican mayor of San Diego. She wrote in a letter to me after this bill passed the House that "San Diego is actively developing and implementing measures to combat crime in our streets and schools; the substantial financial assistance provided by this legislation will be critical to our ability to continue this effort for our citizens."

Mayor Golding and San Diego's chief of police Jerry Sanders have asked that I do everything I can to assure that the Local Partnership Act remain in the conference report, and I will do that today by opposing the Hunter motion to recommit this bill and strike this and other crime prevention programs.

Mr. Speaker, I urge my colleagues to oppose the motion to recommit and support the conference report on H.R. 3355.

Mr. Speaker, I include a letter in support of the Local Partnership Act and the letters from Mayor Golding and Chief Sanders for the RECORD, as follows:

SAN DIEGO COUNTY,
BOARD OF SUPERVISORS,
July 12, 1994.

Hon. JOSEPH R. BIDEN, Jr.,
U.S. Senator,
Washington, DC.

DEAR SENATOR BIDEN: As a member of the conference committee reconciling differences between the House and Senate versions of the omnibus anti-crime bill, you have the opportunity to enact legislation which would significantly assist state and local governments in their efforts to combat crime. Two issues addressed by the bill are particularly important to the County of San Diego: (1) the proposed "Local Partnership Act," and (2) a proposal to manage the incarceration of illegal aliens convicted of violating state laws. The County supports the House position on these issues in the final conference agreement on the crime bill.

Local Partnership Act.—The Local Partnership Act would authorize the formula distribution of $2 billion to local governments for the next two Federal fiscal years. If Congress were to appropriate the full $2 billion, the San Diego region would receive over $18 million, and the County of San Diego would receive $6 million of that amount. A local match would not be required, and local government would have broad discretion in tailoring programs to local needs and priorities.

The Local Partnership Act recognizes both the fragile financial condition of many local governments and the key role that local governments play in apprehending, detaining, adjudicating, and supervising persons who violate the law. The Act would allow the County and the region's cities to bring added resources to bear on a major problem in this area. An ongoing project to test new arrestees shows that over 80% of those persons had detectable amounts of illegal drugs or alcohol in their bodies at the time of booking. Increased education and treatment could reduce the incidence of substance abuse and abuse-related crime.

Detention of Illegal Aliens Convicted of State Crimes.—The House version of the anti-crime bill would compel the Attorney General to either compensate states and local governments for the costs of incarcerating sentenced illegal aliens, or to take custody of those persons so they can serve their sentences in federal prisons.

At any given time, the County has at least 600 prisoners under INS hold. The cost of housing these prisoners is several million dollars a year. In addition, these prisoners

exacerbate the overcrowding problem in our jails. The County is under court order to keep its jail population below a specified number. Additionally, the Federal government has not provided funds to pay for the costs of criminal illegal aliens incarcerated in California prisons. It is estimated that the costs of maintaining more than 17,000 criminal alien prisoners is over $300 million per year. These are funds that could have gone to county governments to address a wide range of local needs, including overcrowded jails.

Conclusion.—The Local Partnership Act, and the federal government's fulfillment of its responsibility for incarceration costs caused by illegal immigration, would greatly benefit the residents of San Diego County. Please include these provisions in the final version of the omnibus anti-crime bill.

Sincerely,

PAM SLATER,
Chairwoman.

CITY OF SAN DIEGO,
POLICE DEPARTMENT,
San Diego, CA, June 9, 1994.

Hon. LYNN SCHENK,
House of Representatives,
Washington, DC.

DEAR CONGRESSMEMBER SCHENK: As you are aware, a House-Senate Conference Committee is currently meeting on the Crime Bill.

The Crime Bill passed by the House includes authorization for a Local Partnership Act. This provision would allocate $2 billion directly to local governments: San Diego's allocation would be $5,230,840. These funds are extremely important to the City of San Diego, and can be used for a variety of programs such as education, substance abuse treatment, jobs programs to prevent crime, and coordination of other crime prevention programs.

I am writing this letter to request that you contact the conferees to make sure that this provision is included in the conference agreement on the Crime Bill.

Thank you for your assistance and support.

Sincerely,

JERRY SANDERS,
Chief of Police.

CITY OF SAN DIEGO,
San Diego, CA, June 7, 1994.

Hon. LYNN SCHENK,
House of Representatives,
Washington, DC.

DEAR CONGRESSMEMBER SCHENK: The Crime Bill recently passed the House includes an authorization for the Local Partnership Act. Through this provision, it is contemplated that the City of San Diego would receive $5,230,840, which could be used for a wide variety of crime prevention efforts, including education, substance abuse treatment and job training programs. As you know, the City of San Diego is actively developing and implementing measures to combat crime in our streets and schools; the substantial financial assistance provided by this legislation will be critical to our ability to continue this effort for our citizens.

I write, therefore, to urge you to contact the conferees in the House and Senate who will be reviewing this legislation, and make sure that the Local Partnership Act—with the above allocation for San Diego—is included in the conference agreement on the Crime Bill. Your efforts in this regard will help us provide a safer community for all San Diegans.

Sincerely,

SUSAN GOLDING,
Mayor.

Mr. BROOKS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Georgia [Ms. MCKINNEY].

Ms. MCKINNEY. Mr. Speaker, I rise in strong support of the conference report and in opposition to the motion to recommit.

We gather here today on the Sabbath to pass a crime bill. Since the time of Cain and Abel mankind has had a need for laws that fairly govern society. We come here today to pass a crime bill that contains numerous new death penalties. There is tremendous irony in passing the new death penalties on the Lord's day.

However, I am willing to vote for the new death penalties and the other tough measure contained within this bill because that is what the majority of my constituents want. But, they also realize that crime cannot be attacked only after the fact.

There are those who believe that a crime has to be committed and that person be caught before society can do anything. Children should not be afraid to go to school or to the street corner. We need to take the guns and knives out of the idle hands of America's youth and replace them with books and work, and yes, even basketballs.

The prevention money in this bill has been cut by $2.1 billion. That wasn't enough for some who claimed to have negotiated in good faith. I am proud of the leadership of this House for negotiating in good faith with the Members from the other side. It is hard to bargain with those who smell a political victory. Let us cut the politics and pass the crime bill.

Mr. BROOKS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, I rise to put on the RECORD my statement in support of the conference report, the tough and realistic conference report, and in opposition to the motion to recommit.

Mr. Speaker, I realize that this bill is not the perfect bill. This bill has provisions which trouble me and trouble my friends in the Congressional Black Caucus, especially the unprecedented expansion of the death penalty. I urge the administration to follow through on its promise to ensure that there is racial justice in our judicial system. I urge the administration to ensure that the three-strikes provisions are applied fairly and equitably. And, finally, I urge the administration to prioritize funding for the prevention portions of the legislation over funding for prisons in the appropriations process.

The reason I am voting for this bill, despite my reservations about the death penalty and three-strikes is that, for once, we have a crime bill that is balanced. We have a crime bill that would both increase the security of our citizens and break the cycle of violence that is plaguing our Nation's cities. With 100,000 more cops on the beat, we are taking back our communities from gangs and drug dealers. With the assault weapons ban, we will make sure these policemen are not outgunned while performing their duties, and ensuring that in our offices and on our streets, we are removing weapons whose sole purpose is indiscriminate mass killing.

But more than just stopping criminals and taking away their weapons, this legislation honestly addresses the need for crime prevention by targeting more than $7 billion for community programs intended to prevent crime.

These programs will address serious societal needs. There is $1.8 billion to stop violence against women, including establishing the domestic violence hotline and expanding civil rights and privacy protections for women victims of violence.This bill would target our at-risk youth populations, by authorizing funds to enhance innovative State and local partnerships and model crime prevention programs, targeting for education, economic development, and anti-gang programs, and for midnight sports leagues which give hope and alternatives to our youth. By educating our youth and giving them an opportunity to grow up safe, secure, and in a supportive environment, we are taking bold steps to remedy the decades of neglect of our youth that previous administrations saw as affirmative policy.

Mr. Speaker, we finally have a crime bill which honestly attempts to address the root causes of crime. I commend the conferees for crafting this balanced legislation, and with the reservations I expressed earlier, I urge passage of H.R. 3355.

Mr. BROOKS. Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland [Mr. CARDIN], the former Speaker of the Maryland legislature.

Mr. CARDIN. Mr. Speaker, I rise in strong support of the conference report and against the motion to recommit.

The conference report before us today takes an important three-pronged approach to fighting crime. It funds police, establishes tough enforcement measures to deal with criminals and sets up new prevention programs which will help keep young people from turning to a life of crime in the first place. By attacking crime from every angle, we can help ensure the safety of our neighborhoods.

A key initiative in this conference report is the "cops on the beat" provision which provides $8.8 billion in grants to help States and local governments hire 100,000 new police officers. This bill also provides almost $10 billion to help build new prisons, expand existing ones, and to establish boot camps for nonviolent first-time young offenders.

This crime package also includes strong law enforcement. It addresses the escalating problem of repeat offenders with its three-strikes-you're-out provision. In response to the calls of police departments and law enforcement officials from around the country, the bill bans 19 assault weapons and limits gun clips to 10 rounds. Furthermore, the bill will provide tuition assistance to individuals in exchange for their commitment to join police departments upon graduation.

The serious problem of domestic violence is also addressed in this crime package. The crime bill creates programs which work to reduce the incidents of domestic violence and establishes new Federal crimes with stronger penalties for those who commit these offenses. In addition, a new civil rights violation is created which will allow a victim of domestic

abuse to sue the abuser. Furthermore, provisions in this crime bill expand rape shield laws and require registration and tracking of sexually violent offenders released from prison.

Prevention measures are also critical to fight crime. This crime bill increases funding for recreation and antigang programs, employment opportunities, and other projects which present youngsters with alternatives to criminal activity. These programs will reach elementary and secondary school children before they become involved in crime.

Last spring, I held townhall meetings throughout my district on anticrime initiatives. Many of the suggestions brought forward by my constituents for Federal action to fight crime are included in this legislation.

No one bill can stop a societal problem that has so many roots. But this crime bill takes a tough, comprehensive approach to crime. With more cops of the beat, three-strikes-and-you're-out, more prisons, tough sentencing, restrictions on assault weapons and a strong prevention program, this bill contains more anticrime measures than any Federal legislation ever passed.

I urge my colleagues to support the conference report on H.R. 3355. Let us address the American people's No. 1 concern.

Mr. BROOKS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California [Ms. ROYBAL-ALLARD].

Ms. ROYBAL-ALLARD. Mr. Speaker, I rise in strong support of the conference report and in opposition to the motion to recommit.

Mr. Speaker, I am particularly opposed to the proposed elimination of the Violence Against Women Act.

Clearly, the Violence Against Women Act is an essential first-step to ending the devastating physical and emotional damage caused by domestic violence. To those who argue that the initiative is unnecessary, I point out that the majority of funding designated for these purposes will assist police and prosecutors at the State and local levels. This will allow law enforcement authorities to more effectively prosecute these crimes, which are now the number one cause of injury to women between the ages of 15 to 45.

The Violence Against Women Act also earmarks a significant amount of funds to build new battered women's shelters and to expand the capacity of existing shelters. Anyone familiar with this issue knows that millions of women and their children remain in life-threatening situations because they lack access to protective shelter facilities.

The act also establishes a nationwide domestic violence hotline to link victims throughout America with their nearest source of help, as well as a FBI database of sexual predators and stalkers to more effectively prevent and prosecute interstate domestic violence.

The proposed elimination of these provisions is morally unjustifiable and indefensible public policy. The women and children of America are crying out for help. We cannot allow their cries to go unanswered. I urge my colleagues to support the Violence Against Women Act by voting to defeat the motion to recommit and voting for final passage of the crime bill.

Mr. BROOKS. Mr. Speaker, I yield such time as he may consume to the gentleman from North Dakota [Mr. POMEROY].

Mr. POMEROY. Mr. Speaker, I rise in support of the conference report. I also strongly oppose the motion to recommit.

Yesterday saw two bipartisan efforts unfold to address the crime bill.

One effort—led by my colleague from Delaware, MIKE CASTLE—was a sincere honest effort to improve the crime bill, cut back its expense, and tailor its resources to the areas where the investment of the taxpayers we represent will be most effective.

Those involved in this effort, I particularly cite the Republicans who were operating not for partisan gamesmanship but to make a constructive contribution on an issue so important to this country. The work of this House would be improved substantially if we had more of this bipartisanship as we address the issues that face us.

In sharp contrast, a second bipartisan effort known as the Brewster-Hunter motion to recommit unleashed a desperate late bid to kill the crime bill because of the manufacturing ban on assault weapons it contains. It makes only the thinnest pretense at seriously addressing the crime bill. The motion to recommit is designed to kill the bill as even a quick look at its provisions make clear.

First it eliminated two provisions which each enjoy broad public support.

The death penalty, and the manufacturing ban on assault weapons are supported by overwhelming numbers on popular polls.

Why in the world would someone want to take out these provisions? While there are a few who oppose both sections, most in favor of Brewster-Hunter will come down in favor of the death penalty but against the manufacturing ban on guns. At this desperate last hour they will sacrifice the death penalty because preserving the unrestricted manufacturing of assault weapons has become all important—all consuming.

A final provision in the Brewster-Hunter motion reveals its true character as it strips out funds required to make a tough national response on crime possible.

The motion to recommit strips from the bill all additional funding for prosecutors. In the months leading up to this vote, I spent a lot of time listening to law enforcement officials in North Dakota. They told me that getting tough on crime required a system-wide approach. We need more police on the street. We need more prison capacity for the additional criminals we'll be locking up, and for goodness sake, we will also need more prosecutors to convict the thugs these new cops bring in under arrest if we are ever going to get them behind bars for the long terms they so richly deserve.

Shortchange the prosecutors and you will increase plea bargaining. Shortchange the prosecutors and you will be getting soft on crime because criminals will be set free for want of our ability to convict them.

The local law enforcement officials I met with, praised the Byrne grant program because it let them apply Federal resources to local crime problems without oppressive federal mandates. Byrne grants are the way we say to local law enforcement across the country "you know your job better than Washington—here are desperately needed resources to help—apply them as you see fit—not as some congressional committee staffer may want to mandate."

Yet Byrne grants are stripped out of the bill by Brewster-Hunter and this motion to recommit will be supported by some of those who speak the loudest against Federal mandates. Why? Because again, preserving unlimited manufacture of military-style assault weapons is more important to these Members than giving local law enforcement the tools needed to protect Americans while minimizing risk to police officers.

A final point of Brewster-Hunter I find especially objectionable involves eliminating $300 million for battered women's shelters. Three weeks ago I toured the shelter in Bismarck, ND. This facility—a converted single family house now holds eight families—women and children who have literally been battered out of their homes. Every effort was made by the shelter to make the facility cheerful and as homey as could be. However, operating on a shoestring, this simply was not possible. There was a very limited space, families with nothing in common but being victimized by domestic violence were literally on top of one another, and baby cribs—normally a sign of such precious joy in our lives—were crammed into corners. What's more, those in the shelter were the lucky ones. Countless abuse victims across the country are trapped in their emotionally devastating and all too often life-threatening situations because they simply have no where else to go.

Was $300 million for battered women's shelters pork—required to come out of the crime bill. Hell no it was not pork and anyone voting against this funding should ponder long and hard how such a cut can be justified. In my belief even those feeling strongly on assault weapons should not vote against helpless victims of domestic violence as the Brewster-Hunter motion of recommit requires them to do this afternoon.

As we now prepare to vote I urge you to support the bipartisan crime bill strengthened and improved by the intense negotiations of the last 48 hours, but to reject the torpedo aimed at the crime bill in the guise of the Brewster-Hunter motion to recommit.

Mr. MCCOLLUM. Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri [Mr. EMERSON].

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

Mr. Speaker, I rise in very strong support of the motion to recommit and in opposition to the conference report.

This whole exercise has been a fraud on the American people. For example, the President and the liberal leadership have promised 100,000 cops on the streets. In reality, when you take into account the training, pensions, and other manpower factors per officer it only boils down to around 20,000. Why can we not talk in realistic terms? The administration likes to hold a carrot of expectation out there knowing it cannot meet that goal.

Second, I completely disagree with the gun ban. These are not machineguns or rapid fire street sweepers that they have been painted in the media. Many of these semiautomatic weapons are like the firearms many folks in southern Missouri have for hunting, shooting, and collecting. We would be doing the public a world of good if we concentrated on giving criminals mandatory minimum sentences for any offenses committed with guns, like an alternative, much leaner, true bipartisan bill I supported going into the vote. Further, mandatory minimums do not take $30 billion to implement.

The more I have studied this so-called crime bill, the more obnoxious it becomes—bloated with social spending on new Federal programs and full of loopholes which protect the criminal and not the victim. The administration knows it is playing with funny money because they cannot fund the full 30 billion dollars' worth of promises. And finally, it is farfetched, illusory, to believe the President's claims that this is the strongest anticrime initiative ever.

Mr. MCCOLLUM. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Speaker, studying this bill, I have come regrettably to the conclusion that this is probably a good crime bill for urban America but it is not a good crime bill for all of America and I think that is disappointing. The fact is that there are three programs I would like to give as an example.

First of all the $8.8 billion spent for the cops on the streets. That is competitive grants to the Attorney General. We do not have grant writers in smalltown America. Then to require that we are going to turn that over to property taxes in years 2 through 5 does not make any sense.

Second, there is $7.9 billion in prison grants but the criteria are such that my own State of Wisconsin will not even qualify to be able to compete for that type of money.

Third, there is $5.9 billion being spent for crime prevention programs. I will point out the biggest of those programs known as the Local Partnership Act is based on a formula that is calculated on the per capita number of violent crimes.

Ladies and gentlemen, crime is a real problem in this country, but this bill is not a real solution against crime for all of America. Vote for the motion to recommit.

Mr. CASTLE. Mr. Speaker, I yield 30 seconds to the distinguished gentleman from Massachusetts [Mr. BLUTE].

Mr. BLUTE. Mr. Speaker, 2 days ago a group of men rushed into an apartment building in Worcester, MA, and shot four people in broad daylight. One man was killed in the attack that resulted from another drug deal gone bad on the streets of America.

In February of this year, the Chief of Police of Paxton, MA, another town in my district, was gunned down by three men who as it turned out were released early from prison because of overcrowding. The 38-year-old chief left a wife and three children. Mr. Speaker, at the funeral as I looked at their eyes, I vowed to fight for a crime bill in the Congress of the United States. We need more police, we need tougher sentences and we need more prison space. Pass the bipartisan conference report.

Mr. MCCOLLUM. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. KIM].

Mr. KIM. Mr. Speaker, I was a little concerned about the bashing going on this morning to those who oppose this bill, been called such as we have been bought out by NRA, calling us gorillas. I resent that.

Let me tell why I am opposed to this. First I called every police chief in my district, 41st District of California. They all oppose this. Why? Because there are too many conditions attached to this grant money. They would rather not apply for this. It is going to cost them more money to get a benefit out this grant. Second, we have a perception that our district will not get anything out of this thing. They are probably right. We are located about 40 miles away from Los Angeles. They know they are not going to get anything out of this grant. This is for someone else. We are tired of subsidizing someone else all the time. Why? Because of a lack of trust. They do not believe, they do not trust the Federal Government.

My second reason is, 85 percent of people in my district oppose this bill. They are not all NRA members, I can tell you that. Why? Because it is excessive social spending. It is a redundant program we have. We have 266 programs already. Adding another 30 more? We do not even know what program we have. We do not even know who is controlling this anymore.

Besides in our district we are not going to get anything out of this program. We do not have any midnight basketball program in my district. So those programs it seems to us are irrelevant to crime. Simply give us money, we will spend with the best of them. That is why we oppose this.

Mr. Speaker, yesterday an editorial in the Wall Street Journal says that California will lose $250 million in taxpayers' money, New York $238 million, Illinois $105 million, but Arkansas will gain a $44 million windfall. I do not see why California has to subsidize other States such as Arkansas. We have our own crime problem. I think it is better to have an equitable distribution formula. Just give us money without any conditions attached. We know how to spend it.

Mr. BROOKS. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SCHUMER], the distinguished chairman of the Subcommittee on Crime and Criminal Justice of the Committee on the Judiciary. He loves fighting crime and he worked tirelessly to develop innovative approaches to both punishment and prevention, as well as the favorite topic in his life, the gun ban.

Mr. SCHUMER. Mr. Speaker, first I thank the gentleman from Texas [Mr. BROOKS], our chairman, for yielding me the time. He has always been a tough and smart leader of our committee. Even when we go head to head, he has always been fair. I respect the chairman for that.

Mr. Speaker, in the last 2 days, this House has been tested by fire, but good, sound steel only gets tougher when it is passed through flames. In the past few days, Mr. Speaker, we on our side have had to reach out to moderate Republicans. It was painful. And many of us had to give in ways we have not had to give before. But it will produce a bill and it is the way we should go in the future.

□ 1800

This bill has balanced funding for police and prisons and prevention. This was a good, sound, balanced bill when we started. It is a good, sound, balanced bill now.

Balanced does not mean equal, but it does mean a fair share, and the bill is fair. It gives a fair share to each of the basic elements we need to fight crime: police, prevention, and punishment.

Or course the bill has the assault weapons ban we approved in the last conference. The American people want this ban against deadly killing machines, and the American people are demanding we pass it now.

We can all pick at this bill and point to what we do not like and recreate the gridlock of last week, last year and the last decade. But the moment is here, the question is clear and America is watching. A vote for this bill is a vote for a good, tough, smart crime bill. It is a vote for the future. But most of all, my colleagues, a vote for this bill is a vote of confidence. It is a vote of confidence that America can rise above the divisions of party, of race, of class. It is a vote of confidence in the work and the wisdom of this House working as a bipartisan team.

Let us pass this bill and go home with our heads high.

Mr. MCCOLLUM. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Speaker, I rise in opposition to this bill.

Mr. MCCOLLUM. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. OXLEY].

Mr. OXLEY. Mr. Speaker, I rise in strong objection to this anticrime, noncrime bill.

Mr. MCCOLLUM. Mr. Speaker, I yield 1½ minutes to the gentleman from California [Mr. DORNAN].

Mr. DORNAN. Mr. Speaker, my colleagues and visitors, electronically and in person to this esteemed Chamber——

The SPEAKER pro tempore (Mr. HOYER). The Chair will admonish the gentleman that he may not address guests in the gallery or viewers on television.

Mr. DORNAN. Mr. Speaker, I shall not do that again, and please do not take that out of my time.

The SPEAKER pro tempore. The time will not be taken out of the gentleman's time.

The Chair again recognizes the gentleman from California [Mr. DORNAN].

Mr. DORNAN. Mr. Speaker, I have here the readout from our computers in the back of the House and I think the recommit vote is going to be very, very close, very exciting.

But I am a realist, and I think that Republicans will have delivered, I think, a terrible waste of money with some effective parts around the edges to you. Will we get credit and the loyal opposition? No, it will be like NAFTA. It will all be the comeback kid and the stunning victory.

But please, remember, you had 58 votes a week ago Thursday, and you had 55 a few minutes ago, a change of 3, and they were changed by good friends, CHARLIE, and JOHN LEWIS that were changed a week ago during press conferences. So now you have none; during the negotiations, a couple of switches back and forth. We went from 11 to 42, so we will give you the margin of victory if you win.

But I have nine grandchildren you are putting this debt on, and some of it is necessary debt, the moves against violent thugs in the streets, but a lot of it is unnecessary, politically duplicative and a waste of money. Now my nine grandkids cannot put me up there with HENRY GONZALEZ with 25 and RON PACKARD's 27. But we cannot do this deficit spending, these duplicative programs. It is not right.

Vote for the recommit.

Mr. CASTLE. Mr. Speaker, I yield 1 minute to my neighbor, the gentleman from the Eastern Shore of Maryland [Mr. GILCHREST].

Mr. GILCHREST. Mr. Speaker, I rise in support of the crime bill.

I bet there are about 435 people in this House who have the unshakeable opinion that they could improve this bill if they had the chance. But our best efforts have produced the package that is before us, and we are left with only one question: Is this bill better than the status quo? I think the obvious answer to that is yes.

No one seriously believes that we can go back to the drawing board. If this bill is defeated, our overcrowded prisons will continue to release violent prisoners early, our States will continue the fight without help from the Federal Government, and some valuable criminal provisions will be lost.

The label "pork" simply no longer applies to this bill. Who is opposed to the Violence Against Women Act? Have not most Republican crime bills contained prison drug treatment? Are not block grants a Republican, federalist approach to crime prevention? The prevention side of this bill has been consolidated, cleaned up, and reduced to a level which no one would oppose in a less politically charged atmosphere.

If we defeat this bill, say goodbye to the sexual predator provisions, the Dole-Molinari language, truth in sentencing, prison money, victim restitution, law enforcement money, prison money, HIV testing for rapist and all the other strong provisions of this bill. I urge support for the bill.

Let us make those provisions law.

Mr. MCCOLLUM. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. GEKAS], who is a member of the committee.

Mr. GEKAS. Mr. Speaker, this prime-time crime bill which is crafted for purpose of the evening news on television does not fight crime.

On the other hand, what do our people back home feel about the contents of this legislation? In my office, the general complaint has been not about the crime features but rather on the duplication of spending programs. When they learned, that is my constituents, when the learned that we have 25 billion dollars' worth of programs already in place where the dollars are flowing through the pipeline at this very moment on the very same types of job training and youth sports programs that are now contained in this prime-time crime bill, they are and have expressed that they are aghast at what the Congress is doing.

Do we not have a full understanding that the American people do regard overspending and duplication and deficit building as something that has to be stopped? It is the question of not fighting crime that bothers them as much as the Congress' inability to do the right thing with respect to their dollars. They want more policemen, but they do not want policemen to be funded partially by us and then the tax load to be placed on them down the line. That is what happens with the unfunded mandates that are part of the community police funding in this bill.

They do not want the kind of send-back-to-me dollar bill that goes back to Washington and then never gets back to their capacity to fight crime in the city streets.

The death penalty we know about, and many know where I stand on that. There is no use repeating that any longer. I just wanted to build a record now where someday I know I am going to be saying, "I told you so."

Mr. MCCOLLUM. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Speaker, when we began this session we heard an extraordinary speech by the President of the United States in his State of the Union. In that speech he correctly condemned the current state of the social welfare system in America and called upon us to end it as we know it today. He called upon us to reform it in a fashion that would in fact prevent not only the waste, fraud, and abuse in the system, but more importantly, end it as a way of life for too many of our citizens who are condemned to live in that social welfare system.

In that speech he correctly pointed to it as a system that deprives primarily women and children of the right to live a joyous, adventurous life, and instead condemns them to a dangerous and desperate journey. He called upon us to end it as we know it. He called upon us in fact to look at it as a system that breeds criminals, that has bred for us in our center cities and now even in the rural areas for people of all races and colors and creeds a desperate situation.

Today we are attacking crime in America by expanding that social welfare system.

□ 1810

I think we are making a mistake. There are some in this Chamber, some of whom I believe that we have had a very honest and fair debate with, who believe that social welfare spending is the way to stop crime in America. I suggest to you it has not succeeded. In fact, I think our President was correct when he said it does the opposite for us.

I think those of you who believe in expanding the social welfare system will win today, but we really should not win today. We ought to have a bill today that attacks crime by expanding law enforcement, by expanding the capacity of our States to deal with criminals, and we ought to deal sooner or later with true reform in the social welfare system instead of spending more money on it in the hopes crime will go away.

This debate is not about guns. Do not let people kid you. We passed a gun control bill. It is already in the Senate. It can be adopted.

I hope you will vote for the motion to recommit.

Mr. MCCOLLUM. Mr. Speaker, I yield 1½ minutes to the gentleman from New Hampshire [Mr. ZELIFF].

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

Mr. Speaker, the debate today centers around competing visions of what is needed to fight crime in America. Do we accomplish this through feel-good programs and social workers, or do we take a tough, no-nonsense law and order approach.

Do we make excuses for criminal behavior, or do we hold criminals accountable for their behavior.

The Democratic leadership bill, both the original and the modified version

we are debating today, takes the social welfare and pork approach to the tune of $7 billion.

Many of the social welfare programs in this bill are questionable and duplicative of other programs currently available. So-called community schools for dance and art classes, self-esteem and self-awareness seminars, and grants to provide—and this is a direct quote—a "multi-issue forum for public policy discussion." This is crime control?

Some of these social welfare programs are pure pork. The Local Partnership Act, a key element of this crime bill, was originally drafted as part of the President's economic stimulus package in 1993. The LPA will give cash to big cities to use for just about whatever they want, from job training to public works projects.

The Model Intensive Grant Program makes no excuses that pork is the object. The conference report itself says that these grants will address "deterioration or lack of public facilities, inadequate public services such as public transportation, and employment services offices."

Even two of the sections of the bill with which I agree, cops on the beat and prison funding, have strings attached in the compromise bill.

There is a better way. The Brewster-Hunter "Back to Basics" crime bill targets funds to where they are needed most. There is no money for pork and untested social welfare experiments.

The contents of this bill has been stated before, but they are worth repeating. Grants for prisons, grants for state and local law enforcement, border enforcement, registration of sex offenders and community notification, truth-in-sentencing, and death penalty appeals reform.

The choice is before us. Do we want to spend billions of dollars on big city bailouts and social workers, or do we want to make the streets and parks safe for our citizens to enjoy?

I urge my colleagues to support the motion to recommit and the Brewster-Hunter substitute bill.

Mr. CASTLE. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Rhode Island [Mr. MACHTLEY].

Mr. MACHTLEY. Mr. Speaker, tonight we conclude 10 days of renegotiating the provisions of the crime bill. I, like many of my Republican colleagues, 10 days ago voted against the rule, having already voted for the House bill, because I believed then, and I believe now, that we could have had a better bill.

Tonight we have a better bill as a result of the bipartisan work which went on during the past 10 days. We will vote tonight for a vastly different crime bill. It is certainly not a perfect bill.

Each of us, Democrats and Republicans, could rewrite specific provisions much better than perhaps we think are in the bill now. I would have preferred a cheaper bill, but that is not our task tonight.

Our task tonight is to break the gridlock. It is to send a message to the criminals that we are serious about crime. It is to answer the voiceless voices of the victims of crime. Our task tonight is to pass a crime bill, to go home and tell the people of this country that we are sending a message to the criminals of this country that lawlessness will not survive in our streets, that we will take the streets back for our citizens.

Yes, tonight as I vote against the motion to recommit and for this bill, I have great confidence that we are sending a strong message to the people in this country. This is a bill that is not perfect, but it is a bill that deserves both Republican and Democratic support.

Mr. MCCOLLUM. Mr. Speaker, I yield 1 minute to the gentleman from Virginia [Mr. BATEMAN].

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

Mr. Speaker, recognizing full well that the perfect is the enemy of the attainable good, I nonetheless cannot find it in myself to vote for this bill.

I applaud the fact there were negotiations to reach out and make it bipartisan. The effort has failed. It has failed for me because, out of $7 billion of preventive programs, only $370-some million are subject to a block grant.

Even now the police funds will not go to any community whose policing plans have not been approved by those who agree that they are politically correct in Washington. The prison money will not go to the States who do not let the Attorney General determine how their corrections systems should be run and how their prisons should be designed and built.

That is an impossible leap of faith for me to take, and I must continue to oppose the bill.

Mr. CASTLE. Mr. Speaker, I yield 1 minute to the distinguished gentleman from New York [Mr. KING].

Mr. KING. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, 9 months ago I stood in this well and voted against the Brady bill; 4 months ago I voted against the crime bill; and 10 days ago I voted against the rule.

Tonight I am voting for the bill.

I would like to address my Republican colleagues: 10 days ago we scored, we attained a tremendous victory, not just for our party but a victory for the American people. We stopped a bill that had serious deficiencies.

During the last 10 days under the direction of my good friend, the gentleman from Delaware [Mr. CASTLE], and with positive help from our leadership, we changed this bill. We have brought about $3.3 billion in cuts, the overwhelming majority coming from social welfare programs. We have strengthened the bill as far as violence against women, rape, sexual predators, and drug dealers.

We heard the gentleman from New York say it was painful for the Democrats, and it was. Let us take advantage of that pain. Let us not let this victory evade, elude our grasp.

We have attained a victory not just for ourselves but for the American people. Do not let it pass away.

Maybe we have not seen many victories over the years, and we do not know when one is staring us in the face. We have a victory tonight, a victory where we can go back to the American people and say we have a good crime bill, more cops, more prisons; we have cut the social welfare spending.

This is a bill the Republicans should and must support. I ask for a "yes" vote.

Mr. MCCOLLUM. Mr. Speaker, I yield 1½ minutes to the gentleman from South Carolina [Mr. INGLIS], a member of the committee.

Mr. INGLIS of South Carolina. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, earlier on this floor the gentlewoman with the gentle voice from New York City, the gentlewoman from New York [Ms. SLAUGHTER], pointed out that of all of the people in the world that we know of that are put upon, it is the mayors of our cities, and she is exactly right.

But the reason the mayors of our cities are put upon is because we have knocked them over the heads. We have knocked the cities and counties of America over the head with unfunded Federal mandates, and now this Congress is about to come along with a bill scaled down from $33 billion to $30 billion. That is not much movement, but scaled down to $30 billion, offering a couple of aspirin to the mayors of our country, a couple of aspirin for, for example, grant programs for midnight basketball and a grant program for cops on the street.

So now, Members of Congress who want to vote for this, whomp up some compassion. Get those eyes a little bit watering. Get them looking real sad and compassionate, and then reach out your hand with those couple of aspirin to those mayors and say, "We are going to help you. We are going to help you," and then realize that you are the falsely compassionate Uncle Sam who knocked them over the head year after year, taking their money, and now you want to give them a little bit of a little bit of a grant with a whole lot of strings attached.

Let us be more creative. The time has come to be creative; repeal unfunded Federal mandates; free up the localities to fight crime.

Mr. CASTLE. Mr. Speaker, I yield 1 minute to the distinguished gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Speaker, I do not mean to be presumptuous, but I think I have a pretty good idea of what the American people want. They want what we want, to feel secure in our homes, to feel safe in our communities, to, without fear, send our sons and daughters off to school and travel this great Nation of ours. That is what they want.

What does this bill do? This bill provides $8.8 billion for community policing. Will it get 100,000 cops? We do not know for sure, maybe more, probably a little bit less. But it is a commitment, $8.8 billion for community policing, and they want to get the violent criminals off the streets and behind bars where they belong.

The typical criminal in America today serves one-third of his or her sentence. Why? Because they are letting them out early to make room for the next wave of criminals. And $9.7 billion in this bill is for prisons.

It also addresses prevention. Punishment is very important. It should be swift. It should be fair. It should be stern. But we should try to prevent, as much as humanly possible, that crime from being committed in the first place. Sure, punishment is important, but so, too, is prevention.

I stand here proudly in support of this bipartisan conference report. I urge my colleagues to vote "no" on the motion to recommit and stand tall with the American people and support this very important measure. It does this House and our great Nation proud.

Mr. McCOLLUM. Mr. Speaker, I yield 1½ minutes to the gentleman from Michigan [Mr. BARCIA].

□ 1820

Mr. BARCIA of Michigan. Mr. Speaker, I rise in support of a meaningful crime control bill. I rise in support of a bill that provides certainty of sentencing, additional needed resources to local police departments, additional funds for the construction of essential prison space, and for mandatory sentences for the illegal use of firearms.

Unfortunately, I do not believe that the conference report before us today provides us with the type of crime bill I have described. For this reason, I reluctantly must oppose it.

I will also support the motion to recommit so that we can have the conferees consider the back to basics crime bill which I cosponsored along with over 150 of our colleagues. That bill provides more police, more prison space, truth in sentencing, and mandatory penalties for 100 percent of the illegal use of firearms, not for just the one-half of 1 percent that are committed with so-called assault weapons.

I know that some will criticize me for not being sufficiently concerned about crime. Others will accuse me of not supporting the President.

But, Mr. Speaker, while these false and unfounded criticisms will be made, I oppose this conference report because the people I represent in the Fifth Congressional District have urged me in no uncertain terms to do just that.

While this conference report is admittedly better today than it was just a few short days ago—particularly in light of reducing the amount of funding in greater respect of both our budgetary situation and in trying to more effectively target the funding that is provided, it is still not as good as it can be.

I do not believe that we must accept whatever is offered to us or be labeled as soft on crime. I do not believe that there is some artificial deadline that must be met to avoid having the American people think that the Congress is unwilling to act on crime.

I do believe that portions of this bill are in violation of the Constitution. I cannot accept the rhetoric that suggests we need to ban certain weapons in order to deal with crime. I reject this premise for several key reasons.

First, the nearly 200 weapons banned by this bill according to statistics are used in only one-half of 1 percent of all violent crimes. This conference report allows the precedent of infringing upon a constitutional right in the name of crime control and then does an exceedingly poor job of achieving its goal.

Second, professionals within my congressional district—prosecutors and police—tell me that in their experience that these weapons are not used in violent crimes in their jurisdictions. They tell me that this provision offers a false sense of security to Americans weary of crime.

Third, where does it end? We have tried gun registration. That does little to help deal with illegal use of weapons. We have tried waiting periods. Again, it has put the onus on law-abiding citizens and done little for the illegal possession and use of weapons. We have already for a number of years prohibited the ownership of certain types of weapons. Yet these weapons are in the possession of criminals who have used them in crimes despite the fact that they are banned. So we ban some more guns today, and then we can expect that in a few years opponents of gun ownership will come back with a list of only a few more.

Mr. Speaker, the Constitution is too important for us to knowingly ignore. We have taken an oath to uphold and defend the Constitution. I intend to keep my commitment to my oath, and I implore my colleagues to remember that they took the same oath.

It has often been said that the American people are ahead of Congress in knowing what is needed and what is practical. My phones, my mail, and my faxes are screaming that this bill is bad. The constituents with whom I meet cannot believe that the Congress is willing to grasp at straws with good intentions instead of strangling crime with a truly tough and meaningful crime bill like back to basics.

Mr. Speaker, I urge a "no" vote on the conference report and a "yes" vote on the motion to recommit.

Mr. CASTLE. Mr. Speaker, I yield 1 minute to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Speaker, the American people want safety in their homes, schools, and streets. This bipartisan conference report attempts to do that with police, prisons, and prevention.

Mr. Speaker, this conference report contains the Violence Against Women Act, legislation of particular importance to the women and girls of our country.

The Violence Against Women Act, which I introduced last year with Representatives SCHROEDER, SLAUGHTER, and SCHUMER, addresses many of the safety, legal, and judicial issues that women face every day in our society.

The legislation will:

Require all States to enforce protection orders regardless of State of origin and encourage mandatory arrest policies in domestic violence cases;

Provide grants for more effective law enforcement and prosecution strategies, including police training, and for rape and domestic violence prevention programs in schools;

Provide funding for emergency shelters for battered women and their children;

Provide protections for battered immigrant women who are the spouses of U.S. citizens, or legal residents, and their children;

Provide training for judges and other court personnel about rape, sexual assault, and domestic violence;

Make gender-motivated crimes civil rights violations;

Allow local and State criminal justice agencies to access Federal crime information databases for use in stalking and domestic violence cases; and

Require the U.S. Department of Justice and the FBI to collect national domestic violence statistics.

In addition, two other bills I introduced, the National Domestic Violence Hotline Act, which provides funding for nationwide, toll-free, multilingual hotline assistance for battered women, and a fair trial resolution, which allows battered women to present evidence of past abuse in criminal trials—were added to the Violence Against Women Act late last year.

This legislation will have a very real impact on the lives of women everywhere in this country. Every 5 minutes a woman is raped; every 15 seconds a woman is beaten by her husband or intimate partner. Violence is a sad fact of life for women and girls, no matter where we live, work, or go to school.

The Violence Against Women Act will mean safer homes and safer streets for women and girls. For too long we

have tolerated increasing levels of violence against women and girls. For too long we have tolerated the twin evils of sexism and violence. Today, the House of Representatives has said "No more."

Let's not lose the Violence Against Women Act. I urge my colleagues to vote against recommital.

The SPEAKER pro tempore (Mr. HOYER). The Chair will explain the status at this point: The gentleman from Texas [Mr. BROOKS] obviously has the right to close.

Mr. CASTLE. Mr. Speaker, I yield 45 seconds to the distinguished gentleman from Michigan [Mr. UPTON].

Mr. UPTON. I thank the gentleman for yielding this time to me.

Mr. Speaker, there was a popular saying a few years ago: "Are you better off today than you were 4 years ago?" The question for this week instead is: "Are we better off this week than last week?" The answer to that question is "yes."

Mr. Speaker, I voted against the rule that brought this bill up last week as I did today, and I did because it eliminates amendments.

No, this bill is not perfect. Frankly, I would like to see a couple of amendments. But we are beyond that. We are now at the stage of whether or not we are going to vote "yes" or are we going to vote "no." This bill includes money for prisons and cops, it includes money in block grant form for communities. Those are the folks who are on the front lines. Those are the folks who need this money in the form that they can use it with some flexibility.

They know what works, and they know what does not work.

Let us help those communities by making this week a better week than last week.

Mr. BROOKS. Mr. Speaker, I yield 1 minute to the distinguished chairman of the Committee on Energy and Commerce, the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Speaker, there are parts of this package with which I violently disagree.

Most specifically, I find the assault weapons ban to be offensive, obnoxious, and contrary to the rights guaranteed to all Americans under the second amendment. I fought against the inclusion of his language in the House bill, I voted against it on the floor, and I sought to have it removed in the conference report.

And for that reason alone, I would vote against it—were it not for the many other good and important things in this conference report.

This is, on balance, a tough and smart package. It will put 100,000 new cops on the beat to fight crime on our streets. $10,000,000,000 is in here for prison construction. It institutes the death penalty for cop-killers, terrorists, and drug kingpins. It helps ensure truth in sentencing by ensuring that prisoners serve almost all their sentences. It provides over $1 billion to protect our borders from illegal aliens. It bolsters funding to combat violence against women. And it helps protect our communities from sexually violent predators.

As deeply torn as I am, I have concluded that the best interests of the country as a whole on this issue, the No. 1 issue of concern to the people, require that I support final passage.

Mr. CASTLE. Mr. Speaker, I yield such time as she may consume to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. I thank the gentleman for yielding.

Mr. Speaker, I rise in strong support of this legislation.

I want to commend my Republican colleagues for working so hard to avoid a complete debacle and who stuck with our basic principles—for a law and order bill. The kind of bill we Republicans have fought for for more than 6 years. It is simple and straightforward.

First, It is three strikes and you're in to violent criminals; second, It's money for new prisons; third, it expands the death penalty; and fourth, a strong bill on sexual predators and violence against women and erases much of the social spending.

These are goals we Republicans have waved the law and order banner on for years.

Let us stop the nitpicking.

Let us stop the politics.

Let us pass the bill.

Mr. CASTLE. Mr. Speaker, I yield 30 seconds to the distinguished Congressman from the great Commonwealth of Pennsylvania, the gentleman from Pennsylvania [Mr. RIDGE].

Mr. RIDGE. I thank the gentleman for yielding this time to me.

Mr. Speaker, last week I voted against the crime bill rule because I believed the bill did not provide enough protection for the people of Pennsylvania. Simply put: I thought we could do a better job.

The wait was worth any criticism I might receive. The bill has been substantially improved. The measure is tougher, stronger, and better. Our commitment to more police has been preserved. More prison cells will be built. Community notice of sexual offenders has been added. The unconscionable release of drug pushers has been thwarted. Local communities will have more dollars and greater flexibility to design their own anticrime measures. Much wasteful spending has been eliminated. Funding formulas reflect crime fighting needs, not political priorities. We've retained the special program to help women fight back against violent crime. Finally, we have a crime bill whose centerpiece is crime control. It's about time. It was worth the wait.

Many of the changes would independently warrant support. None more important or tragic than the the sexual predator provisions. Had the tough provisions we have put back into this bill been in effect earlier this summer, it is possible that a 13-year-old girl by the name of Megan Kanka would be alive today. Unfortunately, Megan was raped and strangled by a man who had twice previously been convicted of sexual offenses.

Megan was not protected from her assailant back then. Last week's bill would not have helped her either. Today's bill could have.

Was it worth a week's wait? You bet is was.

But still, Mr. Speaker, this is not a perfect bill. More can and must be done to fight crime in rural areas in my home State of Pennsylvania and across the Nation.

So as we prepare to approve this crime bill and enter into the meaningless political battles of who won and who lost—who is up and who is down—remember this: all of the ruckus of the last week was not about one party or the other's fortune, it was about people like Megan and her family, people who just wanted to feel safer in their homes, on their streets, and in their communities.

This is a good measure. Let us support it.

Mr. MCCOLLUM. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. MOORHEAD], a member of the committee.

Mr. MOORHEAD. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in strong support of the motion to recommit. The motion to recommit has more money in it for correctional facilities, $12 billion; more money in it for grants to States and local law enforcement.

States and local governments will not be required to pay $4 for every $1 that they get from the Federal Government. It has strong punishment for sex offenders, it establishes truth in sentencing.

I know that our bill that we got out of the conference committee is better than what we had 10 days ago. Many of the corrections have been made. But it is still too much full of fat. There is literally $6 billion of fat in it that are programs that are duplicative of programs already in existence. We need to put our money into law enforcement, where we will do something about crime in America and not just talk about it.

Mr. Speaker, I ask for an "aye" vote on the motion to recommit.

Mr. MCCOLLUM. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from New York [Mr. GILMAN].

Mr. GILMAN. I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in opposition to the conference report. In the interest of providing a stronger anticrime bill, I support the motion to recommit.

Mr. Speaker, while I praise my colleagues on their diligent and commendable work in trying to formulate a reasonable compromise, I

remain concerned that this legislation, which authorizes a total of $30.2 billion in funding for crime prevention, prison construction, and law enforcement efforts, will not significantly reduce crime.

Extensive negotiations have occurred since the defeat of the procedural rule. Subsequent to the defeat of the initial efforts on the crime bill, my colleagues have made real improvements to the anticrime legislation, including: removing the provision providing $10 million for Lamar University for a criminal justice study center; strengthening the sexual predator language to include quarterly verification requirements, lifetime tracking, and community notification; eliminating the retroactive release of drug offenders from Federal prisons; and, adding language to require mandatory HIV testing during rape trials.

Nevertheless, this legislation does not go far enough. At a time when violent crime is on the rise, my constituents want tough legislation that will keep violent criminals off our city's streets, and in prison where they belong. The American people have spoken, and they will not settle for legislation that does not provide our law enforcement officers with the resources necessary to combat the forces that threaten to destroy the very fabric of our society. I have listened to my constituents, and I cannot support legislation that imposes unfunded mandates on our cities and towns, legislation that decreases prison funding and legislation that duplicates existing Federal programs.

This measure claims that it will provide funding for 100,000 police officers. However, the figures do not add up. On closer inspection it is evident that the funding will guarantee the hiring of only 20,000 police officers, a 3-percent increase in our Nation's police force. Thus, in order to permanently provide additional police officers, State and local governments will be required to pick up the tab. This funding will, no doubt be raised by raising taxes or cutting back on other valuable services. Furthermore, this legislation enables local governments the flexibility to utilize funding for purposes other than the hiring of additional policemen.

This legislation includes less prison funding than was in the previous conference report, and even less funding than was included in the legislation that I supported in the original, House-approved crime bill—this conference report allocates $7.9 billion for prisons. The previous conference agreement funded prisons at $8.5 billion, while the previous House-approved legislation included $13.5 billion in funding—accordingly, this legislation will do little to keep criminals behind bars, and does even less to end the revolving door that often frees violent convicted felons.

Furthermore, the preventive programs, that are included in this conference agreement, are in many instances, already in existence. According to the General Accounting Office, we currently have 266 programs that are aimed at assisting our youth who are at risk. Moreover, there are in existence an additional 155 job training programs. To reauthorize these duplicative programs is wasteful and not an efficient way to create legislation that will truly reduce crime, or assist the youths who we are so desperately trying to help. What we need is more coordination of these programs, not the duplication of existing programs.

I believe that this legislation can, and must, be further improved. Instead off supporting this imperfect legislation, I fully support the Brewster-Hunter alternative. As a cosponsor of this legislation, I believe that it will help us reduce violent crime. The premise behind the Brewster-Hunter legislation is simply, yet tough. Specifics of this legislation include: Providing $12 billion in grants to correctional facilities; Providing $10.6 billion to State and local law enforcement agencies; providing $2.5 billion for border enforcement and the Immigration and Naturalization Service [INS]. Including a mandatory $150 million in funding allocated to the U.S. Border Patrol; and mandatory registration of all sexual predators, lifetime tracking of offenders, Quarterly address verification, and mandatory community notification.

The Brewster-Hunter legislation combines the kind of "get-tough" provisions that my constituents, and the American people, want. This legislation increases prison funding and provides significant assistance to local law enforcement agencies. Furthermore, this legislation reduces social spending and strengthens our Nation's law enforcement capabilities.

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Mr. MCCOLLUM. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Mr. Speaker, I rise in opposition to the conference report, and I ask that the following be made part of the RECORD:

Mr. Speaker, William F. Buckley recently observed that, "We have had 235 executions since 1976 and approximately 350,000 murders. Almost as many Americans have been murdered since 1976 as were killed in Vietnam and in the two world wars, which totaled over 390,000 lost lives. There are now more than 10 times as many men and women in the death houses as were executed in 1976."

Mr. Speaker, what we continually see are convicted killers making a mockery out of our judicial system with endless appeals. Serial killer Ted Bundy was on death row for over 12 years before he was executed. John Wayne Gacy was on death row nearly 15 years before he was executed.

Mr. Speaker, the President's crime bill does nothing to reform habeas corpus or to eliminate the enormous legal loophole called the exclusionary rule. Evidence which points to the criminal's guilt should be allowed in court.

There should be an elimination of the endless appeals process, and yet H.R. 3555 fails to address that concern. Gone should be the days of convicts appealing their sentences multiple times in Federal courts. There should be one appeal to the Federal level after inmates have exhausted their State appeals.

A tough on crime bill should contain block grants to States earmarked directly to fighting crime and not tied to the micromanagement of Washington telling communities how to best use the grants in their communities.

Yet there is hope Mr. Speaker. The back to the basic crime bill proposal, offered by Congressmen DUNCAN HUNTER and BILL BREWSTER, goes a long way to restoring some common sense to Congress' halting efforts to write the kind of crime bill Americans want to see come out of their Government. This is a bill that has broad, bipartisan support. Let me call to my colleagues' attention just a few sections of this legislation.

The bill calls for increased border patrols and assistance to the inspections program to apprehend illegal aliens.

The bill authorizes grants to the States to build, improve, operate, and modify correctional facilities. This Government should be assisting in every way possible the building and maintaining of correctional facilities.

The bill also authorizes grant money specifically to communities, States, and their local law enforcement agencies to fight crime.

The bill also punishes sex offenders by mandating registration for all predators, lifetime tracking and mandatory community notification.

This back to basics crime bill will end the practice of setting violent criminals free based on technicalities.

The Hunter-Brewster bill establishes truth-in-sentencing. Imagine that: Convicts actually will be required to serve out their sentences.

Our legislation will also abolish the country club comforts for prison inmates. No more video games, no more pool tables, just a requirement to work.

Mr. Speaker, let us craft a crime bill that passes this House overwhelmingly. Let us not govern by the 218 rule—218 members and you win—no.

Let us put together a bill that focuses on punishing the criminal and fighting crime, not on basketball programs, crafts, and $10 million gifts to schools.

The Hunter-Brewster bill has achieved a great deal of support in a very short period of time. This is proof positive that Republicans and Democrats can come together on a reasonable, rationale, commonsense crime bill that is good for the American people, good for our police, and tough on violent crime.

Mr. MCCOLLUM. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. HASTERT].

Mr. HASTERT. Mr. Speaker, we are about to spend over $30 billion of the taxpayer's money without having read a word of the bill. I suspect that if this new crime bill compromise were in fact a good deal for the American people someone would be telling us and them the details of what is in it.

Mr. Speaker, I certainly know that some provisions of the crime bill before us could help the people of my district. The Sexual Assault Prevention Act and the Youth Handgun Safety Act, among many others, are bills I have cosponsored and important parts of them I am told are incorporated in this legislation. But while some provisions could help the people of my district, every provision is going to cost the taxpayers of my district a lot. They deserve value for their tax dollars, not waste. They deserve not just any crime bill, but a good crime bill.

In fact, Mr. Speaker, the taxpayers of Illinois according to the Wall Street Journal are going to send $100 million more dollars to Washington to pay for this bill than they will get back. That is crazy.

Mr. Speaker, yesterday I joined with a bipartisan group of over 100 of my colleagues to

propose a commonsense alternative to break the gridlock over the crime bill. I say let us end the bickering and pork barreling and return to basics. We proposed a tough bill that I guarantee you any citizen could recognize as a crime bill.

Our bipartisan solution does nine basic things. They are things people want done.

First, we provided $12 billion in no strings-attached grants to States to build prison cells. We must stop returning dangerous criminals to the streets. Let us give the States money to build cells without endless Washington red tape.

Second, we provided $12 billion to States for law enforcement. We let them use the money to hire police and then use those police as local communities want, not as Washington dictates.

Third, we tell criminals three strikes and you are out—off the streets and in jail for life.

Fourth, we provided $2.5 billion for border enforcement to help stop the illegal flow of immigration that is costing taxpayers billions in Government services.

Fifth, we allow the police to notify a community or neighborhood when a convicted sexual predator has moved in. Only the out of touch American Civil Liberties Union could oppose such a commonsense idea. It is about time we put the needs of victims ahead of criminals.

Sixth, our bipartisan compromise stops the endless appeals process for death row inmates and convicted felons.

Seventh, we stop judges from throwing vital evidence out of court and allowing criminals to go free because of silly technicalities.

Eighth, our bipartisan bill ends stupid sentencing and parole policies which have resulted in the average murderer spending only 5.5 years in jail. We provide for real truth-in-sentencing. If you do the crime you do the time.

And ninth, we establish mandatory penalties for crimes with firearms. We take the criminals who steal guns and commit crimes with them and put them away for a long time.

Mr. Speaker, our bipartisan effort is not perfect. Frankly, it could be even tougher and I would be happier with it. We would be pleased to see it debated and amended by this body. I for one would like to see the death penalty for cops provision strengthened and many provisions in the Violence Against Women Act added. But, unlike those who are pushing the so called compromise here today, at least we can honestly say to the American people that our back to basics crime bill is about crime control, not about pork and not about social programs.

Mr. Speaker, if there is a reason to change or improve the hundreds of social programs already targeted for at-risk youth or to add to the $25 billion we spend each year on those programs, let us have that debate. But let us not hold up the crime bill with it.

Mr. Speaker, why is not the commonsense bipartisan bill I just described being given a fair and thorough debate here today? Instead the President insists we swallow a flawed bill or get no bill at all. It is a take it or leave it arrogance that people in this House and in America are tired of. Instead of backroom deals, why don't we get to vote on these provisions, right here in the House of Representatives, as our constituents want and expect us to do.

Mr. Speaker, I want to pass a good crime bill this year. I cosponsored the Republican crime bill when it was introduced last fall. I called upon President Clinton to send to us his own bill, which to this day he has never done. I even voted in favor of a less than perfect bill when it first came through the House last spring. I did so because I wanted to be constructive and pledged I would work to improve it before it came back to the House for final passage.

Frankly, there are those who want to take advantage of our strong desire to pass a crime bill to lard in billions of dollars for social programs that have little or nothing to do with crime. They are literally holding up grants to States for prisons and police in exchange for welfare spending. They are holding the safety of Americans hostage in a cynical extortion attempt.

Mr. Speaker, the folks who have been calling my office this week believe the balance between tough law enforcement and crime prevention is off. They are not insensitive or uncaring. They are not trying to stop all prevention programs. But they recognize that we have 266 Federal prevention programs already. What they want us to do now, to correct the balance, is to provide more cops, more prison cells and more real honest sentences. The bill before us last week did not do it—and sadly this bill still does not do it because we are not listening to the American people.

Mr. Speaker, let us pass a crime bill every taxpayer who reads it will recognize as a crime bill. The so called compromise is better than last week's bill. At least it rejects the plan the President supported that would have released from prison more than 10,000 convicted drug pushers. It is beginning to move in the right direction. If we need to stay here another week or 2 weeks until we get it right, let us do so.

Mr. Speaker, there are $30 billion at stake. There are 240 million taxpayers who deserve a real crime control bill that will make them safer in their homes and schools and on our streets. To do any less than our best on an issue of this importance would itself be a crime.

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

Mr. SMITH of Michigan. Mr. Speaker, I hate to spend $30 billion that we do not have and charge it to my grandkids.

Mr. Speaker, every Member of this body wants to be tough on crime. Many Members are eager to vote for a crime bill before the November election—even a bad bill.

Mr. Speaker, this bill spends $30 billion we do not have. In the 6 years of this bill we will add another $2 trillion of debt for America's taxpayers.

Making a bad bill slightly better through negotiations does not justify passage. With this bill Federal judges, the Attorney General, and Federal bureaucrats will reduce the prerogatives of local and State government on how they run their law enforcement and build and operate their jails and prisons.

Under this bill rural communities will pay more taxes for more social programs in urban areas. The $7 billion for crime prevention are social programs for youth that have been tried and failed. States like my State of Michigan will be a net loser in terms of taxes in and dollars out.

Mr. Speaker, I hope we do not give in to politics of the moment and that we have the courage to send this bill back to conference.

Mr. McCOLLUM. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. SAM JOHNSON].

Mr. SAM JOHNSON of Texas. Mr. Speaker, I am in support of the substitute.

Mr. McCOLLUM. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. FIELDS].

Mr. FIELDS of Texas. Mr. Speaker, I never thought I would come to the House floor and quote the Washington Post, but today in a story titled "The House Nears Crime Bill Agreement," it says Republican negotiators also claim to have won a cut of $3.3 billion from a Democrat crime bill, but those funds were never likely to become available anyway. So, I ask my colleagues, "Why support a bad piece of legislation?"

Mr. Speaker, it has already been pointed out that the second amendment has eroded in this piece of legislation. Speakers have pointed out that there is no good-faith exception for our police officers in conducting searches and seizures. These are not constitutional scholars. Speakers have pointed out criminals still have endless appeals. This still has $5.9 billion for programs that have dubious merit. Why should we be spending that type of money under the heading of prevention? Why dial 911 and get a social worker?

Mr. Speaker, this bill is a bad piece of legislation because it does not accent law enforcement. This is a touchy-feely piece of legislation that gives new meaning to the phrase hug-a-thug. I urge my colleagues to vote for the motion to recommit and against the crime bill.

Mr. BROOKS. Mr. Speaker, I yield such time as he may consume to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Speaker, I rise in strong support of the bipartisan conference committee report.

Mr. Speaker, I rise in support of this bipartisan conference committee report.

Mr. Speaker, Emanuel Cleaver, mayor of Kansas City, MO, wrote last week a compelling editorial supporting the crime bill.

I urge my colleagues on both sides of the political aisle to take a few minutes to read Mayor Cleaver's statement.

KANSAS CITY'S EXPERIENCE SHOWS THAT PROGRAMS IN CRIME BILL CAN WORK—BASKETBALL LEAGUES AND POLICE BIKE PATROLS ARE NOT "PORK" BUT ARE PROVEN METHODS OF KEEPING PEACE

(By Emanuel Cleaver)

As crime runs rampant on our streets, the Nation's cities were victimized once again by a congressional hold-up.

Last Thursday, we were subjected to one of the most cynical acts of legislative trickery and dolce far niente in recent history when the U.S. House of Representatives stalled the first real national attempt at comprehensibly fighting crime that I can remember.

While our Nation's leaders continue to debate the significance of this legislation, their indifference resonates well beyond the waters of the Potomac. As the members of Congress sit well-protected behind metal detectors, Capital Police and U.S. Marshals, the people they represent are increasingly victimized by crime on their streets and in their homes.

Kansas City, like most other major metropolitan cities, is struggling with this disease. Crime prevention is the number one issue in my city and across the country. Americans know the time for a national mobilization effort has long passed. National opinion polls repeatedly demonstrate that average Americans support this initiative. We want 100,000 new police officers. We want community policing. We want the anti-crime bill's holistic approach to crime prevention.

Yet why was it stopped? Why did 225 representatives fail the citizens of Kansas City and the United States?

Simply put, negative politics. The Beltway culture of gridlock and pessimism is out of step with main-stream Americans like you and me.

Special interest politics won a week ago by exerting the NRA's fear-mongering influence and claiming pork barrel politics. Is the anti-crime bill ineffective government largess or is it a substantive crime-prevention program? I believe the answer lies in the streets and neighborhoods of Kansas City.

Ask the residents of Kansas City's Olde Hyde Park whether or not community policing is pork barrel. Last year community policing in that small neighborhood helped decrease crime 23 percent and shut down 15 drug houses within the first six months of implementation. Police officers working hard-in-hand with central city residents empowered Olde Hyde Park through action and the restoration of hope. Pork barrel?

Ask the numerous Kansas Citians who have fought over locations for our new Community Action Network [CAN] centers whether or not the Anti-Crime Bill is pork barrel. They know intuitively that comprehensive approaches to crime prevention such as CAN centers will reduce crime and foster neighborhood stabilization. Pork barrel?

Ask the participants of the Mayor's Night Hoops whether or not midnight basketball leagues are pork barrel. Run on shoe-string budget since 1992, Mayor's Night. Hoops offers over 600 young men and women a positive alternative to the potential trouble of the streets. In the three summers since its inception, there has never been a single incident of violence or crime at the games. Pork barrel?

Finally, ask the friends and family of the 153 Kansas Citians murdered in 1993 whether or not we have too many guns on our streets. How much blood will we tolerate before we rid our nation of the people-killing machines known as assault rifles?

While every American may not agree with every provision contained within this legislation, we know that continually pandering to special interests will not make our neighborhoods safer.

I originally opposed the Anti-Crime Bill because it failed to include death penalty appeal provisions based on historic racial discrimination. Nevertheless, I joined Seattle Mayor Norm Rice and other big city mayors in urging the Congressional Black Caucus to support this legislation. Why?

In 1993, there were no African-American Kansas Citians executed by the judicial system. However, 111 blacks were murdered on our streets. It is as simple as that.

I know what it feels like to be a victim of crime. I know what it is to have a gun held to your head. Eight years ago, I was robbed in my church office by a crazed drug addict. I was luckier than most—I only lost my wedding ring, my watch and a few dollars.

But think of those who haven't been as fortunate. Think of the over 50,000 children that have been murdered by guns since 1989. Think of the countless murders, burglaries, thefts and assaults that will happen today. Think of what lies ahead if Congress continues its inaction. Congress must pass the anti-crime bill now. That's why I was in Washington on Wednesday.

Mr. BROOKS. I yield such time as he may consume to the gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. Mr. Speaker, I rise in opposition to the bill and in opposition to the motion to recommit.

Mr. Speaker, without fail, every election year brings another crime bill before Congress. This year is only unusual in the magnitude of the proposal—over 300 pages of new and amended Federal laws—and the price tag—over $33 billion. Otherwise, it is election year business-as-usual; a rehash of the failed Reagan and Bush war on crime and drugs strategies of the 1980's—a war we are losing with expensive and failed Federal policies.

To his credit, President Clinton called for a new strategy—strong, smart, focused, and tough, with a new emphasis on prevention. I share his goal, but this election year grab bag won't result in the change we seek.

An extraordinary coalition of Oregonians urged me to oppose the crime bill. That coalition included the director of Oregon's Department of Corrections, the American Civil Liberties Union, the director of Oregon's Council on Crime and Delinquency, the NAACP, the Oregon Criminal Defense Lawyers Association, as well as gun owners and civil libertarians from every corner of the State.

I supported the President's initial $9 billion proposal that provided Federal assistance for prevention and local law enforcement efforts. Unfortunately, the final bill the conferees produced is a $30 billion crazy quilt of ineffective get tough strategies, projects tailored for the districts of those Members who happen to sit on the conference committee, and an across-the-board cut from prevention programs.

Let me give you an example of how this bill distorts crimefighting priorities. Of the $30 billion in the final crime bill, perhaps $100 million would wind up in Oregon. In order to take advantage of that funding, the State of Oregon would be required to adopt a host of inflexible new mandatory minimum sentencing guidelines that will cost Oregon taxpayers hundreds of millions of dollars to pay for new prison space and divert money away for successful crime prevention programs.

Although the President asked for a robust community policing bill, the bill ultimately will fund only a small fraction of the promised 1,500 new cops for Oregon. Furthermore, desperately needed money for additional judges, prosecutors, and attorneys will not be funded under this bill.

The highly touted "three strikes, you're out" provision is highly problematic. As the bill stands, this measure ultimately means expensive warehousing of aged criminals, mandatory minimum sentences for small-time drug offenders, and the federalization of some State crimes. It is ironic that the United States has the highest per capita incarceration rate in the world, yet one of the highest rates of violence. This "three strikes, you're out" approach doesn't satisfy my goal of getting truly dangerous, repeat offenders off the streets, while rehabilitating nonviolent offenders by using more cost effective, alternative punishments.

Take a look at the bill's new Federal mandate that prisoners serve 85 percent of their sentences before being eligible for parole. This inflexible requirement would make it impossible for States to release many nonviolent, rehabilitated, and geriatric prisoners who no longer present a danger to society, but cost taxpayers plenty.

This is the largest public works policy to come down the pike in a long time. It provides $10 billion to build prisons, but no money to run these prisons. We are fast becoming a Nation with more prisons than schools. We need to fund programs like community policing as well as targeting at-risk kids before we lose another generation.

The crime bill also adds 66 new crimes punishable by death, including 4 crimes that do not result in death. This expansion of capital punishment is unconscionable particurly when it lacks any safeguard against racial bias in death penalty sentencing.

Let us address the issue of the assault weapons ban. I would oppose this bill regardless of the assault weapons ban.

Many otherwise progressive people seem to be willing to stomach all of the bad in this bill in favor of the ban on certain assault weapons. I am not. I support taking sensible steps to keep guns out of the hands of criminals. but this provision bans a limited number of weapons, based to a large extent on appearance, while allowing the continued sale of weapons identical in function. Besides that, this class of weapons accounts for only a tiny percentage of the Nation's violent crimes. In the District of Columbia, the Nation's murder capital, 1,400 murders occurred over the past 4 years—only four involved so-called assault weapons.

Although the Brewster-Hunter alternative anticrime bill deletes some of the troubling provisions in the final crime bill, including the 66 new death penalties and the so-called assault weapons ban, it still has other major defects. This $26.5 billion bill has the same problem of unfunded Federal mandates that will cost Oregon taxpayers hundreds of millions of dollars as the underlying bill. Most problematic is that this bill contains no money for prevention or alternative incarceration of offenders no

matter how meritorious or effective the programs.

I cannot support any anticrime legislation that treats the symptoms of crime while ignoring its root causes. If we cannot stop at-risk youth from committing crimes, we are committing our Nation to generations of prison construction and criminal punishment.

This crime bill is a classic case of election year posturing that gives the public a false promise of protection. The bill appeals to people's fears, but falls far short of increasing public safety. It will do more to prevent successful local crime prevention than to prevent crime. And its punishment provisions will unnecessarily punish the Oregon taxpayer.

Mr. BROOKS. Mr. Speaker, I yield such time as he may consume to the gentleman from Hawaii [Mr. ABERCROMBIE].

Mr. ABERCROMBIE. Mr. Speaker, I rise in support of the bill and against recommittal in the context of a statement to be submitted to refute the pitiful and woebegotten remarks of the gentleman from Pennsylvania about Hawaii.

Mr. BROOKS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California [Ms. ESHOO].

Ms. ESHOO. Mr. Speaker, I rise in support of the bill and in opposition to the motion to recommit.

Mr. BROOKS. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. SANGMEISTER].

Mr. SANGMEISTER. Mr. Speaker, I rise today to talk about the issue of crime, and the long process which will conclude today with the passage of a Federal crime bill.

Many issues have come across my desk in the years I have spent in the public sector, none more important than crime. As a State prosecutor and State senator, I have seen the terrible destruction that crime imposes on individuals in our communities. I have observed how crime, and the criminal justice system, directly affects our States, our cities, and our neighborhoods. As a member of the House Judiciary Committee, I have struggled, along with everyone else, through the legislative process—hoping that one day we would finally pass a comprehensive, balanced, intelligent, crime bill. Well my friends, that day is now.

Today, the American people will have moved one step closer to having a crime bill which, in this Congressman's opinion, will help make our communities, our hones, and our families safer from crime. It is their efforts that have brought us to this point. It is their frustration and fear that have guided this process. We must never forget that the American people wanted this bill and today, they will get it.

What we can do at the Federal Government to reduce crime in this country is still subject to much debate. We have a nation where States carry much of the burden, and most of the responsibility, in fighting crime in the streets. The American people must understand precisely what this Congress, and this President, can accomplish by passing a crime bill. The benefits are far too significant to be dismissed, the consequences too devastating if we fail.

Will 100,000 more cops help? Only time will tell, but it certainly won't hurt. Will death penalty for drug kingpins stop the drug problem in this country? Not entirely, but it will send the message that this country will no longer tolerate such activities. Will building more prisons put every single person who has committed a crime in jail, and keep them there? Probably not, but it will ensure that we have more space to keep those individuals who deserve to be in prison—in prison, rather than letting them go as we do now. Will money allocated for prevention programs be well spent? Some argue the opposite, but we owe it to the American people to try everything in our means to stop the violence before it occurs.

Sure, more can always be done, more debate generated. Personally, I would have preferred reforming our habeas corpus and exclusionary laws to close loopholes that criminals currently use to escape punishment. However, the clock is running, and this country can no longer wait for a more perfect bill. Members from both sides of the political spectrum can be pleased that we have done our part, that Congress has worked its will to fashion a piece of balanced legislation that reflects the wants and needs of the American people.

Not everyone will be completely happy with everything in this bill. This is the legislative process, this is what we were elected to do, this is what we have accomplished. Tomorrow is another day, but we have a task ahead of us right now. Let us give the American people what they deserve—let's pass the crime bill today, before another person dies a needless death, before another women is raped, before another child is abducted, before the American people lose all hope for a brighter, safer tomorrow.

Mr. BROOKS. Mr. Speaker, I yield 15 seconds to the gentleman from Oregon [Mr. KOPETSKI].

Mr. KOPETSKI. Mr. Speaker, I rise to ask the distinguished chairman of the Committee on the Judiciary a question.

If the motion to recommit succeeds and the motion is silent on the death penalty provisions, on the assault weapons provisions, is there any guarantee that the conferees are required to report a bill that will not contain an assault weapons ban in our expansion of the Federal death penalty or related provisions?

Mr. BROOKS. Mr. Speaker, will the gentleman yield?

Mr. KOPETSKI. I yield to the gentleman from Texas.

Mr. BROOKS. Mr. Speaker, there is no guarantee.

Mr. KOPETSKI. Because there is no guarantee, Mr. Speaker, I will be voting against the motion to recommit.

Mr. CASTLE. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Wisconsin [Mr. KLUG].

Mr. KLUG. Mr. Speaker, the bottom line on this for many of us is what did Republicans get out of this bill who held out last week for the crime bill? Well, in short we got $1 billion more for prisons instead of hugs, and understanding and social workers.

We got one less Texas sized pork project and $3.3 billion less in spending. We got a new lock on the jail house door for 16,000 drug prisoners who would have been released early from prison. We got tough sexual predator language. We got mandatory HIV testing in rape trials.

In short, Mr. Speaker, we got a bill that is tougher, cheaper, and a lot smarter than the bill that was in front of us 8 days ago, and I pay tribute to my colleagues, the gentleman from Ohio [Mr. KASICH], the gentleman from Delaware [Mr. CASTLE], and the gentlewoman from New York [Ms. MOLINARI] and the rest of us for all of the tough work we have done.

Mr. MCCOLLUM. Mr. Speaker, I yield 45 seconds to the gentleman from Minnesota [Mr. GRAMS].

Mr. GRAMS. Mr. Speaker, I rise in strong opposition to the conference report.

Politicans nationwide are boasting that this is the toughest crime bill ever. But, the American people, including grassroots police officers in Minnesota, know this bill is nothing more than an election-year gimmick, and they won't appreciate pulling 30 billion of their hard-earned dollars from their pockets to pay for it.

This is a bill that only makes the politicians feel good, expands welfare programs for criminals and offers little hope that it will actually make our streets and neighborhoods safer.

All week, we have heard that the White House was willing to bargain with the American taxpayer. Well, this legislation may be President Clinton's idea of a compromise, but it will not sell beyond the beltway. Only in Washington can you cut just $3 billion from a bad bill and say you are doing something good for the American taxpayer.

When we last took up the crime bill, we did what the people wanted us to do, we voted "no." The people want spending cuts.

Americans deserve a real crime bill, not a Great Society welfare spending program for criminals. I urge my colleagues to vote for the American taxpayer and vote against the conference report and for the motion to recommit.

Mr. MCCOLLUM. Mr. Speaker, I yield 45 seconds to the gentleman from Oklahoma [Mr. INHOFE].

Mr. INHOFE. Mr. Speaker, there seems to be some myths floating around the Chambers here that the law enforcement officers are for this bill and are for gun control. It may be that the heads in Washington of some of these organizations are, but not the ones on the beat. I will tell my colleagues about an experience I had last week.

The Fraternal Order of Police in the State of Oklahoma were having a meeting, and the first thing I said when I spoke was, "I'm going to be against this bill," and, "You don't stop crime

by taking guns away from law-abiding citizens." They stood up, applauded for 5 minutes, and the next day they endorsed me.

Mr. Speaker, the people in the streets, the cops on the streets, are opposed to any type of a crime bill that does not have habeas corpus reform, exclusionary rule reform, and they are opposed to gun control. I urge my colleagues to vote against the soft-on-crime conference report.

Mr. BROOKS. Mr. Speaker, I yield a minute and a half to the distinguished gentleman from Oklahoma [Mr. BREWSTER].

Mr. BREWSTER. Mr. Speaker, I certainly thank the gentleman from Texas [Mr. BROOKS].

I do rise today to urge my colleagues to vote "yes" for the recommit. We all support crime control. There is not a Member in this House that does not feel we must do something about the crime in this country. There have been two sticking points. Those sticking points have been the gun ban and the social programs.

Mr. Speaker, the gun ban is not an issue. It passed this House several months ago. The gentleman from New York [Mr. SCHUMER] won that issue. It is in the Senate now. So, why in the world should we put it in the bill?

The same thing with social programs. Why should we put billions of dollars in this for social workers rather than criminals?

The gentleman from California [Mr. HUNTER] and myself put together a bill, H.R. 5008, that does several things. It puts the money where it should be, in prisons and in law enforcement officials. We put $12 billion in this recommit for additional prisons within our States.

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We put $12 billion in State grants for different law enforcement people. The conference bill only puts $9.8 billion in cops on the street. We put $2.5 billion for border patrol as opposed to $1.1 billion. We put the three strikes and you are out. We put truth in sentencing.

Mr. Speaker, H.R. 5008 within the scope of this conference will do a lot to control crime in this country, yet it costs $3.5 billion less than the conference bill. Mr. Speaker, I would urge this conference to move forward and vote for the recommit, and let us put a bill out that costs taxpayers less and criminals more.

Mr. MCCOLLUM. Mr. Speaker, I yield 1 minute to the gentleman from South Carolina [Mr. RAVENEL].

Mr. RAVENEL. Mr. Speaker, of course the most objectionable feature of this bill is its assault on the second amendment. In that context, I would just like to remind the house of a couple of things. You know, if they had banned the assault weapons of 1775, we probably would not have been able to win the first American Revolution. And when they were touring the death camps after World War II, and a group went to Treblinka, the question was asked, how could 6 million Jews and other minorities, twice the population of Israel, how could they have let what happened to them happen to them? Why did they not fight?

Of course, the answer was, with what?

So naturally, Mr. Speaker, I will vote to recommit.

Mr. CASTLE. Mr. Speaker, I yield 45 seconds to the gentleman from Ohio [Mr. TRAFICANT], America's favorite 1-minute speaker.

Mr. TRAFICANT. Mr. Speaker, prevention makes sense. When it costs more money to send a kid in America to jail than it does to send that kid to Harvard, prevention makes sense, dollars and cents.

There is one other word missing in this debate called "unemployment." Show me an American that works in our factories and works in our businesses, and I will show you an American that does not work on the streets.

We have got to bring the NRA and police together. They are both the good guys, and they are apart. And that is bad for our country. We should work on that, but we should pass this bill. We need a policy that we can all live with in America, and this sets us on that course.

Mr. Speaker, it is not an easy vote. But you cannot cite your second amendment right by strapping a Stinger missile on your back, and there is some common sense here tonight. Let us take it.

Mr. BROOKS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Kentucky [Mr. MAZZOLI], a member of the committee. This is the gentleman's last term and we will miss him, but we are glad he is here now.

Mr. MAZZOLI. Mr. Speaker, I rise in support of the bill and against the motion to recommit, commend the gentleman from Texas, the gentleman from New York, and the gentleman from New Jersey, who brought this about.

Since the bill did begin at the Subcommittee on Crime and Criminal Justice, on which I am privileged to serve, I take a certain amount of pride that we have reached this juncture, on the verge of passing a very balanced bill, balanced with both punishment and prevention measures.

Mr. Speaker, this is very difficult for all of us. It has been a very difficult week, very tense, very painful, very tormenting. But if we tonight will pass this bill, and if we usher in an era of new bipartisanship and of new collegiality in working on major legislation like this, then I think the pain and torment will have been very well worth it.

So I hope we do pass the bill tonight and move into a new era when we can work together from the very start of the process, all the way through the end of the process. This is what American people are asking us to do. We have a chance to realize that by our votes tonight.

Mr. CASTLE. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Connecticut [Mr. FRANKS].

Mr. FRANKS of Connecticut. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I praise the gentleman from Delaware [Mr. CASTLE] and the others who worked on the bipartisan compromise. There is no question that we have a better crime bill today thanks to the 94 percent of the Republicans and the 23 percent of the Democrats who voted against a rule 10 days ago. There are no cuts for police officers; there is more money for prisons; and social programs have been cut. Block grants that would give greater control over social spending programs to our cities and towns have been incorporated into the bill.

However, Mr. Speaker, I am a little old fashioned. I believe that the best form of crime prevention is punishment. To me the second best form of crime prevention would be to strengthen the family. Government make busy programs are the wrong approach. Voluntarily financed make busy programs, that is fine.

We are giving billions of dollars in welfare payments, coming from taxpayers, because of a failed family structure. Now we have more taxpayers dollars going to keep our young people busy once again because of a failed family structure.

Mr. MCCOLLUM. Mr. Speaker, I yield 30 seconds to the gentleman from North Carolina [Mr. TAYLOR].

Mr. TAYLOR of North Carolina. Mr. Speaker, I oppose this bill for several reasons. First of all, it is phony on gun control. My son's turkey rifle is going to be listed under it, along with 200 weapons, and it is nothing like an assault weapon. He has not been able to kill a turkey for the last 2 years.

The National Association's past director of sheriffs says that the community grant program is phony and he does not plan to apply for it for use in his area. And there is plenty of pork still left. While improved, it is a bad vote and a bad bill, and I intend to vote against it.

Mr. CASTLE. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Ohio [Mr. KASICH], the distinguished ranking member of the Committee on the Budget.

Mr. KASICH. Mr. Speaker, I was sent into the negotiations by a group of Republicans who said that we want to improve the crime bill. They were a group of Republicans who were essentially worried that if we did not work to improve the bill dramatically over a short period of time, that our side would be

picked off, and that we would ultimately be forced to vote again on a crime bill that did not make dramatic changes to the conference report last week.

What is it that we wanted when we started the negotiations? What is it that the Republicans complained about as we began negotiations?

We said we wanted less social spending program money in the bill. We said we wanted more prisons and more police, and we wanted more flexibility for local governments through block grants. And we wanted to tighten up many of the legal reforms that we had in the conference report.

Well, let me give you my report about what we were able to do after we emerged from very tough negotiations.

No. 1, we decreased the total amount of money in the bill from $33.5 billion to $30.2 billion, a $3.3 billion savings.

Second, we wanted more money for prisons. What we were able to do was increase the amount of money and real money in the prison trust fund section from $8.3 billion to $9.7 billion, more than what we ever had in this House bill.

Next, the majority party offered a cut in the total amount of spending for law enforcement officers. That cut was flat out rejected, and we were able to maintain $8.8 billion for community policing in this bill.

Now, we also said we wanted to have a block grant program. And we have heard so much about midnight basketball. Let me show you want we have done. We have taken 12 categorical grant programs that the Republicans said we needed to have, and we have eliminated those as individual categorical programs, and we have put them in one block grant and have given the local communities the flexibility to spend that money the way they see fit. We have changed the formula on the basis of which we spend this money, moving toward a formula that will be based on violence in communities, another significant concession from the majority party.

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The bottom line: The bill is not perfect. We said we wanted to have less spending in the social area. We are down in the area of prevention funding to $4.3 billion over 6 years, excluding the Violence Against Women Act, which Members on both sides of the aisle support—a total of $4.3 billion over 6 years.

We were able to increase prisons and protect police by cutting the amount of money—by cutting the amount of money in the social spending programs. Did we get everything we wanted? Of course we did not get everything we wanted.

But what I will tell my colleagues is, we were able to vastly improve this bill. And what we are viewing is a tough negotiating process that is the future of this House. This is the way we will govern this House and govern this country, by making tough, tough decisions and coming toward the middle to serve our country.

I urge support of the bill.

Mr. BROOKS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Speaker, last week, Thursday, I stood in this well and at that time I said, and I will say again, there is not any Member in this body that is in favor of crime. Every one of us wants to fight crime.

I also commended the gentleman from Texas [Mr. BROOKS] for the work that he has done on this bill. And I say again the same thing.

I also said one other thing that was very important, that gave those Republicans on this side the opportunity to do what they have done. And that is, even though there were Members on my side saying we had to do it Thursday night or it was not going to be done, well, folks, we did not do it Thursday night, and we do not have to do it tonight.

If Members want a good bill, then let us keep on working. Is everybody in a big hurry to go home or do they want a bill that really gives money for penitentiaries, that lets the States decide—not our Attorney General decide—who is going to build a prison and how they are going to build it.

Why do we not wait and have a good bill? I say vote for the motion to recommit. It gives us an idea of what some of us are talking about. Vote against this bill.

Mr. MCCOLLUM. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. CRANE].

Mr. CRANE. Mr. Speaker, I rise in strong support of the bipartisan effort to defeat this schizophrenic conference report.

Mr. Speaker, I rise to oppose the conference report to accompany H.R. 3355, the Omnibus Crime Control Act.

While there is certainly need for reform of our criminal justice system and a need to deal with crime in America, this legislation will address neither. In fact, I would assert that if incidents of crime are reduced after the passage of this legislation, it would be coincidental.

We must first remember that over 90 percent of crime is dealt with by State and local officials. This bill promises Federal help to our local police, however, it does not fully deliver. While the bill claims to pay for 100,000 more police, it provides money for only about 20,000 and forces the States to pick up the tab for the rest of the cost when the Federal cash runs out. Requiring the States to pick up the rest of the tab may not be so unreasonable a request if the States did not already have to comply with onerous Federal regulations and unfunded mandates which lost them millions of dollars each year.

The ban on semiautomatic rifles contained in this legislation will not take guns out of the hands of criminals, but will take them out of the hands of peaceful citizens. Gun bans have never reduced gun-related crime in America, yet proponents have touted this provision as necessary to fight urban crime. The passage of this ban will mean only the beginning of the end of our inalienable right protect our homes and families.

Although cuts have been made in spending, a substantial amount of the spending remaining in this bill will be spent on unproven crime prevention programs which amount to renamed welfare programs. Mr. Speaker, I believe that we now know what President Clinton intended when he said he would "end welfare as we know it." I, for one, would never have guessed that he would put the Attorney General in charge of one of the biggest Federal welfare projects in history. It is absurd to believe that we can reduce urban crime by paying kids living in the Cabrini Green housing project to play basketball at midnight.

I will be supporting the alternative crime bill offered by Representative HUNTER. That bill will put the money where it is most needed—in police and prisons. It also provides more border patrol agents. The reforms in habeas corpus and truth-in-sentencing will address fundamental problems in the criminal justice system. Finally, rather than banning guns indiscriminately, it establishes mandatory prison terms for thugs with guns.

For all of these reasons, I urge my colleagues to vote "no" on H.R. 3355 and "yes" on the Hunter alternative.

Mr. MCCOLLUM. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. EWING].

Mr. EWING. Mr. Speaker, I rise in opposition to the bill and in support of the motion to recommit.

Mr. Speaker, I rise today to oppose the conference report on the crime bill, a report we never have received copies of before we are called upon to vote on it. If this bill is as good as some Members are saying it is, we would have done it days ago.

Throughout the year there have been various anticrime proposals that truly are tough on criminals. However, the liberal leadership of the House of Representatives has not allowed these bills to be considered in the committee process or by the full House.

Instead, the crime bill we are now considering fulfills the liberal agenda of those that control the Congress. Social programs consume about one-third of the crime bill funds—all of these programs are duplicative of 266 existing programs which cost $25 billion annually.

This crime bill is a cruel hoax on the American people. We are creating false hopes that our country's crime problems will be solved by the Federal programs enacted in this bill. This is simply not true.

Many of the provisions in this bill will require local governments to enact very expensive mandates. The Wall Street Journal estimates that the State of Illinois is a net loser under this bill. Programs in Illinois will receive $105 million less in crime funds than the Illinois taxpayers contribute to the system. The bill continues to feed the insatiable appetite of a Federal Government that is too big and spends too much.

This is not to say that the Federal Government cannot provide needed crime fighting assistance to State and local governments. We

should provide funds for prisons and police in block grants. Instead, we are claiming to fund 100,000 police when in fact we are not. The police we are funding must be hired under a quota system and directed under community committees, and local units of government must pick up three-quarters of the cost of new officers on the street.

While we need new prisons, the Federal Government need not dictate how these prisons will be constructed or what size ever cell must be. This again is Federal dollars to which strings are attached and which cause new mandates on local law enforcement units. In fact, accepting Federal construction money may be opening the door to more Federal rules on how States must operate their prisons.

President Clinton called last week's vote on the rule a Republican trick to defeat the crime bill. The trick is that the Democratic leadership did not allow an open rule on this bill which would give Members the opportunity to offer amendments to improve the bill and vote on issues individually. Instead, the Democratic leadership is holding funds for prisons and police hostage in order to pass more welfare spending. I resent this attempt and urge my colleagues to vote against this bill.

Mr. MCCOLLUM. Mr. Speaker, I yield 30 seconds to the gentleman from North Carolina [Mr. COBLE].

Mr. COBLE. Mr. Speaker, acquisitions surrounding this bill have been recklessly hurled from stem to stern. If Members voted against the rule, they did so to embarrass the President, the accusers proclaimed.

The truth of the matter is that most of us who voted no did so because the bill is defective. A bad bill, my colleagues, is worse than no bill.

Vote to make a bad bill better. Vote to recommit.

Mr. McCOLLUM. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, the gentleman from Ohio [Mr. KASICH] tells me it ain't so, $9 billion in socialized spending and you call that a real victory? Tell me, the gentleman from Ohio [Mr. KASICH], with the Penny-Kasich that we all support, tell me that this is not true, that you are calling this a victory? Tell me that this is not a victory where the left wanted to cut out of its social cuts $0.8 billion for cops and you maintained it at $8.8? Tell me that is a victory? It ain't true.

The Brewster-Hunter bill provides $12 billion for cops, $12 billion for prisons, $2.5 billion for border patrol. And guess what? There is no Federal strings to it. Our cops, our mayors, our law enforcement agents are going to love it. If Members ever heard of states rights, this bill goes toward it, to recommit. I ask my colleagues to support the recommittal and reject the conference report.

Mr. BROOKS. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. FAZIO], the distinguished chairman of the DCCC.

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Mr. FAZIO. Mr. Speaker, I rise in support of this bill and against the motion to recommit, and I want to laud my colleagues for their bipartisan approach to the conclusion of this bill.

I rise in support of the most comprehensive crime package in our Nation's history, the Violent Crime Control and Law Enforcement Act of 1994.

In recognition of the critical role that our communities play in fighting crime, the bill focuses attention and resources on the State and local levels—the frontlines where the bulk of the responsibility for responding to crime lies. And it moves us closer to meeting our overall goal of ensuring that justice is dispensed equally and fairly, and that punishment is also fair, fast, and consistent.

It contains the three-strikes-and-you're-out provision, which will keep repeat violent offenders off the streets. It also supports programs that reduce gang membership and provides alternatives for youth who are at risk. Other provisions provide substance abuse treatment for Federal prisoners and increased sentences for Federal hate crimes. There are also measures to reduce the incidence of violence against women, and to punish those who commit crimes of violence against women.

The bill also bans certain specific assault weapons. This legislation will have very little affect on the right of the average American to bear arms. It includes weapons used almost exclusively by organized crime, gangs, and drug cartels, but does not include any weapons, semiautomatic or otherwise, used for hunting. The further restrictions on the sales and ownership of assault weapons that are in this bill will not cause a major reduction in crime. However, they will make it much more difficult for drug dealers, violent criminals, and psychopaths to get their hands on military-style semiautomatic rifles and certain shotguns and pistols.

Although we do not have detailed, nationwide statistics on the misuses of these weapons, the Oakland Police Department Weapons Unit reports that criminal misuses of assault weapons in Oakland fell by virtually half since the enactment of the California ban. This is a small price to pay to help curb the unnecessary and senseless violence that plagues communities throughout our country. If 1 life or 1,000 lives are saved because we are able to keep an assault weapon out of the wrong hands, it is worth the effort.

The bill includes a number of provisions that attack crime in rural areas, too, including one which I introduced along with my colleague, the gentleman from Michigan [Mr. STUPAK], a former police officer and State trooper. The Fazio-Stupak amendment expresses the sense of Congress that rural areas should continue to receive the level of support that they had prior to enactment of this crime bill—that rural America should not receive less funding than it did in fiscal year 1994. It was developed in response to feedback which I received from sheriffs and police chiefs in my district who, in a visit to Washington earlier this year, expressed their concern that they would lose Federal funding that supports their efforts to fight drugs and the violence that accompanies this persistent problem. In response, my amendment will help ensure that rural communities do not lose ground as the rest of the country moves forward on new anticrime strategies.

Because crime is not an isolated problem, it cannot be dealt with in isolation. And there is no one solution to the overwhelming problem of crime in our neighborhoods and communities. But this bill is an important step toward confronting and addressing it. It is a good place to start, and the time is now. We should all be able to put aside our partisan differences and come together on behalf of what is good for this country—our communities, our families, and our children. I urge my colleagues, on both sides of the aisle, to join me in support of this crime bill and to support this conference report.

Mr. BROOKS. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from North Carolina [Mr. WATT].

Mr. WATT. Mr. Speaker, I rise in opposition to the conference report and in opposition to the motion to recommit.

My decision to vote against the crime bill was made only after careful consideration and prayerful deliberation. It had nothing to do with political considerations. While I think passage of the crime bill is good politics, much of it represents bad public policy.

My vote is based solely on conscience and on my evaluation of public policy and the merits of the bill. As concisely as possible, here are some of the concerns I had about the bill and some of the reasons I'm voting against it.

Sixty new Federal death penalty provisions and no means of assuring that they are not administered in a racially discriminatory way. I have always opposed the death penalty based on my moral, religious and conscientious beliefs. Consequently, I do not support official killing by our Nation or our State any more than I support individual acts of violence.

In addition to the moral considerations, three points need to be made about the death penalty from a public policy perspective:

First, no study has ever documented that the death penalty is a deterrent to crime. In fact, all the studies confirm that the death penalty has no impact on crime. In States which have no death penalty, crime is no greater.

Second, the death penalty is not a cornerstone of Federal criminal law. Before this crime bill was passed there were only two Federal offenses for which the death penalty could be imposed, airline hijacking that results in death and the drug kingpin offenses. The dramatic change in Federal policy represented by an increase from two offenses to over 60 offenses for which the death penalty could be applied should, at a minimum, have been accompanied by careful evaluation of the objectives the change in policy was designed to be achieved.

Third, all the statistics confirm that the death penalty has been administered in this country in an extreme, racially discriminatory manner. Since the death penalty was approved for Federal drug kingpin cases in 1988, of the 37 cases in which the death penalty has been sought 34 have been against black or Hispanic defendants and only 3 against white defendants. During this administration in all 11

cases in which the death penalty has been sought the defendants have been black. Despite the confirmed history of racially biased implementation of the death penalty, efforts made by me and others to include in this bill Racial Justice Act provisions which would have started to address the racial disparity were rejected.

Because of my moral beliefs about the death penalty and the history of racism the application of the death penalty, it was apparent to me that voting for this bill would have required me to be both immoral and racist. I was not inclined to be either.

Prevention funding not guaranteed. Despite all the hoopla about the prevention programs authorized in this bill, many of which are good and could have an impact on reducing crime if implemented, there is no guarantee that funds will ever be appropriated for these programs. In fact, there is much reason to be concerned that a coalition of representatives, who typically have as their highest priority deficit reduction and usually represent a majority in the House, will instead divert the funds during the appropriations process to deficit reduction. By providing that the funds can be used only for the crime prevention programs authorized in the bill or for deficit reduction, the bill invites a fight over the use to be made of the funds during the appropriations process each year. Remember also that the funds for this purpose are the ones projected from expected savings from reducing the Federal work force by 270,000 people.

Children as young as 13 to be tried as adults. In my opinion, this is just bad public policy. The Federal system has no mechanism, like States do, for dealing with juveniles. We're creating an administrative nightmare for the Federal Government, expanding the Federal Government's reach into areas normally reserved to the States and decreasing the likelihood that young offenders will be rehabilitated.

Sex offenders must register. The last experience this country had with requiring people to register, the Japanese after Pearl Harbor, proved to be a demeaning experience for the Nation. I think the registration required under this bill is un-American also. All our notions of justice in this country up to now allow defendants who have served their time and paid their debt to society to move on with their lives. This bill requires each of them to keep the Government informed for life of his or her whereabouts by reporting in not less than quarterly. It also requires State and local governments to keep track of this information, a classic unfunded mandate.

DNA profiles to be established. In many states DNA evidence is not admissible because there are still questions about how reliable it is. This bill authorizes $25 million for the FBI to establish DNA profiles on all criminal defendants. Again, I believe this establishes a dangerous, un-American precedent for our Government to monitor the lives of its citizens.

Three strikes and you're out. Many States which passed three strikes and you're out legislation are already beginning to rethink the public policy implications of this politically popular proposal. Providing room, board, and free medical care to 70, 80, and 90 year olds who have long since passed their crime committing years will cost the States and the Federal Government untold amounts of money. No study of the long-term cost implications of the three strikes and you're out provisions in this crime bill has been done. That may be good politics, but it's bad public policy.

No Pell grants for prisoners. There is a strong correlation between lack of education and criminal conduct. Consequently, public policy has always encouraged the education of prisoners during incarceration in an effort to rehabilitate them, prepare them to be more responsible members of society after their release and reduce recidivism. Denying Pell grants for prisoners to improve their education represents a radical change in that public policy. This may satisfy the public's demand to be tough on criminals, but is shortsighted and misguided.

Other bad ideas. The list of bad ideas in this crime bill goes on—more enhanced criminal penalties for hate crimes—which I've previously opposed—more Federal mandates, more Federal criminal laws in areas which have no federal connection—carjacking, drive-by shootings, and so forth—and have historically been reserved to the States, more prisons and more limits on remedies for prison overcrowding and civil rights violations.

In case you haven't gathered by now, I'm not real high on this crime bill. While I hope it will have some positive impact, I'm not optimistic that it will. I share the frustration of my constituents about crime and understand that some constituents are concerned that I voted against this bill. However, I simply think this was a political response to a real problem.

Mr. McCOLLUM. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Speaker, over the last several months we have asked the American people two basic questions. The first question is, do they want a crime bill that provides for more police and more prisons. The American people have said yes. But the second question, do they want to spend in excess of $7 billion in social spending, which did include midnight basketball and dancing lessons and arts and crafts, met with a resounding no from the American people.

That is why this crime bill failed the first time around. So in response to that, a number of Members from this side worked with a number of Members on the Democrat side, and they put together a bill that cuts the pork down about 30 percent, down to somewhere around $5 billion left on social spending.

My colleagues, the problem is, the people have overtaken us in this process. The American people do not want $9 billion in social spending. They do not want $7 billion in social spending. They do not want $2 billion in social spending. They want a crime bill that is 100 percent fat free.

So let us give that to them. If Members support the motion to recommit, they are telling the conferees to go back and come back with the Brewster-Hunter bill that does a couple of things that are very important.

It gives us $2 billion more in prisons and jails than the conference report. It gives us a billion dollars more in police. It gives us a billion dollars more in border control, and it does it all without having any social programs. And it comes in $4 billion less than the conference report.

My colleagues, it is late Sunday evening and tomorrow morning millions of Americans are going to leave their homes and go to work to make the money to pay for this crime bill. Let us give them their money's worth. Vote for the motion to recommit.

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Mr. BROOKS. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey [Mr. HUGHES], perhaps the finest legal mind to sit on the committee for a decade, as well as a former prosecutor who helped shape tough yet enlightened policy in a wide variety of areas, including prisons.

Mr. HUGHES. Mr. Speaker, I thank the chairman of the committee for yielding to me, and I thank him for his remarks. Even my mother does not say things like that.

Mr. Speaker, I want to congratulate the gentleman from Texas [Mr. BROOKS]. I know that this has not been easy for him, because he has done everything he can to get the assault weapons out of this bill, and I salute him for being the statesman that he is and for moving ahead.

I also want to congratulate the gentleman from Delaware [Mr. CASTLE]. I followed his career as Governor, and I did not know him very well, for his bipartisanship, and that of the gentleman from Ohio [Mr. KASICH]. That is what we need. There is too much politics in this Chamber. One of the saddest things that I have experienced over the years I have been here is the lack of comity I have seen in the last 3 or 4 years, and the lack of bipartisanship.

Mr. Speaker, Members all know that crime in this country is on fire. Our cities are shooting galleries, with armed thugs and druggies. It is time to stop fiddling and it is time to pass a crime bill. This crime bill, Mr. Speaker, in many respects is much better, in my judgment, than the one we rejected. I worked in conference, as the chairman will confirm, to try to tighten some of the prevention programs, and I salute the gentleman for doing that. I think it advances us in the right direction.

Mr. Speaker, some of the other provisions are absolutely awful, absolutely awful, but I swallowed hard and I support it, because it is a good bill. It is the best we can do. Look, there are a thousand pages to this bill. There are over hundreds of provisions. If Members want to vote against it, they can find a provision to vote against it.

Mr. Speaker, somebody said it is not about interest groups, but let us not kid ourselves. There are two big interest groups in this country that are involved in this crime bill. Do the Members know who they are? They are the NRA on the one side, and our police and our Governors and our mayors and our county officials and our district attorneys on the other side. Members have a choice today who they are going to stand with. Are they going to stand with the NRA, or are they going to stand with those that represent the public interest?

Mr. Speaker, we have a bipartisan bill. There are those that said that we needed a bipartisan bill. We worked our will in a bipartisan fashion, and we have a bipartisan bill. Those that want no bill now are the same people that found a reason in many respects to vote against it last time.

Mr. Speaker, it is unfortunate, there are some that want a bill, and that is obvious, because they came forward and worked together in a bipartisan fashion. Everybody that I have heard criticizing the bill criticized the prevention side. Look, I will take a back seat to nobody in this House for being a tough prosecutor. I did it for 10 years in the trenches, working with youngsters, and we are losing another generation of youngsters because we have not intervened.

I would say to the Members, Mr. Speaker, ask any chief of police about crime prevention and he will tell you that is as important as building more jails. They are both important. We do that in this bill. It is a good bill. We can save another generation because we are going to do the things we should have done years ago. Vote for the bill and against the motion to recommit.

Like most every Member, I wish that the bill contained some provisions which it does not, and I would prefer to drop or modify others.

Overall, however, the bill offers tremendous potential to truly impact upon the rampant crime which plagues our country and deeply troubles our citizens. They want us to be both tough on crime and smart on crime, and the bill provides both in a balanced approach of both better enforcement and stronger support for prevention efforts.

The bill is a good bill overall. However, as one of the House conferees on the bill, I cannot say the same for the process which produced it.

In the early eighties, we set sail on a questionable course of producing far-reaching and often inadequately considered comprehensive crime bills every Congress.

In the push to produce this year's behemoth, particularly in the past few days, we seem willing to sacrifice good policy to political expediency if good policy gets in the way of reaching a political solution.

With the acquiescence if not the encouragement of our leadership, a new team of ad hoc conferees was sent in by our Republican counterparts. Some of the changes they suggested or demanded were good, some were bad. Unfortunately, policy was not a controlling factor in determining what was accepted and what was rejected in too many instances. Indeed, in the end, as the hours wore on, policy became meaningless.

The worst example of such bad policy is the so-called sexual predator provision. Under a banner proclaiming tough registration requirements for sexual predators, we are adding the Schumer-Gorton provisions, which register almost no sexual predators. We were told we had to adopt this proposal because it mirrors a State program which has been highly successful. In fact, the director of the State program told us that the proposal is a "hodgepodge of inconsistent provisions," which would cost a fortune to set up, and that, had it been in effect in his State, would have registered only 18 sexual offenders instead of the 7,000 the State currently has registered.

Probably the worst feature of this hodgepodge is that it requires registration of only those sexual offenders who committed their crimes against persons previously unknown to them. For example, this registration requirement would probably not reach the child molester and murderer who recently murdered 7-year-old Megan Kanka in New Jersey, since he has lived across the street from Megan and might not be considered a stranger within the meaning of the law. This is a result of the inexplicably narrow definition of a sexual predator under the Schumer-Gorton language.

Fortunately, the registration system already in the bill provides for registration and tracking of all sexual offenders, so the phony toughness of this proposal does not mean that its flaws allow true sexual predators to escape identification and monitoring.

It is regretable, however, that those who want rhetoric at the expense of real registration have joined forces with those who are uneasy about a system which is both tough and effective. The result is a registration requirement which is so fundamentally flawed that it is meaningless.

I also regret that we have rolled back the very narrow provisions in the bill to allow judges to make small adjustments in unduly harsh mandatory minimum sentences.

The need for such adjustments has been called to our attention by a near unanimous Federal judiciary, most of them judges appointed by Presidents Reagan and Bush. In large part, the congressional advocates of allowing some relief for these first time, nonviolent defendants who had a minor role in drug crimes calling for inflexible mandatory minimum sentences are Members, on both sides of the aisle, who designed and pushed through these mandatory minimums a decade ago. I acknowledge with some regret that I was one of those Members.

It is somewhat ironic that proponents of these adjustments are now being accused of being soft on crime by others who only discovered these issues in the last few weeks or days. I chaired the Crime Subcommittee from 1981 to 1991, the period during which these and dozens of other tough crime control laws were passed. I am proud of my role in passing those tough laws. At the same time, I make no claims to infallibility, and am willing to make corrections where we went too far, or when, as in the case of mandatory minimums, unintended consequences produce unduly harsh results. I am deeply disappointed at the mean spirited reception that these modest relief mechanisms have received.

I am also seriously concerned about the changes in the rules of evidence that are included within this bill. These are the proposed new rules of evidence 413, 414, and 415. I do so on several grounds:

We in the Congress many years ago set up an extensive process called the Rules Enabling Act which has served us well for a long time. Under this particular process, changes in the rules of evidence and procedure for Federal courts originate not in the Congress but in the Federal Court System.

In this procedure, the governing body of the Federal Judicial Conference of the United States develops and proposes rules changes which must be approved by the Supreme Court before being submitted to Congress. The changes go into effect 6 months after submission unless rejected or modified by the Congress. The Federal rules of evidence, like all other Federal rules, affect the daily business of all our courts and also serve as a pattern for many State procedural rules.

The committees set up by the Judicial Conference which propose these rule changes are appointed by the Chief Justice of the Supreme Court and include Federal judges. State court justices, constitutional scholars and outstanding members of the bar.

The pervasive and substantial impact of the Federal rules demands exacting and meticulous care in drafting amendments. This is not evident in the proposal before us. The existing rule making process involves a minimum of six levels of scrutiny or stages of formal review. This has gone through none of those levels.

The rule changes in this bill are based on a Senate amendment that was offered on the floor of the Senate and had maybe 20 minutes of debate. It is procedurally and substantively flawed. There has been no debate on the potentially enormous impact it would have on civil or criminal cases.

It is the height of irresponsibility to suggest that we should change our rules of evidence on the basis of no hearings, totally abandoning the process we set up and which has served us well. These particular new rules would create an exception to rule 404 which excludes admission of a person's character for the purpose of proving action on another occasion.

Substantively, the existing rule states that we cannot convict a person for a particular crime based on past conduct of a similar nature. In prosecutions of sexual assault or child molestation offenses, this type of evidence is particularly inflammatory and thus potentially prejudicial to the fact finding process.

These proposed new rules would go even further and allow admission of evidence of acts even if the defendant had been acquitted on this evidence in the past. Any evidence, regardless of conviction could be offered under these changes.

Mr. Speaker, I know that in our actions on crime bills we all have a tendency to try be tough on crime, but this is ridiculous.

Frankly Mr. Speaker, what the bill before us would do will raise very serious constitutional questions. This is particularly true since in this

very conference report we have amended rule 412 of the rules of evidence—which, by the way, has been processed pursuant to the Rules Enabling Act—which would prohibit the admission of evidence of the past history of a victim of a sexual offense.

The analogous damage which can be caused by an improper inference and could cause unfair harm to a victim's testimony in a sexual assault trial prompted the change in rule 412. The change was to ensure that the trial should be fair to the victim and not focus on her past sexual behavior. These same concerns should be a factor in considering the changes proposed in rules 413, 414, and 415, but are not.

At the end of my statement I would ask that a letter to Chairman BROOKS from the Honorable Alicemarie Stotler, chair of the Committee of Rules of Practice and Procedure of the Judicial Conference, in opposition to the proposed rules changes for these reasons, be entered into the RECORD.

Frankly, Mr. Speaker, the proposed new rules are not only seriously suspect on constitutional grounds, but they are extremely bad public policy. If the primary evidence in a prosecution's case in chief is evidence of prior acts—which would be possible under the changes—we would be sinking into the star chamber procedures that have long been rejected by civilized societies everywhere. This is not a question of whether you are being tough enough on criminals or protecting victims. This is a question of protecting our system of justice and fair trials.

As one of the House conferees on the conference report, I would like to explain one change we made in the prison grant portion of the conference report.

In title II of the bill, the amended conference report deletes language from the original conference report relating to grants for State correctional facilities. This amendment removes authority for use of the Federal grant funds to fund programs that are outside the normal operational activities of correctional facilities. This means, for example, that an intensive supervision program operated entirely outside a correctional facility and with no custodial element, would not be eligible for funding, even though intensive supervision is a correctional program.

The amendment makes no change in the authority to utilize Federal funds to operate correctional facilities. As a result, normal operational activities may receive Federal support. Activities such as drug treatment, training, and work release remain eligible, even though the operational activity may be internally referred to with the correctional facility as a program.

Similarly, the amended conference report continues funding eligibility for boot camp facilities and other alternative confinement facilities, including operation of such facilities, while deleting authority for other alternative programs unrelated to these alternative facilities.

The amendment is not intended to dictate or circumscribe the components of an operational plan being carried out by a correctional facility, whether it be a conventional facility or a boot camp or other alternative facility. The intent is merely to exclude funding for programs which, however meritorious they may be, are unrelated to the operation of correctional facilities which are eligible for Federal funding support.

It is overall a good conference report. It preserves the essential elements of the previous bill, tightens the prevention programs in a block grant mechanism, and finally provides a strong law enforcement component along with a serious effort to prevent crime.

I urge you to support the conference report and vote against the motion to recommit.

Mr. CASTLE. Mr. Speaker, I yield our final 2 minutes to the gentlewoman from New York [Ms. MOLINARI], our final speaker, a young woman who has worked as hard as anyone else in this building to help put this legislation together, Republicans and Democrats alike.

Ms. MOLINARI. Mr. Speaker, I rise as someone who voted last week to defeat the rule on the crime bill conference report. I voted against the rule because the original conference report added social spending, stripped out tough provisions, and stripped out Republican participation and Republican ideas.

Tonight, Mr. Speaker, after a week of debate and intense negotiations, a better product truly emerges. Tonight we vote on a report that is less expensive than before. We vote on a report that is tougher than before, and we vote on a report that more clearly, but not perfectly, reflects the true priorities of America.

Mr. Speaker, courts must get tougher on criminals because of the changes we made. Women and children, because of the changes, may see just a little more justice this week than last. We have added community notification of sexual predators, mandatory HIV testing for rapists, the opportunity for admission of prior evidence in rape and child molestation cases, mandatory victim restitution, and for all of that, we have acknowledged the need to build even more prisons.

Mr. Speaker, these provisions are added to the original provisions of the Violence Against Women Act.

Tonight, Mr. Speaker, I encourage all my colleagues to vote for the bipartisan crime bill. I urge all my colleagues to join with me in thanking the gentleman from Delaware [Mr. CASTLE], the gentleman from Ohio [Mr. KASICH], and the gentleman from New York [Mr. LAZIO] for their leadership and commitment, and also the gentleman from Georgia [Mr. GINGRICH], for his guidance in this effort.

Mr. Speaker, in closing, I urge my colleagues to take a moment to think and vote for this bipartisan crime bill. I truly believe, we truly believe, it is tougher for the criminal, it is fairer for the victim, and it is, in fact, better for all of our future.

Mr. Speaker, the revised conference bill contains a critical reform that I have long sought to protect the public from crimes of sexual violence—general rules of admissibility in sexual assault and child molestation cases for evidence that the defendant has committed offenses of the same type on other occasions. The enactment of this reform is first and foremost a triumph for the public—for the women who will not be raped and the children who will not be molested because we have strengthened the legal system's tools for bringing the perpetrators of these atrocious crimes to justice.

Senator DOLE and I initially proposed this reform in February 1991 in the Women's Equal Opportunity Act bill, and we later reintroduced it in the Sexual Assault Prevention Act bills of the 102d and 103d Congresses. The proposal also enjoyed the strong support of the administration in the 102d Congress, and was included in President Bush's violent crime bill of that Congress, S. 635. The Senate passed the proposed rules on November 5, 1993, by a vote of 75 to 19, in a crime bill amendment offered by Senator DOLE. This Chamber endorsed the same rules on June 29, 1994, by a vote of 348 to 62, through a motion to instruct conferees that I offered.

The rules in the revised conference bill are substantially identical to our earlier proposals. We have agreed to a temporary deferral of the effective date of the new rules, pending a report by the judicial conference, in order to accommodate procedural objections raised by opponents of the reform. However, regardless of what the judicial conference may recommend, the new rules will take effect within at most 300 days of the enactment of this legislation, unless repealed or modified by subsequent legislation.

The need for these rules, their precedential support, their interpretation, and the issues and policy questions they raise have been analyzed at length in the legislative history of this proposal. I would direct the Members' attention particularly to two earlier statements:

The first is the portion of the section-by-section analysis accompanying these rules in section 801 of S. 635, which President Bush transmitted to Congress in 1991. That statement appears on pages S3238 and S3242 of the daily edition of the CONGRESSIONAL RECORD for March 31, 1991.

The second is the prepared text of an address—entitled "Evidence of Propensity and Probability in Sex Offense Cases and Other Cases"—by senior counsel David J. Karp of the Office of Policy Development of the U.S. Department of Justice. Mr. Karp, who is the author of the new evidence rules, presented this statement on behalf of the Justice Department to the Evidence section of the Association of American Law Schools on January 9, 1993. The statement provided a detailed account of the views of the legislative sponsors and the administration concerning the proposed reform, and should also be considered an authoritative part of its legislative history.

These earlier statements address the issues raised by this reform in considerable detail. In my present remarks, I will simply emphasize the following essential points:

The new rules will supersede in sex offense cases the restrictive aspects of Federal rule of evidence 404(b). In contrast to rule 404(b)'s general prohibition of evidence of character or propensity, the new rules for sex offense cases authorize admission and consideration of evidence of an uncharged offense for its bearing "on any matter to which it is relevant." This includes the defendant's propensity to commit sexual assault or child molestation offenses, and assessment of the probability or improbability that the defendant has been falsely or mistakenly accused of such an offense.

In other respects, the general standards of the rules of evidence will continue to apply, including the restrictions on hearsay evidence and the court's authority under evidence rule 403 to exclude evidence whose probative value is substantially outweighed by its prejudicial effect. Also, the Government—or the plaintiff in a civil case—will generally have to disclose to the defendant any evidence that is to be offered under the new rules at least 15 days before trial.

The proposed reform is critical to the protection of the public from rapists and child molesters, and is justified by the distinctive characteristics of the cases it will affect. In child molestation cases, for example, a history of similar acts tends to be exceptionally probative because it shows an unusual disposition of the defendent—a sexual or sado-sexual interest in children—that simply does not exist in ordinary people. Moreover, such cases require reliance on child victims whose credibility can readily be attacked in the absence of substantial corroboration. In such cases, there is a compelling public interest in admitting all significant evidence that will illumine the credibility of the charge and any denial by the defense.

Similarly, adult-victim sexual assault cases are distinctive, and often turn on difficult credibility determinations. Alleged consent by the victim is rarely an issue in prosecutions for other violent crimes—the accused mugger does not claim that the victim freely handed over his wallet as a gift—but the defendant in a rape case often contends that the victim engaged in consensual sex and then falsely accused him. Knowledge that the defendant has committed rapes on other occasions is frequently critical in assessing the relative plausibility of these claims and accurately deciding cases that would otherwise become unresolvable swearing matches.

The practical effect of the new rules is to put evidence of uncharged offenses in sexual assault and child molestation cases on the same footing as other types of relevant evidence that are not subject to a special exclusionary rule. The presumption is in favor of admission. The underlying legislative judgment is that the evidence admissible pursuant to the proposed rules is typically relevant and probative, and that its probative value is normally not outweighed by any risk of prejudice or other adverse effects.

In line with this judgment, the rules do not impose arbitrary or artificial restrictions on the admissibility of evidence. Evidence of offenses for which the defendant has not previously been prosecuted or convicted will be admissible, as well as evidence of prior convictions. No time limit is imposed on the uncharged offenses for which evidence may be admitted; as a practical matter, evidence of other sex offenses by the defendant is often probative and properly admitted, notwithstanding very substantial lapses of time in relation to the charged offense or offenses. See, e.g., *United States* v. *Hadley*, 918 F. 2d 848, 850–51 (9th Cir. 1990), cert. dismissed, 113 S.Ct. 486 (1992) (evidence of offenses occurring up to 15 years earlier admitted); *State* v. *Plymate*, 345 N.W. 2d 327 (Neb. 1984)—evidence of defendant's commission of other child molestations more than 20 years earlier admitted.

Finally, the practical efficacy of these rules will depend on faithful execution by judges of the will of Congress in adopting this critical reform. To implement the legislative intent, the courts must liberally construe these rules to provide the basis for a fully informed decision of sexual assault and child molestation cases, including assessment of the defendant's propensities and questions of probability in light of the defendant's past conduct.

Mr. MCCOLLUM. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. Mr. Speaker, I rise in opposition to the compromise legislation, which is much too fat for me.

Mr. Speaker, I rise in opposition to the conference report on the Violent Crime Control and Law Enforcement Act of 1994 (H.R. 3355) which is again being considered by the House. The conferees made certain changes from the bill which was rejected last week. In my view, however, these modifications were not enough to justify changing my position against this measure.

My constituents want a crime control bill that does precisely that: control crime. They want violent criminals, especially repeat violent offenders, put away so they will not be able to commit more crimes. They want justice to be swift, and punishment for severe crimes to be severe.

For this reason I also intend to vote in favor of the Brewster/Hunter back to basics crime control bill which will be offered as an alternative measure. I shall vote in favor of this measure because I believe it is a tough crime control measure which eliminates the social welfare programs contained in the compromise agreement—welfare programs which basically duplicate existing law. The provisions of the bill: First, provide $12 billion in grants to correctional facilities to expand prison facilities with no federal strings attached; second, provide $12 billion in grants for State and local law enforcement agencies; third, provide $2.5 billion for border patrol enforcement and the Immigration and Naturalization Service (INS); fourth, include habeas corpus reform to stop the endless appeals process for death row inmates and convicted felons; fifth, provide a "good faith" exception to the exclusionary rule which will end the practice of setting criminals free based on technicalities; sixth, provide convicted felons to serve at least 85 percent of their prison sentences—that is, truth-in-sentencing; and seventh, end the country club comforts for prisoners by requiring able bodied individuals to work and abolishes luxuries.

I want to emphasize, however, that if the Brewster/Hunter bill is sent to the conference committee, it is my hope that the provision providing $12 billion in grants for the hiring of local policemen will be stricken from the bill. I frankly question whether the Federal Government should be paying salaries of local policemen at a time when the Federal Government is adding some $350 billion each year to the national debt. Have our local governments become powerless to put a sufficient number of policemen on their streets? Is it necessary to borrow another $9 billion from our children to pay for what has always been a responsibility of state and local governments?

I opposed the compromise agreement proposed by the Democratic leadership because I believe the bill is more of the last 30 years of Federal crime policy—weak enforcement initiatives combined with social welfare spending layered on top of the existing patchwork of Great Society programs which haven't helped to make a dent in the ever-growing crime rate.

H.R. 3355 includes some 31 new social welfare programs totaling at least $6.9 billion. These may include—I still have not been provided a copy of the voluminous compromise: $3 million to track missing Alzheimers' patients; $50 million to the U.S. Olympic Committee to set up sports programs in high crime areas; $630 million for afterschool, weekend, and summer programs; $40 million to fund midnight basketball and other sports leagues. And, here Congress has written detailed instructions about how many teams have to be in each league, how many players must be on each team, how many players must live in public housing, and so forth; child-centered activities: hundreds of millions of dollars for arts and crafts, dance programs, recreational activities; model intensive grants: several hundred millions more in grants that can be used by mayors for almost anything they desire.

The chief motivation behind this legislation is not to put murderers, muggers, and drug kingpins behind bars. Last spring, the President unveiled his so-called economic stimulus package which died quickly because it consisted mostly of social spending for State and local interests that had little to do with job creation. Now that polls show that people are most concerned about crime, the same failed programs have been relabeled "crime-prevention," and tucked away in the crime bill.

As Richard Cohen pointed out in his column in the Washington Post, the crime bill "is a political response to a political problem that if enacted, will leave the streets no safer than they are today * * *. The problem with the crime bill is that it had no animating doctrine. It is so at odds with itself that if it were a person it would be institutionalized as schizophrenic."

Mr. Speaker, the rationale for these massive new social programs is that crime will be reduced if government provides recreational activities, more social services and so on. But this argument belies the fact that society has spent $5 trillion on the war on poverty since 1965, yet the national crime rate stands at its highest level ever. In addition, we already have within our Federal statutes some 266 programs dealing with at-risk youth and over 150 different job training programs. We don't have to create more of these programs.

One-third of the funds—nearly $9 billion over 5 years—are supposedly aimed at putting 100,000 new officers on the street. First of all, it would take an estimated $42 billion to hire this many new policemen. According to Princeton professor John Dilulio, $9 billion would fund only about 20,000 fully funded positions. Allowing for sick leave, disabilities, vacations, desk work, and three shifts a day, it takes 10 officers to put 1 officer on the street around-the-clock. So the 20,000 positions become 2,000 around-the-clock cops, and they are to be distributed to at least 200 jurisdictions. In addition, the bill puts so many conditions on receiving these funds that many State officials have said they will not be able to hire any new policemen because the program would cost them money. One recent study of the bill finds that it would put two new social workers on the street for every new cop it funds.

Moreover, as previously stated, I don't believe our debt ridden Federal Government should get into the business of paying the salaries of local policemen at a time when the Federal Government is adding some $350 billion each year to the national debt. What we are doing here is to recreate revenue sharing. We've already traveled down that road. The Federal Government cannot finance the very basic responsibility of local governments which is what the cop on the beat is.

There are, of course, some sound anticrime features to the bill. Roughly one-third of the funds in the bill would assist States in building more prisons, although the U.S. Attorney General would be afforded new powers in regard to State prison construction. However, the bill does not provide the funds be conditioned on criminals serving at least 85 percent of their sentences, that is, the so-called truth in sentencing requirements. As I understand it, this new conference report, like the previous one, concludes that 60 percent of the prison funds are not conditioned on any truth-in sentencing requirement and 40 percent are based on a formula that requires only some progress toward longer sentences.

The bill also contains a watered-down version of the so-called three strikes and you're out provision. The provision imposes mandatory life imprisonment without parole for criminals convicted of three violent crimes or serious drug offenses. On the surface this is a strong crime control provision which I do support. However, as reported by the conference committee, the provision is weak and ineffective. The fundamental flaw is that the third strike must be a Federal crime or drug offense. Since 95 percent of violent crimes fall under State and local statutes, few criminals will be affected by this provision.

The bill also reportedly guts one of the most effective law enforcement tools to induce cooperation against high-level drug traffickers, that is, mandatory minimums in sentencing. Mandatory minimums apply—with a single exception—to drug dealers, not users.

Finally, Mr. Speaker, the $30 billion cost of the bill is supposed to be funded from projected savings over 6 years from Federal personnel cuts ordered in separate legislation enacted earlier this year. The savings are allegedly to be placed in a trust fund. I question whether any savings from Federal personnel reductions over the next 6 years, to the extent it may occur, will be sufficient to finance the costs of this crime bill and/or will ever be applied to the crime bill costs. I have never seen a trust fund in the Federal Government that ever has one cent in it. The funding aspects of this bill are pure fantasy. To my knowledge the costs of the crime bill are not even budgeted. I believe that most, if not all, of the costs of the bill will simply add to future deficits and our national debt.

Joan Beck had an insightful column in last week's Chicago Tribune, in which she wrote:

> Maybe the key question is to ask taxpayers whether the $30 billion they would have to shell out for this bill would make them feel safer and less worried about being a victim of crime. That's the crucial question.

The answer I arrived at, after carefully reviewing the original legislation as well as this compromise version, is no.

Mr. McCOLLUM. Mr. Speaker, I yield myself my remaining time.

Mr. Speaker, we have heard a lot here about this bill. What I want to say is, as I said at the beginning of this debate, men and women who are reasonable can differ in their view of what has been done and what has not. However, we had a bad bill to begin with. We have a slightly improved bill that got a little bit of a trim around the edges, but not a haircut, and we still have a bad bill.

It was $33 billion when it went into this conference report, and it is $30 billion now that it is out of here. We have no business spending this kind of money, particularly when we just trimmed a little bit off of the social welfare spending programs, and brought them down from $9 billion to $7 billion in that arena. This is still loaded with Great Society social welfare programs.

Mr. Speaker, I know that the men and women who negotiated on my side of the aisle were doing it in good faith, but that is still the truth of the matter.

We have not really strengthened prison bills. The net amount of money in here for prison construction, Mr. Speaker, to help the States solve the problem of the revolving door and get truth in sentencing, is actually less than it was in the previous report back out here for us.

If we want to talk about community policing, Mr. Speaker, it is a sham in this bill. It always has been a sham. It has not changed one penny, because we are not going to get 100,000 cops, we are only going to get somewhere in the neighborhood of 20,000, and the States are going to have to pay four-fifths of the money that will be paid for any new cop on the street.

Mr. Speaker, the only way we can get a decent bill out of here, one that is tougher and does not waste the taxpayers' money, is to vote for the motion to recommit that I am about to offer, that is the Brewster-Hunter proposal, that puts all of the money into prisons and into real cops on the street, and not this phony thing that is in this bill, and does what is necessary to put swiftness and certainty of punishment back into our system again to help the States, to send a deterrent message, to make sure that once again, we as a nation can be proud that we have done something that the people really want, instead of doing the kind of social welfare spending junk that is in the main bill.

Mr. Speaker, I say that with all due respect to the work that went in. It is improved, but it is so marginal that we can hardly see it. We have a bad bill, and we need to vote that bill down. However, in preference to that, I urge a vote on the motion to recommit; that is, the Brewster-Hunter proposal that puts the money and effort and the right kind of strength in here that ought to be there, instead of this bill.

Mr. BROOKS. Mr. Speaker, I yield the remainder of our time to the gentleman from Missouri [Mr. GEPHARDT], the distinguished majority leader.

The SPEAKER pro tempore. The gentleman from Missouri [Mr. GEPHARDT] is recognized for 2¼ minutes.

Mr. GEPHARDT. Mr. Speaker, a week ago we defeated the first crime bill that came back from the conference. I was disappointed, because I thought it was a good effort that had a good balance, and was a large crime bill that was the most comprehensive effort we have ever made in history to try to deal with the matter of crime. We were defeated. I learned a long time ago, however, that in a democracy, you do not win every vote and you do not win every issue.

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Rather than just going off and accepting defeat, in the last 5 days we have reached out to Members of the other party and Members of the other party have reached out to us. We began a series of discussions and negotiations that have yielded the bill that is before us today. There were tough compromises that were made. I want to

thank the minority leader and the minority whip and many of the Members that worked on this side. I want to thank the chairman of the committee, members of the Committee on the Judiciary on our side, I want to thank the Speaker of the House, all of whom worked together to reach the bill that we have today.

Mr. Speaker, this is a good bill. Through the determination and the decency of Members on both sides of the aisle, the bill that was good last week is better, in my view, this week. We kept the principles of the bill. It has punishment, harsh punishment. Most of the money in the bill, the vast majority, two-thirds of it, goes for greater law enforcement and for prisons, as well it should. But in addition, this bill for the first time in the history of our country recognizes that if we put all of our effort on what happens after crimes are committed, we have no chance of stopping crimes from being committed.

Some will say that the Federal Government has no capacity for fighting crime and preventing crime and we should not even try. I do not believe that.

We did make improvements in what we did in this bill and I give credit to our friends on the other side. We block-granted 13 categorical programs. I think that is an improvement, because now mayors of cities will have a greater ability to decide how to spend those moneys. But some would say we should not even try, and I would say to the Members of the House, and this is the most important point: We must try to figure out how to begin preventing crime in this country.

Every child we lose, every child we lock up is a child we cannot afford to lose. Four days ago, a 13-year-old boy here in Washington, Michael Stokes, was killed by another 13-year-old boy. Yesterday the pastor, Wilbert Miller, at the funeral said this:

> Children should not have to see their friends' blood staining the street corners. God's children don't deserve to die.

If we start saving some of God's children, maybe in 10 or 50 years this Congress will not have to pass another crime bill.

Ladies and gentlemen, vote for this bill.

Mr. RAMSTAD. Mr. Speaker, as one of the leaders of the bipartisan group which worked to craft a comprehensive, trimmed-down crime bill, I rise today to urge passage of this tough, balanced bill that provides much-needed police, prisons, punishment, prevention, and treatment.

Since I first came to Congress, my top priority has been to pass a tough, balanced and fiscally responsible crime bill. This bill represents a balanced, bipartisan compromise, with a reduction of $3.5 billion in nonessential spending.

Now that we've eliminated this nonessential spending, it is completely paid for by a trust fund established from the reduction of the Federal work force by 252,000 employees.

America is losing the fight against crime and drugs. That's why we need this tough, comprehensive and balanced crime bill that provides more police, prisons, punishment, prevention, and treatment.

Every major law enforcement organization in America supports this compromise crime bill. We need to give our cops the resources to effectively fight crime, and this bill does that.

We desperately need the added cops on the beat, tougher sentences for violent criminals, more prisons and boot camps, and effective drug treatment and prevention programs.

We also need the Jacob Wetterling Child Protection bill, which I wrote. The children of America and their families need the Wetterling bill to protect them from child abductors and molesters, and cops want it as a resource for investigating child abduction and molestation cases.

The children of America and their families also need the other two child protection bills I authored—the Child Sexual Abuse Prevention Act and the Assaults Against Children Act—which are part of this important bill.

We also need the violence against women measures to deal with the unprecedented violence against women in America.

Mr. Speaker, we stand at an historic crossroads. It's time to take off our Republican hats, take off our Democrat hats, and pass this bipartisan bill to address the epidemic of violent crime and drugs in America.

The good, law-abiding people of this country deserve nothing less.

Mr. DELAY. Mr. Speaker, I know that I speak for myself, many of my colleagues and the American people when I say I am sick and tired of this hug-a-thug approach to crime. While the crime bill has been improved by Republicans, it's still not good enough. Americans don't want our judicial system coddling criminals. The American people want safety, and they are demanding rights for victims and rights for their communities.

However, this crime bill federalizes prisons, takes greater control over State and local spending, imposes a gun ban on law-abiding citizens, and takes a hug-a-thug approach to rehabilitating criminals.

First, the money for prisons in this bill is subject to Federal task force supervision. In other words, the States can build prisons with Federal money, but only if they do it according to Federal regulations. The funding for cops on the street also directs power away from communities as it allows law enforcement to decide how to spend it. The three strikes and your out provision is also a sham, requiring that the third offense be Federal and that each strike be a separate incident.

With regards to gun control—has it occurred to some of you that those of us who oppose a gun ban might actually believe in what we are doing? If the NRA supports us, does that make our convictions a crime?

Finally, this bill still contains billions of dollars for funding of prevention programs. Mr. Speaker, I would submit that real criminals are laughing at your programs. You can't be serious when you say you hope to produce muggers that watercolor, rapists that can waltz, and robbers that are more in touch with their inner selves.

I urge my colleagues to begin real welfare reform tonight. Vote for the motion to recommit and vote against this hug-a-thug crime bill.

Mr. HOYER. Mr. Speaker, I rise today in support of the conference report on the Violent Crime Control and Law Enforcement Act. I believe the conferees have crafted a tough, comprehensive, and balanced crime package.

I know the work on developing this bill has been challenging and time consuming. However, the hard work was necessary so that a strong bill could be produced which would have real short and long term effects in the fight against crime. Mr. Speaker, I have had extensive dialog with many of my constituents since we began this crime bill debate over a year ago. They are very concerned about the crime dilemma and the problems associated with it.

Crime is of great concern to them and the danger it poses to the security of their homes, streets, communities, and schools and the safety of themselves, their children, families, and neighbors. Since we were sent here to represent them, it is incumbent upon us to do what we can to move crime to the bottom of the charts. Passage of a tough, smart, crime bill moves us a step closer to fulfilling our duty.

Mr. Speaker, when I leave here today, I want to be able to assure the parents, the friends, and the community of Greenbelt, MD, which still mourns the senseless death of 13-year-old Carlton "C.J." Brown, that the Federal Government has taken a significant step in the fight to curb violent crime. C.J. was a beloved, honor student in the prime of his life who was killed when a melee broke out between two rival groups.

In an all too common occurrence, C.J. just happened to be in the wrong place at the wrong time. Unfortunately, another mother and father are now without a child and another community is without a future leader. Stories like this about innocent citizens falling victim to senseless violence are now too common. That is why we must enact this legislation which aims to help alleviate such violence.

Mr. Speaker, the crime bill we have before us can do that. It is a tough bill which packages police, punishment, and programs designed to keep young people off the streets and out of gangs.

Even though we do not have major league baseball today, by approving this crime bill, we do tell repeat violent offenders—"three strikes and you are out." I am very pleased that this bill includes the "three strikes and you are out", which I proposed last year. This provision says to repeat violent offenders that they have forfeited their rights to be members of our society and that they will go to jail forever, never to plague us again. A poll taken earlier this week shows that 74 percent of the American people favor this provision of the bill.

The bill also includes increased funding to help States build prisons and boot camps to house violent offenders. Additionally, it provides funding to place additional police officers on the streets.

These police officers will play a crucial role in community policing efforts such as those in Prince Georges County, MD, moreover, it includes the Violence Against Women Act which includes provisions designed to curb violence against women and increase the penalties on those who commit crimes of violence against women.

This provision could help thwart violent attacks such as the brutal torture and murder of Stephanie Roper who fell victim to a senseless attack. These strong measures combined with others in the bill will help to reduce the plague of crime that confronts us.

The time for this bill is now. We must not continue holding up Federal assistance to the States and local governments.

Since the majority of crime is committed at the State and local levels, these entities can best judge where Federal resources need to be allocated. The block grants in this conference report will need those who fight on the frontlines with additional resources to make our communities safer.

Mr. Speaker, this bill has very broad support and has garnered the support of the following: The National District Attorneys Association, The National Association of Attorneys General, the Federal Law Enforcement Officers Association, the Fraternal Order of Police, International Association of Chiefs of Police, the National Organization of Black Law Enforcement Executives, the National Sheriff's Association, the International Brotherhood of Police Officers, the International Union of Police Associations, the Major Cities Chiefs, the National Association of Police Organizations, the Police Executive Research Forum, the National Trooper's Coalition, the Police Foundation, the Democratic Governor's Association, the United States Conference of Mayors, the National League of Cities, the National Conference of Republican Mayors and Municipal Elected Officials, the National Conference of Democratic Mayors, the National Association of Counties, and most importantly the American people who sent us here.

Enough is enough. It is time for this body to release the chains which hold this crime bill hostage so that C.J. Brown's family, the Greenbelt, MD, community and other communities that I represent, Stephanie Roper's family, the various police departments in my district awaiting funding to hire more police, will take comfort in knowing that help is on the way.

Mr. Speaker, I support final passage of this bill, and I urge my colleagues to do the same.

Mr. KOLBE. Mr. Speaker, I will vote for the conference report on H.R. 3355, the Omnibus Crime Control Act. It is not a great bill, but it is—in many respects—a good bill. It is certainly a better bill, far better, than the conference report we considered in this House just 10 days ago and returned to the conference when the rule was defeated.

How has it been made better? It has reduced the overall cost of the bill for the American taxpayer—by more than $2 billion. It does so by making a 10-percent cut in 28 social programs, eliminates the jobs program which has nothing to do with a crimefighting measure, and consolidates 13 other programs into a single block grant, thus giving States the opportunity to decide how to allocate the money.

It took out the outrageous pork-barrel spending in the district of one Member, the chairman of the Judiciary Committee.

It increases funding for prisons by $1.2 billion and targets some of that money to States with a truth-in-sentencing provision.

It prohibits the retroactive release of drug offenders serving time under minimum sentences. The bill last week could have released as many as 16,000 drug offenders.

It changes the rules of evidence of prior sexual offenses so that a prosecutor may enter that evidence in the record.

It makes victim restitution mandatory.

It requires HIV testing in rape cases.

It incorporates the provisions offered by our colleagues, Ms. DUNN and Mr. ZIMMER, and requires the registration of sexual offenders located in a community.

It sets aside money for the Violence Against Women Program.

Mr. Speaker, these are all good provisions, but the bill misses the mark in several important areas: 50 percent of the money for prisons is still not conditioned on having States adopt truth-in-sentencing guidelines.

The money for cops on the street is less than honest. If it actually funded 100,000 additional law enforcement officers, it would provide only $14,000 for each cop; the reality is that only 20,000 to 27,000 more officers could be funded with this money—and then only for a limited period of time.

It has far less money for prisons than the bill initially passed by the House months ago—$7.9 billion instead of $13.5 billion.

It has no reform of habeas corpus provisions, so that we might end the costly, lengthy appeals of death row inmates. It does not include the provisions for expedited deportation of criminal aliens—a truly inexplicable deficiency.

And, of course, it still has in the bill a ban on the sale or ownership of certain assault weapons. Mr. Speaker, this provision does not belong in this bill. We have passed this bill separately in the House—though not with my support. The Senate could simply take this measure from the desk, vote on it tomorrow and send it to the President where it awaits an eager signature.

But, on balance—and a complicated piece of legislation like this is always a balance—I find this crime bill a step forward. Americans, Arizonans, want us to do something about crime. They want us to give tools to law enforcement officers and prosecutors to fight criminals. This bill makes a modest step in that direction.

Ms. SNOWE. Mr. Speaker, crime is a serious problem in America. Americans no longer feel safe in their own neighborhoods. While the population of the United States has increased 44 percent since 1960, violent crime increased by more than 500 percent in that same time. Every single day, 14 Americans are murdered, 48 are raped, and 578 are robbed. One-third of all Americans will be robbed in their lifetime and three-fourths will be assaulted.

The best way to deter crime is to provide swift, certain, and tough punishment to criminals. The first conference report did not strike the proper balance between punishment and prevention. That is why I voted against the rule last week, and urged the House leadership to reconvene the conference and improve the bill. Furthermore, I cosigned a letter to President Clinton with other moderate Republicans which formed the basis for the bipartisan agreement that brought forth the conference report we have before us today.

The bipartisan conference report we are considering today is significantly stronger than the original conference report because it emphasizes funding for prisons and police more than social spending. Funding for prisons increased by $1.4 billion, while social welfare prevention programs were either eliminated or cut by 10 percent, resulting in total reductions of $2 billion. In fact, most of my constituents have opposed funding for these programs.

It is regrettable that the administration waited so long before being willing to work with moderate Republicans on a crime bill. If Republicans had been brought into the process sooner, a crime conference bill would have passed by now. However, I am pleased that the administration did finally agree to work on a bipartisan crime package.

I am concerned, however, that the conference agreement does not include tough mandatory minimum sentences for criminals who commit crimes with firearms. I joined a majority of my colleagues in supporting tough provisions to increase mandatory minimum repeat offenders using semiautomatic firearms could be sentenced to life in prison. Incredibly, however, the conference report does not include these provisions. In addition, it wrongly infringes upon the rights of law-abiding citizens to bear firearms.

I certainly understand and share my colleagues' and constituents' concern with the number of violent, gun-related crimes. Gun control, however, is not an effective approach in addressing this problem.

The District of Columbia is a good example of the ineffectiveness of gun control. The District's gun control law is one of the strictest in the Nation. Yet year after year, the District sets a record for homicides. In 1992, 443 people were killed in the District with the majority of deaths being caused by handguns. No deaths were caused by rifles of any kind. At the same time, I think it is important to note that while Maine ranks second in the Nation in guns per capita, it ranks 49th in violent crimes per capita.

The conferees, however, did make some important improvements to the crime conference report—many based on the letter I signed to the President. For example, the total cost of the bill was reduced by $3.3 billion, and the bill is funded entirely from the crime trust fund which will be created with the savings from streamlining the Federal work force. In addition, the bill increases funding for prisons by $1.4 billion, and two-thirds of the cuts were made to social welfare prevention programs.

This reduction in social welfare prevention programs is in keeping with the will of most Americans. According to the national crime bill survey conducted by Luntz Research Companies, social programs rank at the bottom of proposals to reduce crime. When asked to choose, a clear majority of voters—57 percent—believe that stronger punishment is a better way to prevent crime.

Other positive changes are that the conferees narrowed the retroactivity of new rules reducing mandatory 5- and 10-year Federal sentences for some nonviolent, first-time drug offenders. Conferees also agreed to allow neighborhoods to be notified if sexual predators are released into their neighborhoods, and to allow prosecutors in sexual assault

cases, rape and child molestation cases, introduce evidence that the defendant has committed similar crimes in the past—a provision that was supported overwhelmingly in the House by a vote of 348 to 62. In addition, conferees eliminated the $10 million for research program at a university in a conferees district—a provision which was not in either the House or Senate-passed crime bills.

The conferees retained many of the important provisions which were in the House-passed crime bill that I voted for last April. For example, it includes three-strikes-you're-out provisions which focus on keeping repeat violent offenders off of the streets for good. It mandates that a felon convicted of a violent Federal felony with two prior State or Federal violent felony convictions on his or her record, be sentenced to life in prison. This provision is absolutely critical if we are to wage an effective war on crime.

In addition, this bill has an important provision asking the Attorney General to consider closed military installations in rural areas for conversion into Federal prisons, if such a plan is cost effective and consistent with local reuse plans. for example, Loring Air Force Base in Loring, ME, is scheduled to close in September of this year, and the devastating economic impact of the closure on the region could be offset if the base was converted into a prison facility.

The crime bill also includes $1.62 billion for the Violence Against Women Act, which provides funds to combat crime against women. Women and children are frequently victimized by the worst crimes in our society. Consider the horrible stabbing deaths of a Washington, DC, woman and her 13-year-old daughter in May of this year, allegedly by a former boyfriend who was enraged by her demand for child-support payments. Mr. Speaker, these crimes have no place in any society, and this crime bill takes important concrete steps to combat violence against women.

The crime conference report could be improved even more. Congressman MICHEL will offer a motion to recommit the bill to conference, with instructions to make funding for prisons, police, and border patrols the highest priority. This motion will give conferees the opportunity to adopt provisions of the bill recently introduced by Representatives BREWSTER and HUNTER, including a $4 billion increase in prisons, a $1.2 billion increase in State and local law enforcement funds, truth-in-sentencing provisions to ensure that criminals serve at least 85 percent of their sentencee, and it does not earmark valuable Federal resources for unproven social welfare prevention programs. In addition, the Brewster-Hunter bill takes the tough, proven, crime-deterrent approach by requiring mandatory minimum sentences for criminals who commit crimes with firearms, rather than banning semiautomatic firearms. Should this motion be defeated, however, I intend to support the crime conference report.

Mr. Speaker, Americans have the right to be personally secure, to be free from the fear of violent crime. The bill before us today takes positive steps to both punish criminals and keep them off of the streets, and to address the roots of crime as well. The conferees clearly should have included the provision to provide mandatory minimum sentences for violent criminals who commit with a firearm, and should have removed the ban on semiautomatic firearms. Nevertheless, this bill will provide many benefits to communities and States struggling to deal with rising crime, and consequently I am giving it my support.

Mr. STOKES. Mr. Speaker, I rise in strong opposition to both the rule and the conference report on H.R. 3355, the Violent Crime Control and Law Enforcement Act of 1994. Ordinarily, I vote for rules related to bills to be debated and voted upon in the House, even when I intend to vote against the bill. Only in extraordinary cases have I voted against a rule with the intention of precluding a bill from coming to the floor. The principle for voting for a rule, even where I disagree with the merits of the legislation, is steeped in my firm belief in the constitutional right of free speech and debate. I have taken the extraordinary step of voting against the rule on the crime bill as my only means of protesting the extraction of the racial justice provisions from the crime bill conference report.

The racial justice provisions were incorporated in the crime bill which was passed by the House by a vote of 285 to 141 on April 21, 1994. The conferees sent the conference report back to the House, after stripping the racial justice provisions from the bill. The bill now includes 60 additional Federal crimes for which capital punishment can be imposed. In the absence of a provision in that bill on racial justice, I cannot in good conscience vote for the rule. The vote which I cast in the House of Representatives must be commensurate with my conscience and rooted in the basic principles to which I subscribe relative to both freedom and justice.

Mr. Speaker, the Justice Department's Bureau of Justice Statistics reported recently that nationally African-Americans account for 40 percent of the prisoners serving death penalty sentences. This percentage is three times greater than our Nation's total African-American population which is only 12 percent. In my own State of Ohio, African-Americans make up 50 percent of the total number of persons serving death penalty sentences. It should be noted that Federal courts have found constitutional or racial bias violations in at least 40 percent of the death penalty convictions and sentences reviewed in the past 15 years. Under the Clinton administration, all 10 of those being tried in Federal death penalty cases are African-American.

In a society in which racism is institutionalized, it seems to me that fairness and justice would dictate the necessity of inclusion of a provision relating to racial justice, particularly when you are adding 60 new and additional crimes for which you can impose the death penalty. The situation is now more exacerbating considering that the same Congress that 3 months ago saw the necessity for passing a racial justice bill, is now trying to pass a crime bill excluding it.

It is true that inclusion of prevention funding for the purposes of providing social remedies is a new approach to crime prevention in this Congress. But, even this prevention provision has been greatly reduced within the last 24 hours from the original amount that was in the conference report. This sacrifice is a further example of another last minute compromise to gain support for this bad bill at any cost. While I support prevention funding as a means of preventing both crime and criminal activity, I can in no way equate that or any sum of money with the exchange of my vote, which is based upon conscience and principle.

In addition to this basic principle regarding the rule and the crime bill itself, it will be my intention, if the rule passes, to vote against the bill. The three-strikes-and-out provision which will turn our prisons into aged warehouses, geriatric and hospice wards, is unacceptable to me. This proposal will do little to end crime. Already, the U.S. incarceration rate is the highest in the industrialized world, at 450 per 100,000 citizens. In the African-American community, however, the average rate is 1,300 per 100,000 citizens. More incarceration is obviously not the answer.

The inclusion of the provision permitting 13-year-olds to be tried as adults for certain crimes is another unacceptable provision. The mandatory nature of this provision is unprecedented in the Federal system. This measure will simply facilitate the matriculation of juveniles into the world of a revolving door of adult street crime and imprisonment. A constituent, Dr. Edward Dutton who is also a psychiatrist with extensive experience working with our youth, in a letter to me pointed out that at the present rate of incarcerations "* * * mostly young, male, African-Americans * * * the African-American community is being exterminated by the criminal justice system."

Last, I must continue to oppose the immoral, barbaric, and uncivilized taking of human life in the name of the Government. It is as immoral for the State to deprive a human being of life as it is for anyone else to do so.

Mr. Speaker, as I cast my vote against the rule and against the crime bill I will be mindful of the poignant statement of Justice William Brennan in McCleskey versus Kemp when he said:

> It is tempting to pretend that minorities on death row share a fate in no way connected to our own, that our treatment of them sounds no echoes beyond the chambers in which they die. Such an illusion is ultimately corrosive, for the reverberations of injustice are not so easily confined. The destinies of the two races in this country are indissolubly linked together, and the way in which we choose those who will die reveals the depth of moral commitment among the living.

Mr. FINGERHUT. Mr. Speaker, as has so often happened during the 103d Congress, the twists and turns that important legislation takes before a final vote, and the charges that are made for and against the measure, are both unexpected and wildly exaggerated. The debate today over this bipartisan compromise crime legislation is certainly no exception. If you are looking for a reason to say no to any significant initiative, as so many of my colleagues are, you certainly can find reasons. But it seems to me that we are accomplishing at least three significant things here today.

First, we are considering a bipartisan initiative on one of our Nation's most pressing problems. Without question, my greatest disappointment as a Member of Congress has been the rarity with which we make such bipartisan efforts. On every issue, there are

people on both sides of the aisle who would rather see a problem go unsolved than see the other side get credit for solving it. Too often, the administration and Democratic leadership have failed to reach out for bipartisan support. Too often, the Republican Members have walked locked-step in opposition to Democratic initiatives. Today, we have a significant number of Republicans who reached out to the Democratic leadership, and, thankfully, the Democratic leadership accepted their hand. The result is a bill that makes no one completely happy, but which everyone believes is a step forward.

Second, what the bipartisan group is saying is that the Congress ought to significantly reprioritize a large segment of Government spending. Specifically, we have as a Congress voted to cut 252,000 bureaucrats from the Federal Government, making the Federal bureaucracy the smallest since President Kennedy served in the White House, and return the money saved through this reduction in the bureaucracy to the States and the local communities to help them in their fight against crime.

The bipartisan group is also saying that, as a legislative body that represents the entire Nation, we recognize that the fight against crime requires different initiative in different areas. Some communities need help hiring more police officers, others do not. Some States need help building more prisons, others do not. And yes, some communities need help with programs that keep young people off the streets and in productive activities. I recognize the deeply felt desire of many Americans to believe that Government cannot substitute an athletic program for stronger families. They are right. But we legislate today for some communities where it is safer for children to stay in school after hours than to go home to their families. We cannot pretend this does not exist. Allocating a small percentage of these funds to programs that build character through athletic and academic activities should not be derided as pork barrel spending.

Third, we take a small but important step in the search for a sane firearms policy by banning the manufacture and sale of 19 assault weapons. Many have claimed during this debate that the assault weapon ban was not a critical issue. But the truth is that this bill would have passed overwhelmingly on many occasions if it were not for the presence of this ban in the bill. Indeed, one only need consider the contents of the Brewster-Duncan motion to recommit, which argues that its benefit is the absence of prevention spending, to see that the assault weapon ban is a major stumbling block, since that proposal eliminates the ban from the bill. If the sponsors of the motion to recommit truly wanted to offer a crime bill focused only on law enforcement activities, they would have left in the assault weapon ban.

As usual, the arguments for and against the assault weapons ban are overblown. When this Congress passed the Brady bill, some said it would take a large bite out of crime; others said it would do nothing. I only believed that it would save lives by taking guns out of the hands of a few criminals who otherwise would have bought weapons over the counter. This view has been proven correct, as nearly 200 convicted felons in Ohio have been stopped from purchasing guns since the Brady bill took effect. Likewise, I do not believe that the assault weapon ban will fundamentally change the reality on the streets of our country. But I do believe that it will save lives even though no one will ever know whose life it is we saved.

The assault weapon ban is really a very simple proposal. There are already many weapons which are restricted for military use in this country. Civilians are not allowed to own fully automatic machineguns, nor can they purchase bazookas or shoulder-held rocket launchers. Today, we add 19 new and very dangerous weapons to this list, while explicitly exempting over 600 other weapons. This is a move I strongly support.

Mr. Speaker, whenever I have been in doubt over how to vote as a Member of Congress, I have thought first and foremost about the children of my district. Earlier this year, I held three countywide summit meetings with the youth in the 19th district. At each meeting, they talked about the need for them to have safe places to go and positive activities to occupy their time. They also said they were scared by the prevalence of dangerous weapons on our streets. I believe that this bill responds in an important way to their concerns and deserves broad support. That is why I will vote yes on this bipartisan conference report.

Mrs. MALONEY. Mr. Speaker, there are those that claim that the crime bill is just another social welfare program.

I challenge them to tell that to the New York City woman whose 13-month-old baby was shot to death as he lay sleeping in her arms. I challenge them to tell that to Mary McDonald, whose husband was killed and whose son was wounded when a crazed gunman opened fire on the Long Island Railroad. I challenge them to tell that to my own husband and daughter, who were attacked in our own home by three armed thugs.

Rather than social welfare program, this bill is an ounce of prevention and a pound of punishment. It is a clear warning to those who would break the law that they would be wise to consider another line of work.

This bill would provide billions for new prison construction—that's not pork, that's punishment. This bill would put 100,000 more cops on the street—that's not pork, that's punishment. This bill will ensure that the truth in sentencing provisions can be enforced so prison will not be a revolving door—that's not pork, that's punishment.

Mr. Chairman, some have argued that the crime bill needed to be changed. And indeed, unfortunately it has changed. I think that this bill didn't need to change—it's this Congress that needs to change.

I am glad that at least this bill has maintained the assault weapons ban. If this Congress is unable to take assault weapons off the streets, then we should fly the white flag of surrender over the Capitol dome instead of Stars and Stripes.

Let's provide the funding for the policemen, prisons, drug courts, Violence Against Women Act, and yes the bipartisan prevention programs, that this country so desperately needs. It's time to pass this bill. It would be a crime to vote against it.

Mr. POSHARD. Mr. Speaker, I rise to discuss with the people of the 19th District of Illinois and this Nation my views on the crime bill which is now before us. This has been a long and arduous process, reflective of the serious crime problem facing this country and the serious efforts which have been made to address it.

I voted for a crime bill in the House on April 21. The bill called for just under $28 billion in spending on crime—$5.5 billion in law enforcement, $14.1 billion for prisons and incarceration, and $8.1 billion on prevention. Importantly, the bill did not have the onerous gun control provisions which I have opposed throughout my career in public service.

Discussions of substantial issues facing this country involve compromise, with give and take on both sides. That is the beauty of Democracy.

So the House was obligated to consider the bill which the Senate had passed, a $23 billion measure which included a ban on so-called assault weapons. The House and Senate then went to a conference committee to produce a final version of the bill.

When that compromise came to the House on August 11, I was dismayed by a number of both specific and broad elements of the bill and the process by which it had come to us for consideration. We had not been given adequate time to review the hundreds of pages and determine how the approaches being set forth would assist crime fighting efforts in our district. We had a $33.5 billion bill, far more expensive than both the House or the Senate bill. And we had a bill which included the ban on assault weapons.

Against the wishes of the leadership of my party in the House, against the wishes of our President, and against the wishes of some people in my district who truly believed this was a good bill, I voted against the rule governing debate on the bill, thus demanding that the conference committee come to us with a better bill. That vote was 225 to 210, and in my mind, sent a clear signal that we needed substantial changes.

During the days following that vote and leading up to today's vote, I spent a considerable amount of time reading and listening to differing views on this issue. I talked with judges, prosecutors, gun owners, parents, my staff, and my family, all in an attempt to do what I thought was the best thing for the people in my district and in this Nation.

The bill which comes before us today is still not perfect. Because I believe that we could make changes, including addressing my concerns with the gun control provisions, I once again voted against the rule, again suggesting to the conference committee that a better bill was needed.

But the rule passed, 239 to189, moving forward consideration of the crime bill. At that point in time, the House was then presented with a new development and a whole new set of circumstances to consider. Many of my colleagues who shared my concerns over second amendment issues and with the levels of spending in the bill produced a last-minute package, which is commonly referred to as the Brewster bill. The bill has some strengths, primarily its focus on prison construction, providing more money for law enforcement personnel, three strikes and you're out sentencing

and no weapons ban. But the bill has substantial weaknesses as well, lacking an expansion of the death penalty which is provided in the conference report and lacking any effort to provide up-front prevention.

Under certain circumstances, this would be a starting point for consideration of a crime bill. But to vote for the motion to recommit, in essence endorsing a bill which was introduced just hours prior to the vote was not a viable alternative.

In the final analysis, my choice was to determine whether the bill which was now before us was worthy of my support.

What had my votes against the rule, against bringing the bill to the floor accomplished? The final compromise was just over $30 billion, slightly more expensive than the House version which I supported and less expensive than the first agreement which I opposed. The final agreement has substantially more money in law enforcement, in cops on the beat provisions which should help our communities address their crime problems. To accomplish that goal, we had to shift some money from prison construction and prevention programs. But the bulk of the shift occurred in the prevention programs, and the final bill has a strong prison construction component.

The House bill had about $8.1 billion in prevention, while the final bill has about $6.9 billion, a substantial decrease in spending. We also eliminated a number of suggestions for Federal programs and put the money into block grants which States and localities can access for their own local solutions to crime problems.

Most importantly, I had to decide whether voting for the motion to recommit or voting against the final crime bill would help us, in the final analysis, pass a crime bill. I decided it would not. The process had moved forward to the greatest extent possible. It was more bipartisan. And after years of debate and disagreement, it was time to pass a crime bill.

I know there are many friends and supporters who will disagree with my analysis. I know that they will feel as though I should have voted against any bill which includes gun control, or perhaps should have voted for any bill without gun control. I respect their views.

I voted against the weapons ban when it was presented to the House for an up-or-down vote on the weapons ban alone. I wish we had been able, by continuing to oppose the rule, to strike the ban from the bill. But I do not believe that my vote on the final bill reverses my historic support for the rights of law abiding Americans under the second amendment. I will remain vigilant in my support of the rights of law abiding citizens.

These were very difficult decisions, a responsibility which I accepted when I asked the people of the 19th District for the privilege of representing them in the U.S. House of Representatives. People whom I respect will disagree with me and I will continue to respect them.

Ultimately, I had to examine this issue on balance. I had taken my objections to gun control as far as I could. I had worked to find middle ground on prevention programs. I had encouraged the House to build prisons and put police officers on patrol. Of course, the final bill is not perfect. But on balance, it was the best, most responsible and most effective response to crime which we could reach. For those reasons, it earned my vote.

Mr. BORSKI. Mr. Speaker, I rise today in strong support of the conference report to H.R. 3355, the Violent Crime Control and Law Enforcement Act of 1994. This comprehensive crime control measure is an effective means of providing the much-needed protection for our neighborhoods and our families.

Mr. Speaker, the combination of punishment and crime prevention found in this bill will have a significant effect in controlling the war that is raging on our Nation's streets. Passage of the crime bill is especially helpful in the city of Philadelphia, which would greatly benefit from the increased police presence on our streets, the toughening of sentencing for repeat violent offenders, and effective prevention efforts.

In addition, passage of the H.R. 3355 would allow cities to challenge federally imposed prison caps. The city of Philadelphia, which I represent, suffers under one of the worst Federal prison caps in the Nation. In 1986, a U.S. district judge imposed a consent decree cap on the number of prisoners permitted to be detained in order to settle a class-action legal suit brought against the city by inmates who claimed the prisons were overcrowded. This cap limits the number of inmates which can be detained to prevent overcrowding of the jails. However, as a result of this arbitrary prison cap, many criminals are released moments after they are arrested due to a lack of holding facilities and prison overcrowding. Police are forced to spend their valuable time reapprehending the same criminals who commit the same crimes, hours or days later.

Criminals rarely, if ever, report for trial. In Philadelphia, of all the defendants released under the prison cap, 47 percent fail to appear in court. What this means is over a period of 6 years, from 1988 to 1994, over 230,000 unanswered bench warrants existed due to prisoners refusing to appear in court. Philadelphia's police force does not have the resources to go after these brazenly lawless individuals, and justice is never administered. Due to this consent decree cap, imposed to comfort the grievances of prisoners, the law-abiding citizens of Philadelphia were placed in unnecessary danger.

In 1991, the city of Philadelphia was forced to release tens of thousands of prison-cap defendants with pending criminal charges. Of these defendants, over 8,000 were rearrested for new charges, including 77 murders, 851 burglaries, 1,993 drug charges, and 1,102 robberies.

This crime bill attempts to end this dangerous procedure of releasing criminals by allowing the city to challenge federally imposed prison caps. The prison overcrowding provision of H.R. 3355 would be applied retroactively and grant the city of Philadelphia an opportunity to appeal the consent decree of the Federal district court and, possibly, alleviate the dangerous situation present in Philadelphia.

In addition, the crime bill would require that any claims of "cruel and unusual punishment" made by prisoners be handled on an individual, case-by-case basis, and that any relief found legitimately necessary to remove these conditions be made in the least intrusive manner.

Mr. Speaker, the city of Philadelphia, and the entire Nation, needs this crime bill. Our Nation needs the stronger, more noticeable police presence found in the cops on the beat provision. One hundred thousand additional beat-cops would do more than anything else to catch criminals and prevent crime from occurring in the first place.

Our Nation needs the Violence Against Women Act which would increase the Federal resources available to combat violence against women.

Our Nation needs the assault weapon ban which would ban the manufacture and importation of weapons of war, and attempt to get these deadly weapons off of our streets.

Mr. Speaker, let's pass the crime bill and stop the madness of crime and warfare present on our city streets.

Mr. KYL. Mr. Speaker, tonight we will finally vote on H.R. 3355, the conference report to the crime bill. It has not been an easy path; the process which led us here leaves much to be desired.

Last week, a clear majority of Republicans and Democrats voted against allowing floor consideration of the bill until improvements could be made.

Negotiations in the ensuing week have cleared the way for an improved crime bill. Of course, we can do even better—there are still several objectionable provisions in this bill, which is why I voted to recommit the bill to conference one last time. But at least, as a result of these negotiations, thousands of convicted drug dealers will not be released from prison to go back out on the streets and deal drugs. This time, we have included many of the important provisions of H.R. 688, legislation I introduced with Representative MOLINARI to reform our Nation's sexual and domestic violence laws. This time, we will include an amendment requiring registration of released sexually violent offenders and then notification of communities when a sexually violent predator moves into an area. And, in this crime bill we provide additional resources for the border patrol to fight illegal immigration. We have cut the cost, reduced duplicative social spending and toughened law enforcement.

This legislation is not the bill I would have written. I have tried every step of the way to improve it; and our persistence has paid off. There will be no other opportunities now that the rule has passed and the motion to recommit has failed. As a result, I am prepared to support the bill to ensure the law enforcement and criminal justice reforms some of us have fought so hard for during this and other sessions of Congress.

In this new bill we will have more money going to law enforcement and prisons. The compromise contains $7.9 billion in funding for prisons instead of only $6.5 billion provided for prisons in the original crime conference report. Instead of cutting funding for additional police officers by 10 percent, the compromise retains the $8.8 billion for additional police officers—although States must still jump through far too many hoops to get funding for prisons and police; I would prefer far more of the funding be given out in block grants so each State can decide for itself how best to fight crime.

The legislation I have supported throughout this process, H.R. 2872, the House Republican crime bill, includes measures, among other things, to set mandatory minimum prison terms for violent crimes; provide funding for additional police officers; limit probation and parole; limit death row appeals and expand the death penalty; provide funding to fight illegal immigration and strengthen criminal alien deportation laws; increase penalties for crimes committed with guns; provide funding for prison space to incarcerate violent offenders; provide a good faith exception to the exclusionary rule, and, provide tough provisions to combat sexual and domestic violence.

One of the most important elements of the sexual violence provision of the compromise, added as a result of negotiations following defeat of the rule last week, is its inclusion of two key provisions of the Republican crime bill and of H.R. 688, the Dole-Molinari-Kyl Sexual Assault Prevention Act. The first provision changes the Federal Rules of Evidence so that, in sex offense cases, evidence of prior similar conduct of the accused can be admitted at trial. Victims of sexual violence deserve to be treated more equitably during the criminal justice process and this is one important way to do this.

The other important sexual violence provision which has been added to the crime compromise as the result of negotiations is the requirement that the accused in rape cases be tested for HIV and AIDS. For the thousands of victims of rape each year, inclusion of these two provisions was critical to my support of this crime bill compromise.

The compromise also includes many other important provisions of H.R. 688. There has been a need to find a better way to respond to sexual and domestic violence. In Phoenix, AZ, for example, the number of domestic violence cases investigated jumped from 995 in 1983 to 14,254 in 1993.

As with the Sexual Assault Prevention Act, this compromise will provide Federal funding to States, shelters, and law enforcement communities to combat violence against women. Grants will be provided for battered women's shelters, training of law enforcement officers and prosecutors to more effectively identify and respond to violent crimes against women, and develop programs to deal with stalking. Also included are general discretionary grants of $500,000 to combat domestic and sexual violence. The bill also authorizes funding for victim/witness counselors for victims in domestic violence and sex crimes cases.

Another important provision of our legislation included in the compromise creates a new Federal offense for interstate travel to commit spouse abuse or to violate a protective order. This is particularly important given the increase in protective orders filed in Arizona, particularly in Maricopa County. In the first 3 months of this year, 698 requests for protective orders were filed in Maricopa Superior Court, an 8-percent rise over the previous quarter and a 32-percent increase over the first quarter of 1993.

This crime measure also includes from our bill the following measures to combat sexual violence: Suspension of Federal benefits if the perpetrator falls behind in restitution payments; extension and strengthening of the rape shield law to cover all criminal and civil sexual assault cases; right of the victim to address the court before the defendant is sentenced; a national baseline study on campus sexual assault; right to be hear regarding the danger posed by the defendant if he is released before trial; death penalty for certain Federal rape and child molestation cases; increased penalties for recidivist sex offenders; increased penalties for sex offenses against victims below the age of 16; and, mandatory restitution for victims of sex offenses.

Another important area in the fight against crime is stopping the flow of illegal aliens across the Nation's borders. This compromise includes $1.19 billion for asylum reform, immigration enforcement activities, and border patrol agents. This provision is especially important to Arizona, which has been left out of the administration's illegal immigration enforcement plan. That plan has given Texas and California several hundred new border patrol agent positions, while Arizona has only received 33 new support positions. The result has been a significant increase in illegal crossings across Arizona's border; a 57-percent increase in illegal immigrant apprehensions has occurred between October-June 1993 and October-June 1994. I have contacted the Attorney General several times to request additional border patrol agents for Arizona but so far these requests have not been fulfilled.

The crime conference report also includes $1.8 billion to reimburse states for the cost of incarcerating criminal aliens. This key concern for Arizona, which incurs costs of approximately $100 million a year to incarcerate criminal aliens. In fact, the State of Arizona has filed a lawsuit against the Federal Government for the cost of incarcerating these criminal aliens. It is my hope that this bill will help alleviate these unfair costs.

Another important component of crime legislation which must be included is sufficient funding for prison construction to keep violent criminals behind bars. If we knew that we could reduce the problem of violent crime by 70 percent with just a few actions, would we do it? This is a particularly important question for Arizona where the violent crime rate has increased 129 percent between the years of 1975 and 1993, according to the uniform crime report.

According to researchers at the University of Pennsylvania, approximately 7 percent of criminals commit over 70 percent of violent crime. If we facilitate putting and keeping these criminals in prison, we eliminate the chance of being victimized by their actions.

As stated, the crime bill compromise more adequately provides funding for prison construction funding for the States. According to government data supplied by Michael Block of the University of Arizona, between 1980 and 1990, the 10 States with the highest increase in their prison populations, relative to total FBI crime indexes, experienced, on average, a decline in their crime rates of more than 20 percent, while the States with the smallest increases in incarceration rates averaged almost a 9-percent increase in crime rate. Redirection of funds for more prison construction was another reason I support this compromise.

Fighting crime is not a one time proposition. Beyond this crime compromise, much still needs to be done. I will continue to work to pass the important provisions of H.R. 2872, the Republican crime bill, that were not included in today's compromise. For example, the best way to reduce gun violence is to mandate strict penalties for crimes committed with guns rather than to ban semiautomatic weapons, the effect of which will not be to reduce violent crime. There should be exclusionary rule reform allowing evidence obtained in good faith but outside the scope of the fourth amendment to be admitted at trial. I will also continue to work toward habeas corpus reform, which would limit the endless number of appeals available to death row inmates.

This crime bill is not a panacea for our Nation's crime problems but it will help. I remain committed to correcting the objectionable features in the bill and to passing other tough reforms to our criminal justice system. For the safety of Arizona and the rest of the Nation, I hope the other members of this body will join me in this continuing fight.

Mr. MFUME. Mr. Speaker, I rise today in support of the rule for consideration of the conference report to H.R. 3355, and in support of the conference report. While I do not believe that this bill, in itself, will stop crime, I do view it as a reasonable attempt to address some of the problems our society is currently facing.

Mr. Speaker, the conference report that we are currently considering is a compromise. This bill represents the middle ground between people such as myself, who believe we should concentrate on prevention measures, and those who believe the Federal Government should focus only on punishment. I support the prevention measures contained within this bill and, frankly, I would like to see more resources devoted to crime prevention. As a realist, however, I recognize the need, especially the political need, to balance prevention with punishment.

I would also like to take this opportunity to address some of my colleagues, especially those on the other side of the aisle, who try to dismiss the prevention provisions in this bill as social pork. While I do not mean to belittle the crime problems facing the communities represented by those Members, it is fair to say that some of the communities I represent have crime problems that are unimaginable to them. I represent streets that are, at any time of day, occupied largely by the bodies of drug addicts and victims of violent crimes. I represent entire neighborhoods where parents teach their children to avoid stray bullets before they teach them to walk. I represent children who no longer dream of their futures; they simply fight to survive.

It is for these children that I support and promote the prevention programs. There is no way that punishment, by itself, can address the magnitude of the problems facing these neighborhoods. I implore my colleagues to allow this legislation to go forward and to retain the prevention programs. Please permit those of us facing the worst of the problem—those of us who have grown up and lived amid the crime, the drugs, and the violence—some input on how we should address the situation.

I believe that the programs contained in this bill will help parents throughout the country

sleep a little better. They are intended not only to help control crime in urban areas, but also in the suburbs and rural areas as well. The crime problem in the United States is not selective nor is it segregated by neighborhood. We all have an interest in abating this growing problem, and I believe that this bill will help all of us cope.

My support for this bill is not, however, unqualified. As an opponent of the death penalty, I am ardently opposed to expanding the number of Federal crimes for which the death penalty may be applied. I am also very troubled by the removal of the essential fairness in sentencing safeguards, known as the Racial Justice Act. These provisions were included in the bill that originally passed the House. President Clinton has assured us that he will enact an executive order to address bias in death sentencing, and will create a bipartisan commission to make further recommendations on the issue. It is clearly a victory to have the White House, for the first time, go on record acknowledging racial disparity in death sentencing and attempting to do something about it.

Efforts had been made to reach a compromise on the Racial Justice Act so that it may be included in the final bill. I, along with other proponents of Racial Justice, offered to make major changes in the language that would substantially deal with the concerns of those who have been opposed to the measure. Unfortunately, Racial Justice was not approved by the conference committee.

The act would have allowed defendants convicted of a capital crime to present statistical evidence of racial bias at their sentencing hearing. Such a hearing would take place only after the jury had recommended the death penalty. Racial bias could be inferred if "race was a statistically significant factor in decisions to seek or to impose the sentence of death in the jurisdiction in question." The bias could be based on the race of defendants or the race of victims, and the evidence would have to include "comparisons of similar cases involving persons of different races."

The racial justice Act would not have ended the death penalty. In fact, it would have had absolutely no effect in a large number of jurisdictions that do not have enough defendants on death row to show a statistically significant pattern. In addition, the prosecution could rebut the evidence by showing that the case is unique and does not fit a pattern of racial bias, or show that the appearance of race-based sentencing is a coincidence.

Critics have coined Racial Justice "the death penalty quota," but Racial Justice is only about statistical fact and the right to have those facts used in court. The use of race as a "statistically significant factor" is not without precedent. The Voting Rights Act and the Civil Rights Act allow the use of racial statistics to show unlawful discrimination. If an individual may use statistics to defend his or her right to vote, obtain adequate education and gainful employment, it would only be fair to allow an individual the right to use racially significant statistics if those same statistics mean the difference between life without parole and death.

There are other provisions of this crime bill that I do not believe will be effective in the fight against crime, and may even be counterproductive. For example, the bill eliminates Pell grants to prisoners. Less than 1 percent of Pell grants awarded go to incarcerated students and, in this fiscal year, less than 0.5 percent of the Department of Education budget went to programs for incarcerated individuals.

At a cost of over $30,000 a year to keep someone behind bars, it is more expensive to send someone to prison than to Yale. In addition, recidivism rates that average 50 to70 percent can be reduced to 15–30 percent through postsecondary education while incarcerated. It is very unfortunate that this crime bill does not give offenders the chance to turn their life around through education and become productive members of society upon their release.

Another issue to which I take objection is the death penalty. The death penalty has proven to be the most atrocious display of government sanctioned racism that exists today in America. Statistics have shown time and time again that the death sentence is applied in a grossly unfair and discriminatory fashion.

History shows that minorities have received a disproportionate share of society's harshest punishments, from slavery to lynchings. The race of the victim also constitutes a factor in the discriminatory fashion in which the death penalty is applied. Of the 229 executions since the death penalty was reinstated, only one has involved a white defendant for the murder of a black person.

As I said earlier, though, there are positive aspects in the bill. The bill contains a number of provisions that I, other members of the Congressional Black Caucus, members of the Hispanic Caucus, and other progressive members of the House have worked very hard to retain.

The Assault Weapons Ban Act is a significant and very important part of the crime bill we are debating today. This Act will ban 19 specified assault weapons and their copycat models—weapons of mass destruction that have no place in civilized society. The assault weapons ban names another 670 weapons that are protected from the ban for hunting, sporting and other legitimate uses.

The Congressional Black Caucus was instrumental in ensuring that prevention was significantly addressed by this bill. The bill recognizes that solutions to crime are often found in the community, therefore, it includes the Local Partnerships Act. The Local Partnerships Act will provide direct grants to States and localities for education, substance abuse, jobs programs and other anticrime strategies. The funds to cities and towns in Maryland would amount to $32 million, and communities would be allowed discretion to target the funds where they are needed most.

Another important program included in the prevention package is the Model Intensive Crime Prevention Program. This program would provide grants to up to 15 model programs for intensive community services in high crime areas. These grants would be provided to selected communities for programs to fight the social conditions that contribute to crime in the community and provide alternatives to crime.

Unfortunately, this new conference report eliminates a number of targeted programs. These programs, however, have been replaced with a new local crime prevention block grant. This new block grant will provide funds for localities for a wide variety of prevention programs, ranging from midnight basketball to establishing Boys and Girls Clubs in low-income housing.

The crime bill provides funds for grants to States to put 100,000 more cops on the streets. Strong, more effective law enforcement capabilities are essential in the fight against crime. Community policing will lead to better communication and relations between the police and the communities they serve, so that we may all contribute to the safety of our neighborhoods. In my State of Maryland, this would amount to up to 2,000 police officers plus funding for the implementation of community policing.

The bill also enacts the Violence Against Women Act. This is an important and long overdue effort to combat crimes against women. Women have, too often, been victims of crime because of their gender. The Violence Against Women Act includes grants for domestic violence shelters and rape crisis centers, education programs to combat judges' gender and racial bias in sexual assault and domestic violence cases, rape prevention programs on campuses and a civil rights cause of action for victims of crimes. In Maryland, this would mean a total of over $500 million to combat crimes against women.

Mr. Speaker, it is imperative that the Congress pass a crime bill this year. Although I do not agree with some of the provisions of the bill, there is too much invested in this effort to allow it to fail. The constituencies we represent have called for action and requested that we pass a smart bill that is tough on crime. This bill achieves the delicate balance between law enforcement, prevention and punishment. I urge my colleagues on both sides of the aisle to support enactment of the Crime bill.

Mr. FAZIO. Mr. Speaker, I rise in support of the most comprehensive crime package in our Nation's history, the Violent Crime Control and Law Enforcement Act of 1994.

In recognition of the critical role that our communities play in fighting crime, the bill focuses attention and resources on the State and local levels—the frontlines where the bulk of the responsibility for responding to crime lies. And it moves us closer to meeting our overall goal of ensuring that justice is dispensed equally and fairly, and that punishment is also fair, fast, and consistent.

It contains the three-strikes-and-you're-out provision, which will keep repeated violent offenders off the streets. It also supports programs that reduce gang membership and provide alternatives for youth who are at risk. Other provisions provide substance abuse treatment for Federal prisoners and increased sentences for Federal hate crimes. There are also measures to reduce the incidence of violence against women, and to punish those who commit crimes of violence against women.

The bill also bans certain specific assault weapons. This legislation will have very little affect on the right of the average American to bear arms. It includes weapons used almost exclusively by organized crime, gangs, and

drug cartels, but does not include any weapons, semiautomatic or otherwise, used for hunting. The further restrictions on the sales and ownership of assault weapons that are in this bill will not cause a major reduction in crime. However, they will make it much more difficult for drug dealers, violent criminals and psychopaths to get their hands on military-style semiautomatic rifles and certain shotguns and pistols.

Although we do not have detailed, nationwide statistics on the misuses of these weapons, the Oakland Police Department weapons unit reports that criminal misuses of assault weapons in Oakland fell by virtually half since the enactment of the California ban. This is a small price to pay to help curb the unnecessary and senseless violence that plagues communities throughout our country. If 1 life or 1,000 lives are saved because we are able to keep an assault weapon out of the wrong hands, it is worth the effort.

The bill includes a number of provisions that attack crime in rural areas, too, including one which I introduced along with my colleague from Michigan, Mr. STUPAK, a former police officer and State trooper. The Fazio-Stupak amendment expresses the sense-of-Congress that rural areas should continue to receive the level of support that they had prior to enactment of this crime bill—that rural America should not receive less funding than it did in fiscal year 1994. It was developed in response to feedback which I received from sheriffs and police chiefs in my district who, in a visit to Washington earlier this year, expressed their concern that they would lose Federal funding that supports their efforts to fight drugs and the violence that accompanies this persistent problem. In response, my amendment will help ensure that rural communities do not lose ground as the rest of the country moves forward on new anticrime strategies.

Because crime is not an isolated problem, it cannot be dealt with in isolation. And there is no one solution to the overwhelming problem of crime in our neighborhoods and communities. But this bill is an important step toward confronting and addressing it. It is a good place to start, and the time is now. We should all be able to put aside our partisan differences and come together on behalf of what is good for this country—our communities, our families, and our children. I urge my colleagues, on both sides of the aisle, to join me in support of this crime bill and to support this conference report.

Mr. GUNDERSON. Mr. Speaker, I come to this debate from a veiwpoint which I believe many share—that the primary responsibility for crime fighting and criminal justice lies with our State and local governments. This is the second time this month that Congress has considered a version of the crime bill. In my opinion Congress has again placed too much emphasis on the ability of the Federal Government to restrict and regulate when it should be acting as a partner to our State and local governments.

State and local governments are responsible for detecting, prosecuting and administering the vast majority of crimes in our country. Nearly 99 percent of criminal laws on the books are State laws, not Federal. Likewise, States prosecute and sentence well over 95 percent of violent criminals in our country. If we are fully committed to fighting crime at the local level, then the Federal Government must act as a partner to State and local governments by fully funding additional police officers and in helping to fund prisons.

The crime package is the most expensive ever, and if approved would authorize $30.2 billion for three main activities—police, prisons, and prevention. For most people, this alone appears to be a positive step toward fighting crime. Indeed, there are some positive aspects to this legislation. Perhaps the most important is the Byrne Grant Program which allows states and local governments to devise creative approaches to fighting drugs and crime. Do not be fooled, however. The crime package is heavily weighted toward urban areas and will do little for rural areas like western Wisconsin.

The centerpiece of the crime package is the Cops on the Beat Program. Supporters claim that the program will put an additional 100,000 police on our streets over 6 years. Well, almost. The program only funds about half of the cost of hiring an additional officer over 6 years. Each year, the local government has to fund more of the cost of hiring the officer in the form of salary and benefits, and after 6 years the towns themselves most fully fund the new officers. As the Wisconsin Counties Association wrote to me recently: "[T]his is nothing more than a time-released unfunded mandate. County governments in Wisconsin cannot afford this type of federally imposed increase in law enforcement personnel." In other words, the Federal Government is mandating and regulating, not acting as a partner.

Experience also shows that most of the money under this program will go to big cities. Earlier this year, the Clinton administration tested the Cops on the Beat Program. Over half of the grants for new officers went to four States which are politically important: California, Texas, Florida, and Illinois. Although most of the remaining grants were made to cities with a population of less than 150,000 people, only 16 percent of the money went to towns with a population of 10,000 or less. Wisconsin received just over $2 million in the pilot program. Over half of this amount went to departments in the Milwaukee metropolitan areas—more evidence that big cities will do well under this legislation.

The second prong of the revised crime package allocates $7.9 billion for grants to States to construct new prisons. In order to receive some of the money, however, States must change their criminal law to comply with the many requirements in the package. For example, 50 percent of the funding authorized by the bill is reserved for States which enact truth-in-sentencing laws, under which violent criminals must serve at least 85 percent of their sentence. Wisconsin does not meet this test, having just enacted a similar provision that violent criminals serve at least 75 percent of their sentence. The rest of the money is discretionary, allowing the Department of Justice great authority to determine where the money goes.

The third prong of this crime package is prevention. The prevention programs have been trimmed down in the revised conference report to $5.9 from $9 billion. The major program, the Local Partnership Act, will provide $1.6 billion to local governments across the country. Each State is guaranteed a portion of the money, but the money will be allocated based upon the rates of violence in cities in the State. In short, this will direct most of the money toward the large Urban areas.

Despite the promise of such a large crime fighting package, each of the programs authorized still must go through the annual appropriations process. The bill creates a crime trust fund, a special fund which can only be used to pay for crime fighting activities. Over $30 billion of these programs are intended to be funded through the trust fund. Over $22 billion of the trust fund money is to come from restructuring of the Federal work force, but the sources of the rest of the funds have not been completely specified. In addition, the whole $22 billion is not immediately available. Instead, it will gradually accrue over 5 years. The bottom line is that it is doubtful that all of these programs will be fully funded, and some are likely to not be funded at all.

We do know that the trust fund will be financed in part from cuts in other important programs. One of the alarming consequences of the crime bill is that the Clinton administration has traded funding for education programs in exchange for more dollars for the trust fund. In his budget blueprint this spring, President Clinton initially requested $7.56 billion for the chapter 1 program, which provides education assistance for disadvantaged students. Last month, the House passed the fiscal year 1995 Labor, Health and Human Services, and Education appropriations bill which provided $7.24 billion for chapter 1, $320 million less than the President's request. The Senate passed its version this week providing a similar amount. Despite strong annual support from both houses and this program and the fact that the program serves barely over 50 percent of the eligible students, the $320 million was diverted to the crime trust fund. Funds have also been diverted from the Federal Bureau of Investigation and the Drug Enforcement Agency.

I have indicated that I will vote to send the revised conference report back to the conference committee. This does not mean that I think Congress should turn away from trying to pass a crime initiative, however. I have cosponsored the Brewster-Hunter compromise measure which contains many of the same provisions as the current crime bill, but it fulfills the Federal role in crime fighting. The Brewster-Hunter package would allocate more money than the revised conference report for additional fully funded police officers at the local level. It would also increase funding for prison grants to States without excessive strings attached. Finally, it would increase funds for border enforcement so that we can get a handle on illegal immigration.

One can assume that, after the modifications, there will be enough votes to pass the crime bill conference report, although the House leadership was unable to do so on its own the first time. If they do pass this crime bill, it will be without my vote. For this is not Federal aid to local law enforcement for assistance in its fight against crime, this is the Federal Government imposing additional restrictions and more mandates.

Ms. WOOLSEY. Mr. Speaker, I rise today to again lend my support to this crime package. I firmly believe that it could have been a better bill if some Members of this body had not insisted on playing ugly partisan politics with it. It is deeply disappointing that meaningful prevention programs had to be scaled back in order to make the bill agreeable to some Members. Still, this bill will go a long way toward making our families and communities safer.

Recently, I met with local law enforcement officials and joined local officers on the beat in my district. I heard a balanced message about stopping crime from them: We need tough punishment and smart prevention. With that message in mind, I support this comprehensive anticrime package—a package that contains severe penalties for repeat violent criminals and meaningful programs to prevent crime before it happens.

This anticrime package includes a "truth in sentencing" provision that calls on States to ensure that criminals serve their rightful sentences before being paroled. States that do not abide this law will risk losing their Federal funds for fighting crime.

The anticrime package contains Federal funding to put 100,000 more law enforcement officers on our streets. The bill also emphasizes community policing so that officers can get to know their community and work with neighbors to prevent crime.

Domestic violence is one of the leading causes of injury and death for American women, and I am pleased that the Violence Against Women Act has been included in this bill. This tough new law strengthens penalties for crimes against women and girls, while adding new funds for prosecutors, victim assistance, and programs to fight rape and domestic violence.

In addition, I strongly support the bill's provisions to keep combat-style assault weapons out of the hands of criminals by banning the manufacture, sale, and possession of these deadly weapons. I am pleased that this body was able to stand up to the special interests, like the NRA, who sought to prevent the will of the people from prevailing.

The anticrime package expands useful and effective crime prevention programs for youth. It provides funding for drug prevention and rehabilitation services, as well as programs that will keep youth off the streets and out of trouble.

Mr. Speaker, it is time that Congress move to give our families the security on our streets and in our neighborhoods that they deserve. I urge my colleagues to join me in passing this crime package.

Mrs. VELAZQUEZ. Mr. Speaker, I must join my colleagues who have spoken before me to say that this bill does not contain pork. I'll tell you what pork is: Pork is the billions of dollars in tax breaks for the rich and for the corporations, who got fat during the 1980's while the poor got poorer. Pork is the supercollider and star wars—billions of dollars in wasted spending.

Gang resistance, drug treatment, youth development programs are not pork, but focused intervention in the lives of people who currently have no hope for a better existence. These programs are cost-effective deterrents, prudent alternatives.

My constituents are tired of all the rhetoric and all the politics. They are tired of hearing about the deaths of innocent children caught in the crossfire of drive by shootings. They are tired of watching America's War on Crime, which is nothing but an embarrassment. People talking about pork need to go to my district in Brooklyn and see first hand what we need, and I bet you will find that more prisons is not the answer. If prisons and death penalties were all that we needed, then we would not be debating crime year after year after year.

Mr. Speaker, in closing I must say that the NRA did not elect me. The people of the 12th District did, and I'm going to vote for their needs, not the desires of the NRA. I will not play politics with the lives of America's youth. I urge my colleagues and the American people to see through this charade of deception and vote for the conference report.

Ms. WATERS. Mr. Speaker, on Thursday, August 11, I voted against a rule to allow consideration of the pending crime bill.

There were provisions in the bill which I strongly supported—moneys for community policing and prevention programs, an assault weapons ban and drug treatment funding. The Violence Against Women Act would strengthen laws against domestic violence and authorize nearly $2 billion for rape prevention and battered women's programs.

There were other parts of the bill I found objectionable.

Most objectionable to me was the expansion of the death penalty to cover 60 new Federal crimes. In the end, that was the deciding factor for me in opposing the rule on the crime bill.

I am opposed to the death penalty with every fiber of my being. I am morally opposed to the State taking human life because I feel human life is sacred, a gift from God. During my 14 years in the California State legislature, I consistently opposed capital punishment. I can do no less in the U.S. House of Representatives.

I am opposed to the death penalty on moral grounds. There are, however, plenty of other reasons to reject capital punishment as public policy.

The death penalty is disproportionately imposed on the basis of race. Forty percent of prisoners on death rows across the United States are black. Eighty-four percent of the prisoners executed since 1977 were convicted of murdering white victims, despite the fact that blacks and whites are homicide victims in roughly equal numbers. Prior to a 1986 Supreme Court decision, a number of black prisoners were convicted and sentenced to death by all-white juries after the systematic exclusion of blacks from the jury panel. Since this ruling was not retroactive, many remain on death row. Discretion by prosecutors in deciding when to seek the death penalty can mean unequal outcomes for the same crime in jurisdictions with longstanding histories of racial discrimination.

Under the Anti-Drug Abuse Act of 1988, aimed at drug kingpins, 75 percent of those convicted have been white but 78 percent of death penalty prosecutions under the Act have involved blacks.

The death penalty disproportionately falls on the poor, those without the resources to hire adequate legal counsel. Many public defender systems are woefully inadequate. In the past 18 months at least 4 prisoners executed were defended at trial by lawyers who had never before handled a capital case. Poor defendants also suffer from lack of adequate counsel to appeal their cases.

Clearly, the well-to-do do not end up on death row. Unequal resources equals unequal justice.

The death penalty is final. It leaves no room for error. And yet an October 1993 report by the House Subcommittee on Civil and Constitutional Rights listed 48 documented cases of innocent men freed from death row since 1972.

There is no evidence that the death penalty serves as a deterrent to crime. Texas is second to none among States in executions. Nearly 400 people are on death row. Since 1976, Texas has executed more than 70 persons, more than twice as many as runner-up Florida. Six innocent people have been sentenced to death and later released in the past 7 years.

Notwithstanding an aggressive application of the death penalty, Texas has a sky-high crime rate. Its crime rate grew by 24 percent within the same time period and violent crime increased by 46 percent. Texas leads the Nation in police officers killed. Detailed studies, comparing similar States with and without the death penalty, have found no evidence that the death penalty deters crime more than any other punishment.

The death penalty is justifiable neither on moral grounds nor on grounds of efficacy in the fight against crime. It is, however, a convenient tool for some to pretend they are doing something about crime in the streets without really doing much at all.

People of good will can disagree on this or that side of this crime bill. For my part, however, I cannot vote for a crime bill that sweepingly expands the death penalty to 60 new crimes. Simply put, I cannot separate what many describe as a "procedural vote" from the substance of the matter.

Public officials are ofttimes criticized for failing to stand on principle, for being too willing to compromise who they are and what they believe. I will not do this.

I look forward to voting "aye" on a bill that attacks the root causes of crime and assures us of safe streets without expanding the opportunity of the State to put more people to death.

Ms. ENGLISH of Arizona. Mr. Speaker, it is with much sadness that I bring to the attention of my colleagues yet another act of senseless youth violence in my district.

On July 31, Crystel Cabral, disappeared. On August 7, Crystel's body was found in the desert. She had died of two gunshot wounds to the head. Two youths are being held for her murder.

Crystel was a model citizen of my district. She is remembered as a giving, trusting, caring, and fun-loving teenager. She helped her teenage friends cope with their growing pains, volunteered her time to comfort and feed the homeless, and has just returned from a year-long student exchange program in Argentina.

Crystel was just beginning to live her life until someone decided they needed a car, and

would do anything, including murder, to get one. Crystel was tragically in the wrong place at the wrong time. Her life was taken in exchange for a joyride.

This tragedy comes on the heels of many other acts of youth violence in my district. During this summer, in one community in my district, the following senseless acts of violence have occurred:

An 18-year-old Chandler man died of a gunshot wound when a fistfight with four other teenagers turned deadly.

Anique "Nickie" Fater, 45, was shot to death June 7, allegedly by a teen trying to snatch her purse in a grocery store parking lot in Gilbert.

Raymond Alvarado, 29, was shot and killed by a teenager over what witnesses said was a dispute over a bag of potato chips.

Two youths burned a cross in front of a Jewish restaurant, a bagel shop, and a synagogue in vicious displays of hate.

Two Mesa High School football players were shot in a motel parking lot after an argument with a group of young men.

Brian Patrick Lindsay, 20, a Scottsdale resident and a Northern Arizona University student, was fatally shot several times in the chest while working at a fast food restaurant. The youths fled the scene with sandwiches and chips.

Both Greg Whipperman of Mesa, and Robert Valdez of Chandler were shot while riding their bikes in different parts of the East Valley, on the same day. Luckily, both survived.

Mr. Speaker, what's the going rate for a life these days? A handful of potato chips? A few submarine sandwiches? Or is it just the price of gas money to drive around and shoot people on their bikes for kicks? Why has this hate been allowed to invade our communities?

These senseless acts further underscore the need to pass the crime bill before us today. I call upon my colleagues to put aside the politics of gridlock. Help me help the families who are on the frontlines of this battle.

The time has come to put the safety of working families first. The crime bill will help rid our streets, schools, and homes from the fear of violent crime.

For Crystel Cabral, her family and friends, I want to provide our communities and families with the tools necessary to beat this problem. The first step is to pass this crime bill.

Mr. KLECZKA. Mr. Speaker, today, the House of Representatives will debate and hopefully pass the conference report on the crime bill, clearing the way for swift enactment of serious anticrime legislation. For 6 years now, Congress has grappled with the issue of crime, and although we came close to passing a bill last Congress, it unfortunately died in a Senate filibuster. With the passage of this crime bill, we are breaking that cycle of gridlock and responding to one of the most important problems in our society.

I would like to emphasize a few of the more important provisions in the conference report that will make a difference in the lives of average Americans. One such provision is its strong commitment to local law enforcement. It is no secret that the vast majority of crime occurs on the State and local level. In fact last year, 99 percent of the arrests for violent crimes were made by State and local police for—and this is important—violations of State laws. The Federal role in crime prevention is comparatively small.

With this is mind, the single best step Congress can take to combat crime is to provide State and local law enforcement with the funds to hire more police. This crime bill authorizes $8.8 billion for community policing, which translates into 100,000 new police officers nationwide. In Wisconsin that means about 2,000 new police officers walking the beat. That single fact will make more of a difference on our streets than probably any other.

Another critical aspect of this legislation is the "three strikes and you're out sentencing" provision. Too often we turn on the TV at night and hear about horrible crimes committed in our communities and learn that the offender had a history of violence, a history that never would have happened if that offender were in prison.

Unfortunately, the sad truth of the matter is that far too often, and for a variety of reasons, some of the most dangerous people are allowed to walk our streets and commit new crimes. Studies have shown that the majority of violent acts are committed by a small group of repeat offenders. Some estimates show that 70 percent of all violent crimes are committed by just 6 percent of the criminals arrested.

Under the—three strikes and you're out—provision, a person convicted of a third violent felony must go to prison for life. This means repeat murderers, rapists, sex abusers, carjackers, kidnappers, extortionists, and so forth will not be treated with kid gloves. This is more than just talk. Three strikes and you're out means that violent repeat offenders will receive the reward they worked so hard for: life in prison.

This legislation also contains the ban on assault weapons, which passed the House, with my support, last spring. Every year, more than 12,000 Americans are murdered with guns. This is a tragedy. Many of you may remember last spring when Waukesha Police Capt. James Lutz was murdered with an assault weapon. He simply had no chance against the hail of bullets from that weapon.

The crime bill contains provisions banning the possession, manufacture, and transfer of 19 types of powerful assault weapons. It also contains a ban on the possession, sale, and manufacture of other firearms that have particularly lethal characteristics. These weapons simply have no legitimate sporting purposes. They exist solely as tools to kill numerous people more rapidly, and I strongly believe they have no place on our streets.

Some people have criticized the assault weapons as an infringement on the constitutional right to bear arms. This is not the case. The measure specifically lists 650 hunting and sporting rifles and shotguns which are exempt from the ban. As a gun owner myself, I think this makes sense. I don't want to take guns away from legitimate sportsmen. Americans should be able to enjoy hunting and shooting. However, no one needs a gun with a grenade launcher or flash suppressor to enjoy hunting, shooting, or collecting. I am pleased with the assault weapons ban and believe it is an integral part of this anticrime package.

As for moneys spent on prevention, this measure contains $380 million for local crime prevention programs. Since crime is primarily dealt with on the local level, it makes sense that localities should decide for themselves which programs work best for them. In this way, we provide support for community-based activities that strengthen families and social ties resulting in less violence on the streets and a lower crime rate. In short, an ounce of prevention is worth a pound of cure.

I believe the measure contained in this historic crime bill are important to all Americans, and while they will not end crime, they provide a very important step toward making our streets safer.

In closing, I urge all my colleagues to join me in supporting this legislation.

Mr. PETERSON of Minnesota. Mr. Speaker, today I rise in support of the Brewster/Hunter crime bill alternative. Americans are fed up with the politics Congress has been playing on the crime issue and are demanding action. They are demanding a crime bill that controls crime and gets violent criminals off our streets. The Brewster/Hunter alternative does just that. It strikes at the heart of crime through control, not social spending.

I was present as this bipartisan alternative evolved, and I feel it is the best approach to controlling crime. This measure keys in on the provisions of the original crime bill that we all agree on. The contentious provisions that divided us—gun control, the death penalty, and redundant crime prevention spending were left out with the hope that we can pass a tough crime bill this year. I believe that some crime prevention spending is necessary, but we should debate the issue and the other controversial measures as stand alone bills and let them pass or fail based on their own merits.

The Brewster/Hunter alternative provides billions for prisons, cops on the street, and Border Patrol agents. It makes basic judicial reforms, such as: Habeas corpus reform, exclusionary rule reform, truth in sentencing, mandatory penalties for crimes committed with a gun, and mandatory penalties for crimes committed with a gun, a mandatory lifetime registration for sexual offenders.

Mr. Speaker, if we are truly serious about controlling crime, we should get behind the Brewster/Hunter crime bill alternative.

Mr. COSTELLO. Mr. Speaker, I rise today to explain my views on the anticrime package now before the House.

On August 11, I voted against the rule on the crime bill, joining 57 other Democrats and 167 other colleagues in the House to send the rule down to defeat. This rule did not allow those of us who oppose a ban on assault weapons or who opposed other parts of this bill any opportunity to make a change to the conference report, not even a motion to recommit the bill back to the conference committee to improve it overall.

Since that time, House leaders and President Clinton have been working to improve this bill in an effort to gain a majority of votes for passage of the rule and the bill. The conference report before us today is an improvement over the bill we considered last week—but it can be improved even further. That is why I intend to again oppose the rule on the crime bill. With more work, we can make this bill stronger and tougher on crime.

First, like the bill presented to the House last week, this conference report includes a ban on assault weapons, another effort to keep gun control in this bill. I have voted against gun control consistently since I came to Congress, and I believe this would be a better bill without this provision. The original crime bill I supported in April when it passed the House did not have this provision included.

Second, one provision that was in the bill but taken out during the conference committee was the racial justice act, which would make sure that those sentenced to death were not sentenced in a racially discriminatory manner. I voted for the racial justice provisions, and believe they should be in the conference report.

Third, prison construction is still not as high as it should be, to the level included in the House-passed bill. The House approved $13.5 billion in new prison construction in April, and last week's crime bill cut that to $8.7 billion. This report cuts even that amount to $7.9 billion, and I believe we can and must include additional funds for incarceration of our most violent criminals.

Fourth, the price tag for this crime bill is still too high. The House-passed level of $27 billion represents, I believe, a more accurate level of funding needed to efficiently assist the states in law enforcement duties for the next 6 years.

As a former police officer, I know that the most effective way to combat crime is to put more police on the streets. We should also give local governments and police departments more funds to use to meet their needs. In my many meetings with law enforcement officials, I heard that in addition to police funding, they needed funds for new cares, radios, and technologies to help stop crime. This bill needs more flexibility to help these local police meet their own unique needs in both urban and rural areas.

Mr. Speaker, since I was elected to Congress I have supported legislation to help fight crime. In 1988 and 1992, the House passed legislation which I supported to strengthen penalties and help fight crime. I have not voted against a crime bill, and I do not intend to vote against final passage this evening.

Last week, I voted against the crime bill rule, but if the rule had passed I would have voted for final passage. I voted against the rule again today, and will support the bill on final passage if it succeeds. We made this bill a better piece of legislation in the last week, and I believe if we had another week it could be even better.

However, on balance the good parts of this bill outweigh the bad parts. It includes important provisions, such as the "three strikes and you're out" language. It expands the death penalty for heinous crimes, and strengthens Federal rules against repeat sex offenders. It will put more cops on the beat, and overall will help reduce crime in our Nation.

I regret that this is not a perfect bill. In a democracy, it is always impossible for every President, Member of Congress or U.S. Senator to write their own crime bill prescription. However, it is my strong belief that those of us who stood on principle last week to make this bill better were successful.

Mr. BEILENSON. Mr. Speaker, I rise today in strong support of the conference report on H.R. 3355, the Violent Crime Control and Enforcement Act.

In addition to the strong punishment and prevention provisions to control and combat crime, this bill also represents a major step forward in the fight against illegal immigration. Under this legislation, State and local governments will for the first time be reimbursed for the cost of incarcerating undocumented aliens convicted of felonies, a provision based on an amendment I offered and which was overwhelmingly passed by the House last April. The conference report also provides $1 billion for a variety of very important border control measures which I have long advocated, including hiring 1,000 new border patrol officers. The measure also calls for eliminating asylum abuse by expediting deportation for immigrants whose application for asylum has been denied and by specifying that, unless exceptions are made by the Department of Justice, those applying for asylum cannot be authorized to work here. In addition, criminal alien detention centers are expanded, deportation proceedings for aliens convicted of a felony are expedited, and penalties are increased for visa and passport abuse crimes.

The reimbursement for the costs of imprisoning criminal illegal aliens is especially important, however, to my State of California. There are between 23,000 and 35,000 undocumented aliens incarcerated in State prisons. At an annual cost of $18,000 or more per prisoner, this translates to a yearly financial burden of between $420 million and $615 million on the criminal justice systems of the State and its communities.

These costs, which are increasing rapidly, are the result of the Federal Government's failure to enforce our immigration laws—a failure that has resulted in the unlawful entry into the United States of millions of illegal immigrants. Yet, while State and local governments have the responsibility for incarcerating criminal aliens and processing their cases, the have no jurisdiction, obviously, over the enforcement of immigration laws, no authority to deport aliens who are convicted of crimes, and no authority to ensure that those deported are not permitted to re-enter the country.

This conference report assures that at least $1.8 billion over the next 6 years from the crime control trust fund will be provided to State and local governments for the cost of incarcerating illegal aliens, and beginning in the year 2004, full funding for reimbursement will become automatic. While additional funds are still needed, and I had hoped that the mandatory funding date would have been earlier, this legislation marks the first time the Federal Government has moved beyond simply acknowledging responsibility for this burden and has actually provided a substantial amount of funding to address it. And, by relieving States and localities of this substantial expense, this bill will free up local and State revenues for other public purposes—including the very purpose served by this legislation, crime control.

Now that the Federal Government will be required to assume some of the burden resulting from its failure to enforce our immigration laws, I believe the administration, and the Congress, will put more resources into keeping people from entering the U.S. illegally in the first place. Specifically, we must continue to strengthen our Border Patrol to make it more difficult to cross our borders illegally, a need this legislation recognizes by authorizing the hiring of an additional 1,000 border patrol agents.

Currently, the border patrol is woefully undermanned and severely lacking the sort of modern equipment that is essential simply to control the flow of aliens across borders, much less do the job efficiently. The border patrol estimates that for every one individual apprehended at the border, at least three cross undetected. To solve this problem, we need more border patrol agents, and the agents need dependable vehicles, secure communications systems, night vision equipment, motion sensors, and computers for tracking people who have repeatedly entered or tried to enter the country illegally and for identifying weaknesses in our border security.

Mr. Speaker, we need to establish a credible immigration policy based on tough enforcement along our borders, full Federal responsibility for any failure in enforcement, and fairness to State and local governments. H.R. 3355 is a major step forward in achieving our goals, and I urge my colleagues to support this legislation.

Mr. LAFALCE. Mr. Speaker, the House of Representatives today has an opportunity to strike a historic blow against crime across America. For the third time in 4 years, we are close to passing major new anticrime legislation. Mr. Speaker, "three strikes and you're out" is an important provision in this crime bill, but it should not be the fate of this important crime bill. I urge my colleages to support the rule and to support the conference report on the crime bill.

During the debate about this legislation, the American people have been subjected to lies, allegations, and a stream of misinformation that I have seldom seen during my years in Congress. Unfortunately, during this debate, facts and figures have often been replaced by half-truths and allegations. Unfortunately, during this debate, programs that once had bipartisan support in this body—and that I suspect, still do—have now been labeled as "pork." Unfortunately, during this debate, we have been forced to listen to television commercials by Charlton Heston, a national spokesman for the NRA, now apparently the Nation's newest expert on crime legislation.

Reasonable people may disagree about some of the provisions in the crime bill. I don't favor each and every one. There are items in this bill that I would prefer to remove or amend. For example, I believe the slew of new death penalties contained in this bill—over 60—are, to say the least, excessive.

The problem is, we simply don't have the luxury to demand that every single word in this bill be to our liking—not when there are 535 of us. It's an impossibility. While Members fiddle and tinker with this bill, American citizens are living in fear, locking their doors, closing their businesses at night.

Our purpose must be to wage war against crime—the No. 1 concern of the American people today. Waging war against crime requires both punishment and prevention. And this bill, in fact, is focused directly on both

crime punishment and crime prevention. Fully 75 percent of the spending in the crime bill is for police, Federal and State law enforcement, prisons, and detention facilities. The remaining 25 percent is for specific prevention programs, almost all of which support local community efforts to prevent crime.

The House Small Business Committee recently held hearings on the subject of crime and small businesses. As chairman of this committee, I had the opportunity to hear compelling testimony from leading experts in this field, including representatives of the Small Business Association, the National Association of Convenience Stores, and the National Institute for Occupational Safety and Health. In addition to offering many useful suggestions for combating small business crime, each of these panelists emphasized how important it was for Congress to swiftly pass the crime bill. These leaders recognized, as does the American public, that putting police on the street and putting criminals behind bars are fundamental national priorities. Small businesses particularly need this protection—and they need this bill now.

Anyone who calls this bill "soft on crime" simply hasn't read it or doesn't understand it. In addition to the death penalties and the "three-strikes-and-you're-out" requirement, this bill also increases penalties significantly for crimes committed with guns, hate crimes, immigration fraud, drunk driving, crimes against the elderly, and numerous other types of criminal activity. Make no mistake: This bill punishes criminals. This bill builds prisons. This bill helps protect our children, and helps safeguard our senior citizens.

Opponents of the crime bill talk endlessly about social workers, dance lessons, arts and crafts, and midnight basketball, implying that this bill is about everything but crime. Nothing could be further from the truth. This bill does not, contrary to published reports, hire two social workers for every new police officer. In fact, there is no money in this bill that is designated for the hiring of social workers. Of course, you could call anyone a social worker, especially someone involved in community policing.

Further, the prevention measures in this bill are practical and sensible. The new local crime prevention block grant contained in this conference report gives our States and communities what they need: Flexibility to use Federal funding for the prevention methods that best fit their specific needs.

Sure, one can always characterize prevention programs as pork just for the sake of stopping this bill—but when many of these programs were initially proposed by Republicans, supported by Republicans, and voted for by Republicans, it does take some of the sail out of those winds.

When deciding how to vote on this crucial issue, we have a choice of who to listen to: The threats of a few, well-entrenched special interest groups and Charlton Heston, or the wishes of almost all law enforcement officials, the wishes of almost every mayor of plagued communities across America, such as Mayor Guiliani of New York City, and, most importantly, the wishes of the American people.

As any law enforcement officer knows, crime fighting requires a combination of punishment and prevention. This bill offers both. In addition, it offers something else that is critical—HOPE—hope that we can reduce the incidence of crime nationwide. For all of these reasons, I implore this body to do its duty and to complete its work today. I urge my colleagues to support this bill.

Mr. COYNE. Mr. Speaker, I want to state my strong support for final passage of H.R. 3355, the Omnibus Crime Control Act of 1994. This historic anticrime measure represents a significant commitment to fighting violence in our local communities with a commonsense approach to punishment and prevention.

Fighting crime requires putting the right tools in the hands of law enforcement officers and local governments. This bill does not provide a single magic bullet to solve all of the Nation's crime problems. Instead, the Omnibus Crime Control Act strengthens our Nation's arsenal in the war against crime in a comprehensive manner. This is a responsible anticrime bill that achieves a balance between the need to prevent crime and the need to ensure that criminals will be caught and punished when violent crimes are committed.

This bill does just that by providing funds for hiring 100,000 police officers for community policing. A total of $8.8 billion is provided to provide grants to local communities who will be able to increase the presence of police officers to combat crime in local neighborhoods. This legislation also provides for educational assistance to train new police officers.

Pennsylvania can expect over $370 million over the next 6 years in grant funds for local communities to hire new police officers. This would provide sufficient resources to hire nearly 5,000 additional police officers in the Commonwealth alone.

I also am pleased to note that the final conference agreement provides local communities like the city of Pittsburgh the needed flexibility to use community policing funds both to hire new officers and to cover costs related to overtime, equipment, and new technological improvements.

While the Omnibus Crime Control Act provides $9.9 billion for new prisons and boot camps for young offenders, this bill also recognizes the usefulness of crime prevention as a tool in the war on crime. Community policing has been a success in many neighborhoods around the country both because of its use in capturing violent criminals and its ability to deter crime. It makes sense to support this program because of its ability to prevent crime. Crime prevention can be far more cost-effective than spending the thousands of dollars necessary to incarcerate a single individual.

Crime prevention is a vital part of any strategy to reduce violent crime and turn America's youth away from the lures of gang activity. I am pleased that the final conference agreement still increases funding for crime prevention to $5.5 billion. This legislation will help the city of Pittsburgh and other communities in my congressional district reduce crime rates by initiating or expanding programs to provide local youth with a positive alternative to criminal activity.

Local governments in Pennsylvania would have access to a wide range of grant funds for job training, education, and drug treatment. Grant funds will be available for local communities in Pennsylvania to provide After-School and In-School "Safe Havens" for at-risk children. Pennsylvania communities will also be able to apply for grants to support Boys and Girls Clubs, sports activities, and programs to reduce crime against children.

The final Omnibus Crime Control Act also includes the ban on assault weapons approved by both the House and the Senate. Enactment of this legislation will show the Nation that reasonable men and women can take action to stem the availability of assault weapons. This bill bans the future manufacture or sale of 19 specific assault weapons, including the AK–47, the Uzi, the TEC–9, the Colt AR–15, and the street sweeper revolving cylinder shotgun. Also covered would be assault weapons which have two or more military style features, such as folding stocks, protruding pistol grips or bayonet mounts.

The ban on assault weapons responds directly to the outcry against the use of military-style weapons on neighborhood streets and school playgrounds. Enactment of this provision will help local police officers who are at risk of facing criminals with MAC 11 assault pistols loaded with 32 rounds of ammunition.

In total, this anticrime bill provides for a historic expansion of Federal resources to combat and prevent violent crime. The Omnibus Crime Control Act will provide $30.2 billion for anticrime programs. Funding for this measure will be provided through a crime trust fund which will be supported by savings from the previously approved reduction of 252,000 Federal workers.

Mr. Speaker, the Omnibus Crime Control Act is a good bill.

There are some who may not like every single provision, but this bill does provide local communities with the help needed to both punish violent criminals and prevent crime from happening in the first place. H.R. 3355 provides the right tools for fighting the war on crime and I urge my colleagues to join with me in voting for final passage.

Mr. ROSTENKOWSKI. Mr. Speaker, I rise in strong support of H.R. 3355, the Violent Crime Control and Law Enforcement Act. People continue to fear crime in their neighborhoods and, while there are real limits to what the Federal Government can do in this area, this crime legislation makes a positive step.

This is a tough, comprehensive initiative to stem the rising tide of crime in this country. The bill strikes a balance between punishment and prevention. It's tough on criminals. It puts 100,000 more police in our neighborhoods while also creating much-needed prison space. And it imposes a long overdue ban on ownership of certain types of semiautomatic weapons that have turned some of our urban neighborhoods into war zones.

The bill helps keep violent repeat offenders in jail and provides essential funding to combat violence against women. The three-strikes-you're-out provision mandates life imprisonment for three-time violent offenders. The death penalty is expanded to include over 60 violent crimes, including the killing of law enforcement officers.

In addition, programs are emphasized that keep youth away from crime such as midnight sports leagues, law enforcement scholarships,

and a police corps, which provides money for education in return for a 4-year commitment to police work.

The conference report before us today represents a bipartisan compromise. Each of us could name a part of the original report that we felt would be the most effective. For my part, I was a strong advocate of my proposal to increase the number of boys and girls clubs in public housing. For the young people growing up in public housing projects, one of the only safe havens from gang violence, drug abuse, and crime is their boys and girls club. Many of the most pressing problems of our inner cities are magnified and intensified in public housing developments. Young people living in this environment must be provided alternatives and hope for their future. We are all familiar with this organization's outstanding track record in helping high-risk boys and girls. Instead, to save money, my proposal was rolled into the $380 million local crime prevention block grant program.

But as we all now know, the legislative process is such that no one interest receives all that it wants. Each gains a little and gives a little. But the final result is vastly better than the current situation. As elected officials, it is our responsibility to heed the concerns of the American people. The American people are critically worried about the rising crime rate in their communities. This legislation responds effectively to that very real concern. I urge my colleagues to support this bill and take an important step in the fight against crime.

The SPEAKER. Without objection, the previous question is ordered on the conference report.

There was no objection.

MOTION TO RECOMMIT OFFERED BY MR. MC COLLUM

Mr. McCOLLUM. Mr. Speaker, I offer a motion to recommit, and I am opposed to the bill in its present form.

The SPEAKER. Is the gentleman the designee of the minority leader?

Mr. McCOLLUM. Mr. Speaker, I am the designee of the minority leader.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. McCOLLUM moves to recommit the conference report to accompany the bill H.R. 3355 to the committee of conference with instructions that the managers on the part of the House prioritize authorizations within scope that will maximize the availability of funds from the trust fund for programs for Public Safety and Policing, Prisons, and Border Patrol.

PARLIAMENTARY INQUIRY

Mr. HUGHES. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. HUGHES. Mr. Speaker, I am not sure what the motion to recommit is. I would yield to the gentleman. Can the gentleman tell me, is it the Brewster motion to recommit?

The SPEAKER. The Chair controls debate on the parliamentary inquiry. Will the gentleman state the parliamentary inquiry.

Mr. HUGHES. This gentleman does not have a copy of the motion to recommit.

My inquiry, Mr. Speaker, is this: Is what are we voting on on the motion to recommit? I would be happy to yield to the gentleman from Florida.

Mr. Speaker, I ask unanimous consent that the gentleman have 1 minute to explain his motion to recommit.

The SPEAKER. Without objection, the Chair will recognize the gentleman from Florida for 30 seconds to explain the conference report.

There was no objection.

Mr. McCOLLUM. I thank the Chair and I thank the gentleman.

Mr. Speaker, this motion to recommit is to recommit within the framework of the way that the parliamentarian has told us we have to operate to get as much of the Brewster-Hunter proposition as possible that is within the scope of the conference. We cannot enact or we cannot send back, like a bill, a self-executing opportunity if we had just passed a bill. This has to go back to conference, to the conference committee.

The way this motion to instruct conferees has been drafted, it says that within the scope, they will maximize these things, which is the only way we can write this. But this is Brewster-Hunter, there should be no mistake about it. It is the intent if Members vote on this to see the conferees go back and do the Brewster-Hunter proposal. That is the way it has been constructed.

The SPEAKER. Without objection, the Chair recognizes the gentleman from New Jersey [Mr. HUGHES] for 30 seconds.

There was no objection.

Mr. HUGHES. Mr. Speaker, in other words, if the gentleman will respond to me, it is not Brewster. The gentleman is doing what, asking that it be returned to the conference with instructions on prioritizing?

Mr. McCOLLUM. Mr. Speaker, if the gentleman would yield to me, this is Brewster within scope.

Mr. HUGHES. No, no, I reclaim my time. What the gentleman has said, in essence, is that it is not Brewster.

Mr. McCOLLUM. It is Brewster in scope. That is precisely what it is.

Mr. HUGHES. Mr. Speaker, that answers my question.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The question was taken; and the Speaker announced that the noes appeared to have it.

RECORDED VOTE

Mr. McCOLLUM. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 197, noes 232, not voting 6, as follows:

[Roll No. 415]

AYES—197

Allard	Gilman	Packard
Archer	Gingrich	Parker
Armey	Goodlatte	Paxon
Bachus (AL)	Goodling	Payne (VA)
Baker (CA)	Gordon	Peterson (FL)
Baker (LA)	Goss	Peterson (MN)
Ballenger	Grams	Petri
Barcia	Gunderson	Pickett
Barlow	Hall (TX)	Pombo
Barrett (NE)	Hamilton	Portman
Bartlett	Hancock	Quillen
Barton	Hansen	Rahall
Bateman	Hastert	Ravenel
Bentley	Hayes	Regula
Bereuter	Hefley	Roberts
Bevill	Hobson	Rogers
Bilirakis	Hoekstra	Rohrabacher
Bliley	Hoke	Ros-Lehtinen
Boehner	Holden	Roth
Bonilla	Horn	Royce
Boucher	Huffington	Santorum
Brewster	Hunter	Sarpalius
Browder	Hutchinson	Saxton
Bunning	Hutto	Schaefer
Burton	Hyde	Schiff
Buyer	Inglis	Sensenbrenner
Calvert	Inhofe	Shuster
Camp	Istook	Sisisky
Canady	Johnson, Sam	Skeen
Chapman	Kim	Skelton
Clinger	Kingston	Smith (MI)
Coble	Klink	Smith (OR)
Collins (GA)	Knollenberg	Smith (TX)
Combest	Kolbe	Snowe
Condit	Kyl	Solomon
Cooper	LaRocco	Spence
Cox	Lewis (CA)	Stearns
Cramer	Lewis (FL)	Stenholm
Crane	Lewis (KY)	Strickland
Crapo	Lightfoot	Stump
Cunningham	Linder	Stupak
Danner	Livingston	Sundquist
Darden	Lucas	Talent
de la Garza	Manzullo	Tanner
Deal	McCandless	Tauzin
DeLay	McCollum	Taylor (MS)
Diaz-Balart	McCrery	Taylor (NC)
Dickey	McCurdy	Tejeda
Doolittle	McDade	Thomas (CA)
Dornan	McHugh	Thomas (WY)
Dreier	McInnis	Thurman
Duncan	McKeon	Unsoeld
Dunn	McMillan	Upton
Ehlers	Mica	Volkmer
Emerson	Michel	Vucanovich
Everett	Miller (FL)	Walker
Ewing	Mollohan	Walsh
Fawell	Montgomery	Weldon
Fields (TX)	Moorhead	Wilson
Fish	Murphy	Wise
Fowler	Murtha	Wolf
Gallegly	Myers	Young (AK)
Gallo	Nussle	Young (FL)
Gekas	Ortiz	Zeliff
Geren	Orton	Zimmer
Gillmor	Oxley	

NOES—232

Abercrombie	Bryant	Dixon
Ackerman	Byrne	Dooley
Andrews (ME)	Cantwell	Durbin
Andrews (NJ)	Cardin	Edwards (CA)
Andrews (TX)	Carr	Edwards (TX)
Applegate	Castle	Engel
Bacchus (FL)	Clay	English
Baesler	Clayton	Eshoo
Barca	Clement	Evans
Barrett (WI)	Clyburn	Farr
Becerra	Coleman	Fazio
Beilenson	Collins (IL)	Fields (LA)
Berman	Collins (MI)	Filner
Bilbray	Conyers	Fingerhut
Bishop	Coppersmith	Flake
Blackwell	Costello	Foglietta
Blute	Coyne	Foley
Boehlert	DeFazio	Ford (MI)
Bonior	DeLauro	Ford (TN)
Borski	Dellums	Frank (MA)
Brooks	Derrick	Franks (CT)
Brown (CA)	Deutsch	Franks (NJ)
Brown (FL)	Dicks	Frost
Brown (OH)	Dingell	Furse

Gejdenson
Gephardt
Gibbons
Gilchrest
Glickman
Gonzalez
Grandy
Green
Greenwood
Gutierrez
Hall (OH)
Hamburg
Harman
Hastings
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Houghton
Hoyer
Hughes
Inslee
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
King
Kleczka
Klein
Klug
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Molinari
Moran
Morella
Nadler
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Penny
Pickle
Pomeroy
Porter
Poshard
Price (NC)
Pryce (OH)
Quinn
Ramstad
Rangel
Reed
Reynolds
Richardson
Ridge
Roemer
Rose
Rostenkowski
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shaw
Shays
Shepherd
Skaggs
Slattery
Slaughter
Smith (IA)
Smith (NJ)
Spratt
Stark
Stokes
Studds
Swett
Swift
Synar
Thompson
Thornton
Torkildsen
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Waters
Watt
Waxman
Wheat
Whitten
Williams
Woolsey
Wyden
Wynn
Yates

NOT VOTING—6

Callahan
Herger
Rowland
Tucker
Valentine
Washington

□ 1932

Mr. HEFLEY changed his vote from "no" to "aye."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. HERGER. Mr. Speaker, I inadvertently missed rollcall vote number 415, the McCollum motion to recommit. Had I been here, I would have voted aye.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

RECORDED VOTE

Mr. McCOLLUM. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 235, noes 195, not voting 5, as follows:

[Roll No. 416]

AYES—235

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barca
Barrett (WI)
Becerra
Beilenson
Berman
Bilbray
Bishop
Blackwell
Blute
Boehlert
Bonior
Borski
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Coppersmith
Costello
Coyne
Cramer
Darden
DeLauro
Derrick
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English
Eshoo
Evans
Farr
Fazio
Filner
Fingerhut
Flake
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gejdenson
Gephardt
Gibbons
Gilchrest
Glickman
Gonzalez
Gordon
Grandy
Green
Greenwood
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hastings
Hefner
Hinchey
Hoagland
Hobson
Hochbrueckner
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Inslee
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kaptur
Kasich
Kennedy
Kennelly
Kildee
King
Kleczka
Klein
Klug
Kolbe
Kreidler
Kyl
LaFalce
Lambert
Lancaster
Lantos
Lazio
Leach
Lehman
Levin
Levy
Lipinski
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Molinari
Moran
Morella
Neal (MA)
Neal (NC)
Obey
Olver
Owens
Pallone
Pastor
Pelosi
Pickle
Pomeroy
Porter
Poshard
Price (NC)
Pryce (OH)
Quinn
Ramstad
Reed
Reynolds
Richardson
Ridge
Roemer
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Roybal-Allard
Rush
Sanders
Sangmeister
Sawyer
Saxton
Schenk
Schroeder
Schumer
Serrano
Sharp
Shaw
Shays
Shepherd
Skaggs
Slattery
Slaughter
Smith (IA)
Smith (NJ)
Snowe
Spratt
Stark
Studds
Swett
Swift
Talent
Thompson
Thornton
Torkildsen
Torres
Torricelli
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Walsh
Waxman
Weldon
Wheat
Whitten
Woolsey
Wyden
Wynn
Yates
Zimmer

NOES—195

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barlow
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bevill
Bilirakis
Bliley
Boehner
Bonilla
Boucher
Brewster
Bunning
Burton
Buyer
Calvert
Camp
Clay
Clinger
Coble
Collins (GA)
Combest
Conyers
Cooper
Cox
Crane
Crapo
Cunningham
Danner
de la Garza
Deal
DeFazio
DeLay
Dellums
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Emerson
Everett
Ewing
Fawell
Fields (LA)
Fields (TX)
Fish
Fowler
Gallo
Gekas
Geren
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Grams
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Hayes
Hefley
Herger
Hilliard
Hoekstra
Hoke
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Istook
Johnson, Sam
Kanjorski
Kim
Kingston
Klink
Knollenberg
Kopetski
LaRocco
Laughlin
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lewis (KY)
Lightfoot
Linder
Livingston
Lucas
Manzullo
McCandless
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
McMillan
Mica
Michel
Miller (FL)
Mollohan
Montgomery
Moorhead
Murphy
Murtha
Myers
Nadler
Nussle
Oberstar
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (NJ)
Payne (VA)
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Portman
Quillen
Rahall
Rangel
Ravenel
Regula
Roberts
Rogers
Rohrabacher
Roth
Royce
Sabo
Santorum
Sarpalius
Schaefer
Schiff
Scott
Sensenbrenner
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sundquist
Synar
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thurman
Unsoeld
Volkmer
Vucanovich
Walker
Waters
Watt
Williams
Wilson
Wise
Wolf
Young (AK)
Young (FL)
Zeliff

NOT VOTING—5

Callahan
Rowland
Tucker
Valentine
Washington

□ 1951

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. ROWLAND. Mr. Speaker, due to a longstanding commitment, I was not present for the vote on the conference report on H.R. 3355. Had I been present, I would have voted against final passage and for recommittal with instructions in support of the Brewster-Hunter bipartisan plan.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members shall have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION TO HAVE UNTIL MIDNIGHT, FRIDAY, SEPTEMBER 2, 1994, TO FILE CONFERENCE REPORT ON H.R. 4624, DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1995

Mr. OBEY. Mr. Speaker, I ask unanimous consent that the managers may have until midnight, Friday, September 2, to file a conference report on the bill (H.R. 4624) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1995, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

LEGISLATIVE PROGRAM

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

Mr. GINGRICH. Mr. Speaker, I ask for this 1 minute for the purpose of receiving the schedule from the distinguished majority leader.

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I yield to my good friend from Missouri.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman from Georgia [Mr. GINGRICH] for yielding.

We have completed our legislative business for the week, or is it the weekend; I am not altogether sure. But whatever it is, we are finished for today.

In a moment I will offer a concurrent resolution providing for the House to adjourn, if and when the Senate adjourns in the coming week or week after. The adjournment resolution provides the House shall stand adjourned until Thursday, September 8, upon concurrence by the Senate. Following that I will ask unanimous consent that the House meet at 10 a.m. each Tuesday and Friday until such time as the Senate concurs in the resolution. Members are advised that the concurrent resolution also provides that the Speaker and the majority leader may, after consultation with the minority leader, ask for reassembly of the House after 48 hours, if the public interest shall warrant it. Members should also be advised that obviously on these Tuesday and Friday sessions, they will be pro forma sessions, and votes will not be taken.

Mr. GOSS. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I will yield to the gentleman from Florida.

Mr. GOSS. Mr. Speaker, I wonder if I might ask the distinguished majority leader if his definition of "public interest warranting reassembling of the Houses" might include an invasion of Haiti in which American armed service personnel were actively involved.

Mr. GEPHARDT. I would say to the gentleman that, if an event of that type, or some like event, were to occur, the Speaker and myself would obviously consult with the leadership of the other side, and we would make a judgment, given the wording of this resolution, about whether or not to bring the Congress back. Obviously we would have to assess the event and the facts surrounding the event, and we would have to act appropriately.

Mr. GOSS. If I may continue, I very much am gratified by that explanation. That assurance of a consideration to deliberate at the leadership level I think is extremely comforting to those of us who are concerned that such an event might happen out of the cognition of the U.S. Congress having the opportunity to provide some deliberation on something of that magnitude, and I thank the gentleman.

Mr. GINGRICH. Mr. Speaker, if I might just for a moment ask the majority leader, first of all, if I can make the observation briefly that the earlier attempt to pass the crime bill in a more narrowly partisan manner has been replaced by a more bipartisan effort, and I wonder if there is any possibility, either during the break or when we come back, if we might talk about health care in a more bipartisan manner since that seemed to be more likely to produce a bill that passes. I just offer that.

Mr. GEPHARDT. If the gentleman would yield, I know that all of us are interested in addressing the health care issue, and we would be happy to enter into some talk and discussion of how to address this problem. We saw in this last bill that we have got to find a majority to enact legislation, as the gentleman well knows, and we will look for votes, and support, and help on both sides of the aisle.

Mr. GINGRICH. I just would like to suggest if we could look together earlier in the design of the things we try to get votes for, the total number available may be much larger.

Second, I think every Member has an interest in the potential session on the 8th and 9th because of the way in which that week works out with religious holidays, and I just wanted to ask. I would hope from our side that, if Members are to be called back on the 8th, that we would have, if we are going to pursue health care, that we would have the bills ready and scored so Members would actually have documents to work on that were complete and available to the public, and I wonder, if bills are not ready and scored as of the 8th, whether there is a prospect that those 2 days might end up as pro forma sessions and Members would be notified, or what the Democratic leadership's intention might be.

Mr. GEPHARDT. Mr. Speaker, if the gentleman would yield, we obviously will keep in close communication with the Congressional Budget Office. If a judgment has to be made that it is not feasible to begin on the 8th, we will give Members adequate notice that we would then begin on the 12th.

Mr. GINGRICH. Mr. Speaker, I thank the gentleman from Missouri [Mr. GEPHARDT].

PROVIDING FOR AN ADJOURNMENT OR RECESS OF THE TWO HOUSES

Mr. GEPHARDT. Mr. Speaker, I offer a privileged concurrent resolution (H. Con. Res. 289) and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 289

Resolved by the House of Representatives (the Senate concurring), That when the House is in receipt of a message that the Senate has agreed to a concurrent resolution providing for the adjournment of the two Houses to noon on Thursday, September 8, 1994, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first, that the House shall stand adjourned in like manner; and that when the Senate recesses or adjourns at the close of business on Monday, August 22, 1994, or any day thereafter, pursuant to a motion made by the Majority Leader or his designee, in accordance with this resolution, it stand recessed or adjourned until noon on Thursday, September 8, 1994, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

The SPEAKER pro tempore (Mr. KILDEE). Without objection, the concurrent resolution is agreed to.

There was no objection.

A motion to reconsider was laid on the table.

□ 2000

CONDITIONAL ADJOURNMENT OF THE HOUSE AND SENATE

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns on the legislative day of Sunday, August 21, 1994, it adjourn to meet at 10 a.m. on Tuesday and Friday of each subsequent week until the House has in its possession the message informing the House that the Senate has agreed to House Concurrent Resolution 289. The House shall then stand

adjourned in accordance with that resolution.

The SPEAKER pro tempore (Mr. KILDEE). Is there objection to the request of the gentleman from Missouri?

There was no objection.

AUTHORIZING THE SPEAKER AND THE MINORITY LEADER TO ACCEPT RESIGNATIONS AND MAKE APPOINTMENTS, NOTWITHSTANDING ADJOURNMENT

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that notwithstanding any adjournment of the House until Thursday, September 8, 1994, the Speaker and the minority leader shall be authorized to accept resignations and to make appointments authorized by law or by the House.

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

There was no objection.

DESIGNATION OF THE HONORABLE STENY H. HOYER TO ACT AS SPEAKER PRO TEMPORE DURING PERIOD OF ADJOURNMENT

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

WASHINGTON, DC,
August 20, 1994.

I hereby designate the Honorable STENY H. HOYER to act as Speaker pro tempore to sign enrolled bills and joint resolutions through September 8, 1994.

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

HISTORICAL EVENTS THAT DID OCCUR ON AUGUST 21

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from California [Mr. DORNAN,] is recognized for 5 minutes.

Mr. DORNAN. Mr. Speaker, I just could not pass this moment in history, because I do not feel any safer now, having passed this so-called crime bill. I will go out on a limb here for historical purposes, Mr. Speaker, and suggest that 20 years hence, 30 years, even 5 years hence, nobody is going to look back at August 21, 1994, and suggest that this was a date that this Chamber did something significant and that we immediately started to see a reduction in crime.

This day in history is noted for some significant events worldwide. I will not bother everybody with world history on this date. But let us just take a few events on this day in American history.

In 1831, Nat Turner led what was called the slave rebellion in the Commonwealth of Virginia. He paid for it with his life. He was a true hero, fighting for freedom in the American way. He was truly the Spartacus of this country. That was on this day. It will always be recorded in history.

Take 1858, the Lincoln-Douglas debates began today, another date for this day to be remembered in history. August 21. They just have been reenacted beautifully in a very compelling way on C-SPAN television, all through that same area of the country with excellent actors portraying Lincoln and the little giant Douglas.

On this date in 1878, this may be a mixed blessing for the country, but law professors, judges, and lawyers gathered in Saratoga Springs, NY, and founded the American Bar Association.

Fast forward to this century. 1944, in this city, up in Northwest, in the area called Dumbarton Oaks, a meeting with those loyal to Chiang Kai-shek, Chinese, Americans, British, got together up there and began what has turned into the United Nations. A significant date in history.

On this date, President Eisenhower, by Executive order, made Hawaii our 50th State and changed that beautiful flag behind my distinguished friend from Michigan, the Speaker pro tempore, DALE KILDEE.

This is the reason this date is remembered in history, for significant events. I repeat, it will not be remembered for this crime bill passed today, because I believe that Charlton Heston is a knowledgeable, solid citizen, not just a mouthpiece as he was called today.

I notice when liberal Democrats want to turn to actors, they will even waste our time by bringing Jane Fonda, Sissy Spacek, and I forget the excellent actress who played in the remake of King Kong, she played a farm wife. They brought these three wonderful academy-award-winning actresses, wonderful in their talent, not wonderful in the radical left pro-Hanoi politics of Fonda, for example. But they are sitting over here at the Rayburn Building at the Committee on Agriculture lecturing about farm problems, and they are actresses.

Well, if the Democrats can listen to Warren Beatty or have Rob Lowe come down to Georgia and embarrass the whole Democratic Party with his youth delegation, and then gets caught making porno films, give us a break. When a mature American who fought for his country in World War II and who is not, I repeat, not paid any stipend by the National Rifle Association, if he wants to tell us what he thinks is true, what I think is true, and what I guess 64 Democrats believe is also true about this noncrime bill, then let us give this great citizen, Charlton Heston, the benefit of the doubt.

Yes, he played Moses up there looking down at you, and he did it very well. And I thought the best statement of the whole crime debate was my pal DUNCAN HUNTER to my friend CHARLES SCHUMER, saying what does he think the movie should have been called instead of Ten Commandments, Old Pharaoh Knows Best?

Well, I will close on this, Mr. Speaker. The reason we have violent crime out of control in this country, and I have said this on television in 1968, that is a long time ago, 26 years ago, it is not because of conservative schoolteachers like my brother, who would rather be tortured to death than smoke pot with his young students in junior high school. It is not conservative actors, conservative producers, conservative screen writers, conservative judges, conservative sociologists, conservative businessmen, the whole military is mostly conservative, so I will not even drag them into it.

It is liberal schoolteachers, liberal judges, liberal criminologists, liberal sociologists, liberal Senators, liberal Congressmen, liberal mayors, liberal Governors. It is liberal philosophy that sowed the wind and has reaped the whirlwind of violence across this country. Liberal philosophy prevailing over the last three decades has ripped this country, caused this crime wave. You cannot pin this on conservative philosophy or conservatives in any level of public life, from entertainment to the courts.

On that, I rest my case.

To the gentleman from Michigan, DALE KILDEE, your dad went to communion every day, just like my father. I remember your beautiful tribute to your father, DALE.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. TUCKER (at the request of Mr. GEPHARDT), for today, on account of personal business.

Mr. CALLAHAN (at the request of Mr. MICHEL), for today, on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)

Mr. OBEY, for 5 minutes today.

Mr. CUNNINGHAM, for 5 minutes today.

Mr. DURBIN, for 5 minutes today.

Mr. SHAYS, for 5 minutes today.

Mr. DORNAN, for 5 minutes today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. GOODLATTE) and to include extraneous matter:)

Mr. BUYER.
Mr. FRANKS of Connecticut.
Mr. HORN.
Mr. MCINNIS.
Mr. SCHIFF.
Mr. GUNDERSON.
Ms. MOLINARI.
Mr. HORN.

(The following Members (at the request of Mr. PAYNE of New Jersey) and to include extraneous matter:)

Mr. LAROCCO.
Mr. TORRES.
Mr. GIBBONS.
Mr. SWETT.
Mr. POSHARD.
Mr. WILIAMS in three instances.
Mr. REYNOLDS.
Mr. MFUME.
Mr. BONIOR.
Mr. LEVIN.
Mr. EDWARDS of California.
Mr. HINCHEY in two instances.
Mr. SKAGGS.
Mr. LEWIS of Georgia.
Mr. JOHNSON of Georgia.

ADJOURNMENT

Ms. SHEPHERD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 9 minutes p.m.), under its previous order, the House adjourned until Tuesday, August 23, 1994, at 10 a.m.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BROOKS: Committee of Conference. Conference report on H.R. 3355. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to allow grants to increase police presence, to expand and improve cooperative efforts between law enforcement agencies and members of the community to address crime and disorder problems, and otherwise to enhance public safety (Rept. 103–711). Ordered to be printed.

Mr. CONYERS: Committee of Conference. Conference report on S. 1587. An act to revise and streamline the acquisition laws of the Federal Government, and for other purposes (Rept. 103–712). Ordered to be printed.

Mr. DERRICK: Committee on Rules. H. Res. 526. A resolution waiving points of order against a further conference report to accompany the bill (H.R. 3355) to amend the Omnibus Crime Control and Safe Streets Act of 1968 to allow grants to increase police presence, to expand and improve cooperative efforts between law enforcement agencies and members of the community to address crime and disorder problems, and otherwise to enhance public safety (Rept. 103–713). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BREWSTER (for himself, Mr. HUNTER, Mr. PETE GEREN of Texas, Mr. COX, Mr. PETERSON of Minnesota, Mr. MCINNIS, Mr. TAYLOR of Mississippi, Mr. BAKER of California, Mr. TAUZIN, Mr. BARTLETT of Maryland, Mr. PARKER, Mr. BOEHNER, Mr. BROWDER, Mr. BONILLA, Mr. CHAPMAN, Mr. BUNNING, Mr. DEAL, Mr. BURTON of Indiana, Ms. DANNER, Mr. CALLAHAN, Mr. TANNER, Mr. MANZULLO, Mr. STENHOLM, Mr. COLLINS of Georgia, Mr. SARPALIUS, Mr. ARMEY, Mr. HALL of Texas, Mr. CRANE, Mr. VALENTINE, Mr. DOOLITTLE, Mr. ORTON, Mr. DUNCAN, Mr. HUTTO, Ms. DUNN, Mr. MONTGOMERY, Mr. EMERSON, Mr. RAHALL, Mr. EVERETT, Mr. CONDIT, Mr. EWING, Mr. ROWLAND, Mr. GILMAN, Mr. WILSON, Mr. HANCOCK, Mr. HOLDEN, Mr. HEFLEY, Mr. TEJEDA, Mr. HERGER, Mr. CRAMER, Mr. HOEKSTRA, Mr. BARCIA of Michigan, Mr. ALLARD, Mr. DICKEY, Mr. HYDE, Mr. KLINK, Mr. KIM, Mr. HAYES, Mr. KINGSTON, Mr. STUPAK, Mr. KYL, Mr. LAUGHLIN, Mr. LEWIS of Florida, Mrs. THURMAN, Mr. LINDER, Mr. PETERSON of Florida, Mr. LIGHTFOOT, Mr. MURPHY, Mr. CALVERT, Mr. SKELTON, Mr. MCCOLLUM, Mr. DE LA GARZA, Mr. BACHUS of Alabama, Mr. DARDEN, Mr. MCKEON, Mr. ORTIZ, Mr. MOORHEAD, Mr. VOLKMER, Mr. PACKARD, Mr. SWETT, Mr. QUILLEN, Mr. COOPER, Mr. ROHRABACHER, Mr. MOLLOHAN, Mr. SCHAEFER, Mr. WISE, Mr. SHAW, Mr. SMITH of Michigan, Mr. SOLOMON, Mr. STEARNS, Mr. STUMP, Mr. TAYLOR of North Carolina, Mr. ZELIFF, Mr. FIELDS of Texas, Mrs. BENTLEY, Mr. LUCAS, Mr. GOSS, Mr. WALKER, Mr. BARTON of Texas, Mr. HOBSON, Mr. INHOFE, Mr. GINGRICH, Mr. ROBERTS, Mr. SENSENBRENNER, Mr. PAXON, Mr. KNOLLENBERG, Mr. BUYER, Mr. DELAY, Mr. POMBO, Mr. HOKE, Mr. TALENT, Mr. ISTOOK, Mr. GILLMOR, Mr. COBLE, Mr. LIVINGSTON, Mr. GRAMS, Mr. SAM JOHNSON, Mr. MCCRERY, Mr. SANTORUM, Mr. THOMAS of Wyoming, Mr. MILLER of Florida, Mrs. VUCANOVICH, Mr. CUNNINGHAM, Mr. DORNAN, Mr. SUNDQUIST, Mr. CRAPO, Mr. YOUNG of Alaska, Mr. GEKAS, Mr. SHUSTER, Mr. LEWIS of Kentucky, Mr. MYERS of Indiana, Mr. YOUNG of Florida, Mr. BAKER of Louisiana, Mr. HASTERT, Mr. DREIER, Mr. MICA, Mr. SPENCE, Mr. NUSSLE, Mr. GOODLATTE, Mr. BLILEY, Mr. PORTMAN, Mr. SCHIFF, Mr. HANSEN, Mr. LEWIS of California, Mr. SKEEN, Mr. SMITH of Oregon, Ms. SNOWE, Mr. ROTH, Mr. CAMP, Mr. HUFFINGTON, and Mr. CANADY):

H.R. 5008. A bill to combat crime; to the Committee on the Judiciary.

By Mr. HAMILTON:

H.R. 5009. A bill to extend the Export Administration Act of 1979; to the Committee on Foreign Affairs.

By Mr. BACHUS of Alabama (for himself, Mr. DORNAN, and Mr. FRANKS of Connecticut):

H.R. 5010. A bill to require that certain Government consumer information publications that are distributed without charge include a statement that they are financed by the taxpayers of the United States; to the Committee on Government Operations.

By Mr. BARCA of Wisconsin (for himself, Mr. SWETT, Ms. MCKINNEY, Mr. NADLER, Mr. BARRETT of Wisconsin, and Mr. HINCHEY):

H.R. 5011. A bill to authorize the waiver of such provisions of law as may be necessary to enable a limited amount of private sector earnings to be disregarded in determining eligibility for assistance under welfare programs; to the Committee on Government Operations.

By Mr. FILNER:

H.R. 5012. A bill to require that any amount of cost savings under a defense contract realized by the Federal Government as a result of the consolidation of contractors that causes the elimination of jobs in a community be used for job retraining and job creation activities in that community; jointly, to the Committees on Armed Services and Education and Labor.

By Mr. LEHMAN (for himself, Mr. LEWIS of California, Mr. COOPER, and Mr. MCKEON):

H.R. 5013. A bill to provide incentives for improving telecommunications and technology use in education; jointly, to the Committees on Education and Labor and Energy and Commerce.

By Mr. LIGHTFOOT:

H.R. 5014. A bill to amend the Internal Revenue Code of 1986 to provide a one-time exclusion of gain from the sale of farmland to a beginning farmer; to the Committee on Ways and Means.

By Mr. MFUME:

H.R. 5015. A bill to amend section 223 of the Communications Act of 1934 to prevent the harassment by computer modem or other electronic device; to the Committee on Energy and Commerce.

By Mr. SKAGGS:

H.R. 5016. A bill entitled, "Gilpin County Colorado—BLM Land Transfer Act of 1994"; to the Committee on Natural Resources.

By Mr. STUPAK:

H.R. 5017. A bill to direct the Secretary of the Interior to make annual grants to the Center for Maritime and Underwater Resource Management at Michigan State University for a pilot project relating to management and development of maritime and underwater cultural resources; to the Committee on Merchant Marine and Fisheries.

By Mr. WILLIAMS:

H.R. 5018. A bill to limit the authority of the Interstate Commerce Commission to overturn certain employee protection agreements; to the Committee on Energy and Commerce.

By Mr. WILLIAMS:

H.R. 5019. A bill to rescind the fee required for the use of public recreation areas at lakes and reservoirs under the jurisdiction of the Army Corps of Engineers, and for other purposes; to the Committee on Public Works and Transportation.

By Ms. KAPTUR:

H.J. Res. 406. Joint resolution to approve the location of a World War II Memorial in the Nation's Capitol; to the Committee on Natural Resources.

By Mr. GEPHARDT:

H. Con. Res. 289. Concurrent resolution providing for an adjournment or recess of the two Houses; considered and agreed to.

By Mr. LEWIS of Georgia (for himself, Mr. DIXON, Mr. BISHOP, Mr. HILLIARD, Mr. OWENS, and Ms. MCKINNEY):

H. Res. 527. A resolution expressing the sense of the House of Representatives that the Presidential Medal of Freedom should be awarded to Dr. Benjamin Elijah Mays; to the Committee on Post Office and Civil Service.

By Mr. LEWIS of Georgia (for himself, Mr. DIXON, Mr. BISHOP, Mr. HILLIARD, Mr. OWENS, and Ms. MCKINNEY):

H. Res. 528. A resolution expressing the sense of the House of Representatives that a commemorative postage stamp should be issued in honor of Dr. Benjamin Elijah Mays; to the Committee on Post Office and Civil Service.

By Mr. WILLIAMS (for himself, Mr. DINGELL, Mr. DOOLITTLE, Mr. LAROCCO, Mr. HANSEN, Mr. TAYLOR of Mississippi, Ms. LAMBERT, Mr. FIELDS of Texas, Mr. CALVERT, Mr. DICKEY, Mr. WALSH, Mr. BARCIA of Michigan, Mr. CLEMENT, Mr. PETERSON of Minnesota, Mr. BREWSTER, Mr. DURBIN, Mr. HERGER, Mr. PARKER, Mr. PACKARD, Mr. EMERSON, and Mr. BOUCHER):

H. Res. 529. A resolution to affirm this Nation's tradition of hunting and wildlife refuges; to the Committee on Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1391: Mr. BROWN of California, Mr. NADLER, and Mrs. LOWEY.

H.R. 1457: Ms. WOOLSEY.

H.R. 2467: Mr. SKELTON, Mr. FARR, and Mr. EMERSON.

H.R. 2758: Mr. BATEMAN.

H.R. 3526: Mr. MAZZOLI, Mr. REYNOLDS, Mr. ANDREWS of New Jersey, and Mr. RANGEL.

H.R. 4115: Mr. SCHUMER and Mr. MCNULTY.

H.R. 4303: Mr. HANSEN and Mr. BALLENGER.

H.R. 4555: Mr. CAMP.

H.R. 4701: Mr. EVANS, Mr. MCDERMOTT, Mr. BLACKWELL, Mr. ABERCROMBIE, Mr. MCCLOSKEY, Mr. TORRES, Ms. PELOSI, Mr. HASTINGS, and Mr. GUTIERREZ.

H.R. 4713: Mr. DICKS.

H.R. 4826: Mr. TAUZIN and Mr. MILLER of Florida.

H.R. 4851: Mr. EVANS and Mrs. MORELLA.

H.J. Res. 230: Mr. JOHNSON of South Dakota and Mr. HUGHES.

H. Con. Res. 184: Mr. GINGRICH.

H. Con. Res. 212: Ms. DELAURO.

H. Con. Res. 223: Mr. ROMERO-BARCELO, Mr. MANTON, Mr. ENGEL, and Mr. SERRANO.

H. Con. Res. 234: Ms. KAPTUR, Mr. DEFAZIO, Mr. MARTINEZ, Mrs. MEYERS of Kansas, Ms. MARGOLIES-MEZVINSKY, Ms. VELAZQUEZ, Mr. DELLUMS, and Mr. HOCHBRUECKNER.

H. Con. Res. 247: Mr. GINGRICH, Mr. HINCHEY, Mr. COX, and Mr. TOWNS.

H. Con. Res. 273: Mr. DELLUMS.

H. Con. Res. 277: Mr. MANZULLO.

H. Con. Res. 279: Mr. LANTOS, Mr. ENGEL, Mr. BALLENGER, and Mr. GEJDENSON.

H. Res. 430: Mr. KLEIN.

H. Res. 493: Mr. ENGEL.

DISCHARGE PETITIONS—ADDITIONS OR DELETIONS

The following Members added their names to the following discharge petitions:

Petition 15 by Mr. BILIRAKIS on House Resolution 382: John Kasich, Howard "Buck" McKeon.

Petition 18 by Mr. HASTERT on House Resolution 402: Robert H. Michel.

Petition 19 by Mr. EWING on House Resolution 415: Rick Lazio.

Petition 20 by Mr. SANGMEISTER on H.J. Res. 131: James M. Inhofe.

Petition 23 by Mr. TAUZIN on H.R. 3875: Frank Tejeda.

Petition 24 by Ms. SNOWE on House Resolution 459: James M. Inhofe.

Petition 25 by Mr. CONDIT on House Resolution 489: Harris W. Fawell, Mac Collins, Arthur Ravenel, Jr., Herbert H. Bateman, Lynn Schenk.

Petition 26 by Mrs. FOWLER on House Resolution 472: Mac Collins, Rick Lazio, James M. Inhofe.

EXTENSIONS OF REMARKS

TRIBUTE TO FBI ASSISTANT DIRECTOR MANUEL J. GONZALEZ

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Sunday, August 21, 1994

Mr. EDWARDS of California. Mr. Speaker, it is fitting on this day, as the House prepares to consider an omnibus crime bill that includes funding for new FBI agents, to pay tribute to an outstanding law enforcement officer, FBI Assistant Director Manuel J. Gonzalez, who died earlier this month.

At the time of his death, Manny Gonzalez had reached the highest levels of FBI leadership, making history as the first agent of Hispanic origin to be named Assistant Director of the FBI.

Mr. Gonzalez was a true law enforcement professional. He began his career as an officer with the New York City Police Department, where he served with distinction for 5 years, attaining the rank of detective.

Mr. Gonzalez joined the FBI in 1973. He served in the Philadelphia, New York, and Miami field offices. In December 1983, he was appointed Chief Investigator for the President's Commission on Organized Crime and later transferred to FBI headquarters where he served in the organized crime section. While at headquarters he served as an inspector-in-place and as ombudsman for the FBI. In January 1993, he was promoted to Senior Assistant Special Agent in Charge of the Miami office.

In October 1993, Mr. Gonzalez was appointed Assistant Director for Personnel. On July 27 of this year, he was awarded the FBI Medal for Meritorious Achievement.

Mr. Speaker, the anticrime legislation we pass would mean nothing to the safety and well-being of our Nation's citizens were it not for law enforcement officers like Manny Gonzalez who, day after day, do their jobs to enforce these laws aggressively, fairly and without bias. I urge all my colleagues to pause for a moment during these hectic days to quietly remember the hard work, dedication, and sacrifice of Manny Gonzalez.

Mr. Speaker, contrary to the TV image, the life of an FBI agent is full of stress and hard, sometimes tedious, often frustrating work. It is also hard on the families, and Mr. Gonzalez is survived by his wife Sherry and three children. They too sacrificed, and they too deserve our deepest sympathy and gratitude.

The FBI today is a far better institution than it was 20 years ago and 10 years ago and 5 years ago. Part of the reason for that was the efforts of Manny Gonzalez.

HUNTING ON NATIONAL WILDLIFE REFUGES

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Sunday, August 21, 1994

Mr. WILLIAMS. Mr. Speaker, I am today joined by 15 of our colleagues in introducing a resolution affirming the Nation's tradition of hunting on national wildlife refuges.

This bill simply states our longstanding, correct Federal policy that hunting is an appropriate, and often necessary, compatible use of our national wildlife refuges.

The reason for introducing this bill today is because the U.S. Fish and Wildlife Service is completing its work on a review of the wide-range recreational and economic uses of our wildlife refuges to determine if those uses are compatible with the purposes for which the specific refuge was established. This bill sends a strong message that in reviewing these uses, we would intend that the agency start from the assumption that hunting and fishing are appropriate uses of a refuge.

Mr. Speaker, hunting in America is, unfortunately, controversial. There are well-intentioned, but I believe misguided, efforts underfoot to limit hunting on our wildlife refuges and game ranges. These efforts are misguided, first of all, because carefully managed hunting is in many, if not all cases, important to the overall health of a refuge ecosystem. They are misguided, second, because they target the easy bogeyman of hunters and hunting, instead of focusing on the real threat to wildlife from the loss and mismanagement of wildlife habitat.

The purpose of my bill is to reestablish our historical understanding that recreational hunting and fishing is consistent with the protection and careful management of wildlife. Congress has, over the years, shown increasing support for hunting at each juncture in which wildlife refuge policy was reviewed.

In Montana, as it is in many States, hunting is central to our lifestyle. For thousands of Montanans, and for visitors to the State, the year is measured in hunting seasons: the fall for elk and deer, the spring for bear, the winter for mountain lion. Montanans have long understood the importance of habitat protection and careful management of hunting in order to assure healthy wildlife populations.

On the Charles M. Russell National Wildlife Refuge in eastern Montana there is elk, deer, coyote, waterfowl, and small game hunting. Because the elk population is on a steady increase, the annual refuge hunt has increased, more than doubling since the last decade. This fall the State plans to allow about 930 elk tags, compared to an average of about 400 per year in the 1980's. The deer season on the refuge is unlimited for Montana residents; refuge officials estimate the deer population varies between 5 to 15 per square mile. The CMR provides one of Montana's—and America's—great hunting experiences available on public land.

At the Red Rock Lakes refuge near Yellowstone National Park hunting is allowed for waterfowl, deer, elk, moose, and antelope. Thriving moose populations have allowed a steady increase in moose tags. The Fish and Wildlife Service is considering some area restrictions on elk hunting in order to assure public safety, and to fulfill their mandate that refuge hunting be high quality and a fair chase.

And at the Lee Metcalf National Wildlife Refuge near Stevensville, MT, there is top-notch waterfowl hunting. That refuge has a serious overpopulation problem with deer, and so the refuge managers have promoted archery hunting, which is safer, given the refuge's location within a populated section of the valley.

Montana's hunters and fishers understand that the linchpin to the protection of wildlife and game is the protection of wildlife habitat. National wildlife refuges are simply the finest wildlife habitat we have in this country, and the hunters and anglers who enjoy these resources are, simply, the strongest supporters of the refuge system.

HONORING MARK AND CARLA KUTSHER

HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Sunday, August 21, 1994

Mr. HINCHEY. Mr. Speaker, and esteemed colleagues, I rise today to pay tribute to Mark and Carla Kutsher, two people in my district who have helped their community in endless ways over the course of time, and who will be honored with the Anti-Defamation League's 1994 Americanism Award.

As Vice President of Kutsher Country Club, Mark Kutsher has become the third generation of Kutshers to operate this major resort hotel. After the birth of their children, Carla came to work for the hotel as director in the convention sales office. They understood from the beginning the importance of being involved in the community, and their desire to help in any way they could led them to becoming active participants in a number of organizations and worthwhile causes.

Both Mr. and Mrs. Kutsher have been involved with Community General Hospital and the American Heart Association in varied capacities. Mrs. Kutsher is a past member of the executive board of the Community General Hospital, and was honored with the Auxiliary Woman of the Year Award in 1985, while Mr. Kutsher is a past member of the Orange Rockland Sullivan Board of the American Heart Association. Both Mark and Carla Kutsher understand the importance of the

health of their community, and have worked hard to try and improve it in any way they can.

Education is yet another area the Kutshers have lent their support and dedication to. Mark and Carla Kutsher, both University of Pennsylvania graduates, believe that if we are ever going to realize our country's ideal of personal freedoms and individual dignities we must strive to educate the people around us. Mr. Kutsher serves on the board of the Sullivan County Community College Foundation and Mrs. Kutsher is a volunteer tutor for the Literacy Volunteers of America, a national organization dedicated to teaching adults to read. Many local charitable and civic causes have benefitted from Mark and Carla Kutsher's assistance.

Mr. and Mrs. Kutsher have been independently active in the Anti-Defamation League, and are firmly committed to the principles and goals of the organization. Mr. Kutsher has been a member of the regional board for many years and during that time has been very active in raising funds while at the same time has chaired many of the ADL's events. Mrs. Kutsher is a board member of the Woman's Division of the Metropolitan New York Region, and her help to the organization has been invaluable.

I salute Mark and Carla Kutsher for the generous commitments they have made, not only to the Anti-Defamation League, but to all organizations and causes that touch the lives of so many people. I thank them for their effort and dedication to helping increase the quality of life for all those in our community. We are all humbled by their leadership and humanity.

OBSERVANCE OF THE 10TH ANNIVERSARY OF THE ITALIAN CULTURAL AND COMMUNITY CENTER

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Sunday, August 21, 1994

Mr. LEVIN. Mr. Speaker, I wish to extend my congratulations to the Italian Cultural and Community Center in celebration of their 10th anniversary of service to Michigan's Italian-American community.

Since its establishment by the Italian American Cultural Society, the center has sought to enrich not only the lives of Italian-Americans, but the entire community by preserving and sharing the traditions and values of Italian culture through social, educational, and religious programs and services.

The center is a nonprofit organization led by individuals and organizations that freely devote their time, knowledge, and expertise to the center's endeavors. Social services and care for families, the elderly, and the young, have been a cornerstone of the center's work. Cultural series on religion, language development, art exhibits, and Italian music, contribute greatly to the ethnic diversity of our community.

Among the Italian Cultural and Community Center's other contributions is the Italian American newspaper. The paper plays a prominent role in informing, entertaining, and promoting news of the Italian-American community and the center's activities.

Undoubtedly the center does an outstanding job preserving and celebrating Italian culture and life. As the center celebrates its tenth year of dedication to Italian-American people and my community, I commend the individuals and organizations behind the Italian Cultural and Community Center for enriching the lives of all of our citizens.

TRIBUTE TO FREDERICK H. INNERBICHLER

HON. STEVEN SCHIFF

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Sunday, August 21, 1994

Mr. SCHIFF. Mr. Speaker, I rise today to join the Innerbichler family and many dear friends in extending my best wishes to Frederick H. Innerbichler on the celebration of his 75th birthday. On August 27, more than 100 people, his sons Nicholas, Arthur and Frederick III, friends and other relatives from across the country, will honor Mr. Innerbichler on his three-quarter-century milepost. Mr. Innerbichler, son of Fred and Jenny Innerbichler, was born in 1919 in Magdalena, NM. Now retired, he worked in the aerospace industry, for such giants as McDonnell-Douglas, Rockwell and Northrop. During much of his time, Mr. Innerbichler lived in Anaheim, CA. Again, my best wishes, feliz compleaños, and many more.

HONORING CHARLES A. FORD ON HIS RETIREMENT FROM THE MONTEBELLO FIRE DEPARTMENT

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Sunday, August 21, 1994

Mr. TORRES. Mr. Speaker, today I rise to recognize Montebello Firefighter Charles A. Ford, who after 32 years of courageous service to the Montebello Fire Department retired on July 7, 1994.

Over the past 32 years, Mr. Ford has played an integral role in the transformation of the Montebello Fire Department. He has helped it grow from a small community firehouse to a modern-day emergency response force that is today serving nearly 60,000 residents and area businesses.

Mr. Ford has long been recognized as an outstanding member of the Montebello Fire Department. In 1975, he completed his training to become one of the first paramedics in the department. He was honored as Montebello Firefighter of the Year in both 1974 and 1989. In 1983, his colleagues named him Montebello Paramedic of the Year and in 1988, he was one of nine recipients to receive the prestigious Los Angeles County Protectors Award.

Although Mr. Ford suffered a heart attack in 1985, causing him to retire from emergency response duties, he continued his dedicated efforts to the department as the emergency services coordinator. In this capacity, Mr. Ford developed and implemented training and disaster assistance/response programs for the city of Montebello. These programs are the backbone for the recovery procedures the city uses after a disaster.

Mr. Ford's commitment to the community does not end with his day at work. He founded the Annual Children's Christmas Party, which each year, under his leadership, unites members of the business community, the local school district and the Firefighter Association to bring much needed Christmas cheer to the lives of disadvantaged children in Montebello. This last Christmas over 700 children enjoyed the Christmas spirit and found new toys under their Christmas trees. It is with great pride that I recognize Mr. Charles Ford, for his dedication to making Montebello a better place to live.

Mr. Speaker, I ask my colleagues to join me in paying tribute to Mr. Ford for his devotion to Montebello's residents and for his unselfish desire to help others. He is a true public servant.

LEGISLATION TO ADD VALUABLE LAND TO INTERIOR DEPARTMENT INVENTORIES

HON. DAVID E. SKAGGS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Sunday, August 21, 1994

Mr. SKAGGS. Mr. Speaker, I am happy to introduce today a bill which will add several valuable parcels of land to the National Park System and to other Interior Department inventories for the enjoyment of Coloradans and other Americans, and will do so at no cost to the taxpayers.

My bill will provide for the acquisition of these lands through a carefully crafted exchange process that will have no impact on the Federal budget. Specifically, in a fair market exchange for approximately 300 acres of fragmented Bureau of Land Management lands near Black Hawk, CO, the United States will acquire, and the public will be able to enjoy access to, approximately 4,500 acres of land which will be added to Rocky Mountain National Park and to other Department of the Interior holdings in Colorado, while dedicating any funds left over to purchase land and water rights for the Blanca Wetlands Management Area near Alamosa, CO.

A notable aspect of this legislation is that it is supported by local governments, environmental groups, and land developers in Colorado.

The bill will enable Rocky Mountain National Park to obtain a 40-acre parcel known as the Circle C Ranch, which is adjacent to its borders. This jewel has been sought by the park for many years. Acquisition by the park will prevent its development and thereby allow it to be enjoyed by park visitors for many years to come. In addition, 517 acres within the Arkansas Headwaters Recreation Area will be acquired. This land has approximately 3 miles of Arkansas River frontage and will afford fishermen access to a beautiful stretch of the river.

The bill will also result in the acquisition of approximately 4,000 acres of land currently owned by Quinlan Ranches, Inc. This land is located in the headwaters of La Jara Canyon and Fox Creek, approximately 10 miles from Antonio, CO. It has excellent elk winter range and other important wildlife habitat. Finally, this bill creates a fund from cash equalization moneys that may be paid to the United States as a result of the exchange, with the fund to be used to purchase land or water rights from willing sellers to augment fish and wildlife habitat in the BLM's Blanca Wetlands Management Area. The BLM has wanted funds for these purposes for many years.

In exchange for these almost 4,500 acres of land, 130 parcels of highly fragmented BLM land totaling about 300 acres will be made available for private acquisition. Of these 130 parcels, 88 are less than 1 acre in size. BLM, through its established land management process, has already identified these lands as appropriate for transfer to private ownership.

The most likely use of this land will be the construction of homes and small businesses near the city of Black Hawk. The city government and the Gilpin County government approve strongly of efforts to clean up the management mess caused by these fragmented parcels through their acquisition and development. My bill will help these local governments meet their goal.

In summary, Mr. Speaker, I believe this bill is an example of win-win legislation. Coloradans will be able to enjoy thousands of additional acres of public land for an array of outdoor activities, land development will be enhanced, and fish and wildlife will be further protected. This legislation deserves the support of all Members of Congress.

INTRODUCTION OF THE BA&P FAIRNESS BILL

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Sunday, August 21, 1994

Mr. WILLIAMS. Mr. Speaker, today I rise to introduce legislation to limit the authority of the Interstate Commerce Commission to overturn employee protective agreements. I have prepared this legislation and introduce it this late in the Congress because it is finally the only avenue left to right a wrong committed to workers in my State and assure that it cannot happen again.

Workers still struggle to set back in place the cornerstones of worker rights that were slowly dismantled throughout the 1980's. There is no more clear example of this than the case of the employees of the Butte, Anaconda, and Pacific Railroad and the Interstate Commerce Commission.

The BA&P railroad was the mining company railroad that served the smelters and mines of Butte, MT. In its heyday it was the busiest railroad in the region and moved millions of tons of ore. In the 1980's the BA&P was abandoned as a railroad by ARCO, the new owners of the old Anaconda Company empire. The rail workers on that line were longtime workers and had negotiated a contract for this type of situation. Under the agreed procedures in the employee contract the severance pay of the workers was submitted to arbitration. That arbitration produced an agreement for New York dock-style benefits, both parties to the contract signed and heralded the agreement.

This is where the process was corrupted. At the same time the company was signing the agreement they were also lobbying the Reagan administration to use the ICC to overturn the agreement. And that is precisely what happened. Using broad ICC authority to review matters of commerce, the ICC reached out for the first and only time to overturn a signed arbitration agreement.

Since that time, the workers in my State have slowly wound their way through the endless corridors of appeals and litigation. Ultimately the courts ruled that the ICC authority was broad enough to encompass review of signed arbitration agreements and the time, money, and benefits of the workers in Montana were lost.

My legislation will correct this. It prevents the ICC from reviewing signed arbitrations and it reaches back and reinstates the New York dock benefits ARCO contracted to pay.

This legislation is simple common sense and fairplay. I cannot believe that anyone thinks that it is good policy to let the Government override bargained agreements between employers and employees. It may take longer than this Congress for the appropriate committees to ultimately hear these railworkers' case, but when they do I believe they will join me in putting this right.

HONORING ROBERT ABRAHMS

HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Sunday, August 21, 1994

Mr. HINCHEY. Mr. Speaker and esteemed colleagues, I rise today to pay tribute and bring your attention to Robert Abrahms, former attorney general of New York State, who is being honored by the Anti-Defamation League with their William and Naomi Gorowitz Institute Service Award.

Mr. Abrahms' record is well-known and admired. He served New York for 15 years as attorney general, and over that time combated the many problems the State was faced with. He won major victories over organized crime, and played an integral part in strengthening criminal justice legislation in Albany. Mr. Abrahms was also a forceful consumer advocate, and fought vigorously throughout his time in office to preserve and protect the rights of all consumers.

I salute Mr. Abrahms on receiving this distinguished honor. We in New York State miss his talents and leadership.

VOICE OF DEMOCRACY AWARDS

HON. GARY A. FRANKS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Sunday, August 21, 1994

Mr. FRANKS of Connecticut. Mr. Speaker, today I want to recognize a student in my district who has expressed her commitment to America in an especially eloquent and meaningful way. Stacy Havener of Brookfield, CT, won 28th place honors in the Voice of Democracy Broadcast Scripting Contest sponsored by the Veterans of Foreign Wars. I am including her speech in the CONGRESSIONAL RECORD as a permanent testimonial to American patriotism.

MY COMMITMENT TO AMERICA

My commitment to America could be described through an overview of my thoughts on wordly issues or through an overview of my thoughts on why I think as highly of America as I do, but oftentimes it is easiest to convey complex and multifaceted concepts through a more simple and focused medium. I could explain my commitment to America by analyzing every single aspect of the word commitment and what that means, but this may not be as effective as simply presenting a metaphor. Through this, my commitment to America will become evident as my words reflect what is inside of me, and my homeroom class gave birth to these words.

My commitment began in kindergarten, even though then I did not realize it. Since kindergarden I remember standing every morning and reciting a bunch of words I could barely pronounce, never mind understand, as I looked up on the wall at a lifeless fabric embellished with some red lines, blue square and some nice looking white stars. In kindergarten that pledge was little more than routine; I did it because it was mandatory. Little did I know that twelve years down the road those recited words would take on new meaning and that fabric would gain new life, for now they both stand for so much.

Embarking on senior year my classmates and I have a lot to think about. This is no longer kindergarten, nothing is mandatory, nothing is memorized or written in stone, things change day to day and we have to deal with those changes. No longer do we have eleven more years of public school lying ahead of us . . . we have an array of opportunities and choices. Because of this conglomeration of thoughts, decisions and conflicts, it is easy for one to become self-absorbed; to focus only on that which relates to oneself; to lose sight of the true importances in life. Maybe this is the explanation for the true story which follows, but it is not an excuse, and maybe someday the words once learned will not be cast aside and disregarded, but will be said with pride by everyone . . . instead of one solitary voice barely audible in a homeroom class.

Walking into school the first day was like diving head first into a pool of confusion and mayhem. As always at the culmination of homeroom, we prepared for the familiar sound of the vice principal and the morning announcements. As can be expected, the preparation of 20 teenagers all worked up on the first day of senior year is not the normal type of preparation. It consists of gossip, retelling stories of the summer, comparing schedules, laughing or maybe even arguing, but it is preparation nonetheless. Our teacher interrupted us and said something I had never heard before . . . he gave us a choice. Being seniors he felt we could decide whether or not we should stand and recite the pledge. Imagine the reaction of the class; what a relief. After eleven years the burden had been lifted. So that day the announcements were drowned out by the chatter and excitement of my classmates. The words of the vice principal went unheard and the American flag hung lifeless in the back corner of the class.

Whether by coincidence or not, my first day of school was not a good day. Nothing went right, and for some reason I could not stop thinking about the morning. I decided then that no matter how alone I would be I would stand and say the Pledge of Allegiance. I was given the choice and I'd made up my mind; senior or not it deserved to be said.

The next day at the culmination of class the usual thing happened. Gossip, laughter, students frantically completing the homework from the night before. And as always the familiar voice of the vice principal crackled over the speaker on the wall. Straining my ears beyond the laughter and chatter of my classmates I could make out, "Good morning. Please stand for the Pledge of Allegiance." So I stood up, I turned and faced the flag, put my hand over my heart and began . . . and for the first time I actually listened to what I was saying.

"I pledge Allegiance to the flag of the United States of America and to the republic for which it stands one nation under God indivisible with liberty and justice for all."

One by one my classmates grew silent and I could feel their stares . . . but none of that mattered anymore. When I took my seat I smiled because I knew my day would improve.

It has continued like this since then. Every day I stand alone. My classmates have come to accept it and they no longer look at me in disbelief; but sometimes I wonder if it is really that easy for them to sit there, and I always hope that one day they will listen to the words and not just hear them.

The flag on the wall is no longer a red and white striped piece of fabric with a blue square and some neat little white stars, and the words I learned in kindergarten have taken on new meaning. My commitment to America is here. The flag and the pledge both stand for a country unlike any other; one that is based on liberty, freedom and love of mankind, and just like the flag and the pledge do so stand, every morning so do I.

IN COMMEMORATION OF MALIK M. HASAN, M.D.

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Sunday, August 21, 1994

Mr. McINNIS. Mr. Speaker, I would like to bring your attention to the fine work and outstanding community service of Dr. Malik Hasan of Pueblo, CO, who was recently awarded the Excellence in Leadership Award from the University of Southern Colorado School of Business.

Dr. Hasan has more than 30 years of progressive experience in the health care industry, as well as financial business management. In both of these areas he has proven to be very successful.

Dr. Hasan is the founder and president of Qual-Med in Pueblo, which is a rapidly growing and multioptional managed care company. He directed and led its growth from a small local Colorado plan of 5,000 members; and through a series of successfully integrated acquisitions with 6 other States, they now have a membership numbering more than 330,000.

To ensure Qual-Med provided high quality health care, Dr. Hasan recruited a strong team of very skilled and experienced managers to direct the company's growth and expansion. He also directed the design of an unsurpassed management information system, to support the company's physician-driven medical management approach.

Dr. Hasan is highly intelligent, and rapidly advanced through post-graduate studies in Pakistan and England, while practicing internal medicine and acquiring expertise in neurology.

He is a member of the Royal College of Physicians of Edinburgh, and the Royal College of Physicians of London. He was also the director of the Colorado Medical Society from 1980 to 1984.

Mr. Speaker, I ask that you join me, our colleagues, Dr. Hasan's family, and his community in honoring this unique individual for his continual service to his community. Throughout the years, he has shown a commitment to Qual-Med, as well as the people within his community, and it is only fitting that the House recognize him today.

THE RULE ON H.R. 3800, THE SUPERFUND REFORM ACT OF 1994

HON. SAM GIBBONS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Sunday, August 21, 1994

Mr. GIBBONS. Mr. Speaker, pursuant to the rules of the Democratic Caucus, I wish to serve notice to my colleagues that I have been instructed by the Committee on Ways and Means to seek less than an open rule for the consideration by the House of Representatives of the bill, H.R. 3800, the Superfund Reform Act of 1994, as amended by the committee.

A POSTHUMOUS TRIBUTE TO DR. BENJAMIN ELIJAH MAYS ON HIS CENTENNIAL BIRTHDATE

HON. JOHN LEWIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Sunday, August 21, 1994

Mr. LEWIS of Georgia. Mr. Speaker, I rise today to pay tribute to a man who was a leader in the civil rights movement, a dedicated educator, and a friend of many, Dr. Benjamin Elijah Mays. Dr. Mays passed away 10 years ago last March. He would have been 100 years of this August. An inspired speaker, Dr. Mays once told a group of African-American students, "I will live in vain, if I do not act so that you will be freer than I am—freer intellectually, freer politically, and freer economically." True to his word, no one has worked harder to increase educational opportunities for African-Americans, and in doing so, advanced the cause for civil rights in this country, than Dr. Benjamin Elijah Mays.

Dr. Mays, the son of former slaves and the youngest of eight children, was born with an instinctive yearning to know, to learn, and to become educated. Yet, as a young African-American living in Greenwood County, SC, at the turn of the century, Mays encountered discrimination that was often fierce and unrelenting. African-Americans were expected to do farmwork, not schoolwork. The attitude in Greenwood County was perhaps best epitomized by the Governor of South Carolina at the time, who in 1911 said:

I am opposed to the white people's taxes being used to educate the Negroes. I am a friend of the Negro race. In my opinion, when the people of this country began to try to educate the Negro, they made a serious and grave mistake, and I fear the worst result is yet to come. So why continue?

Disregarding every obstacle, every prejudice, Benjamin Mays continued. With great passion and strength of character, he forged a path towards enlightenment. He continued even as the white-to-black ratio for county spending on education was 27 to 1. He continued even as he felt, as he later said, "the chasm was so wide between black and white * * * that I never felt that any white person in Greenwood County or in South Carolina would be interested in anything I did." And, he continued even as doing so challenged the entrenched racial balance in South Carolina and risked hostile, even violent, opposition. Nothing distracted Benjamin Mays from his dream to become educated, and in doing so, to become "somebody."

At the Brickhouse Elementary School in Greenwood County, Benjamin Mays quickly became the best student in the class. He excelled at the 2-year Baptist Association School in McCormick, SC. At South Carolina State high school, he became valedictorian of his class. And, at Bates College in Maine, he later said, he was given a chance to prove to himself that the myth of white intellectual superiority was, indeed, a myth. He became an honor student and a star intercollegiate debater. Some years later, at the University of Chicago, he received both a masters degree and a doctorate of philosophy.

Even as he worked to secure this own education, Dr. Mays began a long career devoted to ensuring that every African-American would have a chance for a quality education and consequently, a better life. He became dean of the School of Religion at Howard University in 1934. During his 6-year tenure, he succeeded in substantially increasing enrollment, strengthening the faculty, enlarging and improving the school library, and ensuring that the School of Religion became accredited by the American Association of Theological Schools.

While at Howard University, Dr. Mays attended several world conferences which focused on problems confronting youth in the world, including race relations. During one such conference in Mysore, India, his greatest desire was to meet with Mahatma Ghandi, to question his ideas on nonviolent protest and his reasons for identifying with the "untouchables" of the caste system. He was granted a meeting, and the 90-minute discussion that ensued helped shape Dr. Mays' own views on nonviolence as a means of political protest. In later years, Dr. Mays would often speak in support of nonviolence, particularly during Tuesday morning chapel lectures he delivered to students as President of Morehouse College.

In 1940, Dr. Mays accepted an offer to become the sixth President of Morehouse College in Atlanta. Over the course of 27 years,

Dr. Mays succeeded in transforming the struggling and financially destitute local college into a nationally recognized African-American institution of higher learning. He increased enrollment dramatically, secured new sources of funding, and boosted morale. As a result of his efforts, the number of Morehouse graduates who went on to graduate and professional schools tripled.

At Morehouse, Dr. Mays became friend and mentor to one of the greatest leaders of the 20th century, Dr. Martin Luther King, Jr. Dr. King, who as a student was greatly influenced by Dr. Mays' emphasis on nonviolence as a means of political protest, later referred to Dr. Mays as his "spiritual mentor." Dr. King sought the advice and counsel of Dr. Mays on many occasions, both before and during the civil rights movement. If there had been no Benjamin Mays, there would have been no Martin Luther King, Jr.

Dr. Mays' energy was legendary. Widely considered one of the most published academics in the world, Dr. Mays published 9 books, 1,700 editorials, 18 chapters for various books, 112 journal and magazine articles, and 65 articles in the Morehouse College Alumni Bulletin. He delivered over 800 lectures, sermons, addresses, and eulogies, including that of our mutual friend and colleague, Dr. Martin Luther King, Jr.

Dr. Mays spent his lifetime working tirelessly so that future generations of African-Americans would be freer spiritually and freer intellectually. He believed that freedom of the mind and soul was the key to social freedom, political freedom, and economic freedom. He single-handedly cultivated an institution geared toward producing African-American leaders. Yet, in characteristic modesty, he has said simply, "If I have helped in any way, pass it on."

In 1963, Dr. Martin Luther King, Jr., Nobel Laureate and civil rights leader, was perhaps the most famous example of leadership arising from Morehouse. Today, Morehouse graduates are leaders in every part of society—in religion, law, medicine, art, philosophy, and government. Today, Morehouse graduates are Members of this Congress—Congressman SANFORD BISHOP of Georgia, Congressman EARL HILLIARD of Alabama, and Congressman MAJOR OWENS of New York. Morehouse graduates are making a difference around the country. The list goes on: Julian Bond, lecturer and civil rights leader; Dr. Louis Sullivan, former Health and Human Services Secretary; Lerone Bennett, author and executive editor of Ebony magazine; Robert Johnson, executive editor of Jet magazine; Maynard Jackson, former mayor of Atlanta; Edwin Moses, Olympian; Spike Lee, filmmaker; Herman Cain, founder of Godfather's Pizza; and, Nima Warfield, the Nation's first African-American Rhodes Scholar from a historically Black institution.

As graduates of Morehouse College continue to become our Nation's strongest leaders, and as African-American students at Morehouse continue to receive one of the best educations in the country, the legacy of Dr. Mays lives on. In honor of his centennial birthdate, I ask my colleagues to join me in commemorating the life of Dr. Benjamin Elijah Mays, a leader most appropriately called the schoolmaster of the civil rights movement.

ZINGING THE PUBLIC FOR USE OF FEDERAL BOAT RAMPS

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Sunday, August 21, 1994

Mr. WILLIAMS. Mr. Speaker, I am today introducing legislation to rescind the U.S. Army Corps of Engineers authority to impose user fees for day use recreationists at Federal reservoirs.

My bill further establishes that the exclusive circumstance in which fees for day use may be charged is if the revenues from those fees are put to use improving and managing the area where they were generated.

Recreational boaters already pay for the conservation and management of recreational facilities. In purchasing any boat, folks pay a 10-percent excise tax which funds the Wallop-Breaux program providing State grants for recreation programs. A Federal gas tax is levied on marine gas. And many States tax boat registrations to fund waterway programs.

We've gone too far when we zing the public one more time for the use of a Federal boat ramp. It's gratuitous, it penalizes people for using the facilities they paid for not just through taxes but in the contribution of thousands of acres to build these reservoirs.

A TIMELY CALL FOR FAITH

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Sunday, August 21, 1994

Mr. SWETT. Mr. Speaker, the divided, adversarial debate on crime and health care legislation on the Hill has had a negative impact on more than just the American public. Members of Congress who are more interested in solving problems than partisan politics are experiencing the very same frustration. So, yesterday morning at dawn I just had to take a run down to the Lincoln Memorial to read the inspiring inscriptions within.

How trivial the differences of today all become when compared to the epic issues of the Civil War. The puffed up pride of legislators seems almost comedic when compared to the humble, efficient eloquence of President Lincoln. Two qualities are missing in today's tirades for or against crime and health care bills which are very evident in the words of President Lincoln. Humility and subordination to the Divinity. Just as our leader who saved the Union could humbly confess his inability to solve all the problems and called upon God for guidance, we too, could gain a great deal by employing his example. I left the memorial that early morning refreshed and rejuvenated.

On July 6, 1994, an op-ed piece appeared in the Washington Post by William Raspberry entitled "Havel's Message of a 'Forgotten Awareness'" which describes Havel's Fourth of July speech in Philadelphia. The article clearly evokes the spirit of Lincoln as it speaks of a gnawing emptiness that has expanded across the land. I was so impressed by this article that I felt compelled to have it entered into the CONGRESSIONAL RECORD for all to read and profit by. I hope this article has the same effect on those who read it as my visit to the Lincoln Memorial had on me.

[From the Washington, Post, July 6, 1994]

HAVEL'S MESSAGE OF A FORGOTTEN AWARENESS

(By William Raspberry)

American intellectuals of the left seem (once again) to be dealing themselves out of the political and cultural action. I first noticed this when they abandoned patriotism (Remember when a flag in the lapel was taken as a sign that the wearer was an ignorant vahoo?) Then they—a lot of them, anyway—abandoned traditional morality, leaving it to those thought to be too weak-willed to make their own decisions. Now they're abandoning religion to the tender mercies of the religious right.

No matter that intellectualizing has not produced solutions to the problems that have so many of us in fear for our lives; no matter that more and more people find their lives emptier and emptier; no matter that the dreaded Christian right is making political inroads precisely because it has learned to speak to that emptiness. Intellectuals still find it hard to respect religion—or to respect anyone who does.

That's one reason Vaclav Havel's Fourth of July speech in Philadelphia strikes me as particularly timely and important.

Havel, president of the Czech Republic, human rights champion and certified intellectual, told his audience that despite the prosperity and physical comfort modern civilization has produced, "the world of our experiences seems chaotic, disconnected, confusing * * *. We do not know exactly what to do with ourselves." Experts and intellectuals are more capable than over of explaining the objective world, he said, "yet we understand our own lives less and less."

What is missing? Just this, says Havel: "The awareness of our being anchored in the earth and the universe, the awareness that we are not here alone nor for ourselves alone, but that we are an integral part of higher, mysterious entities against whom it is not advisable to blaspheme. This forgotten awareness is encoded in all religions. All cultures anticipate it in various forms. It is one of the things that form the basis of man's understanding of himself, of his place in the world and, ultimately, of the world as such."

The Havel formulation recalls something Robert N. Bellah wrote more than a quarter of a century ago in an essay he called "Civil Religion in America."

The burden of that piece, which proceeded from an analysis of President Kennedy's 1961 inaugural address, was that there is a "civil religion" quite apart from the denominational specifies of individual churches. Thus Kennedy could call upon his fellow Americans to acknowledge that "God's work must truly be our own" while avoiding, as inappropriate to the occasion, any specific reference to Christianity or Roman Catholicism.

Bellah's civil religion, which sounds a lot like Havel's "forgotten awareness," is as old as the republic and comprises "a collection of beliefs, symbols and rituals with respect to sacred things" that overarches specific doctrines. As he put it: "This religion—there seems no other word for it—while not antithetical to and indeed sharing much in common with Christianity, was neither sectarian nor in any specific sense Christian."

What Bellah described was not simply "religion in general" or religion purged of its

doctrinal specifics in order to avoid hurting anyone's feelings. He was talking about the religion that is so clearly there in the formulations of the Founders. The separation clause of the First Amendment seems designed to prevent the establishment of a particular brand of religion, not, as present-day jurisprudence has it, to purge our civic and political life of religion altogether.

The failure to make the distinction is costing us dearly. On the domestic side, we cannot lift people to a higher vision of themselves, cannot fix their dependency or reduce their violence because we cannot officially acknowledge, or permit the government to fund, the spiritual regeneration that may be the only true solution.

Havel, in Philadelphia to receive the Liberty Medal, spoke to the international side. "Politicians at international forums may reiterate a thousand times that the basis of the new world order must be universal respect for human rights," he said. "But it will mean nothing as long as this imperative does not derive from the respect of the miracle of being, the miracle of the universe, the miracle of nature, the miracle of our own existence.

"Only someone who submits to the authority of the universal order * * * can genuinely value himself and his neighbors, and thus honor their rights as well."

The Founders saw these truths as self-evident. Today's intellectuals are more likely to see them as matters of superstition.

Pity.

A PRESCRIPTION FOR FOREST HEALTH: THE NATIONAL FOREST STEWARDSHIP CONTRACTING ACT OF 1994

HON. LARRY LaROCCO

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Sunday, August 21, 1994

Mr. LAROCCO. Mr. Speaker, today I introduce the National Forest Stewardship Contracting Act of 1994.

In the last Congress I introduced the National Forest Health Act of 1992. With the bipartisan cosponsorship of 30 Members of the House of Representatives, the bill progressed through the Agriculture Committee. My forest health bill (H.R. 229) has been reintroduced in this Congress, where it is pending in the House Agriculture and Natural Resources Committees.

With today's legislation, I intend to expand on my original legislation by providing a tool for the Forest Service to focus on forest health through the use of land stewardship contracts. Using a stewardship contract, the Forest Service will be able to accomplish needed watershed and forest restoration activities while providing merchantable timber and additional employment in local communities—all in one project.

Currently, the Forest Service relies heavily on timber sales—both salvage sales of dead trees and green sales—as the principal means for silvicultural treatment. The Forest Service has no program support or direct source of funds for restoration.

The Interior appropriations bills for fiscal years 1992 and 1993 directed the Forest Service to test the land stewardship approach to Federal timber sale contracting on several western national forests, including the Kaibab and Coconino in Arizona, the Dixie and Lake Tahoe in Nevada, and the Idaho panhandle.

In these bills, Congress directed the Forest Service to "apply a reasonable portion of the value of timber removed * * * as an offset against the cost of stewardship services received, including but not limited to site preparation, replanting, silvicultural programs, recreation, and wildlife habitat enhancements." The intent of Congress was to "help the private sector promote the Forest Service ecosystem management initiative * * * to give contractors an incentive to become as concerned with sustaining ecosystems as with sustaining trees."

The National Forest Stewardship Contracting Act builds on the experience gained from these pilot projects and includes provisions to assure efficiency and accountability.

My bill would allow the Forest Service to contract for an array of ecosystem management and ecological restoration services as part of a total land management package with a single contractor. The contractor would be compensated for these services by receiving credit toward the amount owed to the Forest Service for timber harvested as part of the contract. This approach is essentially the same as the purchaser credit system used for many years to compensate timber purchasers for road construction and maintenance associated with a timber sale.

Much of the restoration work needed on national forests could be accomplished under stewardship contracts. Contract activities could include removal of salvageable dead timber; thinning of green stands where needed; pruning of dead or lower limbs to reduce the risk of ground fires climbing these ladder fuels into tree crowns; prescribed burning to reduce excessive fuels; removal or treatment of forest roads to reduce runoff, erosion, and sedimentation of streams; the restoration of ecosystem structure in riparian zones; and tree planting in unregenerated or understocked stands.

The stewardship program is structured to be self-funding. Funds for projects would be derived initially from the value of the mostly small-diameter timber removed in overcrowded areas or urban and wildland interfaces which need immediate treatment to avoid catastrophic fires. Those revenues will be placed in a stewardship account. The Secretary of Agriculture would be authorized to supplement that account with appropriate funds to allow the projects to be integrated with other forest management programs.

Mr. Speaker, I believe stewardship contracts hold much promise for addressing forest health problems. The wildfires raging in the Western States offer ample evidence for a long-term approach to forest health.

Many coniferous forests east of the Cascades and in the Sierra region of California are in serious need of immediate and effective forest restoration. These forests show significant stress because of unnatural species balance and overpopulation of trees per acre. Nearly a decade of drought has exacerbated moisture and nutrient stress in these overcrowded stands. Opportunistic insect and disease populations have soared, and large areas of dead and dying trees have resulted. Allowed to accumulate, this dead timber becomes a huge fuel load which, when ignited results in the uncontrollable wildfires of historic proportions now burning across Idaho and the West.

Mr. Speaker, scientists and forest managers have recommended the implementation of new and innovative processes to improve forest resource conditions.

But, the current authority granted to land managers does not provide for the distribution of receipts of revenues from timber and other forest products to accomplish ecosystem restoration work under a single contract.

With the advent of ecosystem management, recent reductions in Forest Service and Bureau of Land Management budgets and personnel, and the loss of a reliable Federal timber supply, stewardship contracts hold promise for helping to resolve forest health problems and the economic crises occurring in many timber-dependent communities across the West.

I urge my colleagues to join me in support of legislation to address forest health problems of our national forests, including the authorization of stewardship contracts, with the passage of the National Forest Stewardship Contracting Act of 1994.

TRIBUTE TO GERALD M. McCAFFREY

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Sunday, August 21, 1994

Mr. BONIOR. Mr. Speaker, I rise today to pay tribute to Mr. Gerald M. McCaffrey, vice president of the Macomb Intermediate School District Board of Education. Jerry is retiring from the board after 11 years of devoted service.

Jerry first became officially active in education when he was elected to the Fraser Public Schools Board of Education in 1970. He served the students and the community of Fraser, MI, for the next 20 years. During this time, Jerry earned respect from parents and teachers, as well as his colleagues on the board. I have had the opportunity to work with Jerry on many occasions and was pleased when he was chosen by his peers in 1983 to serve on the Intermediate School District's board. He also was selected to represent the Macomb County School Board as its president.

A strong sense of family led Jerry to become involved in our educational system. In fact, his strong desire to see his children receive the best possible education first inspired him to work on the school board. With 12 children and 17 grandchildren, Jerry has had a large stake in seeing quality education for his family and our community.

Jerry's enthusiasm and commitment to the community extends well outside the educational forum. He has served as a commissioner on the Macomb County Board and on the Macomb County Parks and Recreation. He also enjoys officiating at high school football, baseball, softball, and volleyball events.

After 24 years of personal and professional devotion to the community through his role in public education, Jerry will hand the reins of responsibility to a new board member. Although he will be missed, he intends to devote his time to being a full time grandparent. There is a certain sense of justice in knowing that Jerry's desire to end his public service is for the same reason he became involved—a commitment to his family.

After more than two decades of dedicated public service, I wish my friend Jerry McCaffrey and his family all the best in retirement. And I ask my colleagues to join me in offering heartfelt congratulations and a sincere thank you for a job well done.

IN HONOR OF THE RETIREMENT OF JERRY PRINCE

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Sunday, August 21, 1994

Mr. POSHARD. Mr. Speaker, I rise today to honor Jerry Prince of McLeansboro, IL, on his retirement from McLeansboro Junior High School. For 31 years, Jerry served the people of southern Illinois as an educator and musician who unselfishly shared his musical talents with our children and our community. It is a privilege for me to enter into the CONGRESSIONAL RECORD a recent article from the Southern Illinoisan featuring Jerry Prince's dedicated career as a music director.

END OF THE CIRCUIT

(By Linda Sickler)

Jerry Prince isn't sure where his musical talent came from.

There weren't many musical opportunities in the one-room country school Prince attended as a child "Obviously they didn't have a band," he said.

Except for a grandmother who played piano, Prince's family wasn't particularly musical. But somehow, somewhere, he got a talent that has taken him and his students to the top and kept them there.

Prince, the music education coordinator and director of bands at the McLeansboro Junior High School, is retiring after 31 years of teaching. He's getting out at the age of 51 because of the state's five-and-five retirement program, but he's leaving behind a rich legacy of music.

Ninety-seven percent of Prince's students have received first place ratings in regional and state band contests over the past 31 years. His bands have received "Best of Class" awards at the Illinois State Fair in Springfield four years in a row.

When the junior high jazz band breaks into rousing versions of "Heartbreak Hotel" and "Blue Suede Shoes," it is easy to see why. "Can you believe they are seventh and eighth graders?" Prince asked proudly.

Prince himself learned to play trumpet as a fifth grader. But it wasn't until his grandfather took him to a recital by the U.S. Marine Band that he realized he wanted to play an instrument.

"She said she would buy me a horn," Prince said. "It just happened that the concert featured a trumpet solo, so I said I wanted a trumpet. If it had been a tuba solo, I probably would have wanted a tuba."

The trumpet was ordered promptly from the Spiegel catalog and Prince started taking lessons. "They cost 50 cents a lesson," he said.

When the county schools near McLeansboro were consolidated, Prince came into town to the East Side School. "I attended the same school where I'm teaching now," he said.

At East Side, Prince began formal band lessons, which continued throughout high school. "I actually was the band director for three months my senior year because they fired the other guy," he said with a laugh.

"I guess that was what got me interested in music education. I got a scholarship to attend SIU in music education."

Once again, Prince got an early start. "I started teaching before I got my degree," he said.

Prince started his teaching career as a circuit rider, teaching in six schools in Franklin, Saline and Hamilton counties. "There were circuit riding judges, preachers and teachers," he said.

"I drove 100 miles a day and bought a new car every year. Of course, gas was only 27 cents a gallon. I got a lot of good experience then, experience I wouldn't trade."

Each school provided a different set of students with a different set of circumstances. Prince said he had no trouble learning all the students names.

Circuit-riding teachers were a necessity. Without teachers who were willing to go from school to school, many districts would not have been able to provide music education.

"At that point in time, the medium-size rural schools could not afford band," Prince said. "I started many band programs from scratch."

When he was hired, he was one of just three circuit-riding teachers left in the state. The other two quit before Prince, making him the last.

After seven years of making the circuit, Prince accepted a job with the McLeansboro district, even though it meant a $5,000 salary cut. "I had just gotten married and built a new house, so I thought it was time to give up circuit riding," he said.

As a fellow educator, I commend Jerry Prince for his commitment to building and shaping the lives of our children through music and the arts. The musical programs Jerry Prince nurtured at McLeansboro Junior High School have touched the hearts and minds of many children, leaving them with a gift they can carry with them for a lifetime. Along with the people of the 19th Congressional District, I thank Jerry Prince for his 31 years of dedicated service as an educator and musician and I wish him and his family good health and happiness in the many wonderful years that await them.

A MEANINGFUL APPROACH TO HEALTH CARE REFORM

HON. STEPHEN E. BUYER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Sunday, August 21, 1994

Mr. BUYER. Mr. Speaker, in the debate of health care reform alternatives, it is important to place health care reform into a proper perspective. This is a two-part process. The first part is an analysis of our current problems in health care and the second is rational and meaningful solutions to the problems.

First, difficulties with the current system. The problems with our current system are twofold and intertwined: Cost and access to insurance to pay for care. It is important to remember that there is a difference between access to care and access to insurance to help pay for that care. No one in America is denied care based upon the ability to pay. Our laws expressly forbid hospital emergency rooms from refusing to treat patients on this criteria. While hospital emergency rooms are used too frequently instead of doctor's offices or even self-medication, care is available to all.

With regard to insurance accessibility to help pay for health care, there are Americans who do not have insurance. Who are they? The very poor have Medicaid, a program in which the States and the Federal Government jointly spend billions of dollars. The elderly have Medicare, which also costs billions of dollars. Therefore, those without insurance are not poor and are not old.

Who, then, are the people without access to insurance? The commonly cited statistic is that approximately 37 million Americans are without any form of health insurance. Forty-seven percent of these are full-time/full-year workers in small firms, that have less than 10 employees. Thirty-eight percent worked less than full time. Sixteen percent are unemployed. The uninsured also tend to be young and 39 percent had incomes twice the poverty level or greater. One other interesting thing to note is that people in male-headed or two-parent families are the greatest percentage of those with insurance—86 percent. Of female-headed families with children—82 percent had insurance: 35 percent from employment and 44 percent from Medicare/Medicaid.

This problem with access to insurance is compounded by cost. Literally, thousands of people have been priced out of the insurance market. Why is this? First, individuals have to buy insurance with after-tax dollars. Self-employed individuals don't fair much better—they only get to deduct 25 percent of their costs of insurance. General Motors, IBM, and other Fortune 500 companies get to buy their insurance with before-tax dollars. They have a 100 percent writeoff of health insurance.

In addition, individuals and the self-employed and small firms do not have the benefits of large groups to pool risks. It is not unusual for small firms to have insurance premiums skyrocket or policies be cancelled outright if one individual on the policy—an employee or a dependent of an employee—comes down with a serious illness, like cancer.

Furthermore, to buy health care insurance, small firms face the fact that States have mandated certain benefits that must be carried in all policies sold. Some studies indicate that State mandated benefit laws can increase the cost of insurance by as much as 30 percent. Heart transplants are mandated coverage in Georgia; liver transplants are mandated in Illinois; hairpieces are mandated in Minnesota, and deposits to a sperm bank are mandated coverage in Massachusetts. State mandated benefit laws prohibit small firms and individuals from buying coverage that is tailored to their needs and their budgets.

Second, solutions to the cost and access problems. Despite these difficulties, there is

some good news on the health care front. First and foremost, Americans have the best quality health care in the world. We are the leading exporting country of pharmaceuticals, for example. While no one wants to diminish the quality, it is important to understand that the driving force behind our high quality of care is our free enterprise system that fosters competition and innovation. Anything that restricts the ability of the market to develop new products, seek their introduction into the market, and have consumers purchase them, will stifle our high quality care. One such restriction is price control or caps.

The second piece of good news is that the States and the private sector have begun to respond to rising costs in the health care market and have had some success. It seems that Washington is the last to get into the act. Health care prices increased 5.4 percent in 1993—the lowest increase in 20 years. This is a continuation of a downward trend—9.6 percent in 1990; 7.9 percent in 1991; and 6.6 percent in 1992.

Nonetheless, there are things that Congress can do to deal with the problems of access and cost. I support these reforms and find continuing with the status quo unacceptable. First, insurance market reforms will make insurance available to many, many more people. These include portability—the ability to take your insurance with you should you leave your job. It would end "job lock." Denial of pre-existing exclusions—reasonable reform would enable individuals with pre-existing conditions to buy insurance and would end cancellation of policies to small firms and individuals when people get seriously ill.

Voluntary purchasing groups—small businesses would be able to form insurance pools with others for the purchase of health insurance. They would get the same market clout that large corporations enjoy. Here, we already have success stories. In my district, a group of employers in Lake, Porter, and LaPorte Counties have voluntarily joined together to gain market clout to buy health care coverage for their employees. Typically, the employers in the alliance enjoy savings of 10 percent to 40 percent and can access 11 different health plans. These employers also can access an innovative occupational medicine program. One of the obstacles that alliance faces is in the area of employers with employees with pre-existing conditions. Insurance reforms will help the alliance and more people will have coverage.

In 1993, California allowed businesses with 5 to 50 employees to join voluntary purchasing groups. After just one year of implementation, premiums for small businesses in the group declined by over 6 percent and nearly 12,000 previously uninsured individuals obtained coverage through the group.

Another insurance market reform would be making available medical savings accounts. With medical savings accounts, employees elect a high-deductible, low-cost policy and employers deposit funds into an account for the employee to cover routine medical bills. In Indiana, Golden Rule Insurance Co., has used this device. Golden Rule Insurance Co., deposits $2,000 a year into a medical savings account for employees who choose a $3,000 family deductible. Employees at Golden Rule have the option of a traditional policy with a $500 deductible and a 20-percent copayment up to a maximum of $1,000. In 1993, 80 percent of employees chose the medical savings account option. In 1994, the number is up to 90 percent. In 1993, Golden Rule health costs were 40-percent lower than they otherwise would have been.

Medical malpractice reform—many people argue that defensive medical practice doesn't really exist and even if it does there is not appreciable increases in medical costs. This is not an accurate portrayal of what happens in the real world. In Indiana, 20 years ago, due to the strong leadership of our former Governor, Dr. Otis Bowen, medical malpractice reforms were put in place. The reforms included: caps on damages, sharp limits on contingency fees, and prohibitions on double recovery. Today in Indiana, an orthopedic surgeon pays on average $10,875 per year in malpractice insurance. In Michigan, an orthopedic surgeon pays $108,762—10 times as much.

The Competitiveness Center of the Hudson Institute just completed a study of medical malpractice at a major hospital in Indiana. It found that medical liability added $450 in direct and indirect costs for every admission—and this in the State with commendable malpractice reform on the books—Nationwide, the estimate of costs to our health care system due to medical malpractice liability is at least $15 billion a year.

Malpractice reform should include all medical liability disputes to be initially resolved by a dispute resolution process, prior to entering court. There should be a cap on noneconomic damages at $250,000 and limits on attorneys' contingency fees. There should also be limits on a liability of the defendant to the proportion of negligence and discourage frivolous court actions by requiring the plaintiff to pay the defendant's legal fees, if the plaintiff loses. I would also like to apply medical malpractice reform to medical device and drug manufacturers, with exceptions for fraud, misrepresentation or withheld information.

Tax fairness—self-employed individuals and others who buy individual policies should receive the same tax treatment when it comes to health insurance as the Fortune 500. Farmers, small businesses, and others should be able to deduct 100 percent of the premium from their taxes.

Probations on State-mandated benefits—this would lower the cost of insurance and let plans be tailored to actual needs.

Under served areas should have better access to care—this is especially important to rural areas. I have supported efforts on the House floor to increase funding for community health centers. Community health centers provide care to low-income working families in a cost-effective and efficient setting. I supported an amendment offered by Congressman PORTER to shift $100 million to community health centers from the administrative overhead budgets of three Cabinet departments. This would have funded an additional 125 community health centers serving an additional 848,000 Americans. It would have doubled the outreach grants to rural areas.

Mainstreaming Medicaid—we should seek methods to bring the Medicaid population into the existing health care network. This would mean giving States flexibility to use Medicaid funds to place recipients into managed-care networks or allow States to purchase private insurance.

Administrative reforms—the paperwork tiger must be tamed. More bureaucracy from Washington is not the solution to this. We must streamline and standardize the paperwork that drives increased costs in administrative overhead. In a survey of nursing homes in my district, the biggest complaint was that the nursing staff spent more time on paperwork than they did on providing care to residents.

According to one study, if Congress did only three things, it would increase coverage to over 90 percent. These three things are: insurance market reforms, tax fairness of insurance, and subsidies to low-income individuals. These three things would also cover about 97 percent of all potentially covered health spending and there is room to do more reforms with the private sector which I advocate. The last thing we need to add to our system is more taxes, more bureaucracy, more Government regulation, more Federal entitlement programs, more litigation, price controls and rationing.

We can bring greater access and cost control to our health care system in a sensible manner that builds upon our free market system. This is the reform that would work the best and preserve the high quality found in American health care.

THE ELECTRONIC ANTI-STALKING ACT OF 1994

HON. KWEISI MFUME

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Sunday, August 21, 1994

Mr. MFUME. Mr. Speaker, today I am introducing the Electronic Anti-Stalking Act of 1994.

The Electronic Anti-Stalking Act would amend section 223, title 47 of the United States Code which prohibits the use of a telephone to annoy, abuse, threaten, or harass any person. The act would extend "telephone" to mean any communications by means of computer modem or any other two-way wire or radio telecommunications device.

This new era of emerging technologies and expanding communications capabilities brings with it unforeseen innovations in how individuals conduct their professional and personal business. These new technologies bring us the benefits of efficiency, speed, accuracy, and access to unlimited sources of information. The information superhighway will soon become a reality accessible to all American citizens, and will provide our economy with renewed growth.

Along with these and other benefits from the new information superhighway, come the dangers of abuse and misuse. Last spring, a man stalked a woman in Michigan via E-mail stating, among other things, that "this letter thing is the least of many things I could do to annoy you."

Mr. Speaker, there have been numerous other reports of harassing and threatening messages.

The information superhighway has the ability to improve the quality of life for all Americans. Men and women should be able to utilize this new technology in a safe and nonthreatening environment. The Electronic Anti-Stalking Act will enable users of electronic communications to travel the information highway free of harassing and threatening messages.

TRIBUTE TO MELBA TEMPLE

HON. DON JOHNSON

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Sunday, August 21, 1994

Mr. JOHNSON of Georgia. Mr. Speaker, as students and teachers across this country prepare to return to school, I would like to take this opportunity to recognize one of the teachers in my district. Mrs. Melba Temple retired at the end of the last school year after teaching kindergarten and pre-school for 51 years in Hartwell, GA.

In 1943, Mrs. Temple opened her Kiddie Kollege and Little Red Schoolhouse at the corner of Athens and Arthur Streets. Every year, she welcomed groups of bright shining faces, opening her arms and her heart to these children as they took their first steps away from home. For 51 years, she gave them their first experience in education, preparing them to be readers, painters and mathematicians. For 51 years, she took children into her lap to read stories, praise their efforts, and soothe their scraped knees.

Recently, a number of her students returned to the Kiddie Kollege to honor her on her retirement. Looking across the room full of adult faces who had their first taste of learning in her classroom, one was reminded again of this simple but powerful fact—one person can make a difference. Mr. Speaker, it is not an overstatement to call Mrs. Temple a hero. She is a true American hero for her work in creating good citizens for our country.

JEAN BIXBY SMITH—A WELL-DESERVED TRIBUTE TO A LEADER IN COMMUNITY INVOLVEMENT

HON. STEPHEN HORN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Sunday, August 21, 1994

Mr. HORN. Mr. Speaker, earlier this year, I was privileged to be present at a community tribute at the Long Beach Day Nursery to one of Long Beach, CA's most devoted volunteers—Jean Bixby Smith. She was being honored for 25 years of devoted service to the Day Nursery which had been founded by Florence Bixby in 1912.

Jean Bixby Smith is a descendent of some of California's major 19th century pioneers. Originating in Maine, the Bixbys came West to become involved in the gold exploration of the 1840's and 1850's. They rapidly realized that supplying the miners provided a greater certainty of income than mining for gold. Some of the family began extensive ranching near San Juan Bautista and then moved south into what is now the Palos Verdes Peninsula, Long Beach, and Orange County.

Wherever they moved, the Bixbys contributed to their community. When a need arose, they were the first to volunteer and the first to serve. And, they cared about their less fortunate fellow citizens. Jean's parents, Llewellyn and Betty, set the example for family service the 20th century. Whether meeting the needs of children, assuring adequate health care, the development of the city, or the evolution of the Port of Long Beach, members of the Bixby family have been involved.

Jean's devotion to her community matches that of her parents. She currently serves as the president and chief executive officer of the Bixby Land Co. In addition, she is deeply involved in many volunteer activities. I have had the pleasure of serving with Jean in the various efforts of the United Way Regional Board and Campaign for the 23 cities in southeastern Los Angeles County. To each activity, Jean has brought common sense, a gift for organization, and eloquence in explaining a needy, program to those in the community.

At the celebration of the 25th anniversary of the Long Beach Day Nursery, I was deeply moved by the special accolade authored and delivered by Jean's friend, Kathie Crawford, also of Long Beach. It closely captured what Jean's decades of unselfish devotion to her hometown has meant to all of us. It is titled, "When I Think of Jean Bixby Smith, I Think of * * *," and I offer it for entry in the RECORD.

WHEN I THINK OF JEAN BIXBY SMITH, I THINK OF * * *

A 30 year friendship, community involvement based on heritage, commitment, knowledge and love for Long Beach, intelligence, a keen sense of humor, a capable, knowledgeable lady, a rapport with and an interest in children, years of teaching 3rd grade in Garden Grove, the great good fortune of Megan and Scott Crawford and Malinda McCulloch in having had Jean's influence and involvement in their lives, the many children of Tichenor Clinic who learned to swim in her weekly sessions, friends from childhood, from college, from volunteer activities and business connections, from several generations and many communities, a love for home and hearth, garden and kitchen, a talent for sewing and needlework, six generations of black and brown labradors with puppies and dog shows and championships, garden and flowers and, paraphrasing a pillow she did in needlepoint, she has bloomed where she was planted, a sailor, tennis player and golfer, family: Raymond, Betty and Bix, young Bix and Barbara, devoted aunt to Mark, Brett, and Grant Bixby and Michael Blackwell, connections to the peninsula and the beach, Alamitos Heights, Rancho Los Cerritos, Scripps College and Claremont, service to Red Cross and United Way, her Junior League presidency, Rotary, Community Hospital, frequent member of citizen panels, task groups and committees for the city of Long Beach and the Long Beach Unified School District, my daughter says the most impressive to her is Jean's energy and vitality, her myriad of involvements, but a close second is her ability to put her hair up without looking in a mirror, great companion for visiting museums and art galleries, attending plays and musicals, discussing a book, enjoying the Symphony or seeking out the interesting and unique in Southern California and beyond, 25 years of children attending the Long Beach Day Nursery who have benefitted from her service to the Nursery, a volunteer, contributor, leader, worker, and friend whose efforts for the nursery include wallpapering the now-remodeled area that was once called the sick room, wall-papering with just barely enough paper (donated of course), with skill learned in one free session at a wall-paper store, on the hottest day of the century as shown by the thermometer on the savings and loan on the corner each time we stepped outside; I think of a remarkable friend, a doer and a giver who has enriched her community and most especially, the Long Beach Day Nursery, with her contributions of time, talent and love.