HOUSE OF REPRESENTATIVES—*Thursday, May 19, 1994*

The House met at 9:30 a.m.

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

We are grateful, O God, that the tasks of today are made easier by the loyalty and commitment of those who have gone before. On this day we remember with gratitude and recognition those who have served in this place with distinction and honor. With thanksgiving we recall the challenges of other days and the responsibilities of another time. We pray, O gracious God, that Your spirit of justice and good will, will encourage and inspire those who today are the custodians of the traditions of this land that in all things, we will do justice, love mercy, and ever walk humbly with You. 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.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Mississippi [Mr. MONTGOMERY] please come forward and lead the House in the Pledge of Allegiance.

Mr. MONTGOMERY 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.

RECESS

The SPEAKER. Pursuant to the order of the House of Thursday, May 12, 1994, the Chair declares the House in recess, subject to the call of the Chair, to receive the former Members of Congress.

Accordingly (at 9 o'clock and 32 minutes a.m.) the House stood in recess subject to the call of the Chair.

RECEPTION OF FORMER MEMBERS OF CONGRESS

The Speaker of the House presided.

The SPEAKER. The Chair would like to have an opportunity at this point to welcome our former Members, who have come again for this wonderful opportunity for us to share their friendship and remembrance and recollection of previous service together. I am delighted to have the opportunity now to recognize distinguished Members who are former Members of the House, but before I do that, I would like to recognize the distinguished Republican leader, Mr. MICHEL.

Mr. MICHEL. Thank you, Mr. Speaker. May I simply say to our former Members that we are always glad to see you come back. I think our ranks look a little depleted this morning. Maybe we ought to convene this meeting about 1 or 2 o'clock. As we all get a little older, we do not like to get up early in the morning, but the Speaker is obliged to do so, and so is the minority leader. We are here, Johnny-on-the-spot.

I would like to tell the former Members that things keep changing around here. I doubt whether any one of the former Members would have experienced a period of time during their tenure when in one class there were 110 new Members. That happened this last time around. People talk about a renewal of the Congress, or the need for term limits or some such thing. When we think about it in practical terms, a quarter of the House renewed last time. This year already we have retirement announcements that will almost rival last year's, including resignations and those running for Governor, Senator, et cetera. We are going to have, after the next election, a House of Representatives where nearly 50 percent will have less than two terms. It is going to be quite a different House of Representatives, as I see it.

As many of you know, I have announced my own intention to bow out, and have made that official. I already have a successor hopefully on the right track to succeed me. I guess it could be said that next year at this time I will be joining your ranks.

It is a funny thing how people approach you about it. I was kind of taken aback when even back home they are congratulating me, and I said, "What for?" "Well, for announcing your retirement." You kind of get mixed emotions about that. It seems that they are darn glad you are leaving, you know.

It is nice to have those of you who do come back from time to time to visit with us. One of the things I have missed, particularly since the advent of our electronic voting, is the fact that we can observe so much of what goes on here on the floor on the television monitor back in our office. It might be good for the American people, but the bad part about it for the institution is that we are not communicating with one another across the aisle as frequently as we did. Let's face it, all those debates you listened to were not always the most sparkling, interesting, or enlightening kinds of things. There were dull moments, but when we were here we used those dull moments to visit with one another, get to know each other better. It was a different kind of institution at that time than it is today.

I guess all I can do is satisfy in my own mind that times do change. The Republic has endured. This House and the Senate, they have changed dramatically over a period of years, so I guess we will just simply have to live with it.

Again, I say thanks to all of you for coming back and giving us an opportunity to renew our friendship.

The SPEAKER. The Chair might make a comment that in addition to having a 1993 class of the 103d Congress of 110 Members, the largest since 1948, most expectation is that next year, when on January 3 I hope and expect to be swearing in the first session of the 104th Congress, it is now estimated that probably half of the House will have served 4 years or less on that day, and many of us have to be reminded that the vast number of Members of this Congress did not serve in President Carter's administration, an increasingly great number did not serve in President Reagan's administration, and have only been recently elected, so you will see a number of new faces, a great number of new faces, as the Members come into the Chamber.

Particularly for us who have had the honor and pleasure of serving with so many of you, it is a wonderful opportunity to see you again and to greet you and to welcome you back to the House.

It is now my great pleasure to ask the gentleman from Arizona, the distinguished former Republican Leader of the House, John J. Rhodes, Jr., to come forward and take the gavel and the chair, and to preside over this session.

Mr. JOHN J. RHODES, JR. (presiding). This is a real pleasure, it always is. I want to say something to my friend, BOB MICHEL. When I led the applause when you announced that you were about to retire, it was because of my deep affection for you and the fact that you are going to be a member of the Association of Former Members. I must admit that that was half of me. The other half was sorry that you are

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leaving the House, because as my successor as the Republican leader. I have always been proud of you, and I still am, and I thank you for the fine service that you have given.

One of the things which I often thought has taken away from some of the collegiality that we used to have is the difficulty in getting to know other people, particularly those who serve on the party which is not your party. If you will recall, most of you, when we had the rollcall by the Clerk, you could be on the floor and somebody, the Clerk, would say, "Lindsay," and somebody would say, "Here," and you could say, "There is Lindsay," and that is the way you got to know the faces, at least, and later you got to know the individual.

□ 0940

I am not suggesting that we turn the clock back and go back to the old days of calling the roll, but I do think that there ought to be some better way than I think there is for the Members to get to know each other. I am just naive enough to believe that if that could occur, the whole attitude of a lot of the Members might change to be more like it was back in the old days.

The Clerk will now call the roll of former Members of Congress.

The Clerk called the roll of the former Members of the Congress, and the following former Members answered to their names:

ROLL CALL OF FORMER MEMBERS OF CONGRESS ATTENDING THE 24TH ANNUAL SPRING MEETING, MAY 19, 1994

J. Glenn Beall, Jr. of Maryland;
Edward P. Boland, of Massachusetts;
William S. Broomfield, of Michigan;
Donald C. Brotzman, of Colorado;
Clarence J. Brown, of Ohio;
James T. Broyhill, of North Carolina;
Elford A. Cederberg, of Michigan;
Charles E. Chamberlain, of Michigan;
Floyd J. Fithian, of Indiana;
Louis Frey, Jr., of Florida;
Robert N. Giaimo, of Connecticut;
Robert A. Grant, of Indiana;
James M. Hanley, of New York;
William L. Hungate, of Missouri;
David S. King, of Utah;
Horace R. Kornegay, of North Carolina;
Peter N Kyros, of Maine;
John V. Lindsay, of New York;
John Y. McCollister, of Nebraska;
Daniel A. Mica, of Florida;
Abner J. Mikua, of Illinois;
John S. Monagan, of Connecticut;
Frank E. Moss, of Utah;
Shirley N. Pettis, of California;
Richard B. Ray, of Georgia;
John J. Rhodes, of Arizona;
John J. Rhodes, III, of Arizona;
Philip E. Ruppe, of Michigan;
Harold S. Sawyer, of Michigan;
Mark D. Silhander, of Michigan;
Henry P. Smith, III, of New York;
James W. Symington, of Missouri;
Charles W. Whalen, Jr., of Ohio;
Edward L. Winn, Jr., of Kansas; and
Lester Wolff, of New York.

Mr. JOHN J. RHODES, JR. (presiding). The Chair recognizes the gentleman from Missouri, Jim Symington, the President of this august assemblage.

Mr. SYMINGTON. Thank you, Mr. Speaker.

Mr. Speaker, on behalf of my colleagues, I am pleased to present our 24th Annual Report to the Congress. Although marked by a grievous loss to which I shall later refer, it has been a full and productive year.

The Association has continued its successful Congressional/Campus Fellows Program in which former Members of Congress visit college, university and high school campuses for 2 to 5 days to share their practical political experience with students, faculty and community representatives to help them better understand the Congress. To date, 71 former Members of Congress have made a total of 230 such visits to 164 institutions in 49 States. Most recently our colleague, Lindy Boggs, former Louisiana Representative, combined a high school visit and a college visit in one highly successful trip to Minnesota's Twin Cities. Both institutions reported what should be no surprise to us that "Lindy wowed them." The Congressional/Campus Fellows Program was begun in 1974 under a grant from the Ford Foundation and has been continued through a number of other corporate and foundation contributions. In the light of what I think it is fair to say can be perceived as an erosion of respect for this national representative body, the Members of our Association believe it is very important to take advantage of every opportunity to encourage young people to learn about the political process and to participate in it. We know the need is great for this program and would like to expand it as, and if, appropriate resources become available.

Mr. Speaker, I ask permission to insert in the RECORD at this point the list of the institutions that have been visited by former Members of Congress.

COLLEGES, UNIVERSITIES AND HIGH SCHOOLS VISITED UNDER THE CONGRESSIONAL FELLOWS PROGRAM

COLLEGE/UNIVERSITY/HIGH SCHOOL, LOCATION, FELLOW, AND STATE/COUNTRY

Adelai E. Stevenson High School, Illinois, Paul A. (Pete) McCloskey (California).
Alaska Pacific University, Alaska, William S. Mailliard (California).
Albion College, Michigan, David S. King (Utah).
Albion College, Michigan, Ted Kupferman (New York).
Albion College, Michigan, Martha Keys (Kansas).
Alfred University, New York, Frank E. Moss (Utah).
American College in Paris, France, David S. King (Utah).
American College in Paris, France, Byron L. Johnson (Colorado).
Arizona State University, Arizona, Gale W. McGee (Wyoming).
Arizona State University,[1] Arizona, Jacques Soustelle (France).
Assumption College, Massachusetts, Gale W. McGee (Wyoming).
Auburn University, Alabama, William L. Hungate (Missouri).
Auburn University,[1] Alabama, Alan Lee Williams (United Kingdom).
Avila College,[1] Kansas, Karin Hafstad (Norway).
Bainbridge Jr. College, Georgia, Gilbert Gude (Maryland).
Baylor University, Texas, James Roosevelt (California).
Baylor University,[1] Texas, Peter von der Heydt (Germany).
Bowling Green State University, Ohio, Robert P. Hanrahan (Illinois).
Bradley University, Illinois, Charles W. Whalen, Jr. (Ohio).
Brandeis University, Massachusetts, Abner J. Mikva (Illinois).
Brandeis University, Massachusetts, L. Richardson Preyer (North Carolina).
Brenau College, Georgia, Ralph W. Yarborough (Texas).
Brigham Young University,[1] Utah, Jacques Soustelle (France).
California Poly. State—San Luis Obispo, California, John B. Anderson (Illinois).
California Poly. State—San Luis Obispo, California, Frank E. Evans (Colorado).
California Poly. State—San Luis Obispo, California, Paula Hawkins (Florida).
California Poly. State—San Luis Obispo, California, Robert N. Giaimo (Connecticut).
California Poly. State—San Luis Obispo, California, John R. Schmidhauser (Iowa).
California Poly. State—San Luis Obispo, California, Ralph W. Yarborough (Texas).
California Poly. State—Pomona, California, Robert R. Barry (New York).
Cameron University, Oklahoma, William D. Hathaway (Maine).
Cameron University, Oklahoma, William L. Hungate (Missouri).
Cameron University, Oklahoma, Dick Clark (Iowa).
Carleton College, Minnesota, William S. Mailliard (California).
Carroll College, Montana, Ralph W. Yarborough (Texas).
Chaminade College, Hawaii, Catherine May Bedell (Washington).
Chatham College, Pennsylvania, Catherine May Bedell (Washington).
Chatham College, Pennsylvania, Martha Keys (Kansas).
Charleston College,[1] South Carolina, John M. Reid (Canada).
Clarke College, Georgia, William L. Hungate (Missouri).
Clark College, Georgia, William S. Mailliard (California).
Colgate University, New York, William S. Mailliard (California).
College of the Sequoias, California, Gale W. McGee (Wyoming).
Colorado State University,[1] Colorado, Alastair Gillespie (Canada).
Columbia College, South Carolina, Catherine May Bedell (Washington).
Columbia College, South Carolina, Martha Keys (Kansas).
Columbia College, South Carolina, James M. Quigley (Pennsylvania).
Columbia College,[1] South Carolina, John M. Reid (Canada).
Columbia College, South Carolina, Henry S. Reuss (Wisconsin).
Columbia College, South Carolina, Nick Galifianakis (North Carolina).
Concordia College, Michigan, Walter H. Moeller (Ohio).

Connecticut College, Connecticut, Ralph W. Yarborough (Texas).
Converse College, South Carolina, Jed Johnson, Jr. (Oklahoma).
Dartmouth College, New Hampshire, John O. Marsh, Jr. (Virginia).
Dartmouth College, New Hampshire, William S. Mailliard (California).
Davis & Elkins College, West Virginia, Frank E. Moss (Utah).
Davis & Elkins College, West Virginia, J. Glenn Beall, Jr. (Maryland).
Denison University, Ohio, Frank E. Moss (Utah).
DePauw University, Indiana, Hugh Scott (Pennsylvania).
Dillard University,[1] Louisiana, Georg Kahn-Ackermann (Germany).
Doshisha University, Japan, Catherine May Bedell (Washington).
Duke University,[1] North Carolina, Georg Kahn-Ackermann (Germany).
Eckerd College, Florida, William L. Hungate (Missouri).
Elmira College, New York, Charles W. Whalen, Jr. (Ohio).
Friends University, Kansas, Henry P. Smith III (New York).
Furman University, South Carolina, Jed Johnson, Jr. (Oklahoma).
Furman University, South Carolina, Charles W. Whalen, Jr. (Ohio).
Georgetown University, Washington, DC, Celio Borja (Brazil).
Grinnell College, Iowa, Neil Staebler (Michigan).
Guilford College, North Carolina, Gale W. McGee (Wyoming).
Gustavus Adolphus College, Minnesota, Charles W. Whalen, Jr. (Ohio).
Hamilton College, New York, William S. Mailliard (California).
Hartwick College, New York, Ralph W. Yarborough (Texas).
Hiran College, Ohio, Howard H. Callaway (Georgia).
Hiram College, Ohio, Roman L. Hruska (Nebraska).
Hope College, Michigan, Walter H. Judd (Minnesota).
Hope College, Michigan, Gale W. McGee (Wyoming).
Hope College, Michigan, Catherine May Bedell (Washington).
Idaho State University, Idaho, John R. Schmidhauser (Iowa).
Indiana State University, Indiana, Gordon L. Allott (Colorado).
Indiana Univ. Northwest, Indiana, Neil Staebler (Michigan).
Indiana Univ. Northwest, Indiana, William L. Hungate (Missouri).
Indiana Univ. Northwest, Indiana, Tom Railsback (Illinois).
Jackson State University, Mississippi, Allard K. Lowenstein (New York).
Johns Hopkins University, Maryland, Hugh Scott (Pennsylvania).
Johns Hopkins University,[1] Washington, DC, Celio Borja (Brazil).
Kansai University, Japan, Frank E. Moss (Utah).
Kansas-Newman College, Kansas, Henry P. Smith III (New York).
Kansas State University, Kansas, Paul N. McCloskey, Jr. (California).
Keio University, Japan, Frank E. Moss (Utah).
King College, Tennessee, Charles W. Whalen, Jr. (Ohio).
King's College, Pennsylvania, Philip Hayes (Indiana).
Kirkland College, New York, William S. Mailliard (California).

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Kwansei Gakuin University, Japan, Frank E. Moss (Utah).
LaGrange College, Georgia, Ralph W. Yarborough (Texas).
Lake Forest College, Illinois, Ralph W. Yarborough (Texas).
Lindenwood College, Missouri, Gaylord Nelson (Wisconsin).
Longwood College, Virginia, Paul W. Cronin (Massachusetts).
Luther College, Iowa, Gilbert Gude (Maryland).
McNeese University, Louisiana, William S. Mailliard (California).
Macalester College, Minnesota Lindy Boggs (Louisiana).
Marshall University, West Virginia, John J. Gilligan (Ohio).
Mary Hardin Baylor College, Texas, Brooks Hays (Arkansas).
Matanuska-Susitna Community College, Alaska, William L. Hungate (Missouri).
Mesa Community College, Arizona, Gale W. McGee (Wyoming).
Miami University-Middletown, Ohio, James Roosevelt (California).
Miami University-Middletown, Ohio, James W. Symington (Missouri).
Mid-America Nazarene College, Kansas, John B. Anderson (Illinois).
Mid-America Nazarene College, Kansas, John Dellenback (Oregon).
Millsaps College, Mississippi, Allard K. Lowenstein (New York).
Minnetonka High School, Minnesota, Lindy Boggs (Louisiana).
Montclair State College, New Jersey, Walter H. Judd (Minnesota).
Montclair State College, New Jersey, Ralph W. Yarborough (Texas).
Morehead State University, Kentucky, Dan Kuykendall (Tennessee).
Morehouse College, Georgia, William S. Mailliard (California).
Morehouse College, Georgia, William L. Hungate (Missouri).
Morris Brown College, Georgia, William S. Mailliard (California).
Morris Brown College, Georgia, William L. Hungate (Missouri).
Mount Vernon College, Washington, DC, Martha Keys (Kansas).
Murray State University, Kentucky, Brooks Hays (Arkansas).
Nanzan University, Japan, Catherine May Bedell (Washington).
New Trier High School, Illinois, John V. Lindsay (New York).
New York University, New York, George McGovern (South Dakota).
Northern Illinois University, Illinois, William L. Hungate (Missouri).
Northern Kentucky University, Kentucky, Martha Keys (Kansas).
North Park College, Illinois,[1] Karin Hafstad (Norway).
Northwestern University,[1] Illinois, Karin Hafstad (Norway).
Oklahoma State University, Oklahoma, Ralph W. Yarborough (Texas).
Oregon State University, Oregon, Martha Keys (Kansas).
Otterbein College, Ohio, James Roosevelt (California).
Purdue University—Calumet, Indiana, William L. Hungate (Missouri).
Purdue University—Calumet, Indiana, Tom Railsback (Illinois).
Randolph-Macon College, Virginia, Gale W. McGee (Wyoming).
Randolph-Macon College,[1] Virginia, Hugh Scott (Pennsylvania).
Revere High School, Ohio, John B. Anderson (Illinois).

Rockhurst College,[1] Kansas, Karin Hafstad (Norway).
Rose Hulman Institute of Technology, Indiana, Gordon L. Allott (Colorado).
St. Cloud State University, Minnesota, Charles W. Whalen, Jr. (Ohio).
St. Lawrence University, New York, Roman L. Pucinski (Illinois).
St. Mary-of-the-Woods, Indiana, Gordon L. Allott (Colorado).
St. Mary's College, Vermont, Gale W. McGee (Wyoming).
St. Michael's College, Vermont, Walter H. Judd (Minnesota).
St. Norbert's College, Wisconsin, Martha Keys (Kansas).
St. Olaf College, Minnesota, William S. Mailliard (California).
Salem College, North Carolina, Martha Keys (Kansas).
Sangamon State University, Illinois, Andrew J. Biemiller (Wisconsin).
Sangamon State University, Illinois, Martha Keys (Kansas).
Sangamon State University,[1] Illinois, Alan Lee Williams (United Kingdom).
Sangamon State University,[1] Illinois, Alastair Gillespie (Canada).
Siena College, New York, Frank E. Moss (Utah).
Siena College, New York, Charles W. Whalen, Jr. (Ohio).
Southeast Comm. College, Kentucky, Donald E. Lukens (Ohio).
Southern Illinois University, Illinois, John R. Schmidhauser (Iowa).
Southwestern College, Kansas, Henry P. Smith, III (New York).
Spelman College, Georgia, William S. Mailliard (California).
Spelman College, Georgia, William L. Hungate (Missouri).
SUNY-Binghamton, New York, John B. Anderson (Illinois).
SUNY-Plattsburg, New York, L. Richardson Preyer (North Carolina).
State University of Oswego, New York, Martha Keys (Kansas).
Syracuse University, New York, Charles W. Whalen, Jr. (Ohio).
Talladega College, Alabama, Ted Kupferman (New York).
Tougaloo Southern Christian College, Mississippi, Allard K. Lowenstein (New York).
Transylvania University, Kentucky, James M. Quigley (Pennsylvania).
U.S. Air Force Academy,[1] Colorado, Alan Lee Williams (Great Britain).
U.S. Coast Guard Academy, Connecticut, Ralph W. Yarborough (Texas).
U.S. Naval Academy, Maryland, John S. Monagan (Connecticut).
U.S. Naval Academy, Maryland, William S. Mailliard (California).
U.S. Naval Academy,[1] Maryland, Alan Lee Williams (Great Britain).
University of Alaska, Alaska, William L. Hungate (Missouri).
University of Alaska, Alaska, William S. Mailliard (California).
University of Arizona,[1] Arizona, Celio Borja (Brazil).
University of Arkansas, Arkansas, Gale W. McGee (Wyoming).
University of Arkansas, Arkansas, Charles W. Whalen, Jr. (Ohio).
University of California—Berkeley, California, Robert N. Giaimo (Connecticut).
University of California—Berkeley, California, Henry S. Reuss (Wisconsin).
University of California—Berkeley, California, Newton I. Streets, Jr. (Maryland)
University of Dayton, Ohio, Catherine May Bedell (Washington).

University of Delaware, Delarare, John J. Gilligan (Ohio).

University of Delaware, Delaware, Henry S. Reuss (Wisconsin).

University of Georgia,[1] Georgia, Georg Kahn-Ackermann (Germany).

University of Georgia, Georgia, Otis Pike (New York).

University of Georgia,[1] Georgia, John M. Reid (Canada).

University of Georgia,[1] Georgia, Alan Lee Williams (United Kingdom).

University of Hawaii, Hawaii, Paul N. McCloskey, Jr. (California).

University of Maine—Orono, Maine, John Rhodes (Arizona).

University of Michigan—Flint, Michigan, Gale W. McGee (Wyoming).

University of Mississippi, Mississippi, Tom Railsback (Illinois).

University of Nevada, Nevada, Gale W. McGee (Wyoming).

University of New Mexico,[1] New Mexico, Alastair Gillespie (Canada).

University of New Mexico,[1] New Mexico, Celio Borja (Brazil).

University of New Orleans,[1] Louisiana, Georg Kahn-Ackermann (Germany).

University of New Orleans,[1] Louisiana, Jacques Soustelle (France).

University of North Carolina, North Carolina, Robert P. Hanrahan (Illinois).

University of North Dakota, North Dakota, Neil Staebler (Michigan).

University of Oklahoma, Oklahoma, Catherine May Bedell (Washngton).

University of Oklahoma, Oklahoma, Dick Clark (Iowa).

University of Oklahoma, Oklahoma, Martha Keys (Kansas).

University of Oklahoma, Oklahoma, William S. Mailliard (California).

University of Oklahoma, Oklahoma, Charles W. Whalen, Jr. (Ohio).

University of Oklahoma, Oklahoma, Frank E. Moss (Utah).

University of Oregon, Oregon, Martha Keys (Kansas).

University of Redlands, California, Catherine May Bedell (Washington).

University of South Carolina,[1] South Carolina, Alan Lee Williams (United Kingdom).

University of South Carolina, South Carolina, Gale W. McGee (Wyoming).

University of South Dakota, William L. Hungate (Missouri).

University of Texas,[1] Texas, Alastair Gillespie (Canada).

University of Texas,[1] Texas, Celio Borja (Brazil).

University of Utah, Utah, Robert N. Giaimo (Connecticut).

University of Utah,[1] Utah, Jacques Soustelle (France).

Univerisity of Utah,[1] Utah, Alan Lee Williams (United Kingdom).

University of Washington,[1] Washington, Alan Lee Williams (United Kingdom).

University of West Virginia,[1] West Virginia, Georg Kahn-Ackermann (Germany).

University of West Virginia,[1] West Virginia, Jacques Soustelle (France).

University of Wisconsin,[1] Wisconsin, Georg Kahn-Ackermann (Germany).

University of Wyoming, Wyoming, Frank E. Moss (Utah).

Urbana University, Ohio, David S. King (Utah).

Valparaiso University, Indiana, Neil Staebler (Michigan).

Vanderbilt University, Tennessee, Ralph W. Yarborough (Texas).

Vanderbilt University,[1] Tennessee, Celio Borja (Brazil).

Virginia Military Institute, Virginia, Gale W. McGee (Wyoming).

Wake Forest University, North Carolina, William L. Hungate (Missouri).

Wake Forest University,[1] North Carolina, Georg Kahn-Ackermann (Germany).

Washington College, Maryland, Gale W. McGee (Wyoming).

Washington & Lee University, Virginia, Gale W. McGee (Wyoming).

Wayne State College, Nebraska, Gale W. McGee (Wyoming).

Westmont College, California, Ronald A. Sarasin (Connecticut).

Wheaton College, Massachusetts, Charles A. Vanik (Ohio).

Whitman College, Washington, Frank E. Moss (Utah).

William & Mary College, Virginia, Hugh Scott (Pennsylvania).

Wofford College, South Carolina, Jed Johnson, Jr. (Oklahoma).

230 visits—71 Fellows—164 institutions—49 states.

[1] International project funded by the Ford and Rockefeller Foundations for visit of Parliamentarians from the United Kingdom, Germany, France, Canada, Brazil and Norway.

The Association has continued serving as the secretariat for the Congressional Study Group on Germany, which is the largest and most active exchange program between the U.S. Congress and the Parliament of another country. It is a bipartisan group involving more than 100 Representatives and Senators which provides opportunities for Members of Congress to meet with their counterparts in the German Bundestag to facilitate better understanding and greater cooperation. The Congressional Study Group on Germany is an unofficial and informal organization open to all Members of Congress.

In addition to hosting a number of Members of the Bundestag and other German Government leaders at the Capitol this past year, the Study Group hosted the Sixth Annual German-American Day Celebration in October 1993. Dr. Klaus Kinkel, Vice Chancellor and Foreign Minister, and Dr. Dieter-Julius Cronenberg, Vice President of the Bundestag, participated in the celebration along with a delegation of Members of the Bundestag and representatives from the German Foreign Ministry. In April 1994, the 11th Annual Congress-Bundestag Seminar was held on the Outer Banks of North Carolina in which seven Members of Congress and six Members of the Bundestag participated, along with former Members of Congress and the Bundestag and German and American speakers and other guests.

This program is funded principally by the German Marshall Fund of the United States. It has included joint meetings of the Agriculture Committees of Congress and the Bundestag and visits by Members of the Bundestag to observe the Illinois Presidential Primary and the Iowa Caucus, as well as to Congressional Districts throughout the country with Members of Congress to learn about the U.S. political process at the grassroots level. Because of the election schedules in the United States and Germany in 1994, a German-American Day celebration is not being planned, but it is hoped that a seminar can be held to introduce the new Members of Congress and the Bundestag to the importance of United States-German relations. This year's chairman of the Congressional Study Group on Germany in the House is Representative H. MARTIN LANCASTER of North Carolina. The Vice Chairman is Representative BILL EMERSON of Missouri. Senators WILLIAM V. ROTH, Jr. of Delaware and THOMAS A. DASCHLE of South Dakota serve as cochairmen of the Congressional Study Group on Germany in the Senate.

In March of this year, the Association, in cooperation with the Herbert Quandt Foundation and the Paul H. Nitze School of Advanced International Studies of the Johns Hopkins University and funded by the Quandt Foundation, convened an international conference on "The United States and Europe: Transatlantic Relations Beyond 2000." Political leaders, scholars, business and media representatives from the United States, Western and Eastern Europe discussed these issues and deliberated on the future of the Transatlantic Community.

Another project of the Association's, in cooperation with the East-West Center, is the Congressional Japanese Study Group, which was initiated in January 1993. It is currently led by Senator WILLIAM V. ROTH, Jr. Delaware as chairman and Representative LEE H. HAMILTON of Indiana as vice chairman. An unofficial, informal and bipartisan group open to all Members of Congress, it has 67 members and an additional 34 Members of Congress have asked to be kept informed of activities. The objectives of the study group are to develop a congressional forum for the sustained study and analysis of policy options on major issues in United States-Japan relations, and to increase opportunities for Members of Congress to meet with their counterparts in the Japanese Diet for frank discussion of those key issues. Initially, the Study Group is focusing attention on four major areas of concern to legislators in both countries: aid to Russia; United States and Japanese role in the Asia Pacific Region; bilateral trade and economic relations; and certain global issues. In a series of roundtable discussions that have been held throughout the year, United States and Japanese Government officials and nongovernmental experts have explored these issues in-depth. Initial funding to launch the Study Group and to support its programs has been provided by the Ford Foundation, the Japan-United States Friendship Commission, and the Laurasian Institution.

A special project grant from the Center for Global Partnership gave support for the "United States-Japan Issues

Meeting" in Lanai, HI in February of this year which brought together current and former Members of Congress and the Japanese Diet, academicians, business representatives, and other government personnel to discuss major issues of mutual concern. Its signal success leads us to hope regular opportunities of this kind may be provided.

Another facet of the Association's program with Japan was the continuation of the Japanese Congressional Fellows Program. In the past, staff members participating in this program had been selected from nominations made by the Secretaries General of the House of Councillors and the House of Representatives of the Japanese Diet. In 1993, the Association broadened the program to invite nominations from the Japanese political party structure so that in the fall of 1993, under funding from the Center for Global Partnership, two staff members from the Policy Research Councils—one from the Liberal Democratic Party and one from the Komeito Party—participated in the program. They spent approximately 60 days in the United States, during which time, the Association arranged for them to serve in congressional offices and to meet with staff in the Congressional Research Service of the Library of Congress, the Congressional Budget Office, and other support institutions of the U.S. Congress. The fellows also attended special academic lectures and visited congressional districts with Members of Congress.

The Japanese Congressional Fellows Program has proven to be extremely helpful to the staff members of the Diet and to the political parties. The experiences of the fellowship benefit not only the participants but also the colleagues with whom they share their experience. The time spent by the Japanese fellows in offices also has been extremely beneficial to United States congressional staff members by refining their understanding of the Japanese political process, and of Japan, per se.

The Association's program to aid the emerging democracies in Central and Eastern Europe also has continued to expand. In September and October 1993, the Association, under a grant from the United States Information Agency, hosted a delegation of four parliamentarians from the Czech Republic for a 2-week visit in the United States. During their week-long visit in Washington, the parliamentarians met with a number of current and former Members of Congress, including Representative MARTIN FROST of Texas, Chairman of the House Task Force on Eastern Europe, other government representatives and personnel of congressional support institutions. They also traveled to Cleveland and Chicago for discussions with business, academic, and community leaders who have particular interests in the Czech Republic, as well as with State legislators and local government leaders.

Also under the grant from the United States Information Agency, our first Congressional Fellow, Bulcsu Veress, successfully completed his second year providing technical assistance to the Parliament of Hungary. It is evident from a letter received from the President of the Hungarian National Assembly that Dr. Veress' 2 years in Hungary were highly productive. His counsel was welcomed by the administrative staff of the National Assembly. He assisted in the drafting of the new rules of the House and translated into English for further comparison and analysis the entire yearly legislative output of the Hungarian National Assembly.

Building upon this first successful venture of sending a Congressional Fellow to provide technical assistance to a new Parliament, the Association applied for and received a grant from the Pew Charitable Trusts. Under this grant, one Congressional Fellow has been sent to Slovakia, Jon Holstine, and another to Ukraine, Clifford Downen, for 1 year, with the possibility of renewal for a second year, to work with the members and staffs of those respective Parliaments. It is anticipated that a third Congressional Fellow will be sent to Bulgaria later this year or next year on a similar assignment.

The Association has continued its program of hospitality and orientation for distinguished international visitors, parliamentarians, cabinet ministers, judges, academicians and journalists here at the Capitol. This program, originally funded by the Ford Foundation, has been continued under grants from the German Marshall Fund of the United States. It has enabled us to host 292 events—breakfasts, luncheons, dinners and receptions—for visitors from 82 countries and the European Parliament. It has proved a genuine resource for communication and understanding between Members of Congress and leaders of other nations.

Two invaluable comparative studies have been prepared by the Association in connection with these ongoing initiatives: "The Japanese Diet and the U.S. Congress" and "The U.S. Congress and the German Bundestag." The latter has been particularly helpful to the new parliamentarians of Central and Eastern Europe.

Mr. Speaker, needless to say, these programs could not be conducted without financial support, and on behalf of the Association, I want to thank our many contributors who continue to make them possible. At this point, I would like to insert in the RECORD the list of our financial sponsors.

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In addition to our work with current parliamentarians, we maintain close relations with associations similar to ours, that is, former members of the parliaments of other countries. In this connection, Mr. Speaker, I am pleased to recognize and welcome several representatives of those associations who are with us today: Jack Ellis and Barry Turner of the Canadian Association of Former Parliamentarians; Georg C. Ehrnrooth of the Finnish Association of Former Members of Parliament; Ellen Lauterbach of the Association of Former Members of the German Bundestag; and Giuseppe Vedovato of the Association of Former Parliamentarians of the Italian Republic. These relationships have been particularly rewarding, and we look forward to exploring further cooperative efforts to promote and assist parliamentary forms of government.

Mr. Speaker, it is now my sad duty to inform the House of those persons who have served in the Congress and who have passed away since our report 2 years ago:

Jerome A. Ambro of New York;
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George M. Wallhauser of New Jersey;
Charles L. Weltner of Georgia;

I would like to ask for a moment of silence in their memory.

It is now my happy duty to report that nominated to be our Association's new President is our colleague Philip Ruppe of Michigan, and as Vice President, Lindy Boggs of Louisiana. So the leadership of the Association will be in capable and experienced hands.

Each year, the Association presents a Distinguished Service Award. This award rotates between political parties as do our officers. Last year's recipient on the Democratic side was former Illinois Representative Abner J. Mikva. This year the Republican recipient is the distinguished former Ohio Representative Clarence J. "Bud" Brown.

Clarence J. "Bud" Brown's 17 years as the Representative for the Seventh District of Ohio built upon a family tradition of legislative service, for Bud succeeded his own father after the latter had served 13 terms from 1939 to 1965. Bud would likely have equaled or exceeded his Dad's legislative tenure had he not won the GOP nomination for Governor of Ohio half way through his ninth term. In 1983, he accepted the post of Deputy Secretary of the U.S. Department of Commerce. Serving beside his good friend, and one of the Nation's greatest Secretaries, Malcolm Baldrige, Bud won instant recognition for his sound policies and administrative skills. A U.S. Navy veteran of both World War II and the Korean war, Bud graduated from Duke University with a degree in economics, and won his MBA at Harvard at the age of 21. A shining example of the Former Members' axiom that public service does not end with public officer, Bud brought his skills to the Kennedy School of Government, and the American Enterprise Institute, as a fellow of both institutions. A devotee of American history and tradition, Bud found the perfect expression of these interests when, in September 1992, he was named President and Chief Executive Officer of the U.S. Capitol Historical Society, succeeding the Honorable Fred Schwengel. Finally, it should not only be noted but emphasized that Bud Brown's tenure as President of the U.S. Association of Former Members of Congress did us all proud. His extraordinary vigor, perception and dedication mark his service to our Association.

So, it is my great pleasure to present to him, on behalf of our Association, a volume of letters from his former colleagues in the Congress and this plaque and gavel which commemorate this special occasion and this award presented on behalf of his colleagues who served with him in the Congress.

Mr. Speaker, I yield to Bud Brown.

□ 1000

Mr. BROWN of Ohio. Jim, thank you for those kind words. If the acting Speaker will forgive, and if my Republican colleagues will forgive and certainly if the current Speaker will forgive me, I will speak from this podium rather than the one I normally spoke from when I was in the Congress. It looks OK, does it?

Jim, I thank you for those kind words, and I thank all of my friends in the Association of Former Members of Congress for the award, which I choose to call historic. In my current role as president of the U.S. Capitol Historical Society, I am now looking at everything in historic terms, and some of that, of course, may be the result of advancing age.

However, I must assure you that without much thought, I can count many other Members with whom I served or who have served since I left the Congress who are much more deserving of this honor than I. Even more embarrassing, several of them are in this room today.

I am not naming them because it might stimulate some kind of a recall petition and I certainly do not want that to happen.

As a matter of fact, when I informed one of my former colleagues that I had taken the post I now enjoy with the Capitol Historical Society, he thought for a minute and said to me, "It is probably a good idea, Bud, since you couldn't make history when you were in the Congress, at least you can now rewrite it," a temptation that has occurred to me from time to time.

That reminds me also to thank Jim for the very graceful way in which you handled, Jim, my race for Governor in 1982. With a Republican President that year in the White House, I was trying to succeed a term-limited Republican Governor in Ohio in the worst economy we had experienced since 1932, when my father ran for Governor of Ohio as a Republican and lost.

We just do not learn a hell of a lot in my family about politics, one generation over the next.

Like Jim Symington, though, I must say I am also proud of Jim and the wonderful job he has done this year, perhaps, except for this selection, heading up the Association of Former Members at a time we had some very severe challenges with the death of Jed Johnson. But, Jim, you did a nice job with that comment. Like you, I am proud of my dad and my family heritage in politics. After 27 years here, my dad died in office. I believe he would have been amazed that I succeeded him; my mother, of course, would have been justified, but both of them would be very proud today.

My dad never got to be a former Member of Congress, but he would have enjoyed this organization because he liked nothing more than telling stories about political personalities, old-time events in politics.

One of his homilies was to assure me that if I ever went into politics, there was no good way out of it. You either retired to do something else, he said, in which case no one remembers your name about 6 months later, or you get defeated, which tends to discredit you, or you die at the height of your power and there is damn little comfort in that.

Well, I went through that experience. First, I want to say it is a demanding and consuming job and, as 110 of our colleagues who left last year will tell you, it takes a while to get over it.

Soon after I left the House, I ran into a former colleague and an old friend I had admired very much, Bob Giaimo of Connecticut, the first chairman of the Committee on the Budget, who had retired a few years earlier. "How are you handling retirement," Bob said in a very gracious way. "Oh, fine," I told him, "I didn't like losing the Ohio gubernatorial race to an Italian Democrat, but I am taking it all right." I said that without any effort at political correctness.

Somewhat more gently, with a hand on my arm, he said, "Seriously, Bud, how are you handling it?" I said, "Well, I dreamed the other night I had heard the bells ringing and I was late for a vote that I hadn't decided how I was going to cast, and I think I am driving Joyce crazy. But other than that, everything is OK." He smiled and patted my arm, and he said, "Well, you'll get over it. Give it another 6 months or so, you should be OK after the next election." Indeed, Bob, it turned out that way. You had the experience that you shared with me, and I appreciate it.

My dad loved this body, and his friends and adversaries on both sides of the aisle. And we do have adversaries on both sides of the aisle. There is nothing quite like the infamy of one of your own colleagues who votes the wrong way on an issue that you feel strongly about.

He hated to see it deprecated unless, of course, he was doing the deprecating. And that is true of all of us, too.

One of dad's friends from across the aisle, an Ohio colleague of his and mine later, was a great American whom some of you will remember. I will not identify him, but he had a 3rd grade education because he had left school to go to work in the mines, the coal mines in Ohio, when he was 9 years old. He had a pet project for his district which he never got quite through the congressional process, in spite of considerable power and the promises that he had received from many of his colleagues that they thought it was a good idea and they would support it. When he would get frustrated, he used to say that he met more gentlemen in the mines than he ever met in the U.S. Congress.

Well, unfair though it was, I think sometimes you felt that way when you got mad. That seems a tough remark when we have just recently laid to rest Bill Natcher, with whom so many of us served. Judge Natcher would probably get a unanimous vote as one of the best examples of a true gentleman that any of us ever met, but not all of us are gentlemen. As a matter of fact, there are some in this room who are not, and I intend to identify them at this moment.

□ 1010

First I want to point out Representative Pettis of California. I do not know were Representative Boggs of Louisiana is, but that is another, and of course there were others here who were not gentlemen: Griffiths of Michigan, Jordan of Texas, and many, many

more, and I expect one of those ladies would say, any one of those ladies would say, as one of my great colleagues from Ohio, Frances Bolton, once said to a group of her male counterparts when she discovered them discussing legislative matters in terms that were very ungentlemanly, and she was embarrassed when she walked into the room at that time; she said, "Don't worry, fellows. Just think of me as one of the boys."

But all of us did get frustrated, did get frustrated from time to time, as are many of the Members serving in Congress today and as many of Americans are with Congress and other of our institutions. I remind them all that the blessing we have in our Democratic Republic is that we have within our hands the power to make whatever reforms we like, sometimes wisely, sometimes unwisely.

I am reminded in my historical activities that almost a century ago the House rebelled against omnipotent Speaker Uncle Joe Cannon to establish the Committee on Rules and the seniority system for selecting chairmen. Uncle Joe used to pick them out of the group by his own choice. Within my time of service junior Members of Congress on both sides upended the seniority system to select their own chairmen instead of relying on the winnowing system of seniority, and just last year, at the apex of the furor over term limits, over one-fifth of the Members of Congress did not return to serve.

Patience sometimes serves us better than revolution, but we do have those means within our own hands. It does not work perfectly, this system of ours, and it does not always satisfy us. But it does work, and this system has made us the greatest Nation and the most envied Nation in the history of mankind.

The dome above us under which we have all served and labored sincerely, even among our differences, makes this building and what goes on here the best-known edifice in the world. There is not a person beyond our Nation's shores who would not be pleased to be governed under this dome.

I assure my colleagues, particularly my colleagues and friends on the other side of the aisle, that I will not rewrite any history in my new role, but candor advises me to admit one of the reasons I accepted that responsibility with the Historical Society. I hope to be able to use the position to bring about a better public perception of the U.S. Congress and the people who serve in it. I feel more deeply than I can adequately express that service in the U.S. Congress is one of the highest callings there is, and it is one of the greatest honors a person can be given by fellow citizens of this country.

Our Nation's founders must have shared that view because the Congress, this body in which we have all had the honor to serve, was the first to be established by our Constitution. We, the people of the United States, in order to form a more perfect Union, establish justice, ensure domestic tranquility, provide for the common defense, promote the general welfare and secure the blessings of liberty to ourselves and to our posterity do ordain and establish this Constitution of the United States of America. Article I, section 1, all legislative powers herein granted shall be vested in a Congress of the United States which shall consist of the Senate and a House of Representatives given the responsibility to fulfill that opening of the Constitution.

What higher calling? The Supreme Court? The President of the United States?

At the next State of the Union Address look at the audience wherein sit the invited Chief and Associate Justices and at the lower podium wherefrom the invited President speaks. All are beneath the chairs of the Speaker of this House and the presiding officer of the Senate. Mr. Speaker, that means that there is no higher calling in public service in this country than serving as a Member of the U.S. Congress.

It is a demanding job, as I said. We are all proud to have had the opportunity, and I am particularly proud today, as a former Member of Congress, to receive your honor. I say, "Thank you very much."

[Applause.]

Mr. JOHN J. RHODES, JR. (presiding). The Chair recognizes the gentleman from Missouri.

Mr. SYMINGTON. I thank the distinguished gentleman from Ohio for his comments, advice, and counsel.

Mr. Speaker, before adjournment, I have one last function to perform as this year's president of the Association. As we all know, to our grief, last December we lost our esteemed executive director, Jed Johnson. Those of you who were unable to attend the services for Jed should know that there was an outpouring of sentiment, reminiscence and love that did justice to the career and the character of the man. His one shining term as a Member of Congress was later supplemented by 20 years of absolutely devoted and selfless service to our Association. It is no exaggeration to say he was the Association.

Looking back over those years and the voluminous record of interparliamentary and educational endeavors which engaged us, it is almost impossible to believe that all the planning, all the diplomacy, all the energy and all the detail necessary to conceive, carry out, promote and fund our activities arose full blown from the mind, heart and tireless spirit of that ever young gentleman from Oklahoma. He left us so quickly, and so unexpectedly, that the award we would have wanted him to have in his lifetime must now be posthumous. Even then it is but a mere symbol of the enormous gratitude we bear for Jed and his life of service.

We are honored today by the presence of Jed's gracious widow, Sydney Herlong Johnson, their two daughters, Alice and Sydney, and Jed's sisters, Mrs. Janelle Seiberlich and Mrs. Joan Stauffer. I would ask at this time that Mrs. Johnson approach the well to receive this small reminder of the gratitude and affection which reads,

In Memoriam. The Honorable Jed Joseph Johnson, Jr. December 27, 1939–December 16, 1993. Representative from the Sixth District of Oklahoma 1965–67. Executive Director, U.S. Association of Former Members of Congress 1974–93. In recognition of his selfless and invaluable service to this Association, the nation and the cause of peace. Presented to his widow, Sydney Herlong Johnson, by the United States Association of Former Members of Congress on the floor of the House of Representatives. Washington, DC. May 19, 1994.

Sydney, this if for you, and it comes with the pledge that the Association Jed served so well will continue in his spirit.

□ 1020

Mrs. SYDNEY HERLONG JOHNSON. Thank you all very much. I really appreciate this expression of your gratitude.

Jed loved his work with former Members of Congress, and I am really grateful that he had so many years to work for a cause that he believed in so deeply. I feel that I am among our treasured and wonderful friends today, and I want you to know that I thank you all so very much, not only for what you have done in the past but for what you are doing to continue the important work that he loved and treasured so deeply. Thank you.

[Applause.]

Mr. SYMINGTON. Thank you, Sydney.

Mr. Speaker, this concludes the 24th Annual Report to the Congress by the United States Association of Former Members of Congress. We are grateful as always to you, Speaker FOLEY, and the Members of his House on both sides of the aisle for this pleasant chance to share a review of the activities of its former Members and to renew our commitment to the spirit of this place; to touch, as it were, a few of what Mr. Lincoln called "the mystic chords of memory."

Finally, we thank you, Mr. Speaker, for the continuing opportunity to lend bipartisan support for the interparliamentary and educational exchanges which the Congress deems of value.

With renewed appreciation and respect, Mr. Speaker, we take our leave. Thank you.

[Applause.]

Mr. JOHN J. RHODES, JR. (presiding). I thank the gentleman from Missouri.

The Chair has the gavel, and that gives me certain prerogatives, and among those is to say what he has in mind, and I have several things in mind.

Sydney is not only the wife of a Congressman but the daughter of my very good friend, Syd Herlong. We extend to you and your daughters our absolute sincerity and sympathy in the passing of Jed. As a former president of the Association, I had the privilege, of course, of serving very closely with Jed. I have never known an individual any more dedicated to his job and to an organization than Jed was to this. I think most of us would agree with me that if it had not been for Jed Johnson, this organization might well have passed into oblivion sometime ago.

So, Sydney, we do appreciate you, because I know that without a wife a man really is not worth very much. And I can say that from personal experience. I hope that you will not only give our love to your daughters but to your father and mother also.

Now, Jim, I want to congratulate you on a great term. You had the misfortune to be president of this organization during what I will say was a watershed year, but it was much more than that. I was a difficult year because of the fact that Jed is no longer with us. You have handled it beautifully, and I know you will be passing the gavel to Phil Ruppe, who will also handle it beautifully. It is amazing how people who have served in the Congress have all sorts of capabilities that you do not get to really exercise unless you are in the leadership of the Congress. It is really wonderful and it is heartwarming when people who have served in the Congress take over as leaders of this organization and do such a magnificent job. In fact, I do not remember any officer of this organization who has not done a great job. I am looking right at Ab Mikva right now who certainly was a close associate of mine during that time.

I need to announce that there have been 32 Members who have announced their presence. Are there any former Members of the Congress in the House who would like to have their presence recorded whose presence has not previously been recorded? If not, I have one other announcement.

Those of you who desire to take the Capitol tour will assemble in the Speaker's Lobby behind the podium here.

Before I close, let me give my thanks to the Speaker, as well as to the Parliamentarian and his staff, for all the kindnesses that you have shown the former Members, not only this year but in other years past. We thank you, Sir.

The House will stay in recess until 11 a.m. eastern daylight time, of course, and again may I thank all of you who are here and pray that we will all be together at this time next year.

Without motion, I now declare the session of the Association of Former Members of Congress in the House of Representatives adjourned.

Accordingly (at 10 o'clock and 25 minutes a.m.), the House continued in recess until 11 a.m.

□ 1100

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. VISCLOSKY] at 11:05 o'clock a.m.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 1485. An act to extend certain satellite carrier compulsory licenses, and for other purposes.

The message also announced that the Senate agrees to the amendments of the House to the resolution (S.J. Res. 168) "Joint Resolution designating May 11, 1994, as 'Vietnam Human Rights Day'.".

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain 15 1-minutes on each side.

FOCUS ON THE PROBLEMS OF THE HOMELESS

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

Mr. SARPALIUS. Mr. Speaker, I rise today to commend President Clinton and Secretary Henry Cisneros for their leadership in finally addressing the homeless problems that this country is facing.

All of us as Members of the House, when you drove to this Capitol today, you saw people sleeping on the streets. We have a serious problem that must be addressed.

During the Reagan and Bush years, we saw housing assistance was cut by 78 percent, elementary and secondary education by a third, job-training programs by 48 percent, child nutrition by 19 percent. We saw many mental institutions beginning to let people out on the streets. Today nearly a third of the homeless people came from mental institutions.

By 1987, the homeless population more than doubled. Dropouts increased. Teen pregnancy increased. Domestic violence increased. Today we have over 600,000 families in this country who are homeless.

But the sad part is the fastest growing population among the homeless are children. We have 1.5 million children in this country who do not have a home. We are now in the second generation of children growing up in shelters, and one-third of those children are not going to school.

So, Mr. Speaker, I challenge my colleagues to focus on the problems of the homeless in this country.

AN EMPLOYER MANDATE FAVORS MACHINES OVER PEOPLE

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

Mrs. JOHNSON of Connecticut. The real world, Mr. Speaker, is tough. When the cost of hiring goes up, as it will when even the smallest employer has to provide a health plan richer than Xerox's plan, it will simply not be worth hiring a part-time employee or even a full-time employee to do many of the jobs currently done.

We all know the employer mandate will cost jobs, but listen to this from the real world: Service industries are currently reviewing new technologies that would allow them to automate their operations. By buying technology now available, a fast-food restaurant could cut its staff from seven people to two people. Sitting in my office, they lay out spreadsheets that show the only way they can prevent increasing their prices to consumers is to substitute machines for people. These folks are not sharing with me estimates of job losses. They are sharing real world facts about options they will face if we arbitrarily increase their costs with an employer mandate.

We have already seen automation at the expense of jobs of real people in the manufacturing sector. As costs went up, machines took the jobs of real folks. My State of Connecticut is still struggling with the ramifications of such decisions.

Further, a retailer recently sat down in my office and showed me how he would have to increase the productivity of his full-time workers. He would have to have them at work when the customers were in the store. He would have to have them work split shifts, 2 hours here, 4 hours there, 2 hours later in the day. Is forcing people into split-shift work patterns wise and good? Is providing policy incentives to substitute technology for real people earning real wages wise and good? I think not.

We can reform our health care system to control costs and restore access for all. We can address the problems in our health care system without costing jobs. It's time to move forward with true bipartisan reform—now.

PRINTING OF PROCEDURES HAD DURING RECESS

Mr. WISE. Mr. Speaker, I ask unanimous consent that the proceedings had during the recess be printed in the CONGRESSIONAL RECORD and that all Members and former Members who spoke during the recess have the privilege of revising and extending their remarks.

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

There was no objection.

SUPPORT THE BLACK-LUNG BENEFITS RESTORATION ACT

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

Mr. WISE. Mr. Speaker, today the House has a chance to correct the long delays and the procedural barriers that have plagued black-lung recipients for many years.

This is the situation: Imagine it, work a mile underground for 30 or 40 years mining coal and eating coal dust, cough black dust every time you cough, then apply for the benefits that help you pay for your oxygen and medical expenses; oh, oops, you have to wait 4 to 7 years. Then you have to run through numerous medical exams, a lot of procedural hoops.

A lawyer will not take your case, because they know they will not be paid, and chances are you will be dead before the benefits are ever received.

Mr. Speaker, this bill before the House today begins correcting these inequities.

Opponents cannot require more than one medical exam of a claimant. Reasonable attorney's fees for a claimant must be paid. Death is presumed to be from pneumoconiosis if the claimant was receiving black-lung benefits or was disabled by black lung at the time of death.

Mining coal and eating coal dust to mine this Nation's energy is tough enough, Mr. Speaker. Today disabled coal miners and their families finally have a chance to get a little justice.

□ 1110

WHITE HOUSE TRAVEL OFFICE: A SHAMEFUL AFFAIR

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

Mr. CLINGER. Mr. Speaker, on this day, one year ago, 7 employees of the White House travel office were abruptly fired and publicly humiliated by the then-new Clinton administration. Today, a full year later, these former White House employees are still faced with the personal agony of public embarrassment and ever-mounting legal bills.

Despite an internal White House review that concluded that it was guilty only of not being sensitive to the appearance of being insensitive and a General Accounting Office review that avoided the really tough questions, the public's knowledge of this shameful affair has not been enhanced.

The FBI investigation, which began on the same day as the firings, still has not been completed. It is ironic to note that this investigation has lasted nearly twice as long as the investigation of much more complex allegations against Secretary of Commerce Ron Brown.

The GAO report on the White House travel office was just issued on May 2, 1994. Because it fails to fully answer many important questions, the Republican Staff of the Committee on Government Operations is reviewing the GAO work papers in order to determine the depth and objectivity of its review. Following that review, and if warranted by the information developed, as ranking member I intend to renew my previous request for hearings on this matter.

GOOD LUCK AND GOD BLESS JENNIFER CAPRIATI

(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, Jennifer Capriati, she beat Monica Seles, she beat Steffi Graf, she beat Tracy Austin, she beat Martina Navratilova. Ladies and gentlemen, Jennifer Capriati had defeated Chris Evert.

Mr. Speaker, Jennifer Capriati was busted for drugs. The Jennifer Capriati case is not about American teens, I think it is more about American attitudes and values.

When, at all costs, money, win, peewee football, little league baseball, not for youngsters to learn teamwork, but to get the big ring, put them under pressure to get it all.

Ladies and gentleman, what have we done to our country and what have we done with our kids? This is a sad day. I say this: Good luck and God bless Jennifer Capriati in her fight now to defeat a very, very big opponent. I think it is time we all take a look in the mirror and see how we raise our children and what is really happening in America.

WHITEWATER

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

Mr. GRAMS. Mr. Speaker, the Whitewater saga may not be occupying the headlines and airwaves as it did a few months ago but that does not mean the issue has gone away. The way the Democrat leadership in the House is dragging its feet on conducting hearings, you would think that Whitewater was simply a bad collective dream that we have all awoken from and quickly forgotten.

Well, sorry to be the bearer of bad news, but Whitewater may be a nightmare for the White House, but it certainly is not a dream. And until we get some answers I assure you it is not going to fade away.

It is no wonder Americans have such little respect these days for institutions of authority, including Congress and the Presidency. The double standards that exist here are enough to disgust even the casual observer. We pass laws that apply to everyone except Congress. We have conducted over 20 congressional investigations of recent Republican administrations but ignore the potential wrongdoing of the current Democrat administration.

There is a drumbeat of discontent out there. I hear it in Minnesota and all around this country. The double standard being applied to investigating Whitewater is merely symptomatic of a larger festering problem.

Mr. Speaker, it is time this body stopped turning its back on the American people. It is time to end the double standards. It is time to show the public that we are serious about democracy and justice for all, and congressional hearings on Whitewater are a good place to start.

IT IS TIME TO FIX AMERICA'S FAULTY HEALTH CARE SYSTEM

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

Mr. VISCLOSKY. Mr. Speaker, as this Congress considers ways to fix America's health care system, it is easy to get caught up in the political process. Whose plan is up; whose plan is down—all the name-calling and arm-waving that goes with any major piece of legislation. And sometimes, it is easy to forget what is really at stake here: millions of lives and billions of dollars.

Just yesterday, two devastating new studies found that we're actually paying more for less, forcing millions of Americans into emergency health care that is the most expensive for us and the least efficient for them.

These studies also found that millions of Americans are shut out of decent health insurance—and these unlucky Americans are two to three times more likely to die in a hospital as a result.

Let us be clear: we are not talking about paperwork, or bureaucracy, or even high premiums; we're talking about human lives.

In one study, the New England Journal of Medicine found that in our

cities, poor Americans have to rely on expensive emergency room care, because decent care simply is not available to them any other way. And we pick up the tab for that emergency care, often through higher premiums and higher taxes.

Another sobering study found that children without health insurance are less likely to get treatment for potentially devastating medical conditions.

What kind of health care system condemns poor children to suffer bad health just because they were not born into wealth?

What kind of health care system forces people to rely on the kinds of medical care that are least efficient and most expensive, just because we do not have the courage to do something about it?

And how can we, in good conscience, stand up for a status quo that can cost people their lives?

When we take these powerful medical studies into account, there is really no alternative: It is time to fix America's faulty health care system, and make guaranteed, affordable health care the law of the land—instead of just a perk for the privileged.

CLINTON ADMINISTRATION NEEDS COHERENT FOREIGN POLICY AND MILITARY POLICY

(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, Harry Truman once said a leader has to lead, otherwise he has no business in politics. One wonders about the Clinton administration's leadership in international affairs. We talked yesterday and will be talking again tomorrow about defense authorization, one of the most important issues that we have before us.

Mr. Speaker, a strong defense is one of the first responsibilities of the Federal Government, to defend our citizens and defend our freedom. Certainly it is also true that this is not a peaceful world. We have problems in Bosnia and in Haiti, and maybe most importantly, in North Korea and in the Russian Republics and South Africa, the continent.

But before we can describe what the new mission of the defense force is to be and how then we fund that capacity, we have to have a foreign policy. We have to have a foreign policy because the military capacity is part of that; it is the big stick; it is what makes foreign policy work.

What is our role in the world now? How do we extend democracy? Are we the policemen in the world? We have not made that decision, and it is mighty tough to have a military policy without a foreign policy. We need leadership in that area.

DO NOT LEAVE LOCAL GOVERNMENT HOLDING THE GARBAGE BAG

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

Mr. MINGE. Mr. Speaker, this week, in the decision of Carbone versus Clarkston, the U.S. Supreme Court trashed flow control laws in this country. Flow control is the power of local government to determine the ultimate disposition of garbage. This decision severely handicaps our cities and counties abilities to safely dispose of our Nation's garbage.

The Federal Government required State and local governments to dispose of solid wastes in environmentally sensible fashion. It is good, but it is a classic unfunded mandate.

It was expected that local governments could meet this mandate by building new facilities, charging for their use, and directing the flow of garbage to these facilities.

The Supreme Court overturned these local ordinances and has now forced communities to take the risks of unsafe, environmentally hazardous disposition of solid wastes, and threatens the security of $18 billion in outstanding municipal bonds.

Congress must respond by enacting legislation that will give our localities the tools they need to keep our children and our communities safe.

I implore my colleagues not to leave local government holding the garbage bag. instead we must learn how flow control is important to our communities and enact legislation to return to them the power to deal with their solid waste.

PENDING HEALTH CARE LEGISLATION WOULD BE DEVASTATING TO SMALL BUSINESS

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

Mr. HANCOCK. Mr. Speaker, I rise today to express my opposition to employer mandated health coverage included in the President's Health Security Act, and in the health reform legislation currently pending before the Committee on ways and Means. As one of the few small business owners in Congress, I can attest to the devastating effect employer mandates have on economic growth, international competitiveness, and most importantly, employee job security.

Believe me, when this mother of all mandates is handed down to America's job creating companies, businesses will close their doors for good. In fact, a recent study conducted by Consad Research Co., estimates a loss of between 850,000 and 3.8 million jobs.

Ask your constituents what is more important? A job providing income and family support, or a club membership card to a new big government health care program. I think the answer is obvious judging from the fact that the President's plan to take over health care is now dead and buried.

There are reasonable ways to ensure universal access to affordable health care without destroying small business in America. It is time to dismiss the employer mandate for the bad idea it is, and get on with fixing the true problems with our current health care system.

□ 1120

TIME FOR OUR ALLIES TO PAY FOR THEIR SECURITY

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

Mr. BROWN of Ohio. Mr. Speaker, I rise today to support the burden-sharing amendment to the Department of Defense reauthorization bill. We have a chance today to cut Federal spending, to lower the deficit and to lower defense costs without sacrificing military readiness.

The United States has protected Europe for the last 50 years. We provided our European Allies with troops and political support. It is now time that our allies come forward to share the financial burdens that are associated with this security.

The United States is faced with a huge budget deficit, and we must take care of our own financial problems. If we, as a nation, are to continue to provide the security, and the safety and strength to our European Allies, and to Japan, then they must come forward and pay for the security that we have provided them over the past 50 years.

I say to my colleagues, "I don't understand the logic at a time when many communities in the United States are struggling with the effects of base closings that we continue to subsidize the defense of wealthy countries in Western Europe and in Japan. It's time they started to pay their own way instead of relying on Uncle Sam."

THE EMPEROR HAS NO CLOTHES

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

Mr. GOSS. Mr. Speaker, in the story about the emperor, no one but a child would speak the truth and point out the emperor was wearing no clothes. Unlike the emperor, whose loyal subjects did not dare speak out, the truth on health care is coming loudly and clearly, not just from Americans, but from the President's own officials. Last week, Surgeon General Elders suggested to a congressional panel that

emphasis in health care should move away from leading killers, cancer and heart disease, and toward AIDS research, because quote:

Most of the people that die with heart disease and cancer are our elderly population, and we all will probably die with something sooner or later.

Here is the President's Surgeon General, advocating rationing of care and taking away from our seniors. Americans now see Clinton health for what it is—a misguided, Government-run bureaucracy that will lead to rationing, restricting choice, and decreased quality of care. It is no wonder Americans oppose the Clinton health plan. This emperor indeed has no clothes.

THE REEMPLOYMENT ACT OF 1994

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

Mr. KANJORSKI. Mr. Speaker, I rise today to call to the attention of my colleagues an issue that is very important to my district and to the rest of America, and that issue is jobs. Sometime within the next several months, 2,000 workers in Wilkes-Barre, PA, employed at Leslie Fay, Inc., will probably receive the proverbial pink slip indicating that their employment is no longer necessary. They will have lost their jobs in the garment industry to some country such as Guatemala or Mexico, or some other country that can compete at a lower wage than the United States.

This, Mr. Speaker, is the tragedy facing many Americans today. One of the major challenges that this Congress must face is that of creating job opportunities for Americans and reforming our existing programs to see that jobs are available.

I call my colleagues' attention to the Reemployment Act of 1994, an initiative of President Clinton and the Secretary of Labor and this Congress which is second to none. It moves away from the old principle of unemployment compensation, and the maintenance of unemployment, and moves toward reemploying people by providing one-stop shopping and the opportunity to retrain, re-skill, and move people from one industry and one job opportunity into another.

I urge my colleagues to support the President and the leadership of the Congress and join in supporting the Reemployment Act of 1994.

STRICT ENFORCEMENT OF CHILD SUPPORT ORDERS VITAL TO WELFARE REFORM

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

Mrs. ROUKEMA. Mr. Speaker, here is new evidence that we must address: The disgrace of deadbeat dads, and some moms, who can afford to, but do not pay child support is forcing mothers into endless, debasing legal battles just to get the support to which their children are legally and morally entitled. Many of these children are just one step from the welfare rolls. If we are serious about reforming our Nation's welfare system, we must get serious about child support enforcement reform.

That is why I was pleased to hear the news this morning from the State of Maine. Maine has been successful in instituting common sense child support reforms that are working. Maine's law confirms that the reforms recently proposed by the National Commission on Child Support Enforcement and included in my Interstate Child Support Enforcement Act, H.R. 1600, do work. In Maine, parents who refuse to pay child support lose their driver's and professional licenses. In the 9 months since passage of the law, State officials have collected over $1 million per month in overdue support.

My legislation includes these same provisions and more. H.R. 1600 requires all States to make it a crime to refuse to pay child support and, for the first time, would definitely allow States to serve child support orders on out-of-State parents. My bill would also enact bold new initiatives to establish paternity, in the hospital, at the time of birth. Finally, my bill would reduce paperwork, increase use of credit reporting and standardize and expand the role of the IRS.

Mr. Speaker, Americans are demanding an end to welfare as we know it. The Maine reforms are proof that strict enforcement of child support orders is essential to welfare reform. When we institute them nationwide, they will work!

PROVIDING A BRIGHTER FUTURE FOR AMERICANS

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

Mr. GEJDENSON. Mr. Speaker, Secretary Reich and the President are to be commended for the Reemployment Act of 1994.

Mr. Speaker, we have been living with a system that was primarily focused on unemployment and unemployment compensation, but with the changes that are occurring in today's economy in my district and across the Nation that is not enough. Many defense workers, who will be laid off from their jobs, will not be going back to that same plant or facility. A decade ago providing unemployment to bridge a temporary loss of work was adequate. Today the system is simply not working. More than 2,000,000 people have annually lost their jobs, and more than 75 percent of those will not go back to the original jobs.

Mr. Speaker, we need a system that will help train people, sustain them through an education and training period, provide support for them and their families, and then make sure that at the completion of that training they will know where the jobs are, those jobs that will continue into the future. Using the data base that the Secretary of Labor has designed working with various State and Federal agencies, Mr. Speaker, we can help Americans go back to work at jobs that will bring them a brighter future.

IT'S THE STUPID SPENDING

(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, 2 days ago the Washington Post carried a story that read: "White House Wonders Why Interest Rates Keep Rising."

If this is true, then someone needs to buy the White House a mirror.

During the 1992 campaign, the Clinton team had a slogan. It had been: "It's the Economy, Stupid," but since entering office has been the stupid spending.

The only things this administration has cut are either painted camouflage or salute. Last year President Clinton's budget deal was 3 to 1 tax increases to spending cuts.

Not only can the President not bring himself to cut spending, but he opposes anyone else trying to do so as well.

He has opposed Republican attempts to cut spending in each of the last 2 years. He opposed the Penny-Kasich amendment last November, opposed a bipartisan balanced budget amendment this year, and is opposing the A to Z spending cut plan today.

With this kind of record, it is no wonder the Federal Reserve feels it had to do what the administration will not.

THE REEMPLOYMENT ACT OF 1994

(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, I rise to endorse the President's Reemployment Act.

This legislation is long overdue. Our current retraining and job placement effort is a miasma of programs, a cross-stitch of agencies, and a confusing network of support systems that sometimes work, but more often do not.

The President's Reemployment Act creates clarity out of chaos and simplicity out of confusion by consolidating similar job-training and job placement programs into a single program.

Under this bill, no longer will the emphasis be on why a worker lost his

or her job, but how to put hard-working people back into the workplace.

I can testify first-hand that the President's Reemployment Act will work. A similar program is in operation in my district right now. The Monterey County Regional Job Opportunity Center is a one-stop resource and information center for job training, job placement, and worker benefits and assistance.

This job opportunity center assists job seekers with identification of skills and abilities, job retraining, job search preparation and the directed job search. For employers, the job opportunity center assists with recruitment, screening and referral, employee training reimbursements, and identification of potential tax credits.

The President's bill seeks to do the same. It pairs the unemployed with employers who need good, solid workers, and it does it in a simple, straightforward way.

Let us get the President's bill moving so we can put America back to work again!

□ 1130

A MEDICAL MIRACLE IN CALIFORNIA

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

Mr. BAKER of California. Mr. Speaker, I want to talk today about a little girl 13 years old in Laguna Beach named Lauren. Lauren's grandmother, Jean Meredith, is one of my dearest friends. About a month ago they discovered, as they were looking for a genetic defect in little Lauren, that she had an aneurysm in the middle of her brain, and it is right where the blood vessel comes to the optic nerve.

So within 30 days they interviewed three doctors, one in the University of California in San Francisco, one in Stanford, and one in Arizona, who were specialists—yes, specialists in this area. Within 30 days they scheduled an appointment, and they operated and went into her brain and sealed this aneurysm just 2 days ago.

She did not have to go to a regional health alliance; she did not have to go before a regional health board or a national health board that sets global budgets; she did not have to queue up as they do in Canada or in Great Britain. She did not face a shortage of medicine because of price fixing; she did not have to be concerned about a shortage of specialists because everybody in Government here believes all people should be general practitioners.

I would like to say something you cannot say in a public school. I would like to thank God for the miracle in saving Lauren's life. I would like to thank God for the greatest medical system in the world here in the United States. I would like to pray to God that he continue to give us his blessings and keep this Nation No. 1. Let us defeat the health care plan.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. WISE). The Chair would remind those sitting in the gallery that they are here as guests of the House. We welcome your attendance, but we would ask you to refrain from any kind of demonstration of approval or disapproval.

PASSAGE OF REEMPLOYMENT ACT OF 1994 WOULD REVERSE WORKER DISLOCATION TREND

(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, all of us have read the good news about jobs. Our economy is creating jobs—many of them good jobs. But, Mr. Speaker, for many working Americans the news is not good.

This year, over 2 million working Americans will find themselves dislocated from their jobs—set adrift through downsizing, defense cuts, and fundamental structural shifts occuring throughout our economy. This is the highest rate of worker dislocation ever recorded in our history. The average length of unemployment for these dislocated workers is at near post-war records.

Mr. Speaker, it is vital that we act to help these millions of workers make the connection to new and good jobs. The President has taken the first step. The Reemployment Act of 1994 takes our antiquated unemployment program transforms it into a reemployment system that would give dislocated workers, and other unemployed workers, the job search, counseling, training, education and income assistance they must have to connect with and compete effectively for good new jobs.

Now it is up to us to work with the administration, pass the Reemployment Act, and get it to the President's desk for his signature this year. The 2 million Americans losing their jobs this year deserve no less.

SCHOLAR-ATHLETES FROM PENNSYLVANIA'S SEVENTH DISTRICT VISIT WASHINGTON

(Mr. WELDON asked and was given permission to address the House for 1 minute, and to revise and extend his remarks, and include extraneous matter.)

Mr. WELDON. Mr. Speaker, I rise today to welcome and to pay tribute to 43 of the best and brightest young people that I have in my congressional district in Pennsylvania.

Each year I invite every high school in my district to send their outstanding male and female scholar-athletes to Washington for a day so that we can share with them the experience of our Federal Government and have individuals who have been able to combine athletics with academics here in Washington. In the past we have had Senator BILL BRADLEY, who has been a very capable speaker. Today I will have Senator BEN NIGHTHORSE CAMPBELL. These are individuals who have combined athletics and academics in the pursuit of their career goals.

I am very happy to have representatives here today from 24 high schools, from Delaware, Chester, and Montgomery Counties. I am proud of them. I am proud of what they have done, but, more importantly, they are the hope and the opportunity of the future for this great Nation. I look forward to working with them as the future leaders of America.

Mr. Speaker, the list of the visiting scholar-athletes is included as follows:

1994 7TH DISTRICT SCHOLAR-ATHLETES

Academy Park: David Briggs; Shana Houlihan.
Chichester: Joseph Pearson; Kara Rill.
Unionville: Steve Betts.
Spring-Ford Area: Joseph Evans.
Cardinal O'Hara: Justin Reger; Kathleen Heyman.
Pheonixville: Michael Currie; Christing Miller.
Spring-Ford Senior: Gregory Wilson; Sarah Walters.
Devon Prep: Ryan Todd.
Penncrest: Adriene Lee; Byrne Remphrey.
Archmere Academy: Dannielle Kissel.
Sun Vally: Jennifer Herker; Ronald Withelder.
Conestoga: Kelley King; Mark Matz.
Villa Maria: Katrine Prndergast.
Great Valley: Joshua Snyder; Jennifer Devine.
Strath Haven: Amy Speckhals; Matthew (Rocky) Russel.
Ridley: Jaime Schemberg; Gavin Trverso.
Radnor: Raghav Gupta; Kathryn Bergsteinsson.
Springfield: Angie Svernick; Bill Bullard.
Upper Merion: Michael Fabrizio; Daphne-Leigh Hoonce.
Haverford: Sarah Pusey; Zachery Hafer.
Upper Darby: Christoper Rickards; Kathleen Bielli.
Garnet Valley: Chris Meon; Kendra Shambach.
Marple Newtown: Matthew Bayley; Cheryl Videon.
Interboro: Lauri Senkow; Fred Kunze.

COST CONTAINMENT

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

Mr. OLVER. Mr. Speaker, health care costs are out of control.

Americans will spend nearly $4,000 this year on health care.

Their employers spend 12 percent of payroll on health care.

And more than 14 percent of our GDP—$1 trillion—is spent on health care.

Mr. Speaker, these spiraling costs are bleeding our companies and breaking the financial back of our citizens and our companies.

As health care reform moves through the various committees, we must mount a real attack on these staggering costs.

The health care our people receive should be based on their need, not on their ability to pay.

I hope, Mr. Speaker, that when health care reform reaches the floor later this year, we will have an opportunity to vote on the single payer system, which offers the toughest possible measures for controlling these spiralling health care costs.

DEDICATION OF PERKINS PORTRAIT SCHEDULED FOR TODAY AS BLACK LUNG LEGISLATION IS CONSIDERED

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

Mr. RAHALL. Mr. Speaker, I rise to alert my colleagues to an event that is occurring this afternoon that is directly related to legislation that this body will consider as well during the course of today. I inform my colleagues that at 2:15 today in the House Committee on Education and Labor we will unveil the portrait of the late Honorable Carl D. Perkins. At the same time on the floor of this body today, we will be considering legislation to reform the Federal Black Lung Program.

There could be no better tribute to the legacy and to the remarkable career of the distinguished gentleman from Kentucky, Mr. Carl D. Perkins, than to pass this legislation through the House of Representatives today, the day that we unveil the portrait of Carl D. Perkins.

Mr. Speaker, this legislation is all about human justice. I salute the leadership and commend them for scheduling this bill today, and I salute the distinguished chairman of the full Committee on Education and Labor, the gentleman from Michigan [Mr. FORD], as well as the subcommittee chairman, the gentleman from Pennsylvania [Mr. MURPHY], for their leadership in bringing this long overdue legislation to the floor. It may not be a perfect bill, but indeed it is progress over the current system, and it will help to alleviate and help to end the cold bureaucratic nightmare many of our Nation's coal miners have been traveling through in order to obtain their just and legitimate benefits.

CONFERENCE REPORT ON S. 24, INDEPENDENT COUNSEL REAUTHORIZATION ACT OF 1994

Mr. BROOKS submitted the following conference report and statement on the Senate bill (S. 24) to reauthorize the independent counsel law for an additional 5 years, and for other purposes:

CONFERENCE REPORT (H. REPT. 103-511)

The committee of conference on the disagreeing votes of the two Houses on the bill (S. 24), to reauthorize the independent counsel law for an additional 5 years, and for other purposes, 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 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 "Independent Counsel Reauthorization Act of 1994".

SEC. 2. FIVE-YEAR REAUTHORIZATION.

Section 599 of title 28, United States Code, is amended by striking "1987" and inserting "1994".

SEC. 3. ADDED CONTROLS.

(a) COST CONTROLS AND ADMINISTRATIVE SUPPORT.—Section 594 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(l) COST CONTROLS AND ADMINISTRATIVE SUPPORT.—

"(1) COST CONTROLS.—

"(A) IN GENERAL.—An independent counsel shall—

"(i) conduct all activities with due regard for expense;

"(ii) authorize only reasonable and lawful expenditures; and

"(iii) promptly, upon taking office, assign to a specific employee the duty of certifying that expenditures of the independent counsel are reasonable and made in accordance with law.

"(B) LIABILITY FOR INVALID CERTIFICATION.—An employee making a certification under subparagraph (A)(iii) shall be liable for an invalid certification to the same extent as a certifying official certifying a voucher is liable under section 3528 of title 31.

"(C) DEPARTMENT OF JUSTICE POLICIES.—An independent counsel shall comply with the established policies of the Department of Justice respecting expenditures of funds, except to the extent that compliance would be inconsistent with the purposes of this chapter.

"(2) ADMINISTRATIVE SUPPORT.—The Director of the Administrative Office of the United States Courts shall provide administrative support and guidance to each independent counsel. No officer or employee of the Administrative Office of the United States Courts shall disclose information related to an independent counsel's expenditures, personnel, or administrative acts or arrangements without the authorization of the independent counsel.

"(3) OFFICE SPACE.—The Administrator of General Services, in consultation with the Director of the Administrative Office of the United States Courts, shall promptly provide appropriate office space for each independent counsel. Such office space shall be within a Federal building unless the Administrator of General Services determines that other arrangements would cost less. Until such office space is provided, the Administrative Office of the United States Courts shall provide newly appointed independent counsels immediately upon appointment with appropriate, temporary office space, equipment, and supplies.".

(b) INDEPENDENT COUNSEL PER DIEM EXPENSES.—Section 594(b) of title 28, United States Code, is amended—

(1) by striking "(b) COMPENSATION.—An" and inserting the following:

"(b) COMPENSATION.—

"(1) IN GENERAL.—An"; and

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

"(2) TRAVEL EXPENSES.—Except as provided in paragraph (3), an independent counsel and persons appointed under subsection (c) shall be entitled to the payment of travel expenses as provided by subchapter I of chapter 57 of title 5, United States Code, including travel, per diem, and subsistence expenses in accordance with section 5703 of title 5.

"(3) TRAVEL TO PRIMARY OFFICE.—

"(A) IN GENERAL.—After 1 year of service under this chapter, an independent counsel and persons appointed under subsection (c) shall not be entitled to the payment of travel, per diem, or subsistence expenses under subchapter I of chapter 57 of title 5, United States Code, for the purpose of commuting to or from the city in which the primary office of the independent counsel or person is located. The 1-year period may be extended by 6 months if the employee assigned duties under subsection (l)(1)(A)(iii) certifies that the payment is in the public interest to carry out the purposes of this chapter.

"(B) RELEVANT FACTORS.— In making any certification under this paragraph with respect to travel and subsistence expenses of an independent counsel or person appointed under subsection (c), such employee shall consider, among other relevant factors—

"(i) the cost to the Government of reimbursing such travel and subsistence expenses;

"(ii) the period of time for which the independent counsel anticipates that the activities of the independent counsel or person, as the case may be, will continue;

"(iii) the personal and financial burdens on the independent counsel or person, as the case may be, of relocating so that such travel and subsistence expenses would not be incurred; and

"(iv) the burdens associated with appointing a new independent counsel, or appointing another person under subsection (c), to replace the individual involved who is unable or unwilling to so relocate.".

(c) INDEPENDENT COUNSEL EMPLOYEE PAY COMPARABILITY.—Section 594(c) of title 28, United States Code, is amended by striking the last sentence and inserting: "Such employees shall be compensated at levels not to exceed those payable for comparable positions in the Office of United States Attorney for the District of Columbia under sections 548 and 550, but in no event shall any such employee be compensated at a rate greater than the rate of basic pay payable for level ES-4 of the Senior Executive Service Schedule under section 5382 of title 5, as adjusted for the District of Columbia under section 5304 of that title regardless of the locality in which an employee is employed.".

(d) ETHICS ENFORCEMENT.—Section 594(j) of title 28, United States Code, is amended by adding at the end the following new paragraph:

"(5) ENFORCEMENT.—The Attorney General and the Director of the Office of Government Ethics have authority to enforce compliance with this subsection.".

(e) COMPLIANCE WITH POLICIES OF THE DEPARTMENT OF JUSTICE.—Section 594(f) of title 28, United States Code, is amended—

(1) by striking "shall, except where not possible, comply" and inserting "shall, except to the extent that to do so would be inconsistent with the purposes of this chapter, comply";

(2) by adding at the end the following: "To determine these policies and policies under sub-

section (l)(1)(B), the independent counsel shall, except to the extent that doing so would be inconsistent with the purposes of this chapter, consult with the Department of Justice.";

(3) by striking "An independent" and inserting the following:

"(1) IN GENERAL.—An independent"; and

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

"(2) NATIONAL SECURITY.—An independent counsel shall comply with guidelines and procedures used by the Department in the handling and use of classified material.".

(f) PUBLICATION OF REPORTS.—Section 594(h) of title 28, United States Code, is amended by adding at the end the following new paragraph:

"(3) PUBLICATION OF REPORTS.—At the request of an independent counsel, the Public Printer shall cause to be printed any report previously released to the public under paragraph (2). The independent counsel shall certify the number of copies necessary for the public, and the Public Printer shall place the cost of the required number to the debit of such independent counsel. Additional copies shall be made available to the public through the depository library program and Superintendent of Documents sales program pursuant to sections 1702 and 1903 of title 44.".

(g) ANNUAL REPORTS TO CONGRESS.—Section 595(a)(2) of title 28, United States Code, is amended by striking "such statements" and all that follows through "appropriate" and inserting "annually a report on the activities of the independent counsel, including a description of the progress of any investigation or prosecution conducted by the independent counsel. Such report may omit any matter that in the judgment of the independent counsel should be kept confidential, but shall provide information adequate to justify the expenditures that the office of the independent counsel has made".

(h) PERIODIC REAPPOINTMENT OF INDEPENDENT COUNSEL.—Section 596(b)(2) of title 28, United States Code, is amended by adding at the end the following new sentence: "If the Attorney General has not made a request under this paragraph, the division of the court shall determine on its own motion whether termination is appropriate under this paragraph no later than 2 years after the appointment of an independent counsel, at the end of the succeeding 2-year period, and thereafter at the end of each succeeding 1-year period.".

(i) AUDITS BY THE COMPTROLLER GENERAL.—Section 596(c) of title 28, United States Code, is amended to read as follows:

"(c) AUDITS.—(1) On or before June 30 of each year, an independent counsel shall prepare a statement of expenditures for the 6 months that ended on the immediately preceding March 31. On or before December 31 of each year, an independent counsel shall prepare a statement of expenditures for the fiscal year that ended on the immediately preceding September 30. An independent counsel whose office is terminated prior to the end of the fiscal year shall prepare a statement of expenditures on or before the date that is 90 days after the date on which the office is terminated.

"(2) The Comptroller General shall—

"(A) conduct a financial review of a mid-year statement and a financial audit of a year-end statement and statement on termination; and

"(B) report the results to the Committee on the Judiciary, Committee on Governmental Affairs, and Committee on Appropriations of the Senate and the Committee on the Judiciary, Committee on Government Operations, and Committee on Appropriations of the House of Representatives not later than 90 days following the submission of each such statement.".

(j) THRESHOLD INQUIRY.—Section 591(d)(2) of title 28, United States Code, is amended by striking "15" each time it appears and inserting "30".

(k) RECUSAL.—Section 591(e) of title 28, United States Code, is amended to read as follows:

"(e) RECUSAL OF ATTORNEY GENERAL.—

"(1) WHEN RECUSAL IS REQUIRED.—(A) If information received under this chapter involves the Attorney General, the next most senior official in the Department of Justice who is not also recused shall perform the duties assigned under this chapter to the Attorney General.

"(B) If information received under this chapter involves a person with whom the Attorney General has a personal or financial relationship, the Attorney General shall recuse himself or herself by designating the next most senior official in the Department of Justice who is not also recused to perform the duties assigned under this chapter to the Attorney General.

"(2) REQUIREMENTS FOR RECUSAL DETERMINATION.—Before personally making any other determination under this chapter with respect to information received under this chapter, the Attorney General shall determine under paragraph (1)(B) whether recusal is necessary. The Attorney General shall set forth this determination in writing, identify the facts considered by the Attorney General, and set forth the reasons for the recusal. The Attorney General shall file this determination with any notification or application submitted to the division of the court under this chapter with respect to such information.".

(l) DISCLOSURE OF INFORMATION.—Section 592(e) of title 28, United States Code, is amended by inserting after "Except as otherwise provided in this chapter" the following: "or as is deemed necessary for law enforcement purposes".

(m) CLARIFICATION OF AUTHORITY TO USE DEPARTMENT OF JUSTICE PERSONNEL.—Section 594(d)(1) of title 28, United States Code, is amended by adding at the end the following: "At the request of an independent counsel, prosecutors, administrative personnel, and other employees of the Department of Justice may be detailed to the staff of the independent counsel.".

(n) ATTORNEYS' FEES.—Section 593(f) of title 28, United States Code, is amended—

(1) in the last sentence of paragraph (1) by inserting before "Attorney General" the following: "the independent counsel who conducted the investigation and"; and

(2) in paragraph (2)

(A) by striking "may direct" and inserting "shall direct such independent counsel and"; and

(B) by striking all after "subsection," and inserting the following: "addressing—

"(A) the sufficiency of the documentation;

"(B) the need or justification for the underlying item;

"(C) whether the underlying item would have been incurred but for the requirements of this chapter; and

"(D) the reasonableness of the amount of money requested.".

(o) FINAL REPORT.—Section 594(h)(1)(B) of title 28, United States Code, is amended by striking ", and the reasons" and all that follows through the period and inserting a period.

SEC. 4. MEMBERS OF CONGRESS.

(a) DISCRETIONARY AUTHORITY.—Section 591(c) of title 28, United States Code, is amended to read as follows:

"(c) PRELIMINARY INVESTIGATION WITH RESPECT TO OTHER PERSONS.—

"(1) IN GENERAL.—When the Attorney General determines that an investigation or prosecution of a person by the Department of Justice may result in a personal, financial, or political conflict of interest, the Attorney General may conduct a preliminary investigation of such person in accordance with section 592 if the Attorney General receives information sufficient to constitute grounds to investigate whether that person may have violated Federal criminal law other than a violation classified as a Class B or C misdemeanor or an infraction.

"(2) MEMBERS OF CONGRESS.—When the Attorney General determines that it would be in the public interest, the Attorney General may conduct a preliminary investigation in accordance with section 592 if the Attorney General receives information sufficient to constitute grounds to investigate whether a Member of Congress may have violated any Federal criminal law other than a violation classified as a Class B or C misdemeanor or an infraction.".

(b) POSTEMPLOYMENT COVERAGE.—Section 591(b) of title 28, United States Code, is amended—

(1) by striking paragraphs (6) and (7);

(2) by redesignating paragraph (8) as paragraph (6), and, at the end of that paragraph, striking the period and inserting "; and"; and

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

"(7) any individual who held an office or position described in paragraph (1), (2), (3), (4), or (5) for 1 year after leaving the office or position.".

SEC. 5. GROUNDS FOR REMOVAL.

Section 596(a)(1) of title 28, United States Code, is amended by striking "physical disability, mental incapacity" and inserting "physical or mental disability (if not prohibited by law protecting persons from discrimination on the basis of such a disability),".

SEC. 6. REPORT ON WHITE HOUSE OFFICE PERSONNEL.

(a) SUBMISSION OF REPORT.—On July 1 of each year, the President shall submit a report described in subsection (b) to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives.

(b) CONTENTS.—A report under subsection (a) shall, except as provided in subsection (c), include—

(1) a list of each individual—

(A) employed by the White House Office; or

(B) detailed to the White House Office; and

(2) with regard to each individual described in paragraph (1), the individual's—

(A) name;

(B) position and title; and

(C) annual rate of pay.

(c) EXCLUSION FROM REPORT.—If the President determines that disclosure of any item of information described in subsection (b) with respect to any particular individual would not be in the interest of the national defense or foreign policy of the United States—

(1) a report under subsection (a) shall—

(A) exclude such information with respect to that individual; and

(B) include a statement of the number of individuals with respect to whom such information has been excluded; and

(2) at the request of the Committee on Governmental Affairs of the Senate or the Committee on Government Operations of the House of Representatives, the information that was excluded from the report shall be made available for inspection by such committee.

SEC. 7. TRANSITION PROVISIONS.

(a) IN GENERAL.—Except as provided in this section, the amendments made by this Act shall apply with respect to independent counsels appointed before, on, or after the date of enactment of this Act.

(b) ASSIGNMENT OF EMPLOYEE TO CERTIFY EXPENDITURES.—An independent counsel appointed prior to the date of enactment of this Act shall assign to an employee the duty of certifying expenditures, as required by section 594(l) of title 28, United States Code, as added by section 3(a), by the date that is 30 days after the date of enactment of this Act.

(c) OFFICE SPACE.—The Administrator of General Services, in applying section 594(l)(3) of

title 28, United States Code, as added by section 3(a), to determine whether the office of an independent counsel appointed prior to the date of enactment of this Act should be moved to a Federal building, shall take into account the moving, legal, and other expenses that might arise if the office were moved.

(d) TRAVEL AND SUBSISTENCE EXPENSES.—For purposes of the restrictions on reimbursement of travel and subsistence expenses of an independent counsel and employees of an office of independent counsel contained in paragraph (3) of section 594(b) of title 28, United States Code, as amended by section 3(b), as applied to the office of an independent counsel appointed before the date of enactment of this Act, the 1-year service period shall begin on the date of enactment of this Act.

(e) RATES OF COMPENSATION.—The limitation on rates of compensation of employees of an office of independent counsel contained in the last sentence of section 594(c) of title 28, United States Code, as amended by section 3(c), shall not be applied to cause a reduction in the rate of compensation of an employee appointed before the date of enactment of this Act.

(f) PERIODIC REAPPOINTMENT.—The determinations by the division of the court contained in the last sentence of section 596(b)(2) of title 28, United States Code, as amended by section 3(h), shall, for the office of an independent counsel appointed before the date of enactment of this Act, be required no later than 1 year after the date of enactment of this Act and at the end of each succeeding 1-year period.

(g) REPORTING REQUIREMENTS.—No amendment made by this Act that establishes or modifies a requirement that any person submit a report to any other person with respect to an activity occurring during any time period shall be construed to require that a report submitted prior to the date of enactment of this Act, with respect to that time period be supplemented to include information with respect to such activity.

(h) REGULATORY INDEPENDENT COUNSEL.—Notwithstanding the restriction in section 593(b)(2) of title 28, United States Code, the division of the court described in section 49 of that title may appoint as an independent counsel any individual who, on the date of enactment of this Act, is serving as a regulatory independent counsel under parts 600 and 603 of title 28, Code of Federal Regulations. If such an individual is so appointed, such an independent counsel shall comply with chapter 40 of title 28, United States Code, as amended by this Act, in the same manner and to the same extent as an independent counsel appointed before the date of enactment of this Act is required to comply with that chapter, except that subsection (f) of this section shall not apply to such an independent counsel.

(i) WHITE HOUSE PERSONNEL REPORT.—Section 6 shall take effect on January 1, 1995.

And the House agree to the same.

JACK BROOKS,
JOHN BRYANT,
DAN GLICKMAN,
BARNEY FRANK,
Managers on the Part of the House.

JOHN GLENN,
CARL LEVIN,
DAVID PRYOR,
BILL COHEN,
TED STEVENS,
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. 24) to reauthorize the independent counsel law for an additional 5 years, 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 to the text of S. 24 struck out 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 which is a substitute for the Senate bill and House amendment. The differences between the Senate bill, House amendment, and substitute agreed to in conference are noted below, except for clerical corrections, structural changes, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

SECTION 591(b)(6) AND (7): LENGTH OF POSTEMPLOYMENT COVERAGE

1987 law

The 1987 independent counsel law applied on a mandatory basis to certain high level executive branch officials, not only while they occupied a covered office or position, but also for a period of time after they left that office or position. The length of mandatory postemployment coverage varied from a minimum of one year to a maximum of three years.

Senate bill

The Senate bill reduces mandatory postemployment coverage from a maximum of three years to a maximum of one year. For persons who leave a covered office or position within 90 days of a new president's inauguration, the Senate bill eliminates the one-year period of postemployment coverage.

House amendment

The House amendment follows the 1987 law.

Conference agreement

The conference agreement strikes a compromise between the Senate and House provisions by limiting mandatory postemployment coverage to one year after a person leaves a covered office or position, regardless of whether the departure occurs during the term of office of the President who appointed that person or after the expiration of that President's term.

SECTION 591(c): DISCRETIONARY COVERAGE AND MEMBERS OF CONGRESS

1987 law

The 1987 law provided the Attorney General with discretionary authority to use the independent counsel process for any person whose investigation or prosecution by the Department of Justice "may result in a personal, financial or political conflict of interest." This discretionary authority permitted the Attorney General, if a conflict of interest were present, to use the independent counsel process to investigate Members of Congress. However, Members of Congress were not specifically identified as falling within that general category of coverage.

Senate bill

The Senate bill gives the Attorney General specific discretionary authority to use the independent counsel process to investigate Members of Congress. It broadens the standard for invoking the process with respect to Members from requiring a conflict of interest to requiring the Attorney General to find it would be in the public interest. This broader standard would permit the Attorney General to use the independent counsel process for Members of Congress in cases of perceived as well as actual conflicts of interest. In addition, the Senate bill rewords the general discretionary provision to simplify it and to authorize the Attorney General to use the independent counsel process to investigate a "matter" as well as a person.

House amendment

The House amendment also gives the Attorney General specific discretionary authority to use the independent counsel process with respect to Members of Congress. The House amendment does not otherwise change the general discretionary provision that appeared in the 1987 law.

Conference agreement

The conference agreement follows the Senate bill, except that the language giving the Justice Department general discretionary authority to use the independent counsel process to investigate a "matter" as well as any person is deleted, because it would in effect substantially lower the threshold for use of the general discretionary provision. The conference agreement makes no change from the 1987 law in the substantive reach or scope of the general discretionary provision.

SECTION 591(e): RECUSAL BY ATTORNEY GENERAL

1987 law

The 1987 law set forth the standards and procedures governing recusal by the Attorney General in a matter being handled under the independent counsel law.

Senate bill

The Senate bill rewords the provision to make it clear that recusal is automatic in any matter in which the Attorney General is personally involved.

House amendment

The House amendment follows the 1987 law.

Conference agreement

The conference agreement follows the Senate bill.

SECTION 592(a)(2)(B): CRIMINAL INTENT

1987 law

The 1987 law set forth with the Attorney General could close a matter under the independent counsel law based upon a determination that an investigatory subject lacked the intent necessary for a crime to have been committed. The law prohibited any consideration of intent in the context of a threshold inquiry under section 591(d), and permitted closure of a matter after a preliminary investigation under section 592 only if the Attorney General determined there was "clear and convincing evidence" of a lack of criminal intent.

Senate bill

The Senate bill permits the Attorney General to close a matter after either a threshold inquiry under section 591(d) or a preliminary investigation under section 592, if the Attorney General determines there are "no reasonable grounds to believe that the subject acted" with criminal intent and "no reasonable possibility that further investigation would develop such evidence."

House amendment

The House amendment follows the 1987 law.

Conference agreement

The conference agreement follows the House bill. Congress believes that the Attorney General should rarely close a matter under the independent counsel law based upon finding a lack of criminal intent, due to the subjective judgments required and the

limited role accorded the Attorney General in the independent counsel process. Congress also believes that at least one Attorney General abused his authority in this area, that this abuse was the impetus for the statutory restriction in the expired law, and that a statutory restriction remains necessary to prevent future problems.

SECTION 592(e): DISCLOSURE OF COURT FILINGS

1987 law

The 1987 law prohibited employees of the Justice Department and of an independent counsel from disclosing any filing with the special court to any person outside their office without first obtaining a court order.

Senate bill

The Senate bill creates a limited exception to this nondisclosure provision by authorizing disclosure of court filings to outside persons for law enforcement purposes.

House amendment

The House amendment follows the 1987 law.

Conference agreement

The conference agreement follows the Senate bill with a minor change. The Congress intends that this exception should be narrowly construed to permit, for example, giving copies of court filings to an IRS investigator to facilitate examination of a tax matter under the independent counsel's purview or to an agency Inspector General or state prosecutor performing a separate but possibly related criminal investigation to determine whether coordination of the criminal case is appropriate.

In determining whether a proposed disclosure is deemed necessary for law enforcement purposes, Congress intends independent counsels and attorneys for the government to be guided by the law enforcement exception to the grand jury secrecy rules found in Rule 6(e)(3)(A)(ii) of the Federal Rules of Criminal Procedure. That rule allows otherwise prohibited disclosures to be made "to such governmental personnel (including personnel of a state or subdivision of a state) as are deemed necessary by an attorney for the government to assist an attorney for the government in the performance of such attorney's duty to enforce federal criminal law." If no such law enforcement purpose is present, a court order must be obtained prior to disclosure.

SECTION 593(f): ATTORNEY FEES

1987 law

The 1987 law set forth the standards and procedures governing when persons may recover attorney fees incurred in response to independent counsel proceedings. Essentially, to recover fees, a person must have been an unindicted subject of an independent counsel's investigation and incurred fees which would not have been incurred but for the requirements of the independent counsel law. Fee requests were decided by the special court which could ask the Attorney General to file a written evaluation of the reasonableness of the amounts requested, the supporting documentation and the need or justification for each expense.

Senate bill

The Senate bill follows the 1987 law, but adds a sentence stating that no award of attorney fees may be made for fees that would have been incurred if the investigation had been conducted by the Department of Justice. The purpose of this sentence is not to change the standard for awarding fees, but to help illuminate application of the provision which permits reimbursement of only those fees that "would not have been incurred but for the requirements of the independent counsel law" (the "but-for" requirement). The new language indicates that, in judging whether the but-for requirement has been met, a significant factor the special court must consider is whether these fees would have been incurred if the Justice Department had handled the investigation instead of the independent counsel. The Senate bill also expands the written analysis by the Justice Department on fee requests by allowing it to comment on whether the but-for requirement has been satisfied.

House amendment

The House amendment follows the 1987 law.

Conference agreement

The conference agreement strikes a compromise between the Senate and House provisions. It retains the Senate language requiring an expanded analysis of each attorney fee request, and adds a provision directing the special court to obtain this analysis from not only the Department of Justice, but also the independent counsel who handled the investigation. The conference agreement drops the Senate language conditioning payment of attorney fees on whether the same fees would have been incurred if the matter had been handled by the Justice Department, because that concept is already addressed in the existing but-for requirement.

Since the inception of the attorney fee provision, Congress has intended it to be narrowly construed. The conferees believe detailed analyses of fee requests by both the Department and independent counsel, including application of the but-for requirement, will aid the special court in keeping to a narrow construction.

Since the last reauthorization of the independent counsel statute in 1987, a number of decisions awarding attorney fees have been issued by the special court. The conferees believe that several of these decisions were overly generous in interpreting the attorney fee provision.

Illustrative of the conferees' concerns is the 1993 decision awarding attorney fees to former Secretary of State George Shultz *In re: Oliver L. North, Shultz Fee Application*, December 7, 1993). In that decision, the court found that the but-for requirement was met in part because, "in the experience of the Court, it is not reasonable to expect that a professional prosecutor" would begin to treat a witness as the subject of an investigation "four and one-half years after the commencement'" of the case. Congress did not intend the but-for requirement to be used as a vehicle for the special court to rule on the wisdom or timing of an independent counsel's prosecutorial decisions. The opinion also held that the but-for requirement was met in part because the investigation centered on violation of the Boland Amendment, which the Justice Department had determined was not a criminal statute. In fact, the independent counsel subsequently indicated that the Shultz investigation centered on false testimony and concealed documents relating to Iran arms sales and not at all on the Boland Amendment. This misreading of the basis of the investigation may have been the result of the court's decision to handle the fee application under seal, on an ex parte basis, and without its usual practice of affording the independent counsel an opportunity to comment. In another case, the court appears to have awarded attorney fees to a subject, because it surmised that had the Attorney General been able to use a grand jury during the preliminary investigation, the case might have been closed after "a non-public summary investigation."

Such recent court decisions suggest that the special court may be viewing the attorney fee provision as one which should routinely result in fee awards. That has not been Congress' intent because, were it not for the existence of the independent counsel statute, the Department of Justice may well have investigated these same matters and, had it done so, no attorney fees would be recoverable under any circumstances. The court has, on occasion, accurately quoted legislative history stating that an attorney fee award under the independent counsel law "is warranted, if at all, in only rare instance" and "should not become a routine event." In reauthorizing the statute, the Congress reaffirms its original intent, as reflected in legislative history, that the special court construe the but-for requirement of the attorney fee provision narrowly.

Finally, the conferees not the special court's decision in the *Shultz* matter that an hourly rate of $370 is reasonable under the law. The court observed that the Justice Department describes this rate as "extraordinarily high," but stated that the law "provides no particular guidance for our determination of standards of reasonableness." It also cites two opinions from 1989 and 1990, subsequent to the 1987 reauthorization of the law, approving similar hourly rates.

In response to the court's invitation to provide guidance in evaluating the reasonableness of hourly rates requested by defense counsel under the independent counsel law, the conferees note that Congress did not intend that properly recoverable attorney fees under this statute be construed to be what the market will bear in the private sector. Rather, Congress intends that the reasonableness of attorney fee requests under the independent counsel law be judged, not solely with reference to the rates commanded by expensive legal counsel, but also with reference to what cost is reasonable for the taxpayers to bear.

Three statutes provide the special court with the guidance it seeks in evaluating the reasonableness of attorney fees requested by defense counsel under the independent counsel statute. First, by law, the independent counsel is compensated at the per diem rate equal to the annual rate of basic pay payable for level IV of the Executive Schedule, which is currently set at $115,700. At that annual rate of pay, the independent counsel's compensation is approximately $55 per hour. Second, the Equal Access to Justice Act, Public Law 96–481, which allows Federal courts to award attorney fees to private parties in suits against the United States, limits the amount of attorney fee recovery to "$75 per hour unless the court 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." 28 U.S.C. 2412(d)(2)(A). Third, fees to private defense counsel who are paid by the United States pursuant to the Criminal Justice Act of 1984, Public Law 88–455, to represent indigent defendants in Federal criminal cases, are currently limited to "$60 per hour for time expended in court or before a United States magistrate and $40 per hour for time reasonably expended out of court, unless the Judicial Conference determines that a higher rate of not in excess of $75 per hour is justified for a circuit or for particular districts within a circuit, for time expended in court or before a magistrate and

for time expended out of court." 18 U.S.C. 3006A(d)(1).

These three statutes identify hourly rates, ranging from $40 to $75 per hour, which Congress has determined are reasonable and may be fully reimbursed with taxpayer dollars. Although by design the independent counsel law does not impose a specific ceiling on the hourly rates payable to defense counsel, hourly rates of $300 and $400 generally so far exceed other statutorily approved rates that they should not be fully recoverable under the independent counsel law. While individuals remain free, of course, to employ any defense counsel they choose, they should be on notice that the independent counsel law may not authorize payment of taxpayer dollars to reimburse fully all of the fees they incur.

SECTION 594(b): INDEPENDENT COUNSEL TRAVEL EXPENSES

1987 law

The 1987 law contained no explicit direction on whether an independent counsel was subject to federal law regarding travel expenses, whether executive or judicial branch requirements applied, or whether expenses were reimbursable for travel to and from an independent counsel's primary office if that independent counsel resided elsewhere.

Senate bill

The Senate bill provides that independent counsels and their staffs are subject to the same restrictions on travel expenses as other federal executive branch employees. It also states that, after one year of service, independent counsels and their staffs are not entitled to travel and per diem expenses to commute to and from the city in which their primary office is located or subsistence expenses at such location, except that an independent counsel's certifying official may approve payment of these expenses for an additional three months if the official determines the investigation "will likely be concluded within that time period."

House amendment

The House amendment contains similar provisions to those in the Senate bill, except that the one-year limit on reimbursement of expenses relating to the primary office may be extended for successive 6-month periods if the certifying officials, after considering certain specified factors, determines payment would be in the public interest.

Conference agreement

The conference agreement follows the House amendment, except that the one-year limit on reimbursement of expenses relating to the primary office may be extended for only one 6-month period. The conference agreement also makes it clear that the prohibition on reimbursement of travel, per diem and subsistence expenses applies only to expenses incurred by independent counsels or their staff in commuting to and from their primary office, and does not prohibit reimbursement of their expenses for traveling elsewhere.

SECTION 594(c): STAFF COMPENSATION

1987 law

The 1987 law specified that staff hired by the independent counsel could not be compensated at a rate exceeding the maximum rate of pay payable for GS–18 of the General Schedule under section 5332 of title 5. The law provided no other guidance on staff compensation.

Senate bill

The Senate bill states that employees hired by the independent counsel may not be paid at a rate greater than Level IV of the Executive Schedule under 5315 of title 5. This rate is comparable to the GS–18 rate which no longer exists under the current General Schedule. In addition, the bill directs the independent counsel to compensate staff at levels not to exceed those payable for comparable positions in the U.S. Attorney's Office for the District of Columbia.

House amendment

The House amendment provides that no more than 2 employees of the independent counsel may be compensated at a rate equal to Level V of the Executive Schedule and that remaining staff may not be compensated at a rate greater than GS–15 of the General Schedule.

Conference agreement

The conference agreement strikes a compromise between the House and Senate provisions. It specifies that no independent counsel staff may be compensated at a rate greater than Level 4 of the Senior Executive Service Schedule, as adjusted by locality pay applicable to the District of Columbia, and that no staff compensation level may exceed that payable for comparable positions in the U.S. Attorney's Office for the District of Columbia. It is the intent of these provisions that independent counsels pay reasonable salaries commensurate with an employee's experience and job responsibilities and that only the most senior assistants receive the maximum rate allowable for staff. No independent counsel should pay all or even most staff attorneys at the maximum permissible rate, nor should part-time counsel be paid at the billable hourly rate they receive when privately employed. Congress intends by these provisions to conserve taxpayer dollars, while ensuring staff salaries in an independent counsel's office are comparable to those paid to other federal prosecutors.

SECTION 594(D): JUSTICE DEPARTMENT ASSISTANCE

1987 law

The 1987 law provided that the independent counsel may request assistance from the Department of Justice in carrying out the law, and the Department was required to provide that assistance, including use of Department resources and personnel.

Senate bill

The Senate bill requires the independent counsel to request such assistance, and the Department to provide it.

House amendment

The House amendment follows the 1987 law.

Conference agreement

The conference agreement strikes a compromise between the House and Senate approaches, by clarifying the existing authority of independent counsels, at their option, to ask the Department of Justice to detail to their staffs, on a reimbursable or nonreimbursable basis, prosecutors, administrative personnel, or other persons employed by the Department. Independent counsels have already made frequent use of FBI detailees, who are employees of the Justice Department; it is the intent of this provision to clarify, not alter, the authority for that practice. While the Justice Department is encouraged to support the work of independent counsels by facilitating details, it does retain the authority to decline an independent counsel's request for a specific detailee.

This provision is intended to allow independent counsels to take advantage of the expertise of Justice Department personnel. Department employees accepting a detail under this law must understand that, during the detail, they owe their allegiance solely to the independent counsel, and it would be a serious breach if they were to violate that allegiance by, for example, providing unauthorized information to the Department or other parties. This obligation must be made clear to the detailee by both the Department and the independent counsel.

SECTION 594(F): COMPLIANCE WITH JUSTICE POLICIES

1987 law

The 1987 law required independent counsels to comply with Department of Justice policies on criminal law enforcement "except where not possible."

Senate bill

The Senate bill requires independent counsel compliance with Department policies on criminal law enforcement "except to the extent that to do so would be inconsistent with the purposes" of the independent counsel law. It also requires the independent counsel to consult with the Department on its law enforcement and spending policies "to the extent possible throughout his or her term of office."

House amendment

The House amendment contains the same provision as the Senate bill, except that it does not require independent counsels to consult with the Department on law enforcement and spending policies "except where to do so would be inconsistent with the purposes" of the independent counsel law. This standard is consistent with the rest of the section and signals the need for independent counsels to balance the goal of handling matters in the same way as other federal prosecutors with the goal of retaining appropriate independence. By including this provision, Congress affirms its intent that independent counsels engage in appropriate consultation with the Department of Justice.

SECTIONS 594(H)(1) AND 595(A)(2): INDEPENDENT COUNSEL REPORTS

1987 law

The 1987 law required independent counsels to file with the special court semi-annual expense reports under section 594(h)(1)(A), and a final report under section 594(h)(1)(B) "setting forth fully and completely a description of the work of the independent counsel, including the disposition of all cases brought, and the reasons for not prosecuting any matter within the prosecutorial jurisdiction of such independent counsel." In addition, independent counsels were permitted under section 595(a)(2) to "submit to the Congress such statements or reports on the activities of such independent counsel as the independent counsel consider[ed] appropriate."

Senate bill

The Senate bill amends section 595(a)(2) to require independent counsels to report to Congress quarterly on "all monies expended" and annually on "their activities, including a description of the progress of any investigation or prosecution * * * adequate to justify the expenditures" made. In addition, the Senate bill narrows the scope of the final report required under section 594(h)(1)(B) by removing requirements that it be full and complete and that it explain the reasons for not prosecuting any matter.

House amendment

The House amendment adopts the Senate's proposed change to section 595(a)(2) requiring independent counsels to report to Congress annually on their activities, but does not

otherwise amend the reporting requirements contained in the 1987 law.

Conference agreement

The conference agreement strikes a compromise between the House and Senate approaches.

First, in response to the desire to increase fiscal controls on independent counsels, the conference agreement replaces the Senate requirement for quarterly expense reports by independent counsels with requirements for increased financial oversight by the General Accounting Office (GAO). The conference agreement requires GAO to conduct a financial review of independent counsel expenditure statements at mid-year, a full audit at year-end, and another full audit at termination of each independent counsel's office. Requiring this additional oversight by a third party auditor, rather than requiring additional reports by an independent counsel, is believed to be a more effective fiscal control on expenditures. The conferees also direct independent counsels when preparing their expenditure statements to consult with GAO and to prepare them in a format which will facilitate GAO's financial oversight.

Second, in response to concerns about the proper scope of the final report, the conference agreement retains the requirement in the 1987 law that these reports include a full and complete account of the independent counsel's activities, but eliminates the requirement that the independent counsel explain the reasons for not prosecuting any matter.

Requiring a prosecutor to file a final report that may become a public document is unique to the independent counsel process; other federal prosecutors are neither required nor expected to issue such a public report. The final report requirement thus must be understood to be an exception to the norm.

This exception is justified by the unique environment in which an independent counsel must operate—without direct and ongoing supervision by senior Justice Department officials. It serves as an important check on independent counsel investigative and prosecutorial activities by requiring them to identify and explain their actions.

Because this reporting requirement is unique in the federal criminal justice system, the conferees recognize the importance of making the objectives and intended limits of the report clear.

The conference agreement reaffirms the duty of independent counsels to provide a full and complete description of their work. Congress continues to view this requirement as a key measure for insuring accountability. Under this provision, independent counsels are expected to provide a summary of the key steps taken in the investigatory and prosecutorial stages of their work and to explain the basis for their decisions.

Congress also wants to clarify, however, that independent counsels are not expected to and should not take additional investigative steps, such as additional interviews or document requests, in order to produce a detailed report. No investigation by an independent counsel should be lengthened or deepened simply because of the final report requirement. The report should instead reflect only the work required for a prosecutor to execute his or her normal investigative and prosecutorial responsibilities.

The conference agreement eliminates the requirement that independent counsels explain, in every instance, their reasons for not prosecuting any matter within their jurisdiction. Other federal prosecutors do not normally provide public explanations of decisions not to indict and, in deviating from this norm, independent counsels must exercise restraint. The power to damage reputations in the final report is significant, and the conferees want to make it clear that the final report requirement is not intended in any way to authorize independent counsels to make public findings or conclusions that violate normal standards of due process, privacy or simple fairness.

The conferees believe that, in assessing whether an explanation should be provided with respect to a specific unindicted individual, an independent counsel should base the decision on whether it would be in the public interest for such information to be disclosed. The public interest encompasses a wide range of concerns which need to be carefully balanced, including understanding the basis for the independent counsel's decision not to indict; taking into account the extent to which the individual was central or peripheral to the independent counsel's jurisdictional mandate; exonerating the innocent; and protecting individual rights to due process, privacy and fairness. For example, it may be in the public interest to report that the evidence did not sustain the allegations that gave rise to the investigation or that the evidence demonstrates an individual's innocence.

With regard to an individual whose conduct was only tangential to that of the person for whom the independent counsel was appointed, an independent counsel should normally refrain from commenting on the reason for not indicting that person unless it is to affirm a lack of evidence of guilt. On the other hand, the conferees consider to be crucial a discussion of the conduct of the person for whom the independent counsel was appointed to office. This discussion should focus on the facts and evidence and avoid use of conclusory statements in the absence of an indictment. However, in the rare event that an indictment is forestalled because of an event beyond the control of the independent counsel, public accountability may well require such independent counsel to express a professional opinion on whether the grounds for an indictment had been present.

The same concerns apply to the new requirement in both House and Senate bills for independent counsels to file annual reports on their activities. The conferees caution independent counsels to exercise the same degree of restraint and responsibility in issuing those interim reports.

SECTION 594(H)(2): DISCLOSURE OF FINAL REPORT

1987 law

The 1987 law authorized the special court to release a final report filed by an independent counsel after making provisions to ensure that the rights of any individual named in the report and any pending prosecution are protected.

Senate bill

The Senate bill follows the 1987 law.

House amendment

The House amendment follows the 1987 law, but adds language encouraging the court to release the report and associated material if the court determines it would be in the public interest and would be consistent with maximizing public disclosure, ensuring a full explanation of the independent counsel's activities and decisionmaking, and facilitating the release of information which the independent counsel had determined should be disclosed.

Conference agreement

The conference agreement follows the Senate bill. The conferees agree that the standards in the 1987 law on releasing a final report to the public are not overly restrictive, as evidenced by the special court's decision to release the final report in the Iran-Contra matter despite numerous motions by persons named in the report to repress all or portions of it. For this reason, the conferees have determined that additional statutory language encouraging disclosure is unnecessary.

SECTION 594(1)(2): ADMINISTRATIVE SUPPORT

1987 law

The 1987 law did not address the issue of administrative support for independent counsels.

Senate bill

The Senate bill states that the Administrative Office of the U.S. Courts "Shall provide administrative support and guidance to each independent counsel." It also relieves the Administrative Office of any obligation to disclose information about an independent counsel's operations without the express authorization of that independent counsel. The bill also requires the independent counsel to authorize such disclosure by the Administrative Office unless to do so "would interfere with a pending investigation or prosecution."

House amendment

The House amendment contains a similar provision as the Senate bill, but is not specific as to when an independent counsel should authorize disclosures by the Administrative Office.

Conference agreement

The conference agreement follows the House amendment. The purpose of this provision on administrative matters is threefold. First, it clarifies the responsibility of the Administrative Office to provide administrative support for independent counsel operations. The Administrative Office has been providing this support informally for many years, but the statutory basis for its actions has not been explicit.

Second, the provision makes it clear that the Administrative Office should provide independent counsels with not only the administrative services they need, but also guidance on complying with federal personnel, administrative and procurement requirements. This guidance is sorely needed by offices that have a limited duration and little familiarity with federal procedures. To provide this guidance and develop an institutional memory for how matters have been handled by past independent counsels, the conferees strongly urge the Administrative Office to develop written material to assist new independent counsels in establishing their offices, hiring staff and conducting their work.

By using the words "support and guidance" to describe the Administrative Office's functions, Congress intends for the Administrative Office to provide independent counsels with informed advice, but not to exercise decisionmaking authority for specific actions. Actions taken by an independent counsel's office remain the responsibility of the independent counsel in charge. At the same time, the support and guidance provided by the Administrative Office can serve independent counsels unfamiliar with federal requirements by providing them with the information needed for informed decisions.

The third purpose of this provision is to shield the Administrative Office from conflicts that may arise when Congress, the

press or others seek, information about independent counsel activities. In the past, some pressed the Administrative Office to provide information which an independent counsel had declined to provide. This provision makes it clear that an independent counsel's decision not to release information may not be circumvented by directing information requests to the Administrative Office. Moreover, Senate language directing independent counsels to authorize the Administrative Office to disclose information "unless it would interfere with a pending investigation or prosecution" is not included, because this language could encourage information requests to be directed to the Administrative Office instead of directly to an independent counsel.

It is the intent of Congress that independent counsels, not the Administrative Office, have sole responsibility for responding to information requests. When confronted with such requests, independent counsels have the same disclosure obligations that apply to the Department of Justice, except where such disclosure would be inconsistent with the purposes of this Act. The independent counsel is also subject to the disclosure requirements of the Freedom of Information Act, and Congress urges all independent counsels to be responsive and forthcoming to such requests for information.

SECTION 593(H): GOOD CAUSE REMOVAL

1987 law

The 1987 law states that an independent counsel may be removed from office by the Attorney General "for good cause."

Senate bill

The Senate bill follows the 1987 law, but adds a sentence indicating that good cause for removal would include an independent counsel's failure to follow written Justice Department guidelines and violation of applicable canons of ethics.

House amendment

The House amendment follows the 1987 law.

Conference agreement

The conference agreement follows the House amendment. By eliminating the Senate language, the conferees do not mean to suggest that a refusal to follow important Department guidelines or that a serious violation of ethics could not be grounds for removal; they—like many other circumstanes—do provide potential grounds for removing an independent counsel from office.

SECTION 596(B): PERIODIC REAPPOINTMENT

1987 law

The 1987 law authorized the special court, on its own motion or at the request of the Attorney General, to terminate an independent counsel's office if that independent counsel's work had "been completed or so substantially completed that it would be appropriate for the Department of Justice to complete" any remaining tasks.

Senate bill

The Senate bill retains the 1987 provision, but adds a requirement that the special court determine whether termination is warranted under the provision "no later than 2 years after the appointment of an independent counsel or the reported expenditures by such independent counsel have reached $2 million, whichever occurs first, and at the end of each succeeding 1-year period."

House amendment

The House amendment retains the 1987 provision, but adds a requirement that the special court determine whether termination is warranted under the provision "no later than 3 years after the appointment of an independent counsel and at the end of each succeeding 3-year period."

Conference agreement

The conference agreement strikes a compromise between the House and Senate provisions, requiring the special court to determine whether termination is warranted under the provision no later than 2 years after appointment of an independent counsel, at the end of the succeeding 2-year period, and then at the end of each succeeding 1-year period.

The purpose of this provision is to ensure that the special court inquiries on a periodic basis, with respect to each independent counsel, as to whether that independent counsel's work is complete. It is not intended to establish deadlines for the completion of this work. Nor is it intended to provide the special court with new termination authority that did not exist at the time the law was reviewed by the Supreme Court in *Morrison* v. *Olson*. that case formulated a narrow construction of the special court's termination authority, and Congress intends for this new provision to be construed within the bounds of that narrow construction. The sole purpose of the new provision is to ensure that the special court exercises its Constitutionally-defined authority on a periodic basis.

The special court is expected to make the required determination within the statutorily specified period. If it should fail to do so, however, the relevant independent counsel would not be affected. Rather, the court would be obligated to make the needed determination as soon as possible. Until then, the relevant independent counsel would be authorized to continue in office.

OTHER PROVISIONS

With minor changes, the Senate recedes to the House on section 3(a)'s provision creating a new section 594(1)(1)(A) (certifying official); section 3(e)'s provision creating a new section 594(f)(2) (national security procedures); and section 5's amendment of section 496(a)(1) (removal for physical or mental disability). The House recedes to the Senate on section 2's provision relating to the five-year reauthorization; section 3(a)'s provision creating a new section 594(1)(3) (office space); and section 3(j)'s amendment of section 591(d) (30-day period to determine need for preliminary investigation).

REPORT ON WHITE HOUSE PERSONNEL

Senate bill

The Senate bill contains a non-germane provision requiring the White House to file a semi-annual report identifying the names and salaries of persons employed or detailed to the White House.

House amendment

The House amendment has no comparable provision.

Conference agreement

The conference agreement follows the Senate bill with simplifying changes and an exception for disclosures which would not be "in the interest of national defense or foreign policy." The conferees intend that this exception be construed narrowly, and that it be applied in a manner similar to section 552(b)(1)(A) of the Freedom of Information Act, which permits the withholding of information "specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy." The conference agreement requires the report to identify the total number of individuals for whom information is excluded, and requires that access to this excluded information be provided to the Senate Governmental Affairs Committee or House Government Operations Committee, upon the Committee's request. The conferees intend that, upon receiving such a request, prompt access to the excluded information be provided to the person or persons (including Committee staff) designated by the requesting Committee to review such information.

EFFECTIVE DATE AND TRANSITION PROVISIONS

Senate bill

The Senate bill is effective on the date of enactment, except for the provisions limiting staff salaries which are applied only to staff hired after the date of enactment of the law. The bill does not address the status of the 1987 law.

House amendment

The House amendment is effective on the date of enactment. In the section reauthorizing the law, the amendment states that the 1987 law must be considered as if it had not expired.

Conference agreement

Both the House and Senate intend to reauthorize the independent counsel law for an additional five years. In December 1992, the 1987 independent counsel law ceased to be effective except with respect to independent counsel proceedings then pending. Because two of the three independent counsel proceedings then in existence remain ongoing, the 1987 law has remained on the federal statute books and in effect for those proceedings.

The conferees agree that because this law has remained on the books and in effect for ongoing independent counsel proceedings, and because it has never been repealed, it can be amended to reauthorize the law for all purposes. Accordingly, section 2 of the conference agreement reauthorizes the law, as amended, for an additional five years, and section 7(a) applies the amended law to existing independent counsel proceedings, subject to certain transition provisions.

The transition provisions in section 7 primarily resolve how to apply specific provisions in the amended law to ongoing independent counsel cases.

Section 7(b) states that existing independent counsels shall have 30 days after the date of enactment to appoint the certifying official required by the new section 594(1)(1)(A)(iii).

Section 7(c) states that, in applying to existing independent counsels the new requirement in section 594(1)(3) to use federal office space unless other arrangements would cost less, the Administrator of the General Services Administration is directed to take into account moving, legal and other costs that may arise if an independent counsel is required to move to new offices.

Section 7(d) states that the new restriction on reimbursement of certain travel expenses added by section 594(b)(3) shall apply to existing independent counsel operations by restricting expenses incurred one year after the enactment of this Act. The new restriction on travel expenses is not intended to be applied retroactively.

Section 7(e) states that the compensation restrictions added by section 594(c) shall not be applied to cause a reduction in the compensation paid to any employee appointed before the date of enactment of this Act.

Section 7(f) states that the new requirements added by section 596(b)(2) shall be ap-

plied to existing independent counsel operations to require, for each independent counsel, a determination by the court one year after the date of enactment of this Act and thereafter at the end of each succeeding 1-year period.

Section 7(g) states that, in applying new reporting requirements to existing independent counsel operations, these provisions should be interpreted so as not to require any retroactive reports.

Section 7(h) addresses a different concern, involving pending independent counsel proceedings which are regulatory rather than statutory in nature. It creates a transition provision for "any individual serving, at the time of enactment of this Act, as a regulatory independent counsel under Parts 600 and 603 of title 28 of the Code of Federal Regulations."

The 1987 independent counsel law and this reauthorization prohibit the special court from appointing as an independent counsel "any person who holds any office of profit or trust under the United States." 28 U.S.C. 593(b)(2). That provision ensures that the effectiveness of individuals who are chosen to serve as independent counsel will not be impaired as a result of divided loyalty or perceived conflicts of interest.

While the conferees believe that this provision should be continued, the conferees also believe that special circumstances exist with regard to the regulatory independent counsel who was appointed in In re Madison Guaranty Savings and Loan Association. That counsel was appointed from outside the Federal Government by the Attorney General, pursuant to 28 C.F.R. Part 600 et seq., during the period in which the Attorney General lacked the authority to seek appointment by the court of a statutory independent counsel for new matters. Given those circumstances, the conferees believe that it is appropriate for the special court to have the option to appoint the same person as the statutory independent counsel, should the statute be triggered with regard to the allegations that such regulatory independent counsel is currently investigating.

The conferees express no opinion on whether the statute will or should be triggered. That decision rests solely with the Attorney General. Nor do the conferees express any opinion on whether, if triggered, the special court will or should appoint the current regulatory independent counsel as the statutory independent counsel. That decision rests solely with the special court.

The conference agreement requires any regulatory independent counsel, if appointed by the special court as a statutory independent counsel, to abide by the provisions of the independent counsel law, as amended by this Act, to the same extent as statutory independent counsels appointed prior to the enactment of this Act. The only exception is that section 7(f)'s accelerated schedule of court reviews of existing matters to determine whether their termination is appropriate would not apply; instead, the provisions of section 596(b)(2), as amended by section 3(h) of this Act, would apply.

Finally, section 7(i) states that the new reporting requirements for White House personnel added by section 6 of the Act shall take effect on January 1, 1995.

And the House agree to the same.

That the Senate recede to the House's amendment to the title of the bill, so that it will be the "Independent Counsel Reauthorization Act of 1994."

JACK BROOKS,
JOHN BRYANT,
DAN GLICKMAN,
BARNEY FRANK,
Managers on the Part of the House.

JOHN GLENN,
CARL LEVIN,
DAVID PRYOR,
BILL COHEN,
TED STEVENS,
Managers on the Part of the Senate.

BLACK LUNG BENEFITS RESTORATION ACT OF 1994

Ms. SLAUGHTER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 428 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 428

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2108) to make improvements in the Black Lung Benefits Act. The first reading of the bill shall be dispensed with. Points of order against consideration of the bill for failure to comply with section 401(b)(1) of the Congressional Budget Act of 1974 are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor. After general debate the bill shall be considered for amendment under the five-minute rule for a period not to exceed three hours (excluding time consumed by recorded votes and proceedings incidental thereto). It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule an amendment in the nature of a substitute consisting of the text of H.R. 4415. The amendment in the nature of a substitute shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

□ 1140

The SPEAKER pro tempore (Mr. WISE). The gentlewoman from New York [Ms. SLAUGHTER] is recognized for 1 hour.

Ms. SLAUGHTER. Mr. Speaker, I yield the customary 30 minutes of debate time to the gentleman from Tennessee [Mr. QUILLEN] pending which I yield myself such time as I may consume. During consideration of the resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 428 is an open rule providing for the consideration of H.R. 2108, the Black Lung Benefits Restoration Act.

The rule waives section 401(b)(1) of the Congressional Budget Act against consideration of the bill only. That section of the Budget Act prohibits consideration of new entitlement authority which becomes effective prior to October 1 of the year in which it is reported. This is a technical waiver which will be corrected by the substitute which this rule will make in order. The original bill as reported from the Committee on Education and Labor did not contain an effective date and therefore theoretically could have allowed spending to occur in fiscal year 1994.

The rule makes in order an amendment in the nature of a substitute consisting of the text of H.R. 4415 as an original bill for the purposes of amendment. The substitute is identical to the reported bill except for adjustments to include an effective date. Therefore when the new text is made in order upon passage of the rule, there will not be any Budget Act violation.

The substitute shall be considered as read.

The rule provides for 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor.

The rule further provides for a limit of 3 hours, excluding the time for votes, for consideration of the bill for amendment.

Finally, the rule provides for one motion to recommit with or without instructions.

Mr. Speaker, H.R. 2108, the bill for which the Rules Committee has recommended this rule, would amend the Black Lung Benefits Act to ensure that process of determining eligibility for black lung benefits is objective and that beneficiaries and their families and survivors are treated fairly.

In a series of oversight hearings since 1990, the Education and Labor Committee discovered that the Black Lung Benefits Program had been restricted to the point that only 5 percent of miners' claims are approved. The committee heard repeated testimony that retired miners and their families have been terrorized by unscrupulous collection agencies hired by the Government to reclaim benefits legally paid to claimants while their cases were on appeal.

H.R. 2108 is designed to make the determination of eligibility for black lung benefits fairer and speedier. In addition, the bill would remove the overpayment repayment requirement if those receiving interim benefits are later found to be ineligible.

Mr. Speaker, I ask my colleagues to support this open rule so that we may proceed with consideration of the merits of this important legislation.

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

Mr. QUILLEN. Mr. Speaker, I thank the gentlewoman from New York for yielding.

Mr. Speaker, I am pleased to rise in support of this open rule providing for consideration of the Black Lung Benefits Restoration Act. We all know the problems in the coal mining areas which bring about the black lung disease, and they need help.

Mr. Speaker, I am pleased that this is an open rule. Unusual, indeed, but nevertheless, welcome.

Initially there was a great deal of concern that this bill violated the budget act because it technically could have allowed new entitlement authority in this fiscal year.

Although the rule does waive section 401(b)(1) of the Budget Act, it also makes in order substitute text containing an October 1, 1994, effective date. Therefore, upon adoption of this rule, there will be no violation of the Budget Act.

The Federal Black Lung Program provides monetary reimbursements to current and former coal miners who are totally disabled by black lung disease. The program also provides benefits for dependents and survivors.

There are many problems with the current program. It is extremely difficult for claimants to obtain benefits. The Black Lung Trust Fund is about $3.9 billion in debt, and the financing is causing a financial hardship on the coal industry. This bill attempts to address these problems and others, but there are substantial concerns over many provisions of the bill, some of which I share.

This open rule will allow Members to offer germane amendments to address their particular interests.

Mr. Speaker, I submit for the RECORD a comparative chart on open versus restrictive rules, and I urge my colleagues to adopt this rule so we can proceed with the consideration of this legislation.

OPEN VERSUS RESTRICTIVE RULES 95TH–103D CONG.

Congress (years)	Total rules granted [1]	Open rules		Restrictive rules	
		Number	Percent [2]	Number	Percent [3]
95th (1977–78)	211	179	85	32	15
96th (1979–80)	214	161	75	53	25
97th (1981–82)	120	90	75	30	25
98th (1983–84)	155	105	68	50	32
99th (1985–86)	115	65	57	50	43
100th (1987–88)	123	66	54	57	46
101st (1989–90)	104	47	45	57	55
102d (1991–92)	109	37	34	72	66
103d (1993–94)	66	14	21	52	79

[1] Total rules counted are all order of business resolutions reported from the Rules Committee which provide for the initial consideration of legislation, except rules on appropriations bills which only waive points of order. Original jurisdiction measures reported as privileged are also not counted.

[2] Open rules are those which permit any Member to offer any germane amendment to a measure so long as it is otherwise in compliance with the rules of the House. The parenthetical percentages are open rules as a percent of total rules granted.

[3] Restrictive rules are those which limit the number of amendments which can be offered, and include so-called modified open and modified closed rules, as well as completely closed rule, and rules providing for consideration in the House as opposed to the Committee of the Whole. The parenthetical percentages are restrictive rules as a percent of total rules granted.

Sources: "Rules Committee Calendars & Surveys of Activities," 95th–102d Cong.; "Notices of Action Taken," Committee on Rules, 103d Cong., through May 18, 1994.

OPEN VERSUS RESTRICTIVE RULES: 103D CONG.

Rule number and date reported	Rule type	Bill number and subject	Amendments submitted	Amendments allowed	Disposition of rule and date
H. Res. 58, Feb. 2, 1993	MC	H.R. 1: Family and medical leave	30 (D–5; R–25)	3 (D–0; R–3)	PQ: 246–176. A: 259–164. (Feb. 3, 1993).
H. Res. 59, Feb. 3, 1993	MC	H.R. 2: National Voter Registration Act	19 (D–1; R–18)	1 (D–0; R–1)	PQ: 248–171. A: 249–170. (Feb. 4, 1993).
H. Res. 103, Feb. 23, 1993	C	H.R. 920: Unemployment compensation	7 (D–2; R–5)	0 (D–0; R–0)	PQ: 243–172. A: 237–178. (Feb. 24, 1993).
H. Res. 106, Mar. 2, 1993	MC	H.R. 20: Hatch Act amendments	9 (D–1; R–8)	3 (D–0; R–3)	PQ: 248–166. A: 249–163. (Mar. 3, 1993).
H. Res. 119, Mar. 9, 1993	MC	H.R. 4: NIH Revitalization Act of 1993	13 (D–4; R–9)	8 (D–3; R–5)	PQ: 247–170. A: 248–170. (Mar. 10, 1993).
H. Res. 132, Mar. 17, 1993	MC	H.R. 1335: Emergency supplemental Appropriations	37 (D–8; R–29)	1 (not submitted) (D–1; R–0)	A: 240–185. (Mar. 18, 1993).
H. Res. 133, Mar. 17, 1993	MC	H. Con. Res. 64: Budget resolution	14 (D–2; R–12)	4 (1-D not submitted) (D–2; R–2)	PQ: 250–172. A: 251–172. (Mar. 18, 1993).
H. Res. 138, Mar. 23, 1993	MC	H.R. 670: Family planning amendments	20 (D–8; R–12)	9 (D–4; R–5)	PQ: 252–164. A: 247–169. (Mar. 24, 1993).
H. Res. 147, Mar. 31, 1993	C	H.R. 1430: Increase Public debt limit	6 (D–1; R–5)	0 (D–0; R–0)	PQ: 244–168. A: 242–170. (Apr. 1, 1993).
H. Res. 149, Apr. 1, 1993	MC	H.R. 1578: Expedited Rescission Act of 1993	8 (D–1; R–7)	3 (D–1; R–2)	A: 212–208. (Apr. 28, 1993).
H. Res. 164, May 4, 1993	O	H.R. 820: Nate Competitiveness Act	NA	NA	A: Voice Vote. (May 5, 1993).
H. Res. 171, May 18, 1993	O	H.R. 873: Gallatin Range Act of 1993	NA	NA	A: Voice Vote. (May 20, 1993).
H. Res. 172, May 18, 1993	O	H.R. 1159: Passenger Vessel Safety Act	NA	NA	A: 308–0 (May 24, 1993).
H. Res. 173, May 18, 1993	MC	S.J. Res. 45: United States forces in Somalia	6 (D–1; R–5)	6 (D–1; R–5)	A: Voice Vote (May 20, 1993)
H. Res. 183, May 25, 1993	O	H.R. 2244: 2d supplemental appropriations	NA	NA	A: 251–174. (May 26, 1993).
H. Res. 186, May 27, 1993	MC	H.R. 2264: Omnibus budget reconciliation	51 (D–19; R–32)	8 (D–7; R–1)	PQ: 252–178. A: 236–194 (May 27, 1993).
H. Res. 192, June 9, 1993	MC	H.R. 2348: Legislative branch appropriations	50 (D–6; R–44)	6 (D–3; R–3)	PQ: 240–177. A: 226–185. (June 10, 1993).
H. Res. 193, June 10, 1993	O	H.R. 2200: NASA authorization	NA	NA	A: Voice Vote. (June 14, 1993).
H. Res. 195, June 14, 1993	MC	H.R. 5: Striker replacement	7 (D–4; R–3)	2 (D–1; R–1)	A: 244–176. (June 15, 1993).
H. Res. 197, June 15, 1993	MO	H.R. 2333: State Department. H.R. 2404: Foreign aid	53 (D–20; R–33)	27 (D–12; R–15)	A: 294–129. (June 16, 1993).
H. Res. 199, June 16, 1993	C	H.R. 1876: Ext. of "Fast Track"	NA	NA	A: Voice Vote. (June 22, 1993).
H. Res. 200, June 16, 1993	MC	H.R. 2295: Foreign operations appropriations	33 (D–11; R–22)	5 (D–1; R–4)	A: 263–160. (June 17, 1993).
H. Res. 201, June 17, 1993	O	H.R. 2403: Treasury-postal appropriations	NA	NA	A: Voice Vote. (June 17, 1993).
H. Res. 203, June 22, 1993	MO	H.R. 2445: Energy and Water appropriations	NA	NA	A: Voice Vote. (June 23, 1993).
H. Res. 206, June 23, 1993	O	H.R. 2150: Coast Guard authorization	NA	NA	A: 401–0. (July 30, 1993).
H. Res. 217, July 14, 1993	MO	H.R. 2010: National Service Trust Act	NA	NA	A: 261–164. (July 21, 1993).
H. Res. 220, July 21, 1993	MC	H.R. 2667: Disaster assistance supplemental	14 (D–8; R–6)	2 (D–2; R–0)	PQ: 245–178. F: 205–216. (July 22, 1993).
H. Res. 226, July 23, 1993	MC	H.R. 2667: Disaster assistance supplemental	15 (D–8; R–7)	2 (D–2; R–0)	A: 224–205. (July 27, 1993).
H. Res. 229, July 28, 1993	MO	H.R. 2330: Intelligence Authority Act, fiscal year 1994	NA	NA	A: Voice Vote. (Aug. 3, 1993).
H. Res. 230, July 28, 1993	O	H.R. 1964: Maritime Administration authority	NA	NA	A: Voice Vote. (July 29, 1993).
H. Res. 246, Aug. 6, 1993	MO	H.R. 2401: National Defense authority	149 (D–109; R–40)		A: 246–172. (Sept. 8, 1993).
H. Res. 248, Sept. 9, 1993	MO	H.R. 2401: National defense authorization			PQ: 237–169. A: 234–169. (Sept. 13, 1993).
H. Res. 250, Sept. 13, 1993	MC	H.R. 1340: RTC Completion Act	12 (D–3; R–9)	1 (D–1; R–0)	A: 213–191–1. (Sept. 14, 1993).
H. Res. 254, Sept. 22, 1993	MO	H.R. 2401: National Defense authorization		91 (D–67; R–24)	A: 241–182. (Sept. 28, 1993).
H. Res. 262, Sept. 28, 1993	O	H.R. 1845: National Biological Survey Act	NA	NA	A: 238–188 (Oct. 6, 1993).
H. Res. 264, Sept. 28, 1993	MC	H.R. 2351: Arts, humanities, museums	7 (D–0; R–7)	3 (D–0; R–3)	PQ: 240–185. A: 225–195. (Oct. 14, 1993).
H. Res. 265, Sept. 29, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D–1; R–2)	2 (D–1; R–1)	A: 239–150. (Oct. 15, 1993).
H. Res. 269, Oct. 6, 1993	MO	H.R. 2739: Aviation infrastructure investment	N/A	N/A	A: Voice Vote. (Oct. 7, 1993).
H. Res. 273, Oct. 12, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D–1; R–2)	2 (D–1; R–1)	PQ: 235–187. F: 149–254. (Oct. 14, 1993).
H. Res. 274, Oct. 12, 1993	MC	H.R. 1804: Goals 2000 Educate America Act	15 (D–7; R–7; I–1)	10 (D–7; R–3)	A: Voice Vote. (Oct. 13, 1993).
H. Res. 282, Oct. 20, 1993	C	H.J. Res. 281: Continuing appropriations through Oct. 28, 1993	N/A	N/A	A: Voice Vote. (Oct. 21, 1993).
H. Res. 286, Oct. 27, 1993	O	H.R. 334: Lumbee Recognition Act	N/A	N/A	A: Voice Vote. (Oct. 28, 1993).
H. Res. 287, Oct. 27, 1993	C	H.J. Res. 283: Continuing appropriations resolution	1 (D–0; R–0)	0	A: 252–170. (Oct. 28, 1993).
H. Res. 289, Oct. 28, 1993	O	H.R. 2151: Maritime Security Act of 1993	N/A	N/A	A: Voice Vote. (Nov. 3, 1993).
H. Res. 293, Nov. 4, 1993	MC	H. Con. Res. 170: Troop withdrawal Somalia	N/A	N/A	A: 390–8. (Nov. 8, 1993).
H. Res. 299, Nov. 8, 1993	MO	H.R. 1036: Employee Retirement Act—1993	2 (D–1; R–1)	N/A	A: Voice Vote. (Nov. 9, 1993).
H. Res. 302, Nov. 9, 1993	MC	H.R. 1025: Brady handgun bill	17 (D–6; R–11)	4 (D–1; R–3)	A: 238–182. (Nov. 10, 1993).
H. Res. 303, Nov. 9, 1993	O	H.R. 322: Mineral exploration	N/A	N/A	A: Voice Vote. (Nov. 16, 1993).
H. Res. 304, Nov. 9, 1993	C	H.J. Res. 288: Further CR, FY 1994	N/A	N/A	
H. Res. 312, Nov. 17, 1993	MC	H.R. 3425: EPA Cabinet Status	27 (D–8; R–19)	9 (D–1; R–8)	F: 191–227. (Feb. 2, 1994).
H. Res. 313, Nov. 17, 1993	MC	H.R. 796: Freedom Access to Clinics	15 (D–9; R–6)	4 (D–1; R–3)	A: 233–192. (Nov. 18, 1993).
H. Res. 314, Nov. 17, 1993	MC	H.R. 3351: Alt Methods Young Offenders	21 (D–7; R–14)	6 (D–3; R–3)	A: 238–179. (Nov. 19, 1993).
H. Res. 316, Nov. 19, 1993	C	H.R. 51: D.C. statehood bill	1 (D–1; R–0)	N/A	A: 252–172. (Nov. 20, 1993).
H. Res. 319, Nov. 20, 1993	MC	H.R. 3: Campaign Finance Reform	35 (D–6; R–29)	1 (D–0; R–1)	A: 220–207. (Nov. 21, 1993).
H. Res. 320, Nov. 20, 1993	MC	H.R. 3400: Reinventing Government	34 (D–15; R–19)	3 (D–3; R–0)	A: 247–183. (Nov. 22, 1993).
H. Res. 336, Feb. 2, 1994	MC	H.R. 3759: Emergency Supplemental Appropriations	14 (D–8; R–5; I–1)	5 (D–3; R–2)	PQ: 244–168. A: 342–65. (Feb. 3, 1994).
H. Res. 352, Feb. 8, 1994	MC	H.R. 811: Independent Counsel Act	27 (D–8; R–19)	10 (D–4; R–6)	PQ: 249–174. A: 242–174. (Feb. 9, 1994).
H. Res. 357, Feb. 9, 1994	MC	H.R. 3345: Federal Workforce Restructuring	3 (D–2; R–1)	2 (D–2; R–0)	A: VV. (Feb. 10, 1994).
H. Res. 366, Feb. 23, 1994	MO	H.R. 6: Improving America's Schools	NA	NA	A: VV. (Feb. 24, 1994).
H. Res. 384, Mar. 9, 1994	MC	H. Con. Res. 218: Budget Resolution FY 1995–99	14 (D–5; R–9)	5 (D–3; R–2)	A: 245–171. (Mar. 10, 1994).
H. Res. 401, Apr. 12, 1994	MO	H.R. 4092: Violent Crime Control	180 (D–98; R–82)	68 (D–47; R–21)	A: 244–176. (Apr. 13, 1994).
H. Res. 410, Apr. 21, 1994	MO	H.R. 3221: Iraqi Claims Act	N/A	N/A	A: Voice Vote. (Apr. 28, 1994).
H. Res. 414, Apr. 28, 1994	O	H.R. 3254: NSF Auth. Act	N/A	N/A	A: Voice Vote. (May 3, 1994).
H. Res. 416, May 4, 1994	C	H.R. 4296: Assault Weapons Ban Act	7 (D–5; R–2)	0 (D–0; R–0)	A: 220–209. (May 5, 1994).
H. Res. 420, May 5, 1994	O	H.R. 2442: EDA Reauthorization	N/A	N/A	A: Voice Vote. (May 10, 1994).
H. Res. 422, May 11, 1994	MO	H.R. 518: California Desert Protection	N/A	N/A	PQ: 245–172 A: 248–165. (May 17, 1994).
H. Res. 423, May 11, 1994	O	H.R. 2473: Montana Wilderness Act	N/A	N/A	A: Voice Vote. (May 12, 1994).
H. Res. 428, May 17, 1994	MO	H.R. 2108: Black Lung Benefits Act	4 (D–1; R–3)	N/A	
H. Res. 429, May 17, 1994	MO	H.R. 4301: Defense Auth., FY 1995	176 (D–118; R–58)		A: 369–49. (May 18, 1994).

Note.—Code: C-Closed; MC-Modified closed; MO-Modified open; O-Open; D-Democrat; R-Republican; PQ: Previous question; A-Adopted; F-Failed.

Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I, too, rise in support of the rule. It is not all that I would like in the sense that it does waive the Budget Act in regard to section 401(b)(1). But as has been indicated, that is a technical objection. Yes, but it is a real problem, waiving pay-go for an entitlement program, because part of the deep problems of the Black Lung Benefits Act is indeed the fact that the trust fund, which represents all of those owners who cannot be found and who have to react to a workman's compensation claim from the miners of America who are suffering from black lung disease, that black lung fund is $4 billion in debt and has been bailed out by the taxpayers once before by waiving all interest for several years. That is a deep, deep problem which we will be discussing later.

So I would have hoped that we would have faced that before bringing this to the floor, and at least be able to take the roughly $200 million of added expense on the black lung fund and at least cut in other areas under the domain of the Committee on Education and Labor, so that there will be no threat upon the various allocations which the committee has already set forth for the fiscal year 1995.

But we do rejoice in having an open rule. I think that is fine. A lot of us believe this is a very important act. Unfortunately, Congress has been a terrible, terrible insurer, you might say, which is what the black lung fund is, for the Workmen's Compensation Act, known as the Black Lung Benefits Act. If we were in private business, we long ago would have been closed and bankrupt and ridiculed for the terrible job that Congress has done in handling this. But that will all come in the debate.

Ms. SLAUGHTER. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from Pennsylvania [Mr. MURPHY] chairman of the subcommittee.

Mr. MURPHY. Mr. Speaker, I rise to urge my colleagues to approve House Resolution 428, the rule providing for consideration of H.R. 2108, the Black Lung Benefits Restoration Act of 1994. After receiving testimony from majority and minority members of the Committee on Education and Labor, the Committee on Rules approved H.R. 428 and now recommends its adoption by the House. I support the recommendation of the Committee on Rules and urge prompt ratification of the rule.

H.R. 428 makes in order an amendment in the nature of a substitute to H.R. 2108, consisting of the text of H.R. 4415 as original text for the purpose of amendment. H.R. 2108, which is similar to a black lung reform bill approved by the House during the last Congress (H.R. 1637–102d Cong.), was ordered reported by the Committee on Education and Labor, April 13, 1994, and is described in the committee report filed last week. (House Report 103–507, May 12, 1994.)

The text of H.R. 4415, which this rule would substitute for the text of H.R. 2108, is identical to the committee-reported bill, except for the effective date. The language of H.R. 2108 would have the legislation effective upon enactment. The text of H.R. 4415 makes the legislation effective on the first day of the next fiscal year, October 31, 1994.

The effective date provision of H.R. 4415 and other conforming language which would be substituted for the text of H.R. 2108 cures a technical inconsistency with section 401(b)(1) of the Budget Act of 1974. That provision of the Budget Act requires the spending contained in our bill begin after the fiscal year in which it is enacted. The effective date in the text of H.R. 4415 brings H.R. 2108 into compliance with this provision of the Budget Act.

The rule, H.R. 428, which we have before us, waives section 401(b)(1) of the Congressional Budget Act (prohibiting consideration of new entitlement authority which becomes effective prior to October 1 of the year in which it is reported). Adoption of the rule cures any Budget Act infirmity and provides that all points of order against consideration of the bill for failure to comply with section 401(b)(1) of the Budget Act of 1974 are waived.

With respect to the nature of the rule, the Committee on Rules has recommended an open rule. The chairman of the Education and Labor Committee and I, in testimony before the Rules Committee, recommended a modified closed rule making in order three amendments submitted to the Rules Committee on Monday, May 16. Republican members of our committee urged the Rules Committee to grant an open rule with no limit on the number of amendments and generous debate time.

Reluctantly, I agreed to the minority's demands because I did not want our committee to be accused of being unfair or attempting to prevent a full debate on this important issue.

The Committee on Rules, in H.R. 428, has granted the minority's wish.

They have the open rule they asked for.

They have no limits on the number of amendments as they requested. Yesterday our minority members told the Rules Committee they would have seven or eight amendments. I hope that is still true today and we haven't opened the gate to a flood of amendments designed to delay consideration of black lung reform legislation.

They have 1 hour of debate on the rule, another hour of general debate on the bill, and 3 hours of debate on amendments. That's a total of 5 hours, not counting time consumed for votes.

I assume, since the minority has gotten everything they requested in the rule, we can count on their support for adoption of the rule.

Having participated in our committee's presentation to the Rules Committee, listening to the minority's demands, reluctantly assenting to their demands, and seeing their demands incorporated in the rule, I would consider it disingenuous to turn around and oppose the rule. Furthermore, since we have agreed to everything the minority wanted in the rule, I think we should dispense with further debate on the rule and proceed to substantive consideration of H.R. 2108.

I urge my colleagues to approve H. Res. 428, the rule providing for consideration of H.R. 2108, and allow us to proceed to bring comprehensive black lung reform legislation before the body for the second time in approximately 18 months.

The last time the Education and Labor Committee brought a similar bill (H.R. 1637) before the House it was approved by a voice vote. I certainly hope we will enjoy the same success again today. The victims of this debilitating disease, some of whom traveled to Washington yesterday in the hope of seeing justice done today, have waited too long already.

□ 1150

Ms. SLAUGHTER. Mr. Speaker, I yield 4 minutes to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Speaker, I rise in strong support of this rule and strong support of this bill. I think it is time. It is justice long overdue. It is not complete justice. It will not take care of all the inequities, but it is a start.

It is a start, for instance, for those claimants who have been in this process year after year after year, who retire because of pneumoconiosis or black lung, as it is popularly known, and then begin to go through all the administrative hoops and procedural barriers of the black lung programs.

It is the case, for instance, of people who have cases pending anywhere from 7 to 10 years. It is the case, for instance, of somebody who knows that they will never receive their benefits. Their one hope is that they will last long enough and so finally there will be victory and their spouse, usually their widow, will receive those benefits.

This would, for instance, end the practice of running claimants around to different medical examiners until there is a decision adverse to them. So that it ends the practice of making them go to doctor after doctor after doctor trying to get that decision that will eventually rule against them. It would assume, for instance, that death that would come from pneumoconiosis, if the claimant was receiving benefits or was disabled by pneumoconiosis at the time of death.

That makes sense, does it not? Unfortunately, not in the administration of the black lung program.

Some of my colleagues, and I understand some of them are not from coal-mining country, they wonder why, what is the problem here? Why can Medicare, as has been suggested, not cover it or COBRA. Nobody can afford COBRA that I have been able to see, but why COBRA cannot cover it.

Let me try and create the picture for my colleagues of a mine. First of all, turn the lights out in here. Then, after that, pretend like there are cutting machines going in every corner. And just to make it complete, start the fans going that blow black coal dust at you and blows at you and you breathe it day after day after day, 30 or 40 years. We will not even get into the occupational safety aspects of it, the fact that the roof is creaking overhead. We have to worry about roof falls. We have to worry about it being the most hazardous industry in the country.

We will talk about the hazards that come after people retire and they are going to retire. And if they have worked in there 20 years at least, they are going to retire with black long. There is no way around it. They are going to be disabled, and it is going to be steadily degenerative as a result.

My colleagues, they cannot eat and inhale black coal dust day after day after day without having severe respiratory problems resembling emphysema that are going to get worse and worse. Every day they walk out of that mine and, indeed, often for people long after they have left the mine, every time they cough, they are going to cough black dust.

That is what black lung is. Most of us are fortunate. We do not have to worry about that. Men and women who work underground every day do. So that is what this program is about.

After they have worked all that time, they ought not be frustrated by a program that is really procedurally almost designed to frustrate them.

This is a chance to bring some justice. It is a chance to remove some of the administrative barriers. It is a chance, finally, to bring a little bit of light to an occupation that does not see a whole lot of it.

Mr. Speaker, I urge adoption of this rule and the bill.

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

Mr. Speaker, I urge adoption of the rule. If Members sat in the chair back in the district that I sit in, they would hear from claimants for black lung who have waited 5 or 10 years for benefits. And they beat around the mulberry bush.

It is time that we take the burden off of the coal-operating companies and that we acknowledge obligation and we do something about it.

By allowing these amendments on the floor of the House to be debated and the bill itself, we will get down to the business of helping and not destroying the lives of so many people.

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

Ms. SLAUGHTER. 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 resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. RAHALL). Pursuant to House Resolution 428 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2108.

□ 1156

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2108) to make improvements in the Black Lung Benefits Act, with Mr. WISE in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Michigan [Mr. FORD] will be recognized for 30 minutes, and the gentleman from Illinois [Mr. FAWELL] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Michigan [Mr. FORD].

Mr. FORD of Michigan. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I strongly support H.R. 2108, the Black Lung Benefits Restoration Act of 1993. The bill is essentially the same as the one which passed the House near the end of the 102d Congress. That bill was severely scaled back to meet both substantive and budgetary considerations. There are many provisions that we left out of this bill that I personally favored. We gave them up to get a bill that could and should pass the House of Representatives.

Black lung is an occupational disease that destroys the lives of those who mine the coal on which this country depends. It is a savage disease that debilitates tens of thousands of once strong and energetic miners by denying them the very breath of life. No one who has visited the coalfields of this country can deny the horrible consequences of pneumoconiosis.

In 1969, under the leadership of my good friend John Dent, who cared deeply for the people of the coal fields, we passed the first Black Lung Act, as part of the Federal Coal Mine Health and Safety Act of 1969. The need for a compensation program for disabled miners was compelling then and is no less compelling today. Over the years, we have amended and reamended this law as we have attempted to better balance the demonstrable need for disability compensation with fiscal responsibility by ensuring that the legal standards establishing eligibility and causation were clear. This has not been an easy task. Unclear and inconsistent evidence with regard to work histories over long periods of time and the lack of conclusive medical evidence in this field has always plagued this program through no fault of either the miner or the operator.

In 1981, the following other changes to the act in 1972 and 1977, this Congress severely restricted the presumptions of causation used to determine eligibility. As a result, the approval rates for claimants has dropped dramatically, virtually nullifying the act. This is especially true for the widows and survivors of miners.

The current system is so stacked against the claimant that even the clearest case is often difficult to establish. The evidentiary standards and the lack of presumptions as to work histories and causation almost ensure that the party with the most money for the greater number of examinations and the greater number of expert witnesses wins—wins not on the basis of the quality of the evidence, but simply by the poundage of the evidence. My colleagues, the party with such funds available is not the miner or his or her survivors.

This bill is a modest attempt to ensure a fairer and more balanced claims system for both parties to these cases. Specifically, the bill limits for all parties the number of medical examinations that can be required and the pieces of similar medical evidence that can be introduced which are derived from the same medical procedure. It also gives weight to the treating physicians of miners disabled by the disease if those physicians are appropriately qualified.

This bill reestablishes the widows/widowers presumption—that if the miner was receiving benefits at the time of death, the miner's death shall be considered to have occurred as a result of the pneumoconiosis. It establishes a procedure for early designation by the Secretary of the named responsible operator so that the claimant does not have to litigate against an array of operators, all of whom wish to avoid liability. It makes it economically feasible for attorneys to represent black lung claimants in lengthy litigation against coal operators. It also extends the act to workers who contracted black lung while working at coke ovens.

This is a good bill, a budget-conscious bill, and one that all my colleagues in the House should support. The work of miners deep inside the earth has literally powered our Nation

for decades. If you believe that over time we have eliminated the cause of black lung and therefore need not continue to provide compensation, may I just remind you of the recent dust sampling scandal which exposed miners to dust levels well above those allowed by law. Until the causes of black lung are remedied we, as a nation, owe a debt to our miners and their survivors. This bill is a repayment of that debt. The need is as important today as it was in 1969. Just ask the miner whose life is dependent on a respirator that must be carried by his side forever. Compassion for these hard-working people requires that the House pass this bill.

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

Mr. FAWELL. Mr. Chairman, I yield myself 18 minutes.

Mr. Chairman, I rise in opposition to H.R. 2108.

First of all, I want to say that all of us here today are committed to responsible stewardship of the Black Lung Benefits program and with its basic purpose as a workers' compensation program, something of which I think we lost sight of from time to time, designed to provide payments to disabled miners based on a clear showing of employment-related medical disability.

Unfortunately, H.R. 2108 would move the program far beyond congressional intent concerning the Black Lung Benefits Act and, indeed, move us backward to the 1970's.

□ 1200

Mr. Chairman, most of the people by now have forgotten that this $1.5 billion per year program was a last-minute addition, indeed an afterthought to the 1969 Federal Coal Mine Health and Safety Act, a law concerned primarily with the technical safety requirements of coal mines.

So it was that Congress with minimal debate or consideration tacked a rider on to the Coal Mine Health and Safety Act and created the Black Lung Benefits Act, a workers' compensation act.

Mr. Chairman, the original Black Lung Act was limited, limited in duration, limited to underground coal miners who could establish that they were totally disabled as defined only in regard to being totally disabled to work in the mines only, not totally disabled in general, due to black lung disease arising out of coal mine employment and limited to governmental liability, also.

But as we have seen before, Federal entitlement programs can attain a life and a momentum all of their own. In 1972 Congress decided that not enough miners were receiving black lung benefits and the so-called temporary act was suspended to cover surface miners and special presumptions were added so that miners were considered to have black lung disease simply because of the number of years that they worked in the mines, and the act ordered the review of all prior denials. Some 70,000 claimants had their claims reversed, resulting in an additional $9 billion over the lifetime of those claimants of expense to the black lung trust fund, which is set up to be able to respond insofar as illness from black lung is concerned from owners of coal companies that no longer can be found.

Mr. Chairman, in 1977 Congress proved that it could make things worse. The 1977 amendments gave a new meaning to the concept of retroactive liability. Congress again sought to ease the burden on claimants seeking benefits, so that all of the claims which were reviewed initially under the 1969 act and re-reviewed under the 1972 amendments were to be reviewed yet again under the 1977 amendments. The 1977 amendments created 125,000 claims to be refiled and relitigated which caused workers' compensation insurance companies, by the way, to deny liability for the claims they were insuring because they said, "Hey, we only really insured one bite at the apple in litigation, not several more," which caused the trust fund to go deeply into debt and caused the coal companies much consternation because they had to self-insure for black lung liability and that set the stage for 1981.

Thus in 1981 the administration, labor and management agreed on a compromise set of amendments to the Black Lung Act in order to stabilize programs and to hopefully steer the trust fund toward financial stability.

By late 1981, it was clear that funding arrangements enacted in 1978 were so inadequate that the trust fund had accumulated $1.5 billion of debt to the U.S. taxpayers with no prospect of future solvency.

Mr. Chairman, in 1981 Congress passed amendments which doubled the tax on coal to provide additional income for the trust fund and repealed, repealed, Mr. Chairman, most of the presumptions and the restrictions on evidence passed in 1969, 1972 and 1978 designed to make proof of real medical illness that much easier.

The purpose of the 1981 amendments was to ensure that entitlement of claims filed in the future would not be based on presumptions of eligibility and restrictions of evidence but on actual proof of total disability due to black lung disease arising from employment in the coal industry.

By the way, about 12,000 claims against the coal operators were transferred over to the trust fund because of the enormous responsibilities that were involved because of those 1977 amendments, which kind of rigged, and that is not possibly the best way of expressing it, but changed the mode of procedure for approving these claims.

Mr. Chairman, the result of the 1981 amendments was that the growth of the trust fund dramatically slowed, but it did not stop. So today the trust fund is approaching $4 billion of debt. All of the tax revenues which were increased in 1981 are sufficient, yes, to cover benefit outlays now and are sufficient to cover administration expenses now but not interest on the debt. So even with the 1981 reforms, the trust fund now is $4 billion in debt and growing.

Mr. Chairman, the insurance company known as the trust fund operated by Congress is in tragic shape right now. And along comes H.R. 2108. What does it do? It goes back to the 1970's, to the good old days, and it says, we will bring back irrebuttable presumptions of eligibility, we will bring back restrictions of evidence that the black lung recoveries would again not necessarily have to be based on actual proof of total disability, and that is a disservice, I say, to the miners who really are deeply sick because of black lung disease. Thus, these miners are not thus getting the benefits they deserve because of the avalanche of all these claims being relitigated and relitigated time and time again when some members of Congress and some unions do not like the results of Black Lung workers compensation litigation. So in 1972 Congress ordered re-litigation of Black Lung cases and they attempted to doctor the legal procedures to get better results. In 1977 they did the same thing, ordering 125,000 the right to re-litigate their Black Lung cases which they had lost. All of this of course is tremendously expensive and cloggs up the adjudication process.

Mr. Chairman, what are we doing? We are saying that interim benefits for total disability need never be repaid even if the claim is denied, even if it is admitted that there was no basis for the claim. A survivor widow is entitled to the irrebuttable presumption that death of the miner was caused by pneumoconiosis if the miner was totally disabled at his death regardless, Mr. Chairman, of what really caused death. He might have committed suicide, he might have had an accident. It does not matter. Automatically we extend these benefits.

That means there is less for the ones who really, really need it.

Mr. Chairman, the rules of evidence, what do we do here? The rules of evidence in black lung cases allow claimants to put three medical examinations into evidence while the trust fund, this is the people's insurance company, Congress' insurance company, and the responsible operators, the coal operators, can only offer one medical examination. Mr. Chairman, you can always find one doctor to be able to express your opinion all right. The opinion of the miner's treating physician shall be, get this, given substantial weight over the opinions of other physicians in determining the claimant's eligibility. That is a cost, by the way, of $22 mil-

lion; the interim benefits, a cost of $56 million new; and the survivor's widow case to which I referred to, $7.5 million.

Mr. Chairman, we did not stop there with this legislation. There is more. There is also extended coverage. We are going to make the Black Lung Benefits Act extend farther and farther and wider and much more coverage. We are going to be covering coke oven workers. Nobody knows how many coke oven workers might be involved under the definition of coke oven workers as set forth in this bill. CBO makes the stab $11 million more of costs, but nobody really knows.

Mr. Chairman, we also redefine the definition of pneumoconiosis to include obstructive lung disease as well as restrictive lung disease. What does that mean? Basically it means that a style of life, for instance, if someone smokes too much and has respiratory problems is no defense. We are going to just compensate all of those people, too, who happen to have had any experience in the mines.

Then for attorney fees, we also allow attorney fees and expert witness fees and costs even if the claim is denied.

Mr. Chairman, we will say that even though a claim is denied, one gets attorney fees. By the way, under those circumstances, who pays for the attorney fees for the coal operators? Guess what? The people's insurance company, the trust fund, of course.

Mr. Chairman, I do not have any problems with attorney fees being ordered. I think it is a big problem in the Black Lung Act because a lot of very competent attorneys are not in there fighting for the miners to the degree they ought to, and I support the concept that there ought to be legal fees awarded. I would even go so far as to say that unlike all the other workers' compensation statutes, that the fee does not have to come out of the recovery, although that is generally true in the States where they have a contingent fee arrangement in workmen's compensation cases. I will go along with that even. I think also that if we really wanted to do some progress in regard to getting these cases over with, we would have contingent fees on recovery the way the State do and the way basically tort law and injury law is worked. Those are just my opinions. I think it would help a great deal.

Mr. Chairman, the only thing I say is, no, no, I do not think anybody in this Congress believes that legal fees should be awarded when the claim is denied.

□ 1210

I do not think anybody believes that legal fees, when the claim is denied, then have to be shifted over to the trust fund.

So what, in reality, does H.R. 2108 do? As I have said, it goes back to the 1970's. It treats the Black Lung Benefits Act more as an entitlement program to total disability payments, not a workers' compensation act.

Mr. Chairman, you cannot go on refiling years and years and thousands and hundreds of thousands of claims over the years simply because you do not like the results that the Department of Labor is giving to you or the administrative judges. You know, what that does out in the private industry, it is absolute chaos. Yet in H.R. 2108 there is another requirement that some 87,000 miners may now—after have had their "day in court"—and their claim denied, can refile. Anyone who lost his or her case since 1981 can refile their claim. And CBO says that at least 20,000 new awards will result from being able to relitigate under changed rules of evidence.

Well, it does not bother Congress, because we just go along with those things, but let me tell you, anybody trying to run a coal business and trying to find anybody who might want to insure for workmen's compensation, you have a tough time when the insurance company says, "Well, Congress may go and just cause us to relitigate four or five times." Well, that is one of the things that we are doing. It is a trust fund buster. It is made to order for more massive bailouts.

If without the new requirements of 2108 the trust fund has added $2.5 billion to its debt since 1981 and has gone up to $4 billion, what do you think, Mr. Chairman, the new debt will be with all of these new costs and gimmicks and ways of rearranging rules of evidence in trials? This bill totally ignores the spirit of the requirements of pay-go by refusing to offset the new costs by cutting elsewhere.

But really pay-go and CBO only look ahead for 5 years, and I am telling you that is not where the big debt here is. We ought to in Congress, in operating this particular insurance company known as the trust fund, we ought to be setting up reserves which would, therefore, guarantee that we would have the money without having to be bailed out by the taxpayers again in the future when these miners who have lifetime rights to total disability payments come along and ask for their payments.

In truth, the full cost of this bill will be so immense over the years that the offsets that CBO is talking about, and they have suggested that there would be $195.5 million of pay-go violations here, but that is not going to alleviate the concern that I think the administration has, nor do I think it is going to alleviate the concerns that all of the rest of us have.

In fact, in closing, let me say that H.R. 2108 creates more inequities in the black-lung program than it corrects and would substantially increase expenditures for black lung benefits. As I said, it is a black lung-fund buster.

But do not take my word for it, Mr. Chairman. Let us look at OMB. And what does OMB say about it? I do not know if the administration has endorsed this bill yet. I do not think they have. At least, it has been relatively quiet. But even OMB recoils, and here is what they say: "The administration is very concerned about the enormous debt in the black-lung disability trust fund, and the additional debt that would result from those revisions," and, Mr. Chairman, the actuary with whom I have been working to determine what the ultimate costs will be has estimated that on the basis of DOL estimates that there will be the 80,000 refilings, that on the basis of 80,000 refilings which this bill requires, that you would have a lifetime cost of approximately $225,000 per case lifetime total disability obligation.

You multiply that by 10,000, which would be roughly the share of cases attributable to the trust fund, and you have got there alone $2.2 billion. If we were a true insurance company, we would be putting out in reserves to make sure we are not going to bankrupt the future and can pay for those 10,000 new cases. But we are not going to be doing that. That does not even include the added costs in H.R. 2108—to which we will be addressing ourselves with our amendments.

That does not, by the way, include either what the private sector is going to have to absorb, and the same actuary has stated that there we are talking about many billions of dollars upon the private sector which, as a practical matter, probably will have to be handled by new taxes, which is what Senator SIMON is talking about.

Mr. FORD of Michigan. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, if we were in a court of law, I would say this side rests at this point, because I think the gentleman has done a marvelous job of confusing the issue so badly that no one could follow his lead and vote against this bill, and ever be able to explain it later.

The fact of the matter is the numbers he is throwing around outnumber the total number of people engaged in coal mining in this country by many thousands.

If it occurs to one we could amend this bill so that a coal miner could never again, no matter how badly disabled, collect a dollar in order to get the gentleman's vote; it still would not work, because he would not vote for the bill even if we changed it in that way.

Mr. Chairman, I yield the balance of my time to the gentleman from Pennsylvania [Mr. MURPHY], the chairman of the subcommittee, in order that he may allocate time to other speakers.

Mr. MURPHY. Mr. Chairman, I yield myself 4 minutes to address the remarks.

Let me say this is quite a fitting day for us to be considering the black-lung restoration benefits of 1994. Today the Education and Labor Committee is commemorating the passing and the service of our former chairman, Carl Perkins of Kentucky.

Mr. Perkins was a champion of the cause of disabled miners, particularly in his eastern Kentucky district, and we enjoyed and greatly benefited by his chairmanship during many years here in the House.

H.R. 2108, let me address that, is a very necessary matter. And let me say to all of the Members who are in their offices listening and here on the floor, for over 100 years the coal miners of this country mined the coal under our surface without safety regulations or rules imposed by the Federal Government. There were some in various States, but they were lax. they were not totally adequate to protect the health and safety of our miners.

In 1969 this Congress, with the leadership of Carl Perkins, John Dent, and BILL FORD and others addressed those concerns with passage of the first Federal health and safety coal mine act, recognizing that during our war years of 1941 through 1945, there were very little safety regulations in coal mining. Many of the miners who worked in those days could not, nor would they consider, going out on strike over health matters or safety matters. They were serving the needs of this country in providing the energy, 80 percent of the energy, that our country needed in those years which was provided by the coal industry.

□ 1220

Those miners were totally exposed to the hazards of coal mining. Pneumoconiosis was the result of their rewards for service in those years and all through the years of coal mining.

Pneumoconiosis, what is it? It is the graying and blackening of the coal miner's lungs when he is exposed day after day, hour after hour, sometimes working 10 and 12 hours during those years at the face of the coal mine where coal dust was not regulated. We recently, unfortunately, even though we passed in 1969, 1972, 1977, improvements in the Mine Health and Safety Act, we recently had a scandal of one or two of the major coal operators in this country fudging their coal air reports in their reports to our Federal health and safety divisions and to our Bureau of Mines. So we still have in some instances black lung still being acquired by those coal miners. It need not be so. If all of the mines adhere to the regulations we now have in effect, there will be no miners in 20 years or 15 years from now benefiting from these because there will not have to be. Black lung is gradually being eliminated.

But what about those older miners who had to serve in those years? They have health costs, they have living costs that far exceed what they can get from their pittance on social security to take care of them. And now most of them are in their 70's and 80's, unable to drag their oxygen tent up the steps of a bank and rob a bank, as the gentleman from Illinois would have you believe that they are doing, to sustain their needs. No, they need these amendments.

In 1972, with a Republican President and a divided Congress, the act was improved. In 1977, with a Democrat President, the act was further improved. But in 1981 the benefits were greatly reduced, and those are the benefits we are now trying to restore by this act.

Mr. Chairman, I reserve the balance of my time so that my other colleagues may have an opportunity to speak on it, and I will readdress it, if I have additional time.

Mr. Chairman, I yield 4 minutes to the gentleman from West Virginia [Mr. RAHALL].

Mr. RAHALL. Mr. Chairman, I thank the gentleman for yielding this time to me.

I again salute the committee and the gentleman from Michigan [Mr. FORD] the chairman of the committee, for bringing this legislation to the floor today.

Mr. Chairman, I rise in strong support of this legislation. There may be Members in this Chamber, or watching this debate, who may be saying to themselves: "I don't have any coal miners in my district. Why should I vote for this bill?"

Well, who do you think produces the energy to provide the lighting, heating, and cooling in this very Chamber and in your offices?

Our Nation's coal miners. That is who.

You may be from New England, from Florida, from almost anywhere in this great Nation of ours and either all or some of your electricity is generated from coal. So I would submit that you, as do I, have a substantial stake in this bill, a bill to fulfill a promise this Congress, the Federal Government, made to the coal miners of our country back in 1969.

And that promise was that we will compensate you for the black lung disease that you may contract for mining coal, for producing the energy so necessary for this Nation to maintain its industrial strength and our standard of living.

My colleagues, that promise has been broken. That is the reason for the pending legislation. As it now stands, disabled miners who suffer from the crippling effects of black lung disease are faced with a Federal bureaucracy so totally lacking in compassion to their plight, that it appears intent upon harassing their efforts to obtain just compensation at every single step of the claim adjudication process.

Today, we are witnessing less than a 10 percent approval rate on claims for black lung benefits. This figure does not attest to any reasonable and unbiased comportment of the facts.

Rather, it represents nothing less than a cruel hoax being perpetrated against hard working citizens who have dedicated their lives to the energy security and economic well being of this Nation.

We are faced with other problems as well, among them the long period of time it takes the Labor Department to process a claim; the inability to find legal representation, the denial of benefits to widowers, and perhaps one of the most insidious of them all, Government attempts to seek repayment of benefits paid under claims that are appealed years after the initial payment was made.

This was, however, originally envisioned by Congress as being a fairly straightforward program.

Yet, through years of administrative maneuverings aggravated by some extremely harmful judicial interpretations, there can be no denial of the fact that black lung proceedings before the Labor Department today are extremely adversarial in nature against the claimant.

This type of philosophy certainly does not represent the statutory commitment we made to compensate coal miners and their families.

The pending legislation, H.R. 2108, contains a number of provisions aimed at addressing the bona fide concerns of those who are afflicted with black lung.

I urge the House to approve this legislation, for make no mistake about it. Victims of black lung disease are not people who are looking for a handout. They are people who worked their lives in one of the most dangerous occupations in this country. They are people who were promised compensation by their Government, and they are people who now see their Government break that promise.

It is time, indeed, long past the time that Congress move legislation on behalf of the thousands of miners, their widows and families who are being victimized by this program, the very program that was intended to bring them relief.

Mr. FAWELL. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio [Mr. BOEHNER].

Mr. BOEHNER. I thank the gentleman for yielding this time to me.

I congratulate the gentleman from Illinois for the work he has done on this subcommittee on this and many other subjects. Certainly those miners who have been afflicted with black lung over the years, before the dangers of underground mining were understood, deserve the support of this program, and that is why it was put into effect and still continues to operate.

But I think we should all understand that this program has been fraught with problems since its inception. Part of that problem is that there are continuing to be a large number of miners who do not qualify for the program because they have diseases and other disabilities that have nothing to do with black lung.

So we continue to have a lot of people rejected from this program because of that, and there have been attempts over the years at trying to open the program up for more and more miners who have disabilities.

Now, it should not surprise any of us that Members who have brought this legislation to the floor and many of those who will speak today represent areas where there are large underground mines. I certainly understand that. But I and other colleagues in this body have a responsibility to look at the facts in this program and determine whether in fact we ought to make the changes being suggested by the gentleman from Pennsylvania.

Unfortunately, many of us believe that the Black Lung Program has become an extra pension, if you will, for a lot of those who have worked in mining areas that do have disabilities, unfortunately, coming from other problems, other than black lung.

I would like to talk about two of the problems in this bill. One is the tax increase that is in this piece of legislation, $195 billion over the next 5 years. This does not include that coal mine operators are going to be required to pay if in fact these changes are made.

Now, we have to remember there already is a $4 billion debt in the Black Lung Program that is not being addressed, and yet we want to not only exacerbate that problem but give even more benefits out, which is only going to compound the problem even worse.

The other body at least is a little more honest with their legislation; they call for a 5.5-percent coal tax increase in order to meet the extra costs in their legislation that does not appear in this legislation at all.

□ 1230

The surprising thing about the 5½-percent tax that the other body has in their legislation is that it is on surface mines as well as underground mines. It is a well-known fact that miners who work in surface mines do not contract black lung. I do not know what responsibilities surface mine operators have to this program, but, in fact, that is what the other body is attempting to do.

Another issue in this bill is the refiling area, and I will be offering an amendment later in this debate to strip out the refiling language. We have allowed those who have been denied claims, up until 1972, to refile claims, and some, in the tens of thousands of miners who have been denied claims, refiled at the time. In 1977 we had another bite at the apple where those who had been denied up to 1997 were allowed to refile, and what we are attempting to do in this piece of legislation is to allow the 87 claimants who have been denied their claim since 1981 another bite at the apple. Well, not only are we going to give them another bite at the apple, but we are going to give them another bite with new evidentiary rules. We are also going to say that the claimants can go out and get three doctors' opinions, but the defendant, the operators, can only bring one medical opinion in.

It also says in the legislation, if my colleagues can believe it or not, that preference should be given to the personal physician's statement for the claimant above all others that might want to produce evidence. All previous evidence that has been put in the file from this claim where it was denied is all off the record and not allowed to be considered. I think that we are asking for a lot of trouble here. We are opening this program up to even more abuse than what we have seen in the past, and I think it is a grave mistake for this body to continue to move in this direction with this program.

Mr. Chairman, there ought to be real reform of this program, and unfortunately this bill does not bring it to us.

Mr. MURPHY. Mr. Chairman, I yield 4 minutes to the gentleman from Indiana [Mr. MCCLOSKEY].

Mr. MCCLOSKEY. Mr. Chairman, I thank the distinguished gentleman from Pennsylvania [Mr. MURPHY] for yielding this time to me.

Reform with justice in the black lung benefits program is long overdue, and hopefully, with passage of this legislation today, and I might say without gutting amendments, it will bring us a lot closer to justice for senior citizens in the coal fields of our country. Only a minuscule amount of applicants, less than 5 percent of deserving applicants, are ever certified for this program. Especially tragic is a longstanding Department of Labor practice of demanding immediate repayment of sums for benefits paid under the interim benefit procedure.

Mr. Chairman, one elderly widow in my district in southwestern Indiana was told by the Bush Department of Labor to repay $60,000 in interim benefits or she would be turned over to private bill collectors. I ask my colleagues, "Can you imagine the stress and strain imposed on people in their late sixties, seventies, and eighties being told within 60 or 70 days they are going to have to pay 30, 40, 50, 60, $70,000 out or face the consequences, and in at least one case it has resulted in the loss of a home in my district, in the Eighth District of Indiana, to a miner's estate.

Mr. Chairman, black lung sufferers are senior citizens. They certainly do not have the resources or the energy to be at constant battle with the system. they have devoted their lives to working in the coal fields and want a peaceful and stable retirement. In one case an 80-year-old man lost his entire savings. In another case the Department of Labor harassed a miner for 8 years, and, when he died, his family lost his house. In my district it is estimated that 120 retired miners or their dependents are being hounded, or at least fairly regularly dunned, to repay $3.5 million in interim black lung benefits. Many of these miners, under previous practices which I understand are getting better, were not aware that the claim paid out in this process was subject to repayment. They are being punished for bringing forward their appeal to the Government.

Section 2 of H.R. 2108, the Black Lung Benefits Restoration Act, rectifies this unjust situation. It provides that a miner or if a miner's dependent receives interim black lung benefits, during the claim processing period in the final decision provides that the miner is ineligible for benefits. Any interim benefits paid will not be subject to repayment. I might say this only makes for common sense, simple justice, administrative simplicity. How are we going to ask retired working people to pay back in many cases 30, 40, or 50, in many cases $60,000? It hardly makes any sense to have a program like this if there is going to be a provision like this imposed.

I might note that they were told by qualified medical physicians that they had this condition to start with, and surely a system like this should not go on. Some have claimed this provision is a giveaway and incompatible with integrity of the black lung program. It is not true. It simply asks that simple justice be done. We have to realize that the retired miner, or their widows, do not have the resources to fight the claims. They are much outstaffed, outgunned, outspent, if my colleagues will, by the coal companies' doctors and their lawyers.

Mr. Chairman, this legislation is vitally important to our Nation's coal miners and their survivors. I want to commend again my colleagues on the Committee on Education and Labor, particularly the gentleman from Pennsylvania [Mr. MURPHY] and the gentleman from Michigan [Mr. FORD], also the leadership of the gentleman from West Virginia [Mr. RAHALL] on this concern for simple justice for miners and their families which is longstanding. I urge my colleagues to vote in favor of the legislation and against any amendments that strike sections of H.R. 2108.

Mr. FAWELL. Mr. Chairman, I yield 3 minutes to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Chairman, I say to the gentleman from Illinois, Thank you for the time.

I rise in opposition to the bill. No one disagrees with the proper implementation of a black lung program. No one disagrees that eligible miners should receive care. Nobody says black lung victims should not receive compensation. But sometimes it seems to me on this floor we argue largely on emotion.

I recall people standing up and saying, "I'm for kids." Of course they are. "I'm for miners." Of course they are. "I'm for people." Of course they are. But what we need to look for is a balanced distribution of a program to do this.

Mr. Chairman, it is my understanding that this would amend the law to provide the revision of evidentiary standards to determine the eligibility of disability benefits, limit a defendant's ability to defend against unjustified claims, require the reconsideration of approximately 90,000 previously denied claims, provide automatic entitlement for survivor benefits even when a miner's benefit resulted totally unrelated to coal work, expand the definition of miners to include individuals whose work is unrelated to mine and coal employment.

Someone mentioned, "Does it affect you?" Yes, it affects me. I come from the State that is the largest producer of coal, and I am very much interested in it.

Mr. Chairman, the black lung program was created to provide monetary reimbursements to current and former members stricken with, miners stricken with, black lung disease, and unfortunately it has become a Federal entitlement program that is nearly $3.5 million in debt. The bill before us simply makes this worse. We act as if nothing has been done. It is my understanding that in excess of $30 billion has been expended for monthly disability and medical benefits to approximately 225,000 miners and survivors. The expenditure exceeds $1.5 billion annually and is in the hole nearly $4 billion.

No one denies we should help this horrible disease, but it is important to remember who pays for it. The ratepayers of America pay for this program, my colleagues' constituents and mine. Although the black lung disability fund is financed through excise tax on underground and surface-mined coal, the true costs, of course, are borne by consumers. So, we need to deal with this issue with some balance. It is not just an idea of saying that we ought to throw the dough out there.

Mr. Chairman, when are we going to learn we cannot continue to strap businesses with new and excessive costs? it creates unemployment and limits the economic growth across this country. This bill is not a good resolution to the problem. If we need to change the administration, we should do that. This bill goes far beyond that. It creates an unfunded Federal entitlement program that will end up costing Americans billions of dollars.

I say to my colleagues, Let's defeat this measure and start to bring a little common sense into the way we do things around here.

□ 1240

Mr. MURPHY. Mr. Chairman, I yield 4 minutes to the gentleman from Kentucky [Mr. BARLOW].

Mr. BARLOW. Mr. Chairman, I thank the chairman of the subcommittee for yielding me this time.

Mr. Chairman, I would like to commend the committee very much for bringing H.R. 2108, the Black Lung Benefits Restoration Act, before us. This brings up the principle of fairness. That is what we are dealing with here, fairness.

I say that to the Members on the other side of the aisle who are focusing on this issue today. That is the word that summarizes this bill—fairness. This bill provides fairness to the miners, it provides fairness to the coke workers, it provides fairness to the families, the widows and widowers, and it even provides fairness to the operators.

Miners who received interim benefits and later were deemed ineligible have been forced to repay these benefits. Through heavy-handed methods, these benefits were collected, devastating families who had no means to save from their limited incomes. Many used that money to buy groceries and pay rent.

H.R. 2108 would not consider interim benefits as an overpayment, and miners would not be responsible for repayment.

H.R. 2108 will provide fairness to widows and widowers. If a miner dies and the cause of death is black lung, then the wife and children are entitled to the benefits. Men and women who have dedicated their lives to the mines deserve to have their families provided for if they die of black lung.

H.R. 2108 will provide fairness to the coke workers. In the past, coke workers were exposed to the same substances as miners but were not eligible for black lung benefits. These long-suffering men and women deserve the black lung benefits that this bill will provide.

H.R. 2108 gives an even playing field for the miners. It allows them to compete fairly with opposing legal expertise by providing prompt payment to their attorneys and only requesting one necessary medical examination.

H.R. 2108 provides fairness for the coal operator. No longer will the operator be falsely accused as the responsible party. This will save operators witness fees and attorney fees. This bill provides fairness for all.

I wish the Members could hear, as I do, as I go through the coal fields in my district, stories from retired miners of conditions in the mines in days gone by when you could not see your hand in front of your face, when the heat was over 100 degrees for the long hours you toiled in the mine, and then you coughed and spit mine dust for your life, for the rest of your life going forward. If Members could hear these stories, they would know that this bill is very necessary and its benefits very deserved.

The CHAIRMAN. The Chair would inform both sides that the gentleman from Pennsylvania [Mr. MURPHY] has 11 minutes remaining, and the gentleman from Illinois [Mr. FAWELL] has 5 minutes remaining. The gentleman from Pennsylvania [Mr. MURPHY] will have the right to close.

The Chair recognizes the gentleman from Pennsylvania [Mr. MURPHY].

Mr. MURPHY. Mr. Chairman, we are waiting for a member of the committee, so I reserve the balance of my time.

Mr. FAWELL. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Chairman, those of us who come from Pennsylvania have a historic bond with the coal mines and the courageous people who have harvested that precious fuel over the generations. So we have almost uniformly supported the efforts to provide recompense to the miners who become afflicted with the deadly disease which is the subject of today's legislation.

So I begin this process in this debate with a hard leaning towards supporting the benefits package that is before us, but I do owe it to my own nature in watching carefully the extent of the funding and the spending that might be included in this legislation, so I will reserve final judgment on the bill as I review the amendments as they will be offered to see whether or not the process which is so important in the ultimate funding of that process would merit final support.

Mr. MURPHY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I take this time first to assure my good friend and colleague, the gentleman from Pennsylvania, that we do not believe this is a budget-busting bill. We received estimates from the CBO that, yes, the trust fund owes the Federal Government $3.4 billion. It is not $4 billion or $3.9 billion; it is $3.4 billion. Most of that was incurred as a result of instituting the benefits following 1972.

At the present time the coal operators will pay in more than enough to pay current benefits by the extent of $20 million to $25 million more than the cost to administer the program and pay the benefits.

The interim benefits that were previously paid, and now, since 1981 and

1982, the amounts the claimants have been required to repay have not been going back to reduce the $3.4 billion that is owed by the trust fund; they are going into the general treasury. We would hope that the Treasury Department would give us credit for that, but they have not.

In addition to that, on the $3.4 billion that we owe the Treasury, the trust fund is being assessed 10½ percent interest. I would submit to the Treasury that I hope we can work that out with the Committee on Ways and Means in the coming months before we start paying benefits on this, so that they would refloat the $3.5 billion that the trust fund owes. Today they could sell the Treasury bonds in the open market for 4.2 percent, for a savings of almost $200 million a year. The trust fund could actually bail itself out if the Treasury Department would cooperate. We are going to approach the Committee on Ways and Means with this theory.

We would take the $25 million in excess, we would pay that toward the trust fund debt, we would refinance the trust fund at today's current interest rate, 4.2 percent, and we would be able to retire the debt.

In addition to that, I would say to my colleague, the gentleman from Pennsylvania, and the opponents of this measure that we are not talking about 80,000 claims being automatically reopened. We are talking about the right of those miners who are still living who have been denied benefits only since 1981 to have a right to have their claims reexamined. They must first refile, and then they would be reexamined. We are talking about probably 10,000 to 12,000 or 13,000 miners. The 80,000-miner pool is no longer out there, as it was in 1972. Yes, when the 1972 Act required a reexamination of all the claims, there were 80,000. Those miners are dead. This is 18 years later from that time, or over 20 years later. There were 18,000 since 1972 reviewed, and there were only 77,000 at that time. The number of miners that would be eligible is greatly reduced, probably to the extent of less than 10,000.

I might also say that the estimates from the administration and the Department of Labor are that even if all these provisions in today's proposed Act are approved, we are only going to have a 5 to 10 percent approval rate of all the claims filed, even if we take Mr. FAWELL's figure of 80,000, which is far in excess. Ten percent of that is 8,000. The figures they are throwing around here are just ridiculous.

Mr. Chairman, I would like to caution the Members to listen to the debate on the amendments, follow the debate, listen to the real statistics, get the CBO estimates, get the Department of Labor estimates of costs, and be guided by that in their votes.

Mr. Chairman, at this time I have no further requests for time, and I reserve the balance of my time.

□ 1250

Mr. FAWELL. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. MILLER].

Mr. MILLER of Florida. Mr. Chairman, I rise today in strong opposition to H.R. 2108, the Black Lung Benefits Restoration Act. This bill represents yet another expansion of entitlements without a single thought dedicated to paying for the new spending. The changes made by this legislation, far from enhancing the availability of benefits under the Black Lung Program, will only serve to undermine the long-run financial viability of the entire program.

To those in this Congress who have fought to add fiscal responsibility to the Federal budget process, the history of the Black Lung Program in an all-too-familiar tale. A last minute add-on to another piece of legislation in 1969, the costs of this small, temporary entitlement ballooned far beyond original estimates. Each successive change expanded eligibility and benefits under the program, and by the late seventies, the Black Lung Program had become a permanent entitlement and a significant burden on U.S. taxpayers.

It is easy to dole out new benefits to laudable causes, but few Members ever talk about the costs and tradeoffs each program expansion necessitates. Every new Federal dollar spent must be taken from somewhere else. All too often it comes from future generations of American taxpayers. Such careless compassion turns out not to be very compassionate at all, because it ignores the real costs associated with any budget decision.

The Congressional Budget Office estimates that the expansion of available benefits in the Black Lung Program provided for under H.R. 2108 will cost $195.5 million. Where will the money come from? Nobody knows.

Unfortunately, the Black Lung Trust Fund—intended to pay for the benefits—is already almost $4 billion in debt and that debt continues to grow. It is time for the proponents of this legislation to come clean with the American people. This latest expansion of this poorly-managed entitlement is nothing more than a raid on the Federal Treasury. I urge my colleagues to vote against this fiscal folly. Vote against H.R. 2108.

Mr. MURPHY. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. KLINK], a member of the Committee on Education and Labor.

Mr. KLINK. Mr. Chairman, as a cosponsor of this legislation, I rise in strong support of H.R. 2108, the Black Lung Benefits Restoration Act.

Mr. Chairman, western Pennsylvania is coal country. Thousands of our neighbors there worked in the coal mines and now many of them are afflicted with black lung.

We know that black lung is caused by overexposure to coal dust. It is a terrible disease, and bad enough by itself. But when black lung is combined with the paperwork, red tape, and bureaucracy that a victim must face in trying to obtain benefits, the situation becomes almost overwhelming.

In one of my district offices, a caseworker is working on a black lung case that is 20 years old. That is wrong.

This legislation will help ease the burden of those afflicted with black lung and restore the fairness to the black lung benefits system that has been missing since the early 1980's.

H.R. 2108 would change the requirement that beneficiaries must repay interim benefits if they are denied regular black lung benefits and provides for survivors benefits for widows of black lung beneficiaries.

The bill places reasonable limits on what potential beneficiaries must provide as evidence of a claim. The legislation also provides for the designation of a "responsible operator" or mining company responsible for black lung benefits payment and allows for reasonable attorney's fees to be paid by that operator.

Finally, the bill allows that any black lung claim denied after 1982 may be refiled as a new claim.

I want to commend my friend and colleague, Chairman MURPHY, for his diligent work on this bill and on behalf of the coal mining families of western Pennsylvania. He has earned their gratitude.

Mr. Chairman, H.R. 2108 will restore fairness and equity to the black lung system. I urge my colleagues to support this bill and oppose the amendments to it. Miners and their families have waited long enough.

Mr. FAWELL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would urge the body, we are going to have amendments which will address these particular concerns which have been highlighted. I think after Members carefully listen to what we have to say, they will agree with us that this is deja vu all over again. What we have here is the 1977 amendments, where once again the effort is simply to relitigate all the cases because the results did not turn out as we wanted them, and then try to set up new regulations and rules of evidence, in order to try to increase the number of awards that are being granted. That is what is being done.

But in 1977, that is when, by the way, the debt began to grow. Not before then. It came after 1977, and went up to $1.5 billion. There was a complete catastrophe, consensus legislation, that eliminated all these rules and regulations about trying to have evidence that is going to help your person win

and so forth and so on, and it has worked to a degree, but we also had mammoth taxes in the private industry.

But it is still going down hill. The trust fund is $4 billion in debt. I verified that the other day. But bit by bit, we will be taking all of these changes that are in this bill and showing you how it is not going to help the people who really need the help, who are not getting that help.

I think we can suggest, too, how you really can do the job to be able to help the Black Lung Act so that those who are most in need, those who are suffering the most from pneumoconiosis, will be helped.

The answer is not to expand this program even further, to liberalize the spending even more. The answer is fairness in regard to the program itself. The unfairness of the program is that it does not help the people that ought to be helped.

Mr. Chairman, I think our amendments, one-by-one, if we will only listen carefully to them, I think we will prove that. This is a catastrophe in terms of money for the taxpayers of the country. We must think of that also.

Mr. MURPHY. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. POSHARD], in whose district we conducted one of the hearings.

Mr. POSHARD. Mr. Speaker, I grew up in the coal mines of southern Illinois, and I have been a strong supporter of legislative efforts to revise the Black Lung Benefits Act since my arrival in Congress in 1989. And I rise again today to express my support for passage of H.R. 2108, the Black Lung Benefits Restoration Act of 1994, and to thank the gentleman from Pennsylvania, Chairman MURPHY, and the others who have worked so diligently on this bill.

I personally witnessed the cruel suffering caused by black lung disease endured by coal miners of southern Illinois. It is heartbreaking to see miners denied legitimate claims, who have worked for decades in the mines and contracted this disease through no fault of their own. And there are numerous instances where a miner may be granted benefits that under current laws appeals by the coal companies prevail, and benefits are revoked, requiring a miner to pay back thousands of dollars in payments already made.

This is unconscionable, especially for the people who have spent their entire lives in the coal mines, to be dealt this kind of blow. And these situations must be remedied, and this is the bill in which they must be remedied.

Since the 1981 amendments to the Black Lung Benefits Act eliminated several presumptions and evidentiary rules which had previously assisted claimants in establishing their entitlements to benefits, the lengthy maze of litigation miners have had to tolerate in order to prove their claims has been truly inhumane.

Since the 1981 changes, Department of Labor statistics show that less than 4 percent, less than 4 percent, Mr. Speaker, of total claims submitted, are actually approved.

Imagine that, Mr. Speaker, that less than 4 percent of those miners who got up every morning, went to the coal mines, went down to the belly of the earth to bring up the plentiful energy supply that this Nation has to offer its people, who breathed the coal dust and the smoke and the gaseous fumes from those underground mines, less than 4 percent of the miners who ever applied for these benefits, not the ones who worked there, but who even bothered to apply, less than 4 percent of these people have ever been given claim to their rightful benefits that they should enjoy under this act.

□ 1300

Mr. Chairman, that, too, is unconscionable. Countless eligible miners over the years have refrained from even submitting claims, seeing the difficulties their fellow workers have encountered.

The growth of this country was powered by the coal these miners brought up out of the depths of the earth. I urge the House to take up their cause, to make a difference in the lives of these American workers who are deserving of these benefits from which they have effectively been cut off in the past decade.

Mrs. LLOYD. Mr. Chairman, I rise in strong support of H.R. 2108, the Black Lung Benefits Restoration Act. This legislation eases the requirements necessary to qualify for black lung benefits. It provides relief for dependents and survivors of black lung victims. And most importantly, it provides that disability claimants who are later found to be ineligible for black lung benefits will not be required to pay back any of the benefits they may have already received.

Seldom do victims of black lung have the means to put aside benefit payments in the event of a later negative decision in their case. Most who receive these benefit payments find they must use them to pay for daily living expenses, making it impossible to recover these funds.

I have heard from several miners and their families in my congressional district of Tennessee who often complain of their financial hardship of trying to repay moneys long ago spent to supplement their daily living while waiting for their claim to be approved. In some cases a levy is placed against a miner's home in an effort to recover payments. Mr. Speaker, I cannot in good conscious ask the coal miners and their families of the Third District of Tennessee to suffer the devastating effects of such actions. Coal miners have given so much for our country. They have worked hard and some have died with such a disability.

It is long past time that we move legislation on behalf of the thousands of miners, their widows, and families who are suffering financially under a program that was intended to bring them relief.

I believe this bill does an excellent job of returning to a program that more closely reflects the commitment of Congress, to compensate those coal miners who suffer from the crippling effects of black lung. This legislation is in the best interest of the thousands of black lung victims who have earned the right to retire with dignity.

I urge my colleagues to restore an important measure of fairness and equity to a program that is badly in need of repair.

Mr. MOLLOHAN. Mr. Chairman, I rise in strong support of this important legislation. I want to commend my colleagues on the Education and Labor Committee, especially chairman FORD and Chairman MURPHY, for bringing this bill to the floor.

H.R. 2108 will bring needed relief to our Nation's coal miners * * * many who have suffered physical disability from years of hard labor in the coal fields of this country.

Under current law, miners are paid interim benefits while their claim is evaluated by officials at the Department of Labor. This process takes an average of 8 years.

If their claim is eventually denied, they are forced to repay these benefits. And I can tell you that these are not wealthy people. There have even been cases of miners receiving a letter from the Government and—in a panic—selling off their possessions. In one case, a miner sold his home to meet this obligation.

This policy clearly imposes a real hardship on many miners, and I think it is time for us to affect a change. Over the years, I have witnessed firsthand the problems with the current system. And I believe this bill will address these injustices.

It will expedite and improve the process through which black lung benefits are provided. By doing so, it will make the process more equitable, more accessible and more in keeping with the intent of the Black Lung Program as initially conceived.

It will make it easier for widows to receive survivor benefits, protecting such benefits upon the remarriage of a widow.

And it will allow claimants denied benefits since 1982 to refile their claims. These miners were subject to the more stringent guidelines which were enacted to protect the solvency of the trust fund.

From my experience, I believe that the strict medical and reporting requirements of the Black Lung Benefits Program too often act as a deterrent to miners who should apply for benefits. This legislation would simplify the process, and make the program more responsive to those it was meant to serve.

We all know that this is not the first time the House has considered this bill. I hope it is the last time. Our miners have greatly contributed to this Nation's energy security. And they have suffered as a result of their long years of work. We must not turn our backs on them.

I urge my colleagues to vote in favor of this bill and against any weakening amendments.

Mr. McDADE. Mr. Chairman, I rise in strong support of H.R. 2108, the Black Lung Benefits Restoration Act. I urge my colleagues to adopt these reasonable and long overdue reforms for miners disabled with black lung disease.

As a representative of a coal-mining district, I have seen thousands of miners and their families who have been disabled with black lung disease. All you have to do is listen, as I have over the years, to the difficulty these miners have in breathing to know about the health hazards they faced in the mines and the price they have paid from years of inhaling coal dust. These hard-working citizens dedicated their lives to the energy security and economic well-being of this great Nation. They are often repaid with years of bureaucratic delays and unwarranted questions about their credibility.

The legislation before us today is an entirely reasonable effort to bring simple justice to the process that was designed to provide monetary reimbursements to coal miners disabled by black lung, their survivors and dependents. The needed reforms in the bill will restore equity in a process that is all too often adversarial to the miner.

The people who are impacted by this bill are not mere statistics. The are real people with real families who have worked hard in a dangerous occupation. They are not out to bilk the government. Rather, they are honest citizens who are afflicted by a painful and deadly disease.

The bill before us does not change the intent of Congress to base benefits on sound medical evidence, but it does put the miners, who often have difficulty in even paying for a full medical exam, on a more equal footing with the operators who have the financial resources to pay for numerous exams and volumes of expert testimony.

Another measure provides that, in cases where a minor dies before a claim can be perfected, a widow need only prove that the miner was disabled with black lung at the time of death. This is a simple matter of fairness to the families of those who were afflicted, and prevents the survivors from further financial distress.

The legislation also addresses the problems miners have faced in finding legal representation with provisions providing prompt payment for the attorney at each step in the claims procedure whenever a formal decision is rendered.

Mr. Chairman, I urge passage of this legislation without weakening amendments, and I commend my colleague from Pennsylvania, AUSTIN MURPHY, for his skill, dedication, and compassion in bringing this measure to the floor.

Mr. MURPHY. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. KLECZKA). Pursuant to the rule, the amendment in the nature of a substitute, consisting of the text of H.R. 4415, is considered as an original bill for the purpose of amendment and is considered as read.

The text of the amendment in the nature of a substitute is as follows:

H.R. 4415

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

SECTION 1. SHORT TITLE; REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the "Black Lung Benefits Restoration Act of 1994".

(b) REFERENCE.—Whenever in this Act (other than section 9(a)(1)) an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Black Lung Benefits Act.

SEC. 2. BENEFIT OVERPAYMENT.

Part C is amended by adding at the end the following:

"SEC. 436. (a) The repayment of benefits paid on a claim filed under this part before the final adjudication of the claim shall not be required if the claim was finally denied, unless fraud or deception was used to procure the payment of such benefits.

"(b) The trust fund shall refund any payments made to it as a reimbursement of benefits paid on a claim filed under this part before the final adjudication of the claim, unless fraud or deception was used to procure the payment of such benefits.

"(c) the trust fund shall reimburse an operator for any benefits paid on a claim filed under this part before the final adjudication of the claim if the claim was finally denied.

"(d) If on a claim for benefits filed under this part—

"(1) the Secretary makes an initial determination—

"(A) of eligibility, or

"(B) that particular medical benefits are payable, or

"(2) an award of benefits is made,

the operator found to be the responsible operator under section 422(h) shall, within 30 days of the date of such determination or award, commence the payment of monthly benefits accruing thereafter and of medical benefits that have been found payable. If an operator fails to timely make any payment required by an initial determination or by an award, such determination or award shall be considered final as of the date of its issuance."

SEC. 3. EVIDENCE.

Section 422 (430 U.S.C. 932) is amended by adding at the end the following:

"(m)(1)(A) During the course of all proceedings on a claim for benefits under this part, the results of no more than 3 medical examinations offered by the claimant may be received as evidence to support eligibility for benefits.

"(B) During the course of all proceedings on a claim for benefits under this part, the responsible operator and the trust fund—

(i) may each require, at no expense to the claimant, not more than one medical examination of the miner, and

"(ii) may not each offer as evidence the results of more than one medical examination of the miner.

"(C) An administrative law judge may require the miner to submit to a medical examination by a physician assigned by the District Director if the administrative law judge determines that, at any time, there is good cause for requiring such examination. For purposes of this subparagraph, good cause shall exist only when the administrative law judge is unable to determine from existing evidence whether the claimant is entitled to benefits.

"(D) The complete pulmonary evaluation provided each miner under section 413(b) and any consultive evaluation developed by the District Director shall be received into evidence notwithstanding subparagraph (A) or (B).

"(E) Any record of—

"(i) hospitalization for a pulmonary or related disease;

"(ii) medical treatment for a pulmonary or related disease, and

"(iii) a biopsy or an autopsy,

may be received into evidence notwithstanding subparagraph (A) or (B).

"(2) In addition to the medical examinations authorized by paragraph (1), each party may submit one interpretive medical opinion (whether presented as documentary evidence or in oral testimony) reviewing each clinical study or physical examination (including a consultive reading of a chest roentgenogram, an evaluation of a blood gas study, and an evaluation of a pulmonary function study) derived from any medical examination or contained in a record referred to in paragraph (1)(E).

"(3) A request for modification of a denied claim under section 22 of the Longshore and Harbor Workers' Compensation Act, as made applicable to this Act by subsection (a) of this section, shall be considered as if it were a new claim for the purpose of applying the limitations prescribed by paragraphs (1) and (2).

"(4) The opinion of a miner's treating physician, if offered in accordance with paragraph (1)(A), shall be given substantial weight over the opinion of other physicians in determining the claimant's eligibility for benefits if the treating physician is board-certified in a specialty relevant to the diagnosis of total disability or death due to pneumoconiosis.

"(5) For purposes of this subsection, a medical examination consists of a physical examination and all appropriate clinical studies (not including a biopsy or an autopsy) related to the diagnosis of total disability or death due to pneumoconiosis.".

SEC. 4. SURVIVOR BENEFITS.

(a) DEATH.—Section 422 (30 U.S.C. 932), as amended by section 3, is amended by adding at the end the following:

"(n) If an eligible survivor files a claim for benefits under this part and if the miner—

"(1) was receiving benefits for pneumoconiosis pursuant to a final adjudication under this part, or

"(2) was totally disabled by pneumoconiosis at the time of the miner's death,

the miner's death shall be considered to have occurred as a result of the pneumoconiosis.".

(b) RULES FOR WIDOWS AND WIDOWERS.—Section 422 (30 U.S.C. 932), as amended by subsection (a), is amended by adding at the end the following:

"(o)(1) A widow or widower of a miner who was married to the miner for less than 9 months at any time preceding the miner's death is not qualified to receive survivor benefits under this part unless the widow or widower was the natural or adoptive parent of the miner's child.

"(2) The widow or widower of a miner is disqualified to receive survivor benefits under this part if the widow or widower remarries before attaining the age of 50.

"(3) A widow or widower may not receive an augmentation in survivor benefits on any basis arising out of a remarriage of the widow or widower.".

SEC. 5. RESPONSIBLE OPERATOR.

Section 422(h) (30 U.S.C. 932(h)) is amended by inserting "(1)" after "(h)" and by adding at the end the following:

"(2)(A) Prior to issuing an initial determination of eligibility, the Secretary shall, after investigation, notice, and a hearing as provided in section 19 of the Longshore and Harbor Workers' Compensation Act, as made applicable to this Act by subsection (a) of this section, determine whether any operator meets the Secretary's criteria for liability as a responsible operator under this Act. If a

hearing is timely requested on the liability issue, the decision of the administrative law judge conducting the hearing shall be issued not later than 120 days after such request and shall not be subject to further appellate review.

"(B) If the administrative law judge determines that an operator's request for a hearing on the liability issue was made without reasonable grounds, the administrative law judge may assess the operator for the costs of the proceeding (not to exceed $750).".

SEC. 6. ATTORNEY FEES.

Section 422 (30 U.S.C. 932), as amended by section 4(b), is amended by adding at the end the following:

"(p)(1) If in any administrative or judicial proceeding on a claim for benefits a determination is made that a claimant is entitled to such benefits, the claimant shall be entitled to receive all reasonable costs and expenses (including expert witness and attorney's fees) incurred by the claimant in such proceeding and in any other administrative or judicial proceeding on such claim occurring before such proceeding.

"(2) In the case of a proceeding held with respect to such claim—

"(A) the person or Board which made the determination that the claimant is entitled to benefits in an administrative proceeding and any other person or Board which made a prior determination in an administrative proceeding on such claim, or

"(B) the court in the case of a judicial proceeding,

shall determine the amount of all costs and expenses (including expert witness and attorney's fees) incurred by the claimant in connection with any such proceeding and shall assess the operator responsible to the claimant for such costs and expenses which are reasonable or if there is not an operator responsible to the claimant, shall assess the fund for such costs and expenses.

"(3) The determination of such costs and expenses shall be made within 60 days of the date the claimant submits a petition for the payment of such costs and expenses to a person, the Board, or court which made a determination on the claimant's claim. The person, Board, or court receiving such petition shall take such action as may be necessary to assure that such costs and expenses are paid within 45 days of the date of the determination of such costs and expenses unless a motion to reconsider—

"(A) the amount of such costs and expenses, or

"(B) the person liable for the payment of such amount,

is pending.

"(4) If an operator pays costs and expenses assessed under paragraph (1) and if the claimant for whom such costs and expenses were paid is determined in a later proceeding and expenses were paid is determined in a later proceeding not to be eligible for benefits under this part, the fund shall pay the operator the amount paid for such costs and expenses.

"(5) Section 28(e) of the Longshore and Harbor Workers' Compensation Act shall apply with respect to any person who receives costs and expenses which are paid under this subsection on account of services rendered a claimant.".

SEC. 7. ADMINISTRATION.

(a) APPEALS TO THE BENEFITS REVIEW BOARD.—No appeal of an order in a proceeding under the Black Lung Benefits Act may be made by a claimant or respondent to the Benefits Review Board unless such order has been made by an administrative law judge.

(b) ACQUIESCENCE.—The Secretary of Labor may not delegate to the Benefits Review Board the authority to refuse to acquiesce in a decision of a Federal court.

SEC. 8. REFILING.

Any claim filed under the Black Lung Benefits Act after January 1, 1982, but before the effective date of this Act prescribed by section 11(a), may be refiled under such Act after such effective date for a de novo review on the merits.

SEC. 9. DEFINITIONS.

(a) COKE OVENS.—

(1) FEDERAL MINE SAFETY AND HEALTH ACT OF 1977.—Section 3 of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 802) is amended—

(A) in paragraph (d), by inserting before the semicolon the following: "or who operates a coke oven or any machine shop or other operation reasonably related to the coke oven",

(B) in paragraph (g), by inserting before the semicolon the following: "or working at a coke oven or in any other operation reasonably related to the operation of a coke oven", and

(C) in paragraph (h)(2), by inserting before the semicolon the following: "and includes a coke oven and any operation, structure, or area of land reasonably related to the operation of a coke oven".

(2) BLACK LUNG BENEFITS ACT.—The first sentence of section 402(d) (30 U.S.C. 902(d)) is amended by inserting before the period the following: (or who works or has worked at a coke oven or in any other operation reasonably related to the operation of a coke oven".

(b) PNEUMOCONIOSIS.—Section 402(b) (30 U.S.C. 902(b)) is amended—

(1) by adding after "sequelae" the following: "which disease or sequelae is restrictive or obstructive or both", and

(2) by striking out "coal mine" and inserting in lieu thereof "coal mine or coke oven".

SEC. 10. CONSTRUCTION.

If in any legal proceeding a term in any amendment made by this Act is considered to be ambiguous, the legislative history accompanying this Act shall be considered controlling.

SEC. 11. EFFECTIVE DATES.

(a) GENERAL RULE.—[Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect October 1, 1994.]

(b) SECTION 6.—The amendment made by section 6 shall apply only with respect to claims which are filed for the first time after October 1, 1994, and shall not apply with respect to any claim which is filed before such date and which is refiled under section 8 of this Act after such date.

The CHAIRMAN pro tempore. Pursuant to the rule, the bill shall be considered for amendment under the 5-minute rule for a period not to exceed 3 hours, excluding time consumed by recorded votes and proceedings incidental thereto.

Are there any amendments to the bill?

AMENDMENT OFFERED BY MR. BOEHNER

Mr. BOEHNER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BOEHNER: Page 11, beginning in line 22, strike "subsection (b)" and insert "subsections (b) and (c)" and on page 12 add after line 6 the following:

(c) BLACK LUNG DISABILITY TRUST FUND.—The amendments made by this Act shall not take effect unless the total indebtedness of the Black Lung Disability Trust Fund is less than $600,000,000.

Mr. BOEHNER. Mr. Chairman, over 200,000 American citizens suffer from black lung disease. This disease disables the respiratory system and is irreversible.

For those who suffer from black lung, they most often die from cardiac arrest. It is a sad fate of the people who provide resources for Americans to turn on their lights and heat for their homes. The everyday conveniences in America have their root, frankly, from the coal miners. But the black lung trust fund currently owes the Federal Government $3.4 billion because current disbursements are higher than revenue received by the trust fund. Meanwhile, the interest that the trust fund owes to the U.S. Treasury on the outstanding debt is $340 million every day. Therefore, the debt owed to the U.S. Treasury continues to increase.

Now, if H.R. 2108 passes, it will cost an additional $195 million over the next 5 years to the black lung trust fund.

Let me explain that the Congressional Budget Office estimates that allowing claimants found ineligible for benefits to keep previously received benefits will cost $5 million annually. The government would also have to return any benefit repayments claimants made prior to the enactment of H.R. 2108, costing the trust fund $40 million over 3 years.

H.R. 2108 also changes the requirements for evidence to prove eligibility at a cost of, according to the CBO, $22 million over a 5-year period.

Expanding the survivor benefit provision will cost the trust fund $1.5 million annually, and expanding the payment of the attorney fees provision is going to cost the trust fund an additional $5 million annually.

It sounds like it is becoming an entitlement program for lawyers.

H.R. 2108, therefore, will necessitate a second mortgage on a house with a mortgage that has already grown by four times the prices of the house. My amendment, Mr. Chairman, makes sound business sense, something this entire bill lacks. My amendment puts the changes in current law enumerated in this bill on hold until the trust fund debt is lowered to $600 million a year.

The reason for that is, it is about $600 million a year that comes in and out of this fund that should be the minimum before we begin to put these benefits into place.

I believe the Congressional Budget Office estimation of an additional $195 million over the next 5 years is spending by the trust fund that it just does not have. It is obvious that a trust fund 3.4 billion dollars' worth of debt to the government would have to borrow this additional money from the Treasury

every year to pay for the additional benefits that we are going to give, if this bill were to pass.

I do not think that we should be passing this bill unless we are willing to pay for it, unless we are willing to fix the problems in the current system. But to hold out the hope of more benefits for those that are afflicted with this disease without coming up with the money to pay for them is irresponsible. We should not do it.

This amendment, I believe, says very clearly, no new additional benefits until such time as the trust fund debt has been paid down to $600 million and we can proceed in a more sensible way.

Mr. MURPHY. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, since fiscal year 1990, the coal tonnage—I remind my colleagues that the black lung program is paid for by an excise tax on each ton of coal that is mined in the United States either by the deep or surface mine method—since 1990, coal tonnage tax receipts and penalties have exceeded benefit payments as well as administrative costs of the black lung benefits program by more than $135 million.

I will submit these individual statistics for the record showing that in each year the income exceeded the outgo.

The trust fund, I addressed under general debate, was caused in the 1972 and 1977 provisions of the act. And since 1981, every miner and miner's widow who received a notice from the Department of Justice and the Department of Labor to return their moneys to the fund, and there have been thousands of them, many in my district, they have been paying those moneys back. They have not been going into the trust fund. They have been going to the general Treasury.

Again, I reiterate, if the Treasury Department and the Black Lung Trust Fund will refinance that $3.5 billion in notes, 10½-percent notes on today's current interest, and I have knowledge that this week the Treasury notes are going for 4.2 percent, we can wipe out half of that debt.

I say to the bean counters, the gentleman from Ohio [Mr. BOEHNER] and others, this is not a matter of counting beans and counting past dollars. This is counting a benefit for miners who have been suffering for years and years with the loss of their lungs, their blackened lungs.

The gentleman from Illinois [Mr. POSHARD], the gentleman from West Virginia [Mr. RAHALL], the gentleman from Pennsylvania [Mr. KLINK], all of the Members discussed under general debate why we are pleading for this program and its continuance, because only 2 or 3 percent of those who have filed for benefits, 2 or 3 people out of the 100 who file for benefits have been awarded benefits.

In the year 2006, this program will be eliminated, and there will be more money coming in from the tonnage to pay off this trust fund debt that we are talking about. Current revenues are amortizing the cost of the program.

Let us retire this debt when there are no more 70- and 80-year-old suffering coal miners to receive the benefits. Then the debt will be paid off, unless the Treasury wants to refinance it before then, which I submit they can.

Mr. FAWELL. Mr. Chairman, I move to strike requisite number of words, and I rise in support of the amendment.

I commend the gentleman from Ohio [Mr. BOEHNER] for presenting this amendment. It is good, common sense, businesswise. It is also extremely fair to all the potential recipients of the black lung fund largess.

I think if we were to think of Congress, as I have indicated before, as being in reality an insurance company and with the obligation to look ahead every time that we have an expansion of the act, which is what this legislation does do, there was reference to the fact that some of the coal miners may be going into other occupations, there would be less applicants.

Well, we are taking care of that here. We are expanding the act to cover all coke oven workers with a very vague and liberal definition. Not even the steel companies have any idea of how many of their employees might be covered under this legislation.

□ 1310

Mr. Chairman, we are redefining pneumoconiosis, too, so we are making it much more broader and liberal in regard to the recoveries that can be made.

Congress, I know, does not like to look ahead and determine how much our children and our grandchildren are going to have to pay for our latest exercises in what sometimes I think we have to laughingly call any kind of business efforts on our part at all. But the truth of the matter is that CBO has said we are going to produce in the next 5 years about $195 million of new costs, and if Members would talk to the people at DOL as I have done and as I am sure the gentleman from Pennsylvania [Mr. MURPHY] has done, they will quickly say that what the CBO estimates for the first 5 years is surely not what the total costs of this program shall be.

Mr. Chairman, I made reference in my opening comments, in the debate portion of this bill, that actuaries make it very, very clear that we are going to have something like $225,000 for lifetime total disability benefits of claims which are allowed.

These are not my figures. DOL says there will be 20,000 claims, new claims allowed because of this legislation out of the 80,000 which are possible. If the past where we have done the same thing is any guidance, most of the miners to take advantage of refiling their claims.

The actuaries point out that if we were an insurance company, what we would do is take $125,000, slap it in the reserve, figure over the years we would get back 6-percent interest averaging over a 30-year period, average it, and lo and behold we would guarantee we would have the money to be able to meet these expenses when they come up, but why worry about 20 or 30 years from now or even more than 5 years from now? Life is short, our kids will have to take care of it. Blow it away; $2.2 billion is what the actuaries say who have lived with these problems of trying to anticipate what costs will be.

We can ask any insurance company that is in the business of insuring black-lung disease and they will say that it is about $125,000 which they will put in reserve for every one of those 20,000 cases.

Mr. Chairman, 10,000 have to be handled by the coal operators because it is their liability, but 10,000 of those cases have to be handled by, guess what, the U.S. insurance company that Congress operates. God help us.

We are not going to put any money in reserve. To heck with that. Insurance companies, actuaries will do it because, do my colleagues know why? They have to break even or they go out of business and they go bankrupt. We do not care about that because we can always tax the taxpayers some more and say, come on in and help us out where our prognosis was not very good.

Mr. Chairman, to have an amendment like this that would say, Hey look, right now, Mr. Insurance Company, U.S. Congress Insurance Company, you are $4 billion in debt, don't you think you should bring the debt down a little bit before you start expanding and going out and writing new policies?

The CHAIRMAN pro tempore (Mr. KLECZKA). The time of the gentleman from Illinois [Mr. FAWELL] has expired.

(By unanimous consent, Mr. FAWELL was allowed to proceed for 1 additional minute.)

Mr. FAWELL. Mr. Chairman, we do not have before us with the CBO estimates anything but the first 5 years. The testimony has already been given by the other side that, Hey, unfortunately these darn cases will take 4 to 6 years. We won't even be beginning the real cost until after 5 years.

Mr. Chairman, that is the success of congressional budgeting: Push it off, push it out of our mind and we do have to worry about it.

That is why I say as a practical matter, what we are doing is a disservice to the people who my colleagues have so ably described who need help and they are not getting it. We ought to be able once we have set this insurance company the way it ought to be set and know that we have funds, yes, we ought to be able to give more than just $400 a month for total disability and double

that if there are dependents. We could do those things perhaps if we were not running a bankrupt company.

Mr. Chairman, this amendment I think is very proper.

Mr. KLINK. Mr. Chairman, I move to strike the last word and I rise in opposition to the Boehner amendment.

Mr. Chairman, carrying the amendment to its ultimate conclusion, why do not we just cut funding to education until the Federal budget is balanced? Why do not we stop paying Social Security, Medicare, Medicaid, Federal pensions? In fact, why do not we just stop paying the military until we get the budget balanced?

Mr. Chairman, in essence what we are saying is let us go ahead and balance the budget, the Federal, budget on the health of these miners that are dying. When these gentlemen were down in the mines crawling around, in some instances 18-foot seams lying on their backs, mining the coal, breathing the dust, breathing the poisonous gases, fueling this economy, fueling our industrial age, they were what made this Nation great.

I guess it just seems that we automatically would follow the Boehner amendment and let us just go ahead and now that we have got fiscal problems in this Nation, let us wait for these men to die until we take some kind of action, and that is exactly what this amendment is saying.

Mr. Chairman, some comment was made a few moments ago about when Congress took this up in 1977. I have get news for my colleagues. There are many, many fewer miners to be concerned about today than there were back in 1977 because these people who suffer with black lung are dying every day.

We mentioned about the cases in my office, some of which are going back 20 years, where a lot of these miners are dying and even their widows are dying before these benefits are being adjudicated.

Mr. Chairman, I rise in strong opposition to this amendment. It makes absolutely no sense for the working men and women.

Mr. MILLER of Florida. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the amendment.

Mr. Chairman, I rise in support of the Boehner amendment because it adds fiscal sanity to this budget. This whole budget process is just an unbelievable disaster. When we realize 50 percent of our budget is in entitlements, this is how it gets out of control and this is a classic case of out-of-control spending. It is $4 billion it has cost us, now we are getting it under control where revenues have basically come up to paying for the money going out, but we are going to expand the benefits and let it get out of control again.

Mr. Chairman, we have to have some fiscal sanity. A few weeks ago we debated the issue of a balanced budget amendment. People said, we do not need a balanced budget amendment, all we need is the will to make the decisions. Here is one of those cases where we will have the chance to make the decision: Do we want to have a balanced budget and fiscal sanity?

Mr. Chairman, this is not a question of compassion. We are not talking about doing away with this program. We are saying keep the program the way it is, but let us not just open a box of unlimited benefits. That is how we got into the trouble in the 1970's. Let us keep this under control.

The CBO says it is $200 million over 5 years. Very likely it is going to be much higher because CBO has always underestimated the cost of entitlements. This is one way to say if we are going to increase the benefits, let us make sure we have fiscal sanity first.

Mr. KANJORSKI. Mr. Chairman, I move to strike the requisite number of words and I rise today in support of the gentleman from Pennsylvania [Mr. MURPHY], my good friend's bill that is pending before us, the Black Lung Restoration Act. I give personal testimony that prior to my service in Congress, I served as an administrative law judge in the Commonwealth of Pennsylvania. In this capacity, I administered and tried thousands of black-lung cases.

Mr. Chairman, the gentleman from Pennsylvania [Mr. MURPHY] is finally bringing reason to chaos. To have seen widows of miners required to take plugs of their husbands' lungs out of the mortuary in order to establish cause of death from black lung was an atrocious sight; to have seen the actual unearthing of remains in order to prove cause of death because some physician was sloppy or may not have been familiar with pneumoconiosis was unspeakable. I sat through thousands of hearings on these cases. I have listened to thousands of medical doctors testify. Often I could predict before the doctors even opened their mouths whether they were hired by the company or the insurance company. It was standard procedure for these doctors to testify that death was from almost any other cause but black lung.

□ 1320

I do not think we have a perfect system, but then, as a practical matter, I am reasonable enough to know that we are never going to have a perfect system. There are two provisions in this bill that I think are especially important: One provides that widows would not be caused to reprove the conditions for which their husbands were suffering and were receiving benefits at the time of death. That is just good government, good form, it is good practical process in the legal process. The other provision will finally end the ad infinitum hearings, the offering of testimony, and the practice of buying testimony by insurance companies and coal companies.

Finally, all of us who have been in the Congress for the last 10 years and who are at all familiar with the term pneumoconiosis have been waiting for an enlightened President and an enlightened Congress to reform the existing black-lung law. My hat goes off to the retiring Member from western Pennsylvania [Mr. MURPHY] because he has had the tenacity, the nerve, and the sheer guts to withstand this battle through his tenure here in the House. I hope that this bill passes overwhelmingly as a tribute to his skill as a legislator and to his tenacity as a human being.

I say to my friends on the other side who propose amendments that would stultify this bill or cause other barriers to occur that until you have witnessed the life, and then the death, of someone who suffers from black lung, do not be too fast to judge these people and the benefits they receive.

In my district in northeastern Pennsylvania, the heart of the anthracite coal region, I still have 19,000 recipients who gave their lives for the industrial revolution and the world-class economy this country has today. I think the least we can do here in the Congress, on behalf of the American people, is to recognize them for their wartime service. In their time of need, their latter part of life, when little exists for them other than minimal Social Security and no pension, it is our duty to assist them in living a decent life until death and to assist their widows in living a decent life by passing the Black Lung Benefits Restoration Act.

The CHAIRMAN pro tempore (Mr. KLECZKA). The question is on the amendment offered by the gentleman from Ohio.

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. BOEHNER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 189, noes 234, not voting 15, as follows:

[Roll No. 181]

AYES—189

Allard	Burton	DeLay
Archer	Buyer	Dickey
Armey	Callahan	Dooley
Baker (CA)	Calvert	Doolittle
Baker (LA)	Camp	Dornan
Barrett (NE)	Canady	Dreier
Bartlett	Castle	Duncan
Barton	Clinger	Dunn
Bateman	Coble	Edwards (TX)
Bentley	Collins (GA)	Ehlers
Bereuter	Combest	Ewing
Bliley	Condit	Fawell
Blute	Cooper	Fields (TX)
Boehlert	Crane	Fowler
Boehner	Crapo	Franks (CT)
Bonilla	Cunningham	Franks (NJ)
Brewster	Deal	Gallegly

Gallo
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goss
Grams
Greenwood
Gunderson
Hall (TX)
Hancock
Hansen
Harman
Hastert
Hayes
Hefley
Herger
Hoagland
Hobson
Hoekstra
Hoke
Horn
Houghton
Huffington
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Istook
Johnson (CT)
Johnson (GA)
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Lambert
Laughlin
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Livingston
Lucas
Machtley
Mann
Manzullo
Margolies-Mezvinsky
McCandless
McCollum
McCrery
McCurdy
McHugh
McKeon
McMillan
Meehan
Meyers
Mica
Michel
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Morella
Nussle
Orton
Oxley
Packard
Paxon
Payne (VA)
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Ramstad
Ravenel
Regula
Ridge
Roberts
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Rowland
Royce
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Sisisky
Skeen
Smith (MI)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Swett
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Valentine
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (FL)
Zeliff
Zimmer

NOES—234

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Bachus (AL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bonior
Borski
Boucher
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Byrne
Cantwell
Cardin
Carr
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Conyers
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
de Lugo (VI)
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dingell
Durbin
Edwards (CA)
Engel
English
Eshoo
Evans
Everett
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Glickman
Gonzalez
Goodling
Gordon
Green
Gutierrez
Hall (OH)
Hamburg
Hamilton
Hastings
Hilliard
Hinchey
Hochbrueckner
Holden
Hoyer
Hughes
Hunter
Inslee
Jacobs
Jefferson
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lancaster
Lantos
LaRocco
Lehman
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Maloney
Manton
Markey
Martinez
Matsui
Mazzoli
McCloskey
McDade
McDermott
McHale
McInnis
McKinney
McNulty
Meek
Menendez
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moran
Murphy
Murtha
Myers
Nadler
Neal (MA)
Norton (DC)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Pickle
Poshard
Price (NC)
Quillen
Quinn
Rahall
Rangel
Reed
Reynolds
Richardson
Roemer
Rogers
Romero-Barcelo (PR)
Rose
Rostenkowski
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Skaggs
Skelton
Slattery
Slaughter
Smith (IA)
Smith (NJ)
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Sundquist
Swift
Synar
Tanner
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Underwood (GU)
Unsoeld
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Wheat
Whitten
Williams
Wise
Woolsey
Wyden
Wynn
Yates
Young (AK)

NOT VOTING—15

Ballenger
Collins (MI)
Cox
Dixon
Emerson
Faleomavaega (AS)
Fish
Grandy
Hefner
Kennedy
Neal (NC)
Parker
Torkildsen
Washington
Wilson

□ 1345

The Clerk announced the following pair:

On this vote:

Mr. Grandy for, with Mr. Washington against.

Mrs. COLLINS of Illinois, Ms. SHEPHERD, Mr. DERRICK, and Mr. EVERETT changed their vote from "aye" to "no."

Messrs. LIVINGSTON, HOAGLAND, and CLINGER changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. GOODLING

Mr. GOODLING. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GOODLING: Page 11, beginning in line 22, strike "subsection (b)" and insert "subsections (b) and (c)" and on page 12 add after line 6 the following:

(c) COSTS OFFSET.—The amendment made by this Act shall not take effect unless the costs of the amendments are fully offset in each fiscal year through fiscal year 1999 by changes to the Black Lung Benefits Program.

Mr. GOODLING (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. GOODLING. Mr. Chairman, I merely want to say that the administration's position on H.R. 2108 agrees with my amendment.

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

Mr. MURPHY. Mr. Chairman, I rise briefly to oppose the amendment offered by the gentleman from Pennsylvania [Mr. GOODLING], but mostly to request the ranking member of the committee to answer a couple of questions I may have on his amendment.

At the present time the income from the tonnage on coal is sufficient to pay the current benefits that are being paid. There is also additional surplus in that, and I guess, as I understand the gentleman's amendment, it merely states that the excise tax on the coal that is being paid will be sufficient to pay the benefits, the benefit payments, until the year 1999.

Is that correct?

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. MURPHY. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. Basically, Mr. Chairman, what it is indicating is that we follow the pay-go procedure of the Budget Act, and so I think the answer to the gentleman's question is yes.

Mr. MURPHY. If the answer is yes, then of course I have no objection to the gentleman's amendment because the excise tax now and in the future should provide sufficient benefits to pay benefits. But I would want to make sure that it does not now state that we then have to impose an additional tax on the coal operators to deal with the trust fund deficit, which is something we have been debating all morning.

Mr. GOODLING. The reason I could not give the gentleman a totally unqualified yes was simply because of CBO and their scoring procedures and so on. But in my estimation the answer would be yes.

Mr. MURPHY. With that understanding, Mr. Chairman, on behalf of the chairman of my committee I will accept the amendment, but also would respectfully address the gentleman and say that we may want to explore this in conference committee, and I would hope that my arrangement with the gentleman stands for today's acceptance providing that the gentleman and I have the same understanding.

With that, Mr. Chairman, we will accept the amendment.

□ 1350

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. GOODLING].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. FAWELL

Mr. FAWELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FAWELL: Strike section 3, redesignate sections 4 through 11 as sections 3 through 10, and on page 12, line 1, strike "6" each place it appears and insert "5".

Mr. FAWELL. Mr. Chairman, this amendment would delete section 3, which is the so-called evidence section.

The bill proposes a radical change to Black Lung administrative law by placing, for the first time, I might add, restrictions on the presentation of evidence by employers and by the Black Lung Trust Fund. CBO estimates that the changes made by this provision will result in direct spending of $22 million in additional Black Lung benefits over a 5-year period.

The statutory procedures for the adjudication of Black Lung claims are set forth in the Longshoremen and Harbor Workers Compensation Act and are incorporated by reference into the Black Lung Benefits Act.

The Act currently provides for a trial before an administrative law judge. Traditionally, each party has been allowed to present his or her case or defense, to submit rebuttal evidence, and to conduct such cross-examination as required for a full and true disclosure of the facts.

Section 3 restricts for the first time the medical evidence offered by a claimant to three examinations, that is, by the miner, while the defendant, being the employer or being the indebted Trust Fund, would be restricted to just one medical examination. Given the size and the crucial impact of the benefit program on both claimants and the operators and the Trust Fund, it is critical that the process of claims adjudication be fundamentally fair to both sides. The sponsors of H.R. 2108 maintain that this legislation is needed to establish a more objective process for determination entitlement to Black Lung benefits.

This bill, however, proposes a novel and unique warping of the normal adjudicative process historically established under Federal law and under the Federal Rules of Evidence and the Administrative Procedures Act. Congress has the power to set and to alter evidentiary procedures used in adjudicating administrative cases, but only so long as those procedures do not violate the Constitution.

I believe that barring defendants in a Black Lung case from submitting more than one medical examination while allowing the claimant to submit three clearly confronts the due process clause of the U.S. Constitution.

Furthermore, section 3 gives substantial weight to the treating physician's opinion in determination of the claimant's eligibility for benefits even if the other side presents a physician who is equally qualified. The claims adjudication process will become formally biased, I think, in favor of the claimant, and this will undercut the integrity and fairness of the adjudication process and its ability to act as a check against mistaken decisions.

There are many other changes made by this bill, as we have discussed, which will make it much easier for one to be able to prove a case. While it may be the intent of the sponsors of the bill to address the imbalance in resources between the claimant and the defendant where multiple examinations could place undue hardship on a claimant, I believe that the end result will be to tip the scales in favor of the claimant.

I frankly know of no law like this that can withstand constitutional scrutiny. It is just basic common law that we inherited from England and common sense that two parties that are litigating are treated the same.

The problem I think, insofar as miners are concerned, is the fact that under the law that now exists not many competent attorneys even want to take the case because they cannot get compensated until the end of the case, and then they have to be held to an hourly rate, and under the circumstances where cases may go from 4 to 6 years, there are not a whole lot of attorneys who will be able to take the case. We ought to be addressing that problem, not trying to rig the rules of evidence. That makes no sense.

Mr. McCLOSKEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I strongly urge my colleagues to oppose the amendment offered by the gentleman from Illinois [Mr. FAWELL].

The simple fact is that anyone who is from mining areas knows there is not a level playing field right now. In essence, the mining companies are able to overwhelm the claimants with unlimited resources. The committee has a record of at least one case, I say to the gentleman from Illinois [Mr. FAWELL], where the claimant was required to submit to 55 medical examinations. That basically amounts to just harassment and abuse. We think the present reform legislation basically provides for a much more fair situation, a level playing field.

Mr. Chairman, section 3 of the legislation establishes that during the course of all proceedings on a claim, the results of not more than three medical examinations offered by the claimant, the miner, may be received as evidence. The respondent, the responsible coal operator, may only require the claimant to submit to one medical examination. An administrative law judge may require the claimant to submit to a medical examination if there is good cause. Substantial weight is granted to the claimant's treating physician over the opinion of other physicians in determining the claimant's eligibility if that physician is board certified relevant to diseases associated to black lung.

Section 3 brings a basic fairness into the black lung determinant process that has not existed for years. Coal companies can no longer overwhelm a miner with their doctors whose sole purpose is to find reasons to disprove that the miner has black lung because of coal dust. They currently spend thousands of dollars on doctors and on attorney's fees to prove that miner's are not sick or that the coal company is not responsible for the miner's sickness. The miners, however, have few resources to fight the coal companies, and each day the number of lawyers who will accept a black lung benefit case grows smaller. Black lung benefit cases are not an example of David versus Goliath—David would never win if he had black lung.

I urge my colleagues to defeat this amendment. Black lung sufferers do not have the voice that other, more powerful interests groups have. Congress must be the voice and the conscience for those who suffer from black lung.

□ 1400

Mr. HOEKSTRA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the Fawell amendment.

Mr. FAWELL. Will the gentleman yield?

Mr. HOEKSTRA. I yield to the gentleman from Illinois.

Mr. FAWELL. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, it was maybe one case there were 55 medical examinations. Now, that is an absurdity that may have taken place, but certainly in the halls of justice and administrative law, you do not see any judge, usually, that would ever countenance something like that.

I may say that we would have no problem if it was equal, three and three, or two and two perhaps. But you do not go around trashing the Constitution simply because you do not think that, for whatever reason, you are getting the judicial rulings that you would like to be able to get now.

I have as much heart and as much feeling for the miners of this Nation as anyone else. Let me tell you, there are millions and millions of people throughout this land who in their various occupations do have to go in and litigate under workmen's compensation statutes all over the land.

Let me tell you also that nobody bends down and gives them any particular special privileges in regard to basic constitutional due process of law. Everyone, when they walk into a court of justice, when they walk into an administrative law court, they do expect to be able to be treated equally.

Therefore, no matter how deeply and paternalistic you may feel, and understandably so, for the cause of the American miner and the particular occupational illness or injuries that he may face, you must also recognize that you cannot trample upon the Constitution.

I think this is unconstitutional and probably it will be stricken when a

court finds out about it. But it also illustrates this fact: That what we are trying to do, do you not see, is to liberalize the whole process, because we do not think we have gotten the recoveries we think we ought to get. In liberalizing the procedures and the basic laws that affect us all in courts of justice, we are saying relitigate. Relitigate 80,000 potential cases. That is taken seriously by CBO and DOL, who tell me they estimate that 20,000 indeed will then recover under these new, let us say, relaxed rules of evidence, under these presumptions, and under these kinds of restrictions.

So, please, this is not antiminer or prominer. All the working people of America have to accept basic constitutional due process of law. If you can do it here, my friends, you can do it against anybody that Congress may not particularly like. We are going to give you only one bite at the apple, but the complainant, we favor him, we like him, he is a good guy, we are going to give him more.

We do not want to do that. Are we thinking right now with our heads? No. With our hearts maybe, because we want to do something good for the miners. Actually, this bill is a catastrophe for the miners and a catastrophe for the taxpayers.

But this is just generally not a major portion, but it is one I thought everyone would accept. How can you be against basic constitutional due process of law? This is not a partisan argument here. It is justice, my friends; it is fairness. And if you have to dispel with fairness to get your way, you are not getting something, you are taking something.

So I would ask all those, maybe not the ones who have their minds made up, but all those who are listening in, please listen to this. It is something that will not stop this juggernaut from moving on, but, by George, it will bring us, and guarantee, justice.

I thank the gentleman for yielding.

Mr. RAHALL. Mr. Chairman, will the gentleman from Michigan yield?

Mr. HOEKSTRA. I yield to the gentleman from West Virginia.

Mr. RAHALL. I appreciate the gentleman yielding.

Mr. Chairman, I say in response to the gentleman from Illinois, if leveling the playing field, which is what we are doing in this legislation, if that is called liberalizing, then I plead guilty. I am for liberalizing. I would go much farther than the pending legislation would go if I had my way. I think we have struck a very good compromise in this particular piece of legislation, a compromise that would be drastically upset by the amendment of the gentleman from Illinois.

The CHAIRMAN pro tempore (Mr. MAZZOLI). The time of the gentleman from Michigan has expired.

Mr. RAHALL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, let me say further that in regard to litigation that other vocations in this country have to face in regard to workmen's compensation, I would agree fully that this is a very difficult process as well. But I can think of no other group or no other profession in this country that has had to go through the catastrophe of the last 10 years before the Department of Labor, in which the process has been skewered so dramatically against the claimant. I can think of no other vocation in this country that has faced a similar experience as our Nation's coal miners have over the past decade.

The amendment seeks to strike from the bill, as I said, a compromise.

Mr. FAWELL. Mr. Chairman, if the gentleman will yield, I just want to bring out that these kinds of presumptions of alterations of evidence were in there before. They did not do what I think you would hope they would do and increase the awards that are being gathered. They were stricken by consensus of labor, management, and the administration, because they did not accomplish anything.

Mr. RAHALL. Mr. Chairman, reclaiming my time, let us go over the background very quickly to see in what frame these regulations were issued.

Mr. Chairman, it should be noted that Congress passed the Black Lung Benefits Reform Act in 1977 because of its dissatisfaction with the low approval rate for black lung benefits.

Today, in 1994, in part because the Labor Department did not fulfill its mandate under the 1977 Act, we are once again seeking legislation.

The 1977 statute required the Labor Department to adopt interim eligibility standards that were to be no less restrictive than what had been in effect on June 30, 1973; a reference to a set of standards previously used by the Department of Health, Education and Welfare.

The problem is that the interim standards promulgated by the Labor Department were far more restrictive than HEW's.

Moreover, the permanent standards adopted in 1980, and the 1981 amendments to the Act, further aggravated the situation and the number of claims approved continued to plummet.

According to a 1990 GAO report, between 1973 and 1988 less than 10 percent of claims were approved.

This low claim approval rate does not attest to any reasonable and unbiased comportment of the facts.

Rather, the low claim approval rate that Congress sought to address in 1977, and that we are again seeking to rectify with this bill, is due to years of administrative maneuverings over the program's eligibility criteria.

Under H.R. 2108, we will return to a program that more closely reflects the statutory commitment Congress, and indeed, the Nation, made to compensate those coal miners who suffer from the crippling effects of black lung.

However, and with all due respect to the committee, while the bill contains helpful provisions relating to the evidence a claimant or opposing party must provide, they do not in my view go far enough.

I would maintain that a black lung claimant need only to produce a single piece of qualifying evidence. That is what Congress originally intended.

This is however, not what the bill requires and we have a compromise here.

And this amendment would break that compromise and it would gut the bill. It is a truly killer amendment. I urge its defeat.

Mr. BOEHNER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as we look at this bill and dissect the problems that we have with it, one of the most major problems is in fact this language in there that changes the evidence that can be presented and allows the claimant to bring in statements from three physicians, while the company's coal company operator can bring in a statement from one physician. If that is not bad enough, it goes on to say that preferential treatment shall be given to the personal physician of the claimant in adjudicating the claim.

Now, this is entirely unfair. Congress has no business proceeding to do this type of legislating in the bill that is before us.

We are here to represent all of the citizens of the United States and to do what is fair and to do what is right, and we are given a sacred trust by the American people to carry out legislation on their behalf in fairness to all.

□ 1410

Now, we have heard for some time from the other side that the reason we have these changes coming before us in this bill is because there are a reduced number of claims being approved by the Department. That probably has something to do with the fact that over the years, as these new safety initiatives were put into place, less and less miners were contracting black lung disease.

What this bill purports to do is to give all of them a second bite at the apple, to liberalize the process. But the language that the gentleman from Illinois, who is offering this amendment, the language that he seeks to strike out is, as I believe he mentioned, unconstitutional on its face.

We have a responsibility to live under the Constitution. When we all are sworn in here, we will swear that we will uphold the Constitution. The fact is, this language is unconstitutional. It should be stripped from the bill, and the amendment of the gentleman from Illinois should be passed.

Mr. MURPHY. Mr. Chairman, I move to strike the requisite number of words, and I rise to oppose the amendment.

I might say that if the gentleman from Illinois had an amendment that he was concerned with making an equal playing field, I think those of us here in the majority and the proponents of this measures would be willing to discuss it with him. But he is not proposing an equal playing field. He wants to revert to what we have now as existing law.

Let me state, one ALJ said, after he had reviewed all of the matters coming in, all of the medical evidence, "What happens is the employers inundate the record with consulting medical reports and rereadings of x rays and then argue nonentitlements to benefits based on the preponderance of the evidence."

What has been happening is that the coal companies, in defense of their claims, run the poor coal miner all over the country for additional medical reports. Time after time they request a continuance of the hearing until they can get one or more x ray reading, one more hired gun, medical gun, one more report adverse to the coal miner's interest.

The miner himself can hardly afford to pay the $200 to $250 to his own physician to come in with one single medical report, to the extent where one ALJ said, "Hiring armies of experts often results in needless expense. If such a system continues unchallenged, justice is not served while monied interests thrive."

That is what is happening today. If the gentleman were sincerely interested, he would not be striking the entire section of evidence. He would come in here with something there will be an even playing field. The coal miner treats under his family physician for years. He has a hospital record. He has a clinic record. He has x rays. He should be entitled to bring these in.

The coal company sends him to one expert for a 15-minute exam. Three months later, so that he can delay the hearing, he sends him to a hospital in Pittsburgh for another exam and x rays. Three or four months later he sends him to another medical expert. Finally, the miner dies and he then sends all of the evidence to other experts to review his death certificates. The miner cannot afford to continually fight this total weight and preponderance of the evidence that the coal companies are using as hired medical guns.

Let us make this an even playing field. I say to the gentleman from Illinois [Mr. FAWELL], he can accept an amendment as we had in the last bill two years ago, which he opposed, and then accept this bill and then we have a deal. But until that time, he is against the miners when he wants to strike all the evidentiary section.

Mr. FAWELL. Mr. Chairman, will the gentleman yield?

Mr. MURPHY. I yield to the gentleman from Illinois.

Mr. FAWELL. Mr. Chairman, I have two basic complaints to which I made reference. Both are as unconstitutional as one can possibly be.

Mr. MURPHY. Let the courts decide that.

Mr. FAWELL. Mr. Chairman, if the gentleman will continue to yield, I would say that to all of the attorneys at least in Congress, if they have heard what we have been talking about, would concur. But my esteemed colleague, who is also an attorney, I gather does not agree, but I certainly, if it was 3 and 3 and if we removed the wording about the treating physician having to have been given substantial weight, a good treating physician for the miner, he is going to have the weight of being the treating physician. The judge is going to see his demeanor and be able to obviously decide how much weight he is going to give him.

Mr. MURPHY. Mr. Chairman, if the gentleman will withdraw his amendment, I will commit it in the conference committee. He and I will work it out so there will be an equal playing field. The identical language I had in my bill in the last session of Congress, we will put in place in this one.

Mr. FAWELL. Mr. Chairman, I appreciate the gentleman's offer.

Let me understand what we are talking about. We would be deleting then the three to one to make it three and three.

Mr. MURPHY. Three and three.

Mr. FAWELL. And we would be deleting the words that would require that the treating physician be given substantial weight over the opinion of other physicians? Obviously, a court is going to make that decision all by itself without our having to demand that that be done.

Mr. MURPHY. It probably would. But I submit to the gentleman, the treating physician, he has equal qualifications.

The CHAIRMAN pro tempore (Mr. LIPINSKI). The time of the gentleman from Pennsylvania [Mr. MURPHY] has expired.

The Committee will rise informally in order that the House may receive a message.

MESSAGE FROM THE SENATE

The SPEAKER pro tempore [Mr. RAHALL] assumed the chair.

The SPEAKER pro tempore. The Chair will receive a message.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2087. An act to extend the time period for compliance with the Nutrition Labeling and Education Act of 1990 for certain food products packaged prior to August 8, 1994.

The SPEAKER pro tempore. The Committee will resume its sitting.

BLACK LUNG BENEFITS RESTORATION ACT OF 1994

The Committee resumed its sitting.

Mr. TRAFICANT. Mr. Chairman, I move to strike the requisite number of words.

I was not going to speak on the bill. And while they are working out their differences, I would just like to make a few comments. It is evident that we have a committee, subcommittee and committee that have brought to the floor legislation that seems to be friendly to an American worker's interest. Friendly to American workers, in this case, friendly to coal miners who have suffered from black lung or other dysfunctions due to the nature of their workplace. Is that not refreshing? Congress is getting a little friendly, at least in this piece of legislation where coal miners have to jump through hoops, get five different opinions, go to 90 different elements to try and confirm that they are sick, sick from their workplace and may die to get some help from Uncle Sam.

The few comments I want to make is, if you live in my area, you may have to move to Mexico to get a job in the first place. And we see a committee that is basically being attacked and challenged because they are trying to give a helping hand to members of the American workforce who are now dysfunctional because of the problems in environmental conditions that they have faced over the years.

I am not speaking about the substantive issues of the amendment of the gentleman from Illinois [Mr. FAWELL] at all. "Frankly, Scarlett, I don't give a damn."

I see a committee that has come forward trying to right a wrong that puts the American worker and the problems that the American workers face is No. 1 on their agenda. And I rise to say "Thank you, Mr. Chairman; thank you, subcommittee; thank you, committee." I hope that Congress supports their efforts. We need a few more subcommittees like that.

Mr. HALL of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by my colleague from Illinois.

Section 3 of H.R. 2108 proposes a radical and fundamentally unfair change in black lung administrative law, for the first time, differentially restricting the presentation of evidence of medical examinations of miners.

It would restrict the presently unabridged right of a claimant or defendant to submit medical examinations of the miner in support of or opposition

to a claim and, in so doing, allow the claimant to offer up to three examinations but bar the defendant from submitting more than one examination. These examinations fundamentally underlie the entire factfinding process in black lung cases.

The provision proposes a claims adjudication process formally biased in favor of the claimant, by legislatively manipulating the presentation of evidence, undercutting the adjudication process' integrity, fairness and ability to act as a check against mistaken decisions.

The provision proposes a novel and unique warping of the normal adjudicative process historically established under Federal law, the Federal Rules of Evidence and the Administrative Procedure Act. Congress has the power to set and alter evidentiary procedures used in adjudicating administrative cases, but only so long as those procedures do not violate the Constitution. I believe, barring defendants, in black lung cases, from submitting more than one medical examination while allowing the claimant to submit three examinations, clearly and squarely, confronts the Due Process Clause of the U.S. Constitution.

The Supreme Court has held that a fair trail in a fair tribunal is a basic requirement of due process and this applies to administrative agencies which adjudicate as well as to courts.

Section 3 of H.R. 2108 would legislatively bias the fact-finding of the decisionmaker in the claim-adjudication in favor of the claimant. Not only is a biased decisionmaker constitutionally unacceptable, but our system of law has always endeavored to prevent even the probability of unfairness.

There is simply no governmental interest, in these cases, in preventing one party from submitting the same amount of like-kind evidence as the opposing party. In fact, there is a strong governmental interest in avoiding mistaken decisions and, in providing justice. Procedures are unreliable if they do not give a party an opportunity to test the strength of the evidence by confronting and cross-examining adverse witnesses and by presenting witnesses on its own behalf.

As Justice Brennan said in Brock versus Roadway Express, Inc., "employers * * * are entitled to a fair opportunity to cross-examine witnesses, and to produce contrary records and testimony."

Supreme Court concern for ensuring this protection by allowing litigants to present their case has been longstanding. For example, the Supreme Court said in 1941: "[o]ne of the most important safeguards of the rights of litigants and the minimal constitutional requirement, in proceedings before an administrative agency vested with discretion, is that it cannot rightly exclude from consideration, facts and circumstances relevant to its inquiry which upon due consideration may be of persuasive weight in the exercise of its discretion." *Pittsburgh Plate Glass Co.* v. *NLRB*, 31 U.S. 146, 177 (1941).

The Supreme Court maintains a particular concern for allowing litigants to ultimately present their case where presumptions are used to shift the burden of going forward with evidence, such as in the black lung program.

For the presumption to pass constitutional muster there must be some rational connection between the fact proved and the ultimate fact presumed, and that the inference of one fact from proof of another shall not be so unreasonable as to be a purely arbitrary mandate. However, by biasing the presentation of evidence, section 3 undermines the ability of the factfinder to discover the truth and, thus, be able to reasonably find the rational connection between the fact proved and the ultimate fact presumed.

Section 3, as presently written is wrong from a policy point of view and, I believe, unconstitutional. The section is fundamentally unfair, unreasonable and contains a high risk of leading to mistaken decisions. The amendment of my colleague of Illinois striking section 3 should be adopted.

I ask that my complete statement be printed in the RECORD.

□ 1440

I think there is a lot of very much historical, legal matter; certainly Brock versus Roadway Express, Inc., where it says, "The employer is entitled to a fair opportunity to cross-examine witnesses and produce contrary records and testimony," that there is much legal background to support the fact that we should allow all litigants to ultimately present their case, and where presumptions are used to shift the burden of going forward with the evidence, such as in this program, that that gives one or the other side an unfair advantage.

I want to give those who have the problems that this addresses an opportunity to have their day in court, but I think we ought to look at it from both sides.

The CHAIRMAN pro tempore (Mr. LIPINSKI). The question is on the amendment offered by the gentleman from Illinois [Mr. FAWELL].

The question was taken; and the Chairman pro tempore announced that the noes appear to have it.

RECORDED VOTE

Mr. FAWELL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 181, noes 238, not voting 19, as follows:

[Roll No. 182]

AYES—181

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bereuter
Bilirakis
Bliley
Blute
Boehner
Bonilla
Brewster
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chapman
Clinger
Coble
Collins (GA)
Combest
Crane
Crapo
Cunningham
Deal
DeLay
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Everett
Ewing
Fawell
Fields (TX)
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gallo
Gekas
Geren
Gilchrest
Gillmor
Gingrich
Goodlatte
Goss
Grams
Greenwood
Gunderson
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hayes
Hefley
Herger
Hoke
Horn
Houghton
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Istook
Jacobs
Johnson (CT)
Johnson (GA)
Johnson, Sam
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Laughlin
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Livingston
Lucas
Machtley
Manzullo
McCandless
McCollum
McCrery
McHugh
McInnis
McKeon
McMillan
Meehan
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Nussle
Orton
Oxley
Packard
Paxon
Penny
Petri
Pickett
Pombo
Porter
Portman
Pryce (OH)
Quillen
Ramstad
Ravenel
Regula
Ridge
Roberts
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Rowland
Royce
Santorum
Saxton
Schaefer
Schiff
Schumer
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Valentine
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (FL)
Zeliff
Zimmer

NOES—238

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Bentley
Berman
Bevill
Bilbray
Bishop
Blackwell
Boehlert
Bonior
Borski
Boucher
Brooks
Browder
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
de Lugo (VI)
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dingell
Durbin
Edwards (CA)
Edwards (TX)
Engel
English
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Green
Gutierrez

Hall (OH)
Hamburg
Hastings
Hefner
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Holden
Hoyer
Inslee
Jefferson
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Lehman
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDade
McHale
McKinney
McNulty
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Moran
Morella
Murphy
Murtha
Myers
Neal (MA)
Norton (DC)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Peterson (FL)
Peterson (MN)
Pickle
Pomeroy
Poshard
Price (NC)
Quinn
Rahall
Rangel
Reed
Reynolds
Richardson
Roemer
Rogers
Rose
Rostenkowski
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (IA)
Smith (NJ)
Spratt
Stark
Strickland
Studds
Stupak
Swett
Swift
Synar
Tanner
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Underwood (GU)
Unsoeld
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Wheat
Whitten
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Young (AK)

NOT VOTING—19

Brown (CA)
Cox
Dixon
Emerson
Faleomavaega (AS)
Ford (MI)
Goodling
Grandy
McDermott
Michel
Nadler
Neal (NC)
Parker
Pelosi
Romero-Barcelo (PR)
Stokes
Torkildsen
Washington
Williams

□ 1442

The Clerk announced the following pair:

On this vote:

Mr. Grandy for, with Mr. Washington against.

Mr. PALLONE and Mr. SPRATT changed their vote from "aye" to "no."

Messrs. WALSH, QUILLEN, and DICKEY, and Ms. HARMAN changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. McDERMOTT. Mr. Chairman, during rollcall vote No. 182 on H.R. 2108 I was unavoidably detained. Had I been present I would have voted "no."

AMENDMENT OFFERED BY MR. ARMEY

Mr. ARMEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ARMEY: Strike section 6 and on page 11, line 22, strike "(a) General Rule.—" and on page 12 strike lines 1 through 6.

Mr. ARMEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore (Mr. LANCASTER). Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. ARMEY. Mr. Chairman, H.R. 2108, the Black Lung Benefits Restoration Act creates more problems than it solves. It already has been stated that the bill reported out of committee is one which places too heavy a burden on mine operators, violates the principle that all relevant evidence is admissible, and is fiscally irresponsible.

Additionally, as if to establish some sort of coal miners' lottery, H.R. 2108 has a provision covering the award of attorneys' fees that could potentially create a nightmare. Under current law, reimbursements for attorneys' fees are paid out of either the black lung trust fund or by the mine operator at the final resolution of the case. No final judgment, no attorneys fee awards. The amendment I am offering will return us to this state of affairs.

Unfortunately, H.R. 2108 rejects this commonsense approach, and authorizes payments to be made by the mine operator to the claimant at every stage of the process where the claimant prevails. Under what can be characterized only as a lawyers' bounty, H.R. 2108 would make a miner, who has gone down to the local Division of Coal Miners Workers' Compensation Office to file a claim, eligible to receive attorneys' fees after the claims examiner rules in his favor in an initial determination.

Such an award will have occurred even before the mine operator has even entered a Federal court. This Federal court. This outcome is unnecessary and unwarranted. The system is already generous enough. Today, any claimant who prevailed during the initial determination receives benefits from the trust fund while the case is being contested.

But apparently this is not enough. H.R. 2108 would mandate payments for attorneys' fees for requests to reconsider determinations, proceedings before administrative law judges, and appeals before the Benefits Review Board.

Remember, all of this is before the case even gets to a Federal court, and these awards are allowed even when it is the claimant that appeals or ask for reconsideration.

Now supporters of this provision will tell you that all of this does not matter, because innocent mine operators get compensated too. This has a ring of truth in it, but the facts are that the mine operator has never been allowed to recover his own attorneys' fees.

H.R. 2108 would not change this. Instead, it generously says that if the mine operator ultimately is successful, the Federal Government—via the black lung trust fund—will pay him back. Not for his own costs, but for any costs for the claimants attorneys' fees that we have forced him to pay out.

The truth is that this provision in the bill will serve as little more than an inducement for more claimants to file against an already beleaguered trust fund. Even with a case that ultimately proves to have no merit, a claimant and his lawyer will have been given new incentives to file a claim. His lawyer recognizes that win or lose, he or she will likely be paid, and paid well.

If the threat of such awards force a mine operator to settle the case, in the eyes of the trial lawyers, this is so much the better.

Well, it is not better for the trust fund and ultimately the American taxpayer who will have to be responsible when the trust fund goes belly-up.

According to the Congressional Budget Office projected expenditures for attorneys' fees is expected to be $25 million over 5 years, rivaling the administrative costs of $27 million during the same period.

The trust fund is currently $4 billion in debt. We must not compound this by providing unwarranted awards to lawyers, and unduly stimulating suits against mine operators. I urge my colleagues to vote in favor of this amendment. It is a return to fiscal sanity and its good policy.

□ 1450

Mr. MURPHY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I oppose this amendment because it denies an entire class of people—the aged, the ill, the infirm, the unemployed miner—adequate legal representation. These individuals who filed under the harsh 1981 amendments, with their stricter standards, were unfairly excluded from eligibility. And now to deny these people sufficient representation on a rehearing is tantamount to total justice denied.

The attorneys fee section was incorporated into this bill in response to testimony received throughout our oversight hearings. Numerous witnesses discussed the great difficulty they and their fellow coal miners have in finding any legal representation.

Under the current system, attorneys are not paid until the claim is fully adjudicated. Now, contrary to what the gentleman from Texas [Mr. ARMEY] would have us believe, no attorney, no attorney would be paid any fee at all until and unless the claimant was granted benefits by the Department of Labor.

This is not attorneys fees in advance; this is only attorneys fees that accumulate if the company then files and puts the miner through an appeals process. But no attorneys fee is paid until the claim is granted. After that, not if the miner appeals—he would not

have to appeal—only if the company appeals would then the attorney be allowed to be paid and only paid for the work he has accumulated as having done at that stage of the proceedings.

We found in instance after instance in the entire State of West Virginia, half a dozen attorneys representing the miners; in the entire State of Kentucky, a dozen attorneys who were willing to represent miners. They cannot afford to tie up their time and energy until a 10-year period of appeals is up.

What we are saying is companies have their lawyers at the table all through the proceedings; let us have the miner have his attorney at the table all throughout the proceeding.

Remember, the attorney would not get paid a cent until he had received his first initial benefit; that means that he had won.

Now they put them through the appeals process, and we are saying that is when the attorneys leave them. We would like the attorney to stick with them.

Mr. RAHALL. Mr. Chairman, will the gentleman yield?

Mr. MURPHY. I yield to the gentleman from West Virginia.

Mr. RAHALL. I thank the gentleman for yielding.

Mr. Chairman, the gentleman from Pennsylvania has pointed out the fact that in the State of West Virginia there are a half a dozen that will handle these black lung cases. During hearings that the gentleman's subcommittee graciously held in my home town of Beckley, WV, 5 years ago, we heard testimony there were only a dozen lawyers at that time that would handle black lung cases. The gentleman from Illinois earlier referred to the lack of lawyers handling these cases. This is precisely why. How would we like to get paid at the end of each term rather than each month during the term?

Mr. MURPHY. And only if you got a bill passed.

Mr. RAHALL. Right. And only if you got a bill passed. So I think the gentleman's amendment is bad policy, and I urge its defeat, and I associate myself with the remarks of the chairman of the subcommittee.

Mr. FAWELL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I think it is important for us to stop and really take a look at this section. There is no question in my mind, as I have indicated before—and I know that Chairman MURPHY and I have discussed this on numerous occasions—that the present system insofar as legal fees are concerned is one that is not conducive to having competent attorneys. Not that those who are handling these matters are not competent, but it is not conducive to attracting a lot of attorneys to represent miners. Progress can be made. But I think Congressman ARMEY has circled and hit a very, very important point.

Now, if you take a good long look at this section, you will find that there are two big detriments to it. No. 1 is that legal fees will be granted even in instances where the claim is denied.

Now, that just is not the case, I think, in any workman's compensation statute in the Nation. Why do we do this here when we have a number of ways that we could really make progress?

And this goes further: I think as a sweetener to kind of soften opposition, it goes further and says that legal fees which are awarded during the process of the suit when there is an ultimate denial of the claim—those legal fees must be reimbursed to the coal company employer who won the case. And guess who gets stuck with having to pay the legal fees? You are right, the "U.S. Congress Insurance Company," the trust fund, has to pick up all of those legal fees in instances where ordinarily speaking in all the other workman's compensation statutes in this Nation there are no legal fees when you lose the case.

Now, I have suggested, and I think Chairman MURPHY is entertaining this point too, that why do we not look at what the rest of the world is doing? The rest of the world both in tort actions and in workman's compensation will recognize that contingent fees are not evil. I think the Department of Labor sometimes think they are. I would not even suggest that if contingent fees were possible and you would have a lot of good attorneys coming in and doing the work, that they necessarily had to be taken out of the recovery, which, by the way, is the way all other workman's compensation statutes in the States work. It is normal.

But the chairman is quite right when he says there is no incentive if you are on hourly rate and you cannot be paid until the very end, and then if you do not win, of course you lose. You are not going to get many attorneys to buy that package.

I do not know why we have not changed this long ago. I suppose that with all the work that I have done on this matter, I could have worked to put that in. I would be glad to work assiduously on this because I want to make it easier for miners too. But I will tell you what, all the changes you are making otherwise are not going to make a hoot of difference unless you recognize that an attorney can have that contingent fee arrangement, as I said, even if you want it not to come from the recovery. I think that is the way this ought to be, but it would hurt too many feelings there, I suppose; but Mr. ARMEY is absolutely zeroing in. He is objecting to the fact that, "Hey, you don't get attorneys fees, my friends, when you lose the case." And then, "You don't go out and charge the trust fund to pick up that bill."

How much more money will that be that the trust fund has to borrow from the U.S. taxpayers in order to finance that one? Does anybody know? None of us knows, none of us knew it very much, and we do not care. We are too busy, we cannot run an insurance company this way.

I keep referring to the trust fund as an insurance company because that is the only entity that is going to be there for the miners who are suing under black lung fund when the owners have disappeared.

The CHAIRMAN pro tempore (Mr. LANCASTER). The time of the gentleman from Illinois [Mr. FAWELL] has expired.

(By unanimous consent, Mr. FAWELL was allowed to proceed for 1 additional minute.)

Mr. FAWELL. So Mr. ARMEY goes and hits the bulls-eye, but he is not probably going to get much reaction here. I pledge to the chairman, Chairman MURPHY, I would be more than glad to try to work with him to copy what is successful in all the other workman's compensation statutes where the attorneys do pitch in and do give the kind of representation that the miners ought to have and which they have not been getting. This is the most expensive, wasteful route you can possibly think of, and it is mollifying the coal operators. The only people left who would object are the taxpayers, here I am, one person, and there is another one over there, Mr. ARMEY, who brought this point up.

That is all I have to say on the matter.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Texas [Mr. ARMEY].

The question was taken, and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. ARMEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were ayes 176, noes 250, not voting 12, as follows:

[Roll No. 183]

AYES—176

Allard	Boehner	Crane
Archer	Bonilla	Crapo
Armey	Brewster	Cunningham
Baker (CA)	Brooks	Deal
Baker (LA)	Bunning	DeLay
Ballenger	Burton	Dickey
Barrett (NE)	Buyer	Doolittle
Bartlett	Callahan	Dornan
Barton	Calvert	Dreier
Bateman	Camp	Duncan
Bentley	Canady	Dunn
Bereuter	Castle	Edwards (TX)
Bilirakis	Coble	Ehlers
Bliley	Collins (GA)	Ewing
Blute	Combest	Fawell
Boehlert	Cox	Fields (TX)

Fish
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gallo
Gekas
Geren
Gilchrest
Gillmor
Gingrich
Goodlatte
Goodling
Goss
Grams
Greenwood
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Houghton
Huffington
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Istook
Johnson (CT)
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Laughlin
Leach
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Livingston
Lucas
Machtley
Manzullo
McCandless
McCollum
McCrery
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Molinari
Moorhead
Myers
Nussle
Oxley
Packard
Paxon
Penny
Petri
Pombo
Porter
Portman
Pryce (OH)
Quillen
Ramstad
Ravenel
Ridge
Roberts
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Rowland
Royce
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Valentine
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—250

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Bachus (AL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
de Lugo (VI)
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dingell
Dooley
Durbin
Edwards (CA)
Engel
English
Eshoo
Evans
Everett
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Hughes
Inslee
Jacobs
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Lazio
Lehman
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDade
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Murphy
Murtha
Neal (MA)
Norton (DC)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pomeroy
Poshard
Price (NC)
Quinn
Rahall
Rangel
Reed
Regula
Reynolds
Richardson
Roemer
Rogers
Rose
Rostenkowski
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (IA)
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tanner
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Underwood (GU)
Unsoeld
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—12

Dixon
Emerson
Faleomavaega (AS)
Grandy
Nadler
Neal (NC)
Parker
Pelosi
Romero-Barceló (PR)
Torkildsen
Vucanovich
Washington

□ 1520

The Clerk announced the following pair:

On this vote:

Mr. Grandy for, with Mr. Washington against.

Mr. HAYES and Mr. CLINGER changed their vote from "aye" to "no."

Mr. HYDE and Mr. McHUGH changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. HOEKSTRA

Mr. HOEKSTRA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr HOEKSTRA: Strike section 10 and redesignate section 11 as section 10.

Mr. HOEKSTRA. Mr. Chairman, fewer than half of the cases decided by the Supreme Court involve constitutional issues, but well over half involve the interpretation of laws (CRS Review/Sept. 1991).

Although the Court has sent mixed signals about deference to agency interpretations of statutes, there is a trend toward increased reliance on the text of law and a decreased reliance on legislative history, such as committee reports and floor debate (CRS Review/Sept. 1991).

Section 10 of this legislation is obviously a reaction to some recent opinions of the Supreme Court, particularly by Justice Scalia. In fact, I think, legal experts would say that while the Court may be more skeptical of using legislative history opinions have varied a great deal about how and when it is appropriate, and Judge Breyer's appointment, assuming he is confirmed, will add to the mix of views on this issue in the court.

But, I read somewhere that one of the things Justice Scalia has said is that efforts to use committee reports as authoritative legislative history should be discounted because they are written by staffers and members often don't even read them. Is he wrong about that? Not in my experience. I would say he is exactly right in the majority of instances. So why are we trying to undercut him? There should be more emphasis on what the statute says, and less on trying to read the minds of the staff persons who wrote the committee report.

The Supreme Court should not need to go to legislative history to interpret what it is we intend. This body needs to make sure it knows what it is authoring and putting into law and that it is not vague and overly broad. Too often, it is the intellectually and politically lazy road to draft legislation and amendments which we either don't know enough about to send definite messages or we are too chicken to make a choice between two approaches.

Ambiguity is defined by Websters as uncertainty. If we are uncertain, we had better go back to the drawing board and start the process over again.

This provision sets a brand new precedent that, in and of itself, should be thoroughly debated and analyzed—not just stuck in a bill. It is an invitation for Members of Congress to load every piece of legislation up with rhetoric, some of which may end up being contradictory.

Mr. MURPHY. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I would like to state that I do not oppose the gentleman's amendment. It is my belief that legislative intention should be reviewed by the courts when they are in doubt as to the actual ambiguity of a statute. However, though I may disagree with Justice Scalia, I do agree with the philosophy, legal philosophy, of court nominee Breyer, attorney Breyer, and I believe that perhaps these two may offset each other in the court procedure.

Therefore, I do not find it absolutely necessary to include this statutory construction-type language to encumber the black lung bill. Inasmuch there is an objection to it, I would agree to strike it at this point, and just hope the courts would more favor my legal philosophy on it than that of a strict constructionist, such as the gentleman from Michigan. But we will agree to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan [Mr. HOEKSTRA].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. FAWELL

Mr. FAWELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FAWELL: Strike section 2, redesignate sections 3 through 11 as sections 2 through 10, and on page 23, line 1, strike "6" each place it appears and insert "5".

Mr. FAWELL. Mr. Chairman, my amendment strikes section 2, which deals with a very controversial and I think somewhat emotional topic, interim benefits to claimants. A little background on interim payments is helpful to better understand my amendment.

Under current law, individuals who file for black lung benefits can receive interim benefit payments, that is, total disability payments, once the Department of Labor makes an initial determination that the claimant is eligible for benefits.

Basically a claimant can be found by the Department of Labor to be entitled to benefits if the medical evidence shows that the miner has black lung disease and is completely unable to perform his or her customary coal mine work as a result of the disease.

Note, you can still be totally disabled and be able to otherwise support yourself. Total disability under this act does not mean total disability. It means total disability insofar as doing work in the mines.

A reduction of 40 percent from the expected normal respiratory function is regarded as totally disabling for coal mine workers in the absence of evidence to the contrary. Interim benefits are then paid to the claimant, and this is important, with a clear understanding that they will have to be repaid if the claimant loses his case. In other words, claim denied.

These interim benefits, again total disability benefits, have always been paid to the claimant with the understanding that they will have to be repaid if the claimant is ultimately found to be ineligible for the benefits. Section 2 of this bill would eliminate this requirement entirely. The section states that if interim benefits, total disability benefits, have been granted and paid to a claimant whose claim is ultimately denied, the claimant will no longer have to repay these funds.

□ 1530

I happen to be one that thinks that they should get these interim benefits, but they should get them after they win, then they relate back, which is the law, by the way. In other words, one can get total disability payments under this provision even it one has no right whatsoever to any total disability payments.

Additionally, section 2(b) requires the trust fund to refund any payments made to it as a reimbursement of benefits paid on a claim which was ultimately denied. Claimants do, by the way, repay interim benefits paid to them if their claim is ultimately denied. But section 2(b) would require the trust fund to retroactively reimburse any such benefits going all the way back to 1973. CBO scores this requirement as costing CBO $40 million over 3 years, 1995 through 1997.

Section 2(c) also required the trust fund to indemnify, guess who, the responsible operators for any interim benefits paid on the claim which is later denied. The trust fund, there is our insurance company again.

If we have these situations where a claim is denied but interim benefits have been ordered to be paid and they no longer have to be repaid, then the good old trust fund is going to indemnify the coal operators who were the ones who contested the claim and ultimately caused the claim to be denied.

I ask Members, what section 2 is doing in requiring that the trust fund has to subsidize the cost of interim benefits which the coal operators are under order to pay in cases where the claim is ultimately denied. Obviously, there is no justification in that.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. FAWELL] has expired.

(By unanimous consent, Mr. FAWELL was allowed to proceed for 1 additional minute.)

Mr. FAWELL. All of this is in spite of the fact that the Department of Labor already waives repayment in cases where a claimant demonstrates financial hardship. The Department waives repayment if the recovery of interim benefits would deprive the individual of income needed for order and necessary living expenses or otherwise is against equity and good conscience.

It makes no sense whatsoever to have an act which when a person loses the case, we have already said he loses the case and the attorney still gets paid, now we say he loses the case and it may go on for 4 to 6 years, but he can keep all the total disability payments though he never was entitled to the total disability payments. Only a bankrupt insurance company could dream up that kind of a scenario.

I know my colleagues' hearts think that is right, but it is the dumbest thing from a viewpoint of business that one could think of. Any wonder why the trust fund is $4 billion in debt and the taxpayers are now bailing it out.

Mr. McCLOSKEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, this has been discussed already, but in all good will, I think the gentleman from Illinois [Mr. FALWELL] does not recognize the human element and the actual reality, and I think we from the minefields know this, as far as it affects the practical workings of people's lives and what happens to them.

What we have under this program, and as we all know the final certification on black lung eligibility has taken in some cases 6, 8, sometimes 9, 10 years. People are living in their old age, having served their Nation, having worked in the minefields, and all of a sudden that notice, and we have all seen them, comes in from the Department of Labor saying, "Dear Mr. Smith/Mrs. Jones, you owe $60,000 to the Department of Labor. You have been found ineligible for permanent black lung benefits. Please pay it back within 60 to 90 days or get in touch with us and we will talk about it. A certified check will be accepted."

That is all very fine, but how many miners and their families, who have to live on these benefits as they are ascertained on an interim basis, have $20,000, $30,000, $40,000, $50,000, $60,000? In many cases, it can cause emotional to the point of heart attack and medical problems. That is an obvious.

Many people in my district, the 8th District of Indiana, have been bewildered by this. The simple fact is that these claims were not filed fraudulently. They were filed in good will, in good faith. Even at that point they may very well have black lung. All that is is a particular certification most often after many years have gone by.

I dare say that this proposal not to have these payments have to be repaid, not only being compassionate and common sense, is also an incentive in a system for the DOL and the Federal process to get the permanent resolution of these cases ascertained.

We all know what it means for a 70-year-old retired miner or widow being told to pay, they owe $50,000, $60,000 and in some cases houses and homes have been lost. It is simply a very weird Alice in Wonderland way to treat the working people of this fine Nation.

Mr. FAWELL. Mr. Chairman, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from Illinois.

Mr. FAWELL. Mr. Chairman, I would suggest, again, we want to do justice for the miner. We want to hope that this insurance company of ours, called the trust fund, is going to be able to exist.

Mr. McCLOSKEY. Mr. Chairman, reclaiming my time, the cost of this provision, which I initially authored and we have been working on for some years, over 5 years is $56 million. In the line of what we are talking about, this is more than a reasonable cost for simplification of the system, basic justice and, indeed, as the gentleman has said, an incentive that the system would work faster so that in essence the loss to the mine fund as to the black lung payments, would not go on so much.

I dare say, does the gentleman have any retired mine families on black lung benefits in his district?

Mr. FAWELL. Mr. Chairman, if the gentleman will continue to yield, no, I do not. But I do want to point out that the law already states that once you

win the case, the interim benefits relate back to the time you filed the case. So they are going to get those benefits if they win.

Mr. McCLOSKEY. But if they do not, as the gentleman knows, that is what we are talking about, if they lose, so to speak, at that point, is it not true that working people who are middle class, not upper middle class, they have worked their whole lives and they have spent their life savings, are in effect being told very often, let us say a typical demand is $40,000. Do my colleagues know what is means for even many of us in the Congress to be told we have to pay $40,000 within 3 months.

Mr. FAWELL. Mr. Chairman, we can say this for all the families in America who are in a position where they have to go to a workmen's compensation statute. The point is that we then best change the statute and simply provide for total temporary types of aids pending a case in action. But we have not done that.

Mr. McCLOSKEY. We have not done that.

Mr. FAWELL. When we make this change though, this is going to be around for many, many years. Actuarially speaking, we are going to bankrupt the fund.

Mr. McCLOSKEY. Mr. Chairman, we are dealing with this system today.

□ 1540

Mr. RAHALL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, my colleagues, this amendment would continue a practice that has evolved under the previous Administrations of robbing victims of black lung disease of the benefits they receive on an interim basis.

The effect of this amendment, if it should pass, is to cause black lung beneficiaries to be placed on the welfare rolls.

We are not talking about rich people here. Let us get real.

We are talking about people who are suffering from black lung. Who can barely breath. Who can hardly walk.

They receive their benefits about a ruling that they are eligible.

Once that happens, the coal companies with their legions of lawyers and doctors seek to challenge that ruling. It is commonplace. There is no discrimination in this regard. Every positive ruling of eligibility is challenged.

And so we have our black lung victim, barely able to maintain himself at a substandard level of living, faced with the challenge of trying to defend himself against these high-powered doctors.

Is it any surprise that the black lung victim may ultimately find himself being ruled against?

With this legislation we are saying that once you receive benefits, and through no fault of yourself, that their is no fraud or abuse involved, you will not be required to repay those benefits.

Mr. Chairman, I urge the defeat of this amendment.

Mr. MURPHY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I hope all of the Members who are listening in their offices and in committee will understand that interim benefits are not paid unless the miner has secured an award of benefits from the administrative Department of Labor proceedings. He must file his claim.

I had one Member ask me about a half an hour ago, "Does everybody that files a claim get interim benefits until his case is decided?" Heavens, I hope that no one is under that misapprehension. No one gets interim benefits paid unless he has secured an award. Those interim benefits are then the benefits that are paid until or unless there is an appeal process. The miner does not cause the appeal process, the coal company then appeals. They take them on for another 5 or 10 years.

If eventually, under the 1981 rules and regulations, the company is successful, which has been the case in 97 percent of the cases, then interim benefits stop, all benefits stop, and the miner gets no more.

I am pointing out to my friend, the gentleman from Illinois [Mr. FAWELL], that there perhaps is the best equity in the entire proceedings. At least the miner got half a loaf, because he was paid after he had an award, he was paid up until the time they drove him into bankruptcy with an appeal, and then they finally win because they outlasted him. Then the benefits stop. He at least got some benefits. He did not get the whole loaf.

Mr. FAWELL. Mr. Chairman, will the gentleman yield?

Mr. MURPHY. Yes, I am glad to yield to the gentleman from Illinois.

Mr. FAWELL. Mr. Chairman, my point, of course, is that we should not be giving interim benefits. That is not done in other workmen's compensation statutes. I do not know why it has to be done here. If you win, you will get all the interim payments.

Mr. MURPHY. Mr. Chairman, I would tell the gentleman, they are not interim payments at that point. The interim are that a person gets paid after he has won the first round.

Mr. FAWELL. If the gentleman will continue to yield, yes, but it goes back to that interim period. It covers the interim period. If the person wins, he goes back to the date he filed and is given total disability coverage.

What I am saying is that if he loses, though we should never have even thought of creating a system whereby we give interim benefit payments before the final adjudication.

Mr. MURPHY. The gentleman may be correct, if the person loses, but I am saying that he has won. He has won before he gets his interim benefits. That is the inequity we are trying to point out. He did not just file, he had to prove his case. He proved it to the DOL, and they are tough enough to prove it to. Then he was awarded his benefits.

Once he starts the benefits, then what has happened in the last 12 years, and I wish the gentleman from Illinois could have some of those poor people come into the office and say, "Here is my letter from the Department of Justice. They are going to take me to jail. They are going to sue me for all this money. I am borrowing the money from my daughter out in San Francisco so I can help pay. I am going to the bank. I am going to pay it back." This is what has been happening.

The DOL, the Department of Labor, for the last 12 years has been harassing these people, even though they got an award, they got their benefits. Now they are saying, "Send it back," and the total inequity to all the taxpayers is it did not go back in the trust fund, it went to the general treasury.

Mr. FAWELL. If the gentleman will continue to yield, why should the trust fund then pick up these interim benefits in losing situations, where the coal company ends up losing?

Mr. MURPHY. Mr. Chairman, I would tell the gentleman that that is because they had an award and they proved their case.

Mr. FAWELL. If the gentleman will yield further, it is a case against the coal company. The trust fund is not even involved, but not these interim benefits, in a case where they lose against the coal company, the trust fund has sent the bill and the trust fund has to pay it, the good old friendly insurance company from the U.S. Congress.

Mr. MURPHY. In the proceedings before the person files the petition, he has to get a lawyer, if he can beg one to represent him for nothing under the current law. The coal company will send him to seven or eight doctors. If he can go before the hearing and the Department of Labor grants him an award, boy, I say he is entitled to it. If he has gotten that far, he is among the 3 percent, the 3 out of 100 that got a benefit, and now he is being harassed to send it back.

Mr. FAWELL. If the gentleman will continue to yield, my inquiry is, the order is against the coal company to pay the interim. They are contesting it, so they do not. Ultimately, if the coal company wins, the man loses, and the gentleman has legislation saying the trust fund has to cough up the money and indemnify the coal company. Why in the world has he done that?

Mr. MURPHY. Let us have the coal company and the Department of Justice put the money back in the trust fund.

Mr. FAWELL. The gentleman's bill says the trust fund has to pay this.

Mr. MURPHY. I will be very happy to say the Department of Justice will pay it out of the money they have already collected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. FAWELL].

The amendment was rejected.

AMENDMENT OFFERED BY MR. BARRETT OF NEBRASKA

Mr. BARRETT of Nebraska. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BARRETT of Nebraska: Add at the end of the bill the following:

SEC. 11. STUDY.

(a) IN GENERAL.—The Federal Black Lung Advisory Committee, established under subsection (d) and referred to in this section as the "committee", shall—

(1) examine State workers' compensation laws to determine the effectiveness of the laws in providing benefits on the amount of disability or death due to pneumoconiosis, and

(2) evaluate the information collected in conducting the examination under paragraph (1).

(b) CONSIDERATIONS.—In carrying out subsection (a), the committee shall consider—

(1) whether a State's law providing monthly benefits for total disability or death due to a coal miner's pneumoconiosis in an amount that is comparable to or that exceeds the amounts payable under the Federal black lung program under part C of the Black Lung Benefits Act,

(2) whether the State law provides adequate coverage for health care needs generated by a coal miner's pneumoconiosis,

(3) whether a State's law precludes awards by virtue of periods of limitation or other provisions that unreasonably restrict the filing of claims or awards for a coal miner's pneumoconiosis,

(4) whether the medical or legal criteria for determining entitlement in a State are fair and reasonable, and

(5) whether a State workers' compensation system facilitates reasonably prompt awards or settlements.

(c) REPORT.—The committee shall transmit to the Secretary of Labor, not later than 12 months after its establishment, a final report containing a detailed statement of its findings, conclusions, and recommendations under subsection (a).

(d) COMMITTEE ESTABLISHMENT.—The Secretary of Labor shall establish the Federal Black Lung Advisory Committee with 9 members. The Chairman of the committee and a majority of the members of the committee shall be appointed by the Secretary from individuals who have no economic interests in the coal mining industry and who are not officers, directors, employees, or representatives of groups organized to assist claimants in the processing of their claims under the Federal black lung program under part C of the Black Lung Benefits Act. Of the 9 members, 2 shall be representatives of labor and 2 shall be representatives of coal mine operators. 5 members of the committee shall constitute a quorum for the purpose of doing business. Members of the committee who are not officers or employees of a Federal, State, or local government shall be, for each day (including traveltime) during which they are performing committee business, entitled to receive compensation at a rate fixed by the Secretary but not in excess of the daily rate in effect for grade GS-18 under section 5332 of title 5, United States Code, and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses.

Mr. BARRETT of Nebraska (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

Mr. BARRETT of Nebraska. Mr. Chairman, I, too, want to pay my respects to the gentleman from Pennsylvania [Mr. MURPHY] for the openness that he has exhibited, and for the decision of the Committee on Rules in offering an open rule. I also want to compliment the gentleman from Illinois [Mr. FAWELL] for the excellent job he has done in shepherding this measure through.

Mr. Chairman, my amendment would call for an advisory committee to be appointed by the Secretary of Labor, to study the effectiveness of State workers' compensation programs to determine first, the effectiveness of the laws that include black lung as a compensable occupational illness; and secondly, whether there exists a need for the continuation of the Federal Black Lung Program.

The Black Lung Benefits Act was enacted in 1969 and was designed to provide to coal miners who were totally disabled due to black lung disease.

The sponsors of this act intended for it to be a temporary program of limited size duration, and cost.

The program was to be administered by the Social Security Administration, which would receive and adjudicate the expected claims arising from past exposures. Once the existing backlog was dealt with, the Department of Labor, would handle new incoming claims under a workers' compensation system.

Aside from the continuing benefits paid to successful claimants under the Social Security Administration-managed part of the program, the Federal involvement in black lung compensation was to cease 7 years after the law's enactment, that is, by December 30, 1976, 18 years ago.

It was thought that the program would become unnecessary once the individual States developed adequate occupational disease compensation systems of their own.

Including claims for health benefits and refilings, more than 1 million claims have been filed, and more than $30 billion has been paid to worthy beneficiaries. It is almost certain by now that all coal mining families that had been overlooked by State laws have had a fair chance to obtain benefits under the Federal program.

The Department of Labor, in fact, reports that all workers' compensation laws in coal mining States today afford higher benefits for total disability or death due to black lung disease.

Mr. Chairman, I believe that many State laws currently meet the Federal requirements under the statute, and that a careful review of them would show that the Federal Black Lung Program has fully achieved its original objectives.

It is for that reason that I offered an amendment during Education and Labor Committee consideration that is similar to that which I am offering today, with one major change.

A provision in my committee amendment called for the termination of the Black Lung Program in 1998, whereas my amendment today does not include that provision. Instead, my amendment simply calls for a study—nothing more and nothing less.

This amendment calls for the creation of a nine-member advisory committee, a majority of which shall have no economic interest in the coal mining industry. The rest of which shall be equally represented by coal mine operators and labor representatives.

This advisory committee would study various State workers' compensation laws to determine their effectiveness in providing benefits for victims of black lung, and to determine whether there exists a need to continue the Federal program.

I urge my colleagues to vote "yes" on the Barrett amendment.

□ 1550

Mr. FORD of Michigan. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this amendment was offered in the committee, it was debated at some length and was soundly defeated, as it should be here.

I am reaching out now to the people who talk about unfunded mandates. In 1969, we amended the Coal Mine Safety Act with an amendment that covered black lung for the first time and we said this is a national problem because coal is used all over the country. Then we said the way to pay for it is to have the people who make the profit out of coal pay a tonnage cost, and that is the way it is paid for. It is not like workers compensation. The owners do not pay any premium based on the number of people that work for them who get black lung as in workers compensation which is experience-based rated.

Mr. Chairman, this is an industry-wide assessment that creates a trust from which it is paid wherever the person happens to be when black lung brings them down and totally disables or kills them.

Mr. Chairman, what the gentleman wants to do is completely rewrite the thrust of this legislation. I guess Nebraska does not have any coal mines and, therefore, Nebraska would be completely out of any future responsibility

for this dreadful national problem. But those people who come from States that either have coal mines or States like mine that while it does not have coal mines has automobile plants to which former coal miners migrate for employment can tell us that if they had to try to handle the cost of this out of their State workers compensation fund, they would have a real problem on their hands. So we have the heating and the powering of the entire United States by the coal States with them bearing the subsequent costs that come after the fact for the inevitable disease that comes from working around coal dust. I do not believe that we want to do this.

Mr. Chairman, it is going to be argued, I am sure, that this is only a study, and what difference does it make? It is a study predicated on the presumption that there is a valid way to turn this into a State workers compensation piece of legislation. We had State workers compensation before this act was passed and there were a couple of States that did in fact compensate for pneumoconiosis. The fact of the matter was that it was kind of spotty and we decided that it really was not fair to that very small part of the country that provides all the energy for the rest of the country to have to bear the cost of this once we identified a national problem with pneumoconiosis and this would turn us back to where we were before 1969. I would therefore recommend that we not give a seal of approval to the idea of going in that direction.

Mr. Chairman, I have been listening on this floor all of this session to people talking about unfunded mandates. Imagine my State that is a receiving State for former coal miners in our work force having to pick up in our State workers compensation program money collected from all the businesses in the State to pay for the problems created by a business located in another State. This is truly an interstate problem and should be kept on an interstate basis. The only way we can do that is with a national focus.

Mr. Chairman, I deeply respect the gentleman from Nebraska and if I were representing Nebraska, I would be voting for the gentleman's amendment. I ask Members to defeat it.

Mr. MURPHY. Mr. Chairman, I move to strike the last word and rise in opposition to the amendment.

Mr. Chairman, I do not totally disagree with the concept of my colleague, the gentleman from Nebaraska. All Federal programs, of course, should be periodically examined. It does concern me that in the first sentence the gentleman strikes out all after the enacting clause of our measure, that does concern me, because then we have no bill.

Next I would like to remind the gentleman from Nebraska that prior to 1969, this Congress and the Department of Labor did an exhaustive——

Mr. BARRETT of Nebraska. Mr. Chairman, will the gentleman yield?

Mr. MURPHY. I yield to the gentleman from Nebraska. I think the gentleman has something important to tell me.

Mr. BARRETT of Nebraska. Yes. I wonder if the gentleman is on the correct amendment.

Mr. MURPHY. I have the only copy of the amendment, the one I received yesterday in the subcommittee wherein the gentleman from Nebraska says, "An amendment to H.R. 2108 is reported offered by Mr. BARRETT of Nebraska," sir. It says, "Strike out all after the enacting clause and insert the following."

Mr. BARRETT of Nebraska. There was an addition then at the end of the bill.

Mr. MURPHY. The gentleman has an addition to that at the end of the bill, something about paying these committee people to a GS–18 level.

When does the gentleman propose to strike after the enacting clause, before or after?

Mr. BARRETT of Nebraska. It is an addition to the end of the bill.

Mr. MURPHY. Then I will address myself to the contents of your resolution.

Mr. BARRETT of Nebraska. It does not deny current benefits. It does not touch the current statute. It simply is a stopgap to pause and step back and take a look and decide whether or not we want to continue or not. Essentially that is it.

Mr. MURPHY. I will tell the gentleman, perhaps, then, in view of that, I was not aware of that at subcommittee or at full committee because the amendment was in its original form. I would like and will discuss with the gentleman the possibility of some type of a review, but I would remind the gentleman that our committee, the committee on which we serve, we are charged with the responsibility of reviewing these acts and I, therefore, think we should be considered in meeting with this committee or be a part of the committee.

Mr. Chairman, next I would say that paying these committee members who someone else appoints, the Secretary of Labor or the President, they are going to be paid at a grade GS–18 level, that is a lot of money and we are going to be wrapping up a lot of money in the study that this Congress itself should be doing and I believe does do. They did it prior to the enactment of the first act in 1969, we have been doing it since then, we have been studying this measure now for 4 to 5 years. We have found that many States do not compensate any of the disabled miners because they moved to their States following their disabilities.

Again I would say I am not adverse to the concept but I must oppose the gentleman's amendment at this time because I do not think it is comprised in the right way and I think it is adding more dollars to it. By paying them to a GS–18 level, they will make as much as a Congressman.

Mr. BARRETT of Nebraska. Mr. Chairman, will the gentleman from Pennsylvania yield?

Mr. MURPHY. I yield to the gentleman from Nebraska.

Mr. BARRETT of Nebraska. We have had studies as the gentleman suggests, I believe, we have had study after study and today we are looking at a massive, massive expansion of the current program.

Mr. MURPHY. The gentleman is saying one more study would cure that?

Mr. BARRETT of Nebraska. Yes, we need to take that last look to determine whether or not a temporary program, and it was to be a temporary program, should continue. We of course have spent an additional $195.5 billion, have we not, and I would urge that the body adopt the amendment.

Mr. MURPHY. Mr. Chairman, at this point I am still reluctant to accept it, saying that one more study merely adds to the total cost of our program and may not solve it any more than all the studies we have had.

Mr. FAWELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, just very briefly, in support of this particular amendment, I think it is good that we pause and look back to 1969 when the Black Lung Benefits Act was amended to another bill, and at that time that it was created, the idea was that the black lung fund would cease to exist as of December 30, 1976, and that it was temporary only until such time as the State workers' compensation laws would take over.

Obviously, like many programs that we have created of a temporary nature, it grows into a behemoth and continues to gobble up taxpayers' funds to the point where, as we all know, we have a black lung fund which is indebted to the tune of $4 billion and will be getting further into debt.

Mr. Chairman, it does not seem to me that it is a bad idea, therefore, and I know that the unions and the coal association are discussing this right now, of how indeed we might be able to make that transition which was planned back in 1969 so that pneumoconiosis and respiratory diseases coming from coal dust would indeed be inculcated into the State workers' compensation laws.

□ 1600

I know in West Virginia they are, and in Pennsylvania they are, and in Kentucky they are, and in Illinois they are, and, indeed, a successful complainant can get more money under the State workmen's compensation laws in

those States than he can from the Federal law.

Someday we will actually make the transition and eliminate the Federal black lung law and merge it into the State worker compensation laws. There is nothing wrong with that, and we should not feel as though there is a challenge or to be frightened by the suggestion that we have a study on this. I think the unions would welcome it and the coal association.

Mr. MURPHY. Mr. Chairman, will the gentleman yield?

Mr. FAWELL. I am happy to yield to the gentleman from Pennsylvania.

Mr. MURPHY. I just wanted to say to the gentleman from Illinois [Mr. FAWELL], the gentleman is correct in what he has stated.

I was in the Pennsylvania Senate at the time that this was passed down here in 1971 in Pennsylvania. We amended our State workers' compensation law to include disabled miners into the program, and they have been benefited by that ever since.

I again go back to say I do not object to a review of this, and perhaps sometime between now and conference committee the gentleman from Nebraska, myself, and the gentleman from Illinois can sit down and say how can we review this. My concern is that many miners have now migrated throughout the country, and I would want to retain some benefits for them.

I think part of our study has to say, well, OK, if it is necessary to have a Federal program for some who are now living in Florida or California or somewhere else, these are the things we should be exploring. I just am reluctant to say that we will allow the Secretary of Labor to create this now and shift it all back to some States that may not be willing to accept the burden.

That is why I respectfully oppose it. But I do say you have a point, and what you have stated is correct.

Mr. FAWELL. I thank the gentleman, and I think that eventually that transition will be made by the various unions and the coal companies both of whom, I believe, rightfully think that the disability payments here are not what they should be, and that all respiratory illnesses, without any question, if they come from one's occupation, one ought to have an avenue within the State workmen's compensation laws to be able to utilize, and so I would think the Federal Government, and considering its record, would be glad to get out of this business, assuming that workers are going to be protected.

But I think they can be protected when they are protected much better in the States of Kentucky, Pennsylvania, Illinois, and West Virginia with the laws they have right there than what we have in our Federal Black Lung Act.

Mr. BARRETT of Nebraska. Mr. Chairman, will the gentleman yield?

Mr. FAWELL. I am happy to yield to the gentleman from Nebraska.

Mr. BARRETT of Nebraska. Mr. Chairman, may I ask the gentleman from Pennsylvania a quick question? In light of the very conciliatory nature of the gentleman's previous statements which are greatly appreciated, would he be willing to accept my amendment and then work it out in conference with the gentleman from Illinois [Mr. FAWELL], between myself and yourself?

Mr. MURPHY. Mr. Chairman, will the gentleman yield?

Mr. FAWELL. I am happy to yield to the gentleman from Pennsylvania.

Mr. MURPHY. Mr. Chairman, I would rather work it out with you without accepting it into our deliberations and, in fact, I just whispered in my staff's ear to get hold of your staff person, whoever is in charge of this.

The CHAIRMAN pro tempore (Mr. WISE). The time of the gentleman from Illinois [Mr. FAWELL] has expired.

(At the request of Mr. MURPHY and by unanimous consent, Mr. FAWELL was allowed to proceed for 30 additional seconds.)

Mr. MURPHY. If the gentleman will yield further, I will, regardless of whether you call for a vote or withdraw or do not, I would like to work that out, because I think we should properly review it. I just do not want it to cost us a lot of money. I do think that Members of Congress, and I will not be here, I think Members of Congress should be included in that study, because this is ultimately where the decision has to be made.

Mr. BARRETT of Nebraska. I appreciate the answer, and I appreciate the openness of the gentleman from Pennsylvania.

Mr. CUNNINGHAM. Mr. Chairman, I rise in support of the amendment offered by my distinguished colleague, Mr. BARRETT.

As a member of the Committee on Education and Labor I opposed H.R. 2108 in committee on the grounds that it is fiscally irresponsible—I continue to oppose it today for the same reasons.

As we have mentioned before the Black Lung Benefits Act was intended to be a temporary program—with limited size, with limited duration, with limited cost, none of which have been followed through.

The program, despite reforms, continues to escalate in cost, and 25 years later, is hardly temporary.

Today, the Congressional Budget Office estimates that this bill will increase costs under the black-lung benefits program by $195.5 million over 5 years—however this bill does not provide any increase in revenues to offset the increase in direct spending. This trust fund is already nearly $4 billion in debt.

This program will continue to cost taxpayers hundreds of millions of dollars over the next 5 years.

Coal mining families that had previously been overlooked by State laws have had a fair chance to obtain benefits under the Federal program.

And in fact, the Department of Labor has reported that all workers' compensation laws in coal-mining States today afford higher benefits for total disability or death due to black-lung disease.

So the time has come to take some action. This amendment would provide for an independent and impartial review of whether the Federal temporary black-lung program should be terminated.

I ask my colleagues to support this amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Nebraska [Mr. BARRETT].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. BARRETT of Nebraska. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 162, noes 265, not voting 11, as follows:

[Roll No. 184]

AYES—162

Allard	Goodlatte	Morella
Archer	Goodling	Nussle
Armey	Goss	Oxley
Baker (CA)	Grams	Packard
Baker (LA)	Greenwood	Paxon
Ballenger	Gunderson	Penny
Barrett (NE)	Hancock	Petri
Bartlett	Hansen	Pombo
Barton	Hastert	Porter
Bateman	Hefley	Portman
Bereuter	Herger	Pryce (OH)
Bilirakis	Hobson	Quillen
Bliley	Hoekstra	Ramstad
Blute	Horn	Ravenel
Boehlert	Houghton	Regula
Boehner	Huffington	Roberts
Bonilla	Hunter	Rohrabacher
Bunning	Hutchinson	Ros-Lehtinen
Burton	Hyde	Roth
Buyer	Inglis	Roukema
Callahan	Inhofe	Royce
Calvert	Johnson (CT)	Saxton
Camp	Johnson, Sam	Schaefer
Canady	Kasich	Schiff
Castle	Kim	Sensenbrenner
Clinger	King	Shaw
Coble	Kingston	Shays
Collins (GA)	Klug	Shuster
Combest	Knollenberg	Skeen
Cox	Kolbe	Smith (MI)
Crane	Kyl	Smith (NJ)
Cunningham	Lazio	Smith (OR)
DeLay	Leach	Smith (TX)
Dickey	Levy	Snowe
Doolittle	Lewis (CA)	Solomon
Dornan	Lewis (FL)	Spence
Dreier	Lightfoot	Stearns
Duncan	Linder	Stump
Dunn	Livingston	Sundquist
Ehlers	Lucas	Talent
Everett	Manzullo	Taylor (NC)
Ewing	McCandless	Thomas (CA)
Fawell	McCollum	Thomas (WY)
Fields (TX)	McCrery	Torkildsen
Fingerhut	McHugh	Upton
Fish	McInnis	Vucanovich
Fowler	McKeon	Walker
Franks (CT)	McMillan	Walsh
Franks (NJ)	Meyers	Weldon
Gallegly	Mica	Wolf
Gallo	Michel	Young (AK)
Gekas	Miller (FL)	Young (FL)
Gilchrest	Molinari	Zeliff
Gingrich	Moorhead	Zimmer

NOES—265

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

NOT VOTING—11

Blackwell
Dixon
Emerson
Faleomavaega (AS)
Gibbons
Grandy
Nadler
Neal (NC)
Parker
Stokes
Washington

□ 1626

The Clerk announced the following pair:

On this vote:

Mr. Grandy for, with Mr. Stokes against.

Mr. VALENTINE and Ms. SHEPHERD changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. BOEHNER

Mr. BOEHNER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BOEHNER: Strike section 8 and redesignate sections 9, 10, and 11 as sections 8, 9, and 10, respectively.

Mr. BOEHNER. Mr. Chairman, the great thing about this country is that people who fail are often times given a second chance to succeed. In business, there is always another venture. In sports, there is always another game. However, the bill before us would give another chance to 87,000 individuals who have had their black lung claims denied since 1982. They will be able to refile their claims, as if their original claim had never been filed. While giving them another chance may sound all-American, it is in reality, fiscal and administrative nonsense. This is why I am offering this amendment to strike the refiling section.

Many of the individuals who had their claims denied did not satisfy the medical criteria for black lung benefits. Under the provisions of this bill, these people, without having to show any change in their medical condition, will be able to refile their claims. Not only will the file from the previous claim be totally ignored, new rules of evidence will be in effect. For those who are unfamiliar with these new rules, let me briefly explain them to you. They allow the claimant to submit three medical exams, while the opposing party only gets to submit one exam. To top it all off, prevailing weight is to be given to the claimant's physician. I am hard pressed to figure out how we can tilt the playing field any more favorably toward the claimants.

This refiling section is blatantly unfair. After legitimately losing a claim, we are going to give claimants another bite at the apple, and on much more favorable terms. In the end, the Congressional Budget Office estimates this section will cost the American taxpayer $42 million—and this estimate does not include the new awards that will have to be paid out of the black lung trust fund or the ensuing administrative nightmare.

We only need to look back to 1972 and 1977 to realize the financial implications of this section. In both years, rejected claimants were permitted to refile. In 1972, 70,000 claims ended up being reversed at a cost of $9 billion. In 1977, 60,000 claims ended up being reversed at a cost of $7.5 billion.

There is also the issue of whether this section is necessary in the first place. Current law provides for a refiling of a claim if a claimant has new medical evidence or experiences a material change in their condition.

Finally, I have received the administration's position on this bill. They have requested that this measure be limited to eight separate provisions. Allowing failed claimants to refile their claim is not among these provisions. In short, the administration's silence on this point speaks volumes about their position on this section.

This section is unnecessary. Out of a sense of fairness, and fiscal and administrative sanity, I urge my colleagues' support of this amendment.

□ 1630

Mr. RAHALL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I rise in strong opposition to the amendment. As the debate throughout the course of today has shown on numerous occasions, the process through which these denied claimants have been put over the last decade or so has been horrendous. The black lung program has been administered in a fashion that has been aimed squarely at reducing the number of claims that have been approved.

This amendment would say that people who in the past, who are victims of this horrendous journey, who are victims of this bureaucratic nightmare, cold and uncaring, could not come forth to seek a new day in court. These are claimants, mind you, that have been denied their benefits in the past by administrative shenanigans, by maneuverings that have been aimed solely at denying them their legitimate benefits.

During a hearing on the black lung program conducted by the Subcommittee on Labor Standards several years ago in my hometown of Beckley, WV, one witness aptly described the current situation in this way, quoting from his testimony:

> Coal miners who were strong and vigorous workers have been reduced by years of inhaling coal dust to broken bodies, to strain for every breath. They are forced to go through degrading, humiliating and seemingly endless contests in a generally futile effort to obtain benefits and medical care, a paltry compensation for the destruction of their health.

Indeed, they have been humiliated. They have been subject to endless contests. They have been subject to maneuverings and lawyers and big company protests, and delays that have caused them only suffering of their health. Indeed, many of them have succumbed to death.

So I say, let us defeat this amendment. Let us give these people a chance

to be reviewed under a fair and just system, that levels the playing field, rather than the slanted, stilted system that has existed in the past.

I urge defeat of the Boehner amendment.

Mr. FAWELL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, if this is not deja vu all over again, I do not know what is. The previous speaker said that everything has been aimed at causing miners to go through all kinds of circumstances, and that the failure to have awards was due to the system.

Yet in 1972, I do not know how many thousands of refilings were allowed. In 1977, 125,000 refilings were allowed; in 1995, another 87,000. Ever since the Black Lung Benefits Act has been in being, it just has not delivered the bacon, and therefore we just refile and refile and refile. I have never known a system of justice that has done it like this.

Still in 1977 it was done in spades, all kinds of presumptions, all kinds of restrictions. Everything in the world was done to be able to get victory for more and more awards. But for some reason it does not happen.

We found out, unfortunately, in 1977, when there was no black lung fund debt, that, lo and behold, we created a monster. And by 1981, what did we have? $1.5 billion. We had all those refiled cases. And what happened? The insurance companies took a walk and said: "We walk away from our workmen's comp policies. We didn't hire out to sell our policies on the basis we had to defend over and over again, just because the Congress doesn't like the results."

So they took a walk. And we found the responsible operators, coal operators, they had to self-insure. There was catastrophe. So bad, in fact, that unions and coal operators and the administration all got together and said "Oh, my God, we have to do something. We have screwed this up so badly." And they came up with the reforms.

They got rid of these presumptions. They got rid of these evidentiary restrictions. They transferred 12,000 cases from the operators over to the black lung fund, or else they would not have been able to even put the reform program through.

Indeed, we finally did have some success in slowing the fantastic growth of debt. We did not stop it, because now the black lung fund is $4 billion and growing. So we know we still have to do something to control this bankrupt insurance company that we are operating.

And what do we do? We say let us go to the future by going back to the 1970's. Do it in spades. Do it again. You have a different administration. They might even sign it. They might be dumb enough to sign it. But the administration is not that dumb. They are not endorsing what you are doing. They are saying no.

OMB comes out and points out that the damage which is going to be done to the black lung fund, my friends, is more than just what they have estimated for the first 5 years, because the real avalanche comes in years 5, 6, 7, and on out to 19, 20, and 25 years. Under the actuarial studies that nobody has rebutted because of the absolute truth, for every case that is successful, and CBO says you are going to have 20,000 new awards, new successes, out of the 80,000 that can file, 20,000 will hit the jackpot and win this time.

□ 1640

Ten thousand will be cases against the coal operators. Ten thousand will be against the black lung fund, the bankrupt black lung fund. That is going to be $225,000 per case, because it is a total disability for life.

I know that we in Congress do not like to look at things like that, but do Members know what the coal operators will do? Do they know what the insurance companies will do? The will immediately take $125,000. They will put it in reserve, and that is how they are going to pay for this.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. FAWELL] has expired.

(By unanimous consent, Mr. FAWELL was allowed to proceed for 1 additional minute.)

Mr. FAWELL. Mr. Chairman, that is what sensible people will do. But sensible things we do not do in Congress. Workmen's comp insurers will put down $125,000, will invest it, and they know that as you go through the next 10, 20, 30 years or so, whatever it may be, you have got the money there to be able to give the help that you are planning to give.

We do not do that. We just simply say, when the time comes, when the bills start rolling in, we will just borrow more from the taxpayers. So we can build a $4 billion fiasco into a $8 billion fiasco. That is what we are doing.

The gentleman from Ohio [Mr. BOEHNER] is hitting the very heart, the very heartbeat of this bill, which is special interests, unfortunately, and it is not doing any favors for the people who really have black lung disease.

They have to prove it. They have to prove it. They have to have some doctors come in and show that they have respiratory illness that comes from coal dust, not from smoking or something like that. I would say, this is a must amendment. If we cannot vote for this, I do not know what we can do to help posterity in this country.

Mr. HOLDEN. Mr. Chairman, I move to strike the requisite number of words.

As the great grandson and grandson of anthracite coal miners, I rise in strong opposition to the amendment and in strong support of the bill.

Mr. Chairman, in 1981, the scales were tipped against hard-working men who gave their health and in many cases their lives to fuel this country. Many deserving men have been denied benefits. Many deserving widows have been denied benefits.

Mr. Chairman, I ask my colleagues today, do what is fair. That is what we are asking. We want to level the playing field. We want to give people a chance to hand in legitimate claims and have those claims awarded. We are not asking for illegitimate claims to be awarded. We are asking for legitimate claims to be awarded.

I ask my colleagues, do what is right, allow for a fair hearing and allow people to go back to 1981, when the scales were tipped against them, and allow them a fair day in court and a fair hearing.

Mr. ABERCROMBIE. Mr. Chairman, will the gentleman yield?

Mr. HOLDEN. I yield to the gentleman from Hawaii.

Mr. ABERCROMBIE. Mr. Chairman, I want to tell my colleagues that this is a very sad day for me to be in the House of Representatives. I never thought I would hear on the floor of this House the kind of rhetoric that I have heard today.

We ought to be ashamed. How can you stand up and talk about hitting the jackpot as if this were some kind of a lottery that you are going to have on the 6 o'clock news. These people are sick. These people are ill. And if they are hurt and they are Americans, we should be taking care of them.

You do not mind spending billions of dollars, I heard you get up on this floor, many of you today that are voting against this, and say, let us give billions of dollars across the seas to our so-called allies who will not ever support us, our American fighting men and women. But you will not devote a dime to people that are dying.

You talk about people getting $225,000 for total disability for life; $245,000, you think that is enough? Shame on you.

It is a disgrace for you to be on the floor and say this kind of thing to us. And if you want to associate yourselves as Republicans, I am going to tell you, it is not the kind of Republicans I have been dealing with on so many of these issues. How can you stand there with people who are ill and dying and say to them and look in their faces and say, you are a statistic and you do not count in this Congress. You are not a good enough American to have the same kind of health care.

I want to know how many of you have black lung disease? I want to know how many of you are going to stand up here and tell everybody else who has it that they are not eligible for this. You talk about posterity.

What will the posterity be for these people who have it?

I do not have anybody in my district with black lung disease, but by God, I am an American who is going to stand here and say to all of us, let us end this disgraceful debate. How can anybody be seeing us on this floor, watching us across the country and not weep with despair that the Congress of the United States would deny a single American in the situation that these people are in what we would give anybody who is in need.

Jesus wept. Jesus wept, indeed, that we can have this kind of conversation today. End this disgraceful episode. Vote against this amendment, and let us vote through what these people deserve.

Mr. THOMAS of Wyoming. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the amendment offered by the gentleman from Ohio. We ought to take a little look at the facts. It is great to get up with great emotion, and I understand and everyone in here is as caring as the gentleman who just spoke.

If someone came from somewhere else and listened to that, they would say we have not done anything for people with black lung. We spend $30 billion, and we continue to and we should. That is not the question. That is not the point.

The point is to deal with the issues in a balanced way so that we can continue to do it, that we can pay our bills and that we can do these things.

A Member can come up the next day and have the very same speech about some other group, if they have to find some way to do it levelly and balanced, and that is what we are seeking to do.

This amendment deals with a particularly troublesome aspect of the legislation. Under this bill all claimants with black lung benefits would be given the opportunity to refile claims and have their cases reconsidered. This does not make sense.

In addition, this bill throws out all the evidence compiled prior to this one on the claim and against the process from square one. How much sense does that make? How much sense does that make?

Provisions in this bill allow for claimants to refile their claims, providing no better example of why this bill is a massive expansion of a Federal entitlement program that has already cost $30 billion, that is already $3.5 billion in the hole. That is where it is, and that is what we are trying to do here today, is to do something that is reasonable, to do something that we can pay for.

I support the gentleman's amendment and urge my colleagues.

Mr. BOEHNER. Mr. Chairman, will the gentleman yield?

Mr. THOMAS of Wyoming. I yield to the gentleman from Ohio.

Mr. BOEHNER. Mr. Chairman, the gentleman from Hawaii made certainly an emotional appeal to all of us. Nothing that we are trying to do here is trying to deny legitimate black lung benefits to any American who has that disease.

But I find it interesting that in 1972, we had to open up this program and allow people to re-file because not enough people were getting benefits under the program the way it was originally designed. And then in 1977, we opened up the program again and allowed everybody who had been denied a chance to re-file their claim. And here we are, again in 1994, wanting to go back for the last 13 years and say, if you have had your claim denied, we are going to let you have another bite at it under more liberalized rules.

The fact is that we want to help those who legitimately have black lung, but what we do not want to do is to put the American taxpayer at risk for a pension program for people who live in coal areas that are disabled not from black lung but for a bunch of other reasons.

It is that responsibility to the American taxpayers that some of us in this Chamber take very seriously and stand here today and say, this program brought here by the gentleman from Pennsylvania is going to cause abuse. And it is going to put American taxpayers at risk and those people who mine coal and their operators, also put them at risk.

This amendment is a good amendment. It eliminates the re-filing which is the most onerous part of the bill that we have in front of us today.

Mr. MURPHY. Mr. Chairman, I move to strike the requisite number of words, and oppose the amendment and very seriously so.

The gentleman from Ohio would have us believe that these ill, infirmed, and I mean, aged miners are committing fraud and deception and they are getting benefits for some other reason that pneumoconiosis, the destruction of their lungs.

□ 1650

Mr. Chairman, we have specifically always had in the law, and we include in this bill, that any fraud and deception in the filing of these claims will eliminate all interim benefits, will eliminate all benefits and throw them out the door forever. I would not want Members to have our colleagues believe that any of these benefits have been granted where there is that type of fraud and deception. There is not, Mr. Chairman.

What this amendment proposes to do is strike out the clause that merely says that a miner who has been denied benefits since 1981, and I will remind the gentleman that his party and his President in 1981 stripped 97 percent of the eligible Black Lung recipients from their benefits in that reconciliation bill in 1981. I remember it well. Since that time, very, very few miners' claims have been approved.

We do not say reexamine every claim, as we did in the 1972 act signed by President Nixon, as was done in the 1977 act signed by President Carter. We do not mandate that. We merely say that a miner who has been denied benefits since 1981, and we are not going back to 1972, 1977, or 1969, only those who have been denied under the unfair rules that we have been operating with for the past 14 years, be allowed, just be allowed to fill out a lengthy form, submit it to the department, and say, "Do I have it or not," under some fair rules where he may bring in an equal amount of medical evidence, where he may have an attorney that is at least paid a few dollars to represent him and help him fill out the forms.

All we are asking is for a level playing field, and that those miners not have their claim automatically renewed; not 80,000 or all those figures they come up with. I will bet there will not be 8,000 to 10,000 applications total nationwide. There are not that many left. We are talking about 14 years preceding this, none before, and only those in the 14 years. There were only 70,000 of them at that time who were eligible to file, so there cannot be that many of them left.

We do not order a review, only that they have a right, Mr. Chairman, and the gentleman himself said that we give everybody a second chance; yes, everybody except a disabled miner.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. BOEHNER].

The question was taken; and the chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BOEHNER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 166, noes 258, not voting 14, as follows:

[Roll No. 185]

AYES—166

Allard	Callahan	Dunn
Archer	Calvert	Ehlers
Armey	Camp	Everett
Bachus (AL)	Canady	Ewing
Baker (CA)	Castle	Fawell
Baker (LA)	Clinger	Fields (TX)
Ballenger	Coble	Fish
Barrett (NE)	Collins (GA)	Fowler
Bartlett	Combest	Franks (CT)
Barton	Cox	Franks (NJ)
Bateman	Crane	Gallegly
Bereuter	Crapo	Gallo
Bilirakis	Cunningham	Gekas
Bliley	Deal	Geren
Blute	DeLay	Gilchrest
Boehner	Dickey	Gillmor
Bonilla	Doolittle	Gingrich
Bunning	Dornan	Goodlatte
Burton	Dreier	Goss
Buyer	Duncan	Grams

Greenwood
Gunderson
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Johnson (CT)
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Lazio
Leach
Levy
Lewis (CA)
Lightfoot
Linder
Livingston
Lucas
Machtley
Mann
Manzullo
Margolies-Mezvinsky
McCandless
McCollum
McCrery
McHugh
McInnis
McKeon
Meyers
Mica
Michel
Miller (FL)
Molinari
Moorhead
Morella
Nussle
Orton
Oxley
Packard
Paxon
Penny
Petri
Pombo
Porter
Portman
Pryce (OH)
Quinn
Ramstad
Ravenel
Ridge
Roberts
Rohrabacher
Roth
Roukema
Royce
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Talent
Taylor (NC)
Thomas (WY)
Torkildsen
Upton
Valentine
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—258

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Bentley
Berman
Bevill
Bilbray
Bishop
Blackwell
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
de Lugo (VI)
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dingell
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Goodling
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Hughes
Inslee
Jacobs
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Maloney
Manton
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDade
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murphy
Murtha
Myers
Neal (MA)
Norton (DC)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pomeroy
Poshard
Price (NC)
Quillen
Rahall
Rangel
Reed
Regula
Reynolds
Richardson
Roemer
Rogers
Romero-Barcelo (PR)
Ros-Lehtinen
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Sundquist
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torricelli
Towns
Traficant
Tucker
Underwood (GU)
Unsoeld
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—14

Dixon
Emerson
Faleomavaega (AS)
Grandy
Hutto
Lewis (FL)
Markey
McMillan
Nadler
Neal (NC)
Parker
Thomas (CA)
Torres
Washington

□ 1713

Ms. LAMBERT changed her vote from "aye" to "no."

Messers. BUYER, GUNDERSON, OXLEY, and SCHAEFER changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there additional amendments to the bill?

If not, the question is on the amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. DE LA GARZA) having assumed the chair, Mr. WISE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2108) to make improvements in the Black Lung Benefits Act, pursuant to House Resolution 428, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. FAWELL

Mr. FAWELL. [Mr. Speaker, I offer a motion to recommit.]

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. FAWELL. Yes, I am, in its present form, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. FAWELL moves to recommit the bill H.R. 2108 to the Committee on Education and Labor.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the passage of the bill.

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

RECORDED VOTE

Mr. FAWELL. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 252, noes 166, not voting 15, as follows:

[Roll No. 186]

AYES—252

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Bachus (AL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Bentley
Berman
Bevill
Bilbray
Bishop
Blackwell
Blute
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dingell
Durbin
Edwards (CA)
Edwards (TX)
Engel
English
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hastings
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Hughes
Inslee
Jacobs
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Martinez
Matsui
Mazzoli
McCloskey

McDade
McDermott
McHale
McHugh
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moran
Morella
Murphy
Murtha
Myers
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Peterson (MN)
Pickle
Porter
Poshard
Price (NC)
Quillen
Quinn
Rahall
Rangel
Reed
Reynolds
Richardson
Ridge
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skelton
Slaughter
Smith (IA)
Smith (NJ)
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Sundquist
Swett
Swift
Synar
Tanner
Tejeda
Thompson
Thornton
Thurman
Torricelli
Towns
Traficant
Tucker
Unsoeld
Velazquez
Vento
Visclosky
Volkmer
Walsh
Waters
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Young (AK)

NOES—166

Allard
Archer
Armey
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bereuter
Bilirakis
Bliley
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Coble
Collins (GA)
Combest
Cox
Crane
Crapo
Cunningham
Deal
DeLay
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Everett
Ewing
Fawell
Fields (TX)
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gallo
Gekas
Geren
Gilchrest
Gillmor
Gingrich
Goodlatte
Goodling
Goss
Grams
Greenwood
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Hayes
Hefley
Herger
Hobson
Hoekstra
Horn
Houghton
Huffington
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Istook
Johnson (CT)
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Lambert
Lazio
Leach
Levy
Lewis (CA)
Lightfoot
Linder
Lucas
Machtley
Manzullo
McCandless
McCollum
McCrery
McCurdy
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Nussle
Orton
Oxley
Packard
Paxon
Payne (VA)
Penny
Petri
Pickett
Pombo
Portman
Pryce (OH)
Ramstad
Ravenel
Regula
Roberts
Rohrabacher
Roth
Roukema
Royce
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (WY)
Torkildsen
Upton
Valentine
Vucanovich
Walker
Weldon
Wolf
Young (FL)
Zeliff
Zimmer

NOT VOTING—15

Dixon
Emerson
Grandy
Hoke
Lewis (FL)
Livingston
Markey
Nadler
Neal (NC)
Parker
Pomeroy
Slattery
Thomas (CA)
Torres
Washington

□ 1734

The Clerk announced the following pairs:

On this vote:

Mr. Slattery for, with Mr. Thomas of California against.

Mr. Washington for, with Mr. Grandy against.

Mr. Nadler for, with Mr. Lewis of Florida against.

Mr. ZIMMER changed his vote from "aye" to "no."

Messrs. HOAGLAND, FOGLIETTA, and HUGHES changed their vote from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

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

The SPEAKER pro tempore (Mr. DE LA GARZA). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

REPORT ON H.R. 4453, MILITARY CONSTRUCTION APPROPRIATIONS BILL, 1995

Mr. HEFNER, from the Committee on Appropriations, submitted a privileged report (Rept. No. 103–516) on the bill (H.R. 4453) making appropriations for military construction and family housing for the Department of Defense for the fiscal year ending September 30, 1995, which was referred to the Union Calendar and ordered to be printed.

Mrs. VUCANOVICH reserved all points of order on the bill.

REPORT ON H.R. 4454, LEGISLATIVE BRANCH APPROPRIATIONS BILL, 1995

Mr. HEFNER, from the Committee on Appropriations, submitted a privileged report (Rept. No. 103–517) on the bill (H.R. 4454) making appropriations for the legislative branch for the fiscal year 1995, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

Mr. YOUNG of Florida reserved all points of order on the bill.

EXTENDING TIME PERIOD FOR COMPLIANCE WITH THE NUTRITION LABELING AND EDUCATION ACT OF 1990 FOR CERTAIN FOOD PRODUCTS

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2087) to extend the time period for compliance with the Nutrition Labeling and Education Act of 1990 for certain food products packaged prior to August 8, 1994, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

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

Mr. BLILEY. Mr. Speaker, reserving the right to object, and I shall not object, but I take this reservation for the purpose of asking the gentleman from California [Mr. WAXMAN] to explain the reason for this request.

Mr. WAXMAN. Mr. Speaker, will the gentleman yield?

Mr. BLILEY. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Speaker, the final regulations for the Nutrition Labeling and Education Act of 1990 became effective on May 8 of this year. The implementation of this act represents a magnificent achievement on the part of the Federal Government and American industry. It will greatly benefit consumers.

The vast majority of companies have been able to meet the May 8 deadline. However, there are a number of companies that have sought a 3-month extension of the deadline either because of the backlog in printing labels or because they have a large inventory of containers and labels that do not comply with the new rules. We have been informed that these containers and labels are worth millions and perhaps tens of millions of dollars.

This bill will grant a 3-month extension for compliance with the NLEA with respect to certain products. This brief extension will allow companies to use this excess inventory, but will not in any way undercut the basic benefits of the NLEA.

I urge my colleagues to support this bill.

Mr. BLILEY. Mr. Speaker, further reserving the right to object, this bill simply extends the May 8, 1994, deadline for all companies to be in compliance with the Nutrition Labeling and Education Act for another 3 months. Companies that had printed labels before May 8, 1994, will be able to continue to use their old nutrition labeling until August 8, 1994. This will enable companies to avoid the economic and environmental waste of discarding millions of labels.

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2087

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That before August 8, 1994, section 403(q) and 403(r)(2) of the Federal Food, Drug, and Cosmetic Act and the provision of section 403(i) of such Act added by section 7(2) of the Nutrition Labeling and Education Act of 1990, shall not apply with respect to a food product which is contained in a package for which the label was printed before May 8, 1994 (or before August 8, 1994, in the case of a juice or milk food product if the person responsible for the labeling of such food product exercised due diligence in obtaining before such date labels which are in compliance with such sections 403(q) and 403(r)(2) and such provision of section 403(i)), if, before June 15, 1994, the person who introduces or delivers for introduction such food product into interstate commerce submits to the Secretary of Health and Human Services a certification that such person will comply with this section and will comply with such sections 403(q) and 403(r)(2) and such provision of section 403(i) after August 8, 1994.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

□ 1740

ANNOUNCEMENT REGARDING SUBMISSION OF AMENDMENTS ON H.R. 4385, THE NATIONAL HIGHWAY SYSTEM DESIGNATION ACT OF 1994, THE LEGISLATIVE BRANCH APPROPRIATIONS BILL FOR 1995, AND THE FOREIGN OPERATIONS APPROPRIATIONS BILL FOR 1995

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

Mr. MOAKLEY. Mr. Speaker, Mr. Speaker, the Rules Committee is scheduled to meet during the week of May 23 to grant rules for the following bills: H.R. 4385, the National Highway System Designation Act of 1994, the foreign operations appropriations bill for fiscal year 1995, and the legislative branch appropriations bill for fiscal year 1995. The committee may report rules which would permit only those floor amendments designated in the particular rule for the particular bill. The committee has circulated individual "Dear Colleagues" outlining the parameters for submission of amendments for each bill. For H.R. 4385, the National Highway System Designation Act of 1994, the committee requests that 55 copies of each amendment to the bill be submitted to the Rules Committee no later than 12 noon on Monday, May 23. It is my understanding that the Public Works and Transportation Committee will file H.R. 4385 sometime today.

Copies of the text of the bill are currently available at the Public Works and Transportation Committee at 2165 Rayburn, for Members who intend to offer amendments to H.R. 4385.

Regarding our plans with respect to the Foreign Operations Appropriations Act for fiscal year 1995, Members should submit 55 copies of their amendment no later than 12 noon on Tuesday, May 24.

And finally, with respect to the legislative branch appropriations bill for fiscal year 1995, filed this afternoon, the committee requests that Members interested in offering amendments to the bill submit 55 copies of their amendment to the Rules Committee no later than 5 p.m. on Tuesday, May 24.

It is my understanding, Mr. Speaker, that copies of the bills will be available, to Members and staff preparing amendment, in the Appropriations Committee office, located in room H-218 of the Capitol Building, on the afternoon of Friday, May 20. One copy of each of the bills will be made available to Members' offices only.

We appreciate the cooperation of all Members in our effort to be fair and orderly in granting each of these three rules.

Mr. DREIER. Mr. Speaker, will the gentleman yield?

Mr. MOAKLEY. I yield to the gentleman from California.

Mr. DREIER. Mr. Speaker, I would like to inquire of the chairman as to whether or not this is the beginning of a process in which we will be considering rules on all appropriations bills? Is there any indication as to whether or not this is a pattern that has begun?

This is something that does concern me, in light of the fact that appropriations are privileged resolutions which, frankly, can come straight to the floor here.

Mr. MOAKLEY. Mr. Speaker, reclaiming my time, as the gentleman may recall, because the gentleman from California [Mr. DREIER] has such an extensive memory, there were only two appropriations bills that were so structured last year, and those are two of the three that are here.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995

The SPEAKER pro tempore (Mr. DE LA GARZA). Pursuant to House Resolution 429 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4301.

□ 1743

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4301) to authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 1995, and for other purposes, with Mr. DURBIN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, May 18, 1994, amendment No. 2 printed in part 3 of House Report 103-509 offered by the gentleman from Texas [Mr. BRYANT] had been disposed of.

Pursuant to the notice of the Committee of Wednesday, May 18, 1994, it is now in order to consider amendment No. 1 printed in part 3 of House Report 103-509.

AMENDMENT OFFERED BY MR. FRANK OF MASSACHUSETTS

Mr. FRANK of Massachusetts. Mr. Chairman, on behalf of myself, the gentleman from Connecticut [Mr. SHAYS], the gentlewoman from Oregon [Ms. FURSE], and the gentleman from Michigan [Mr. UPTON], I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. FRANK of Massachusetts:

At the end of title X (page 277, after line 2) insert the following new section:

SEC. 1038. REDUCTION OF UNITED STATES MILITARY FORCES IN EUROPE.

(a) END STRENGTH REDUCTIONS FOR MILITARY PERSONNEL IN EUROPE.—Notwithstanding section 1002(c)(1) of the National Defense Authorization Act, 1985 (22 U.S.C. 1928 note), but subject to subsection (d), for each of fiscal years 1996, 1997, 1998, and 1999, the Secretary of Defense shall reduce the end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of the North Atlantic Treaty Organization in accordance with subsection (b).

(b) REDUCTION FORMULA.—

(1) APPLICATION OF FORMULA.—For each percentage point that the allied contribution level determined under paragraph (2) is below the goal specified in subsection (c) as of the end of a fiscal year, the Secretary of Defense shall reduce the end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of NATO by 1,000 for the next fiscal year. The reduction shall be made from the end strength level in effect, pursuant to section 1002(c)(1) of the National Defense Authorization Act, 1985 (22 U.S.C. 1928 note), and subsection (a) of this section (if applicable), for the fiscal year in which the allied contribution level is below the goal specified in subsection (c).

(2) ALLIED CONTRIBUTION LEVEL.—To determine the allied contribution level with respect to a fiscal year, the Secretary of Defense shall calculate the aggregate amount of nonpersonnel costs for United States military installations in European member nations of NATO that are assumed during that fiscal year by such nations, except that the Secretary may consider only those cash and in-kind contributions by such nations that replace expenditures that would otherwise be made by the Secretary using funds appropriated or otherwise made available in defense appropriations Acts.

(c) ANNUAL GOALS FOR FORCE REDUCTION.—In continuing efforts to enter into revised

host-nation agreements as described in section 1301(e) of National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2545) and section 1401(c) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1824), the President is urged to seek to have European member nations of NATO assume an increased share of the nonpersonnel costs of United States military installations in those nations in accordance with the following timetable:

(1) By September 30, 1995, 18.75 percent of such costs should be assumed by those nations.

(2) By September 30, 1996, 37.5 percent of such costs should be assumed by those nations.

(3) By September 30, 1997, 56.25 percent of such costs should be assumed by those nations.

(4) By September 30, 1998, 75 percent of such costs should be assumed by those nations.

(d) EXCEPTIONS.—

(1) MINIMUM END STRENGTH AUTHORITY.—Notwithstanding reductions required pursuant to subsection (a), the Secretary of Defense may maintain an end strength of at least 25,000 members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of NATO.

(2) WAIVER AUTHORITY.—The President may waive operation of this section if the President declares an emergency and immediately informs the Congress of the waiver and the reasons for the waiver.

(e) ALLOCATION OF FORCE REDUCTIONS.—To the extent that there is a reduction in end strength level for any of the Armed Forces in European member nations of NATO in a fiscal year pursuant to subsection (a)—

(1) half of the reduction shall be used to make a corresponding reduction in the authorized end strength level for active duty personnel for such Armed Force for that fiscal year; and

(2) half of the reduction shall be used to make a corresponding increase in permanent assignments or deployments of forces in the United States or other nations (other than European member nations of NATO) for each such Armed Force for that fiscal year, as determined by the Secretary of Defense.

(f) NONPERSONNEL COSTS DEFINED.—For purposes of this section, the term "nonpersonnel costs", with respect to United States military installations in European member nations of NATO, means costs for those installations other than costs paid from military personnel accounts.

The CHAIRMAN. Pursuant to the rule, the gentleman from Massachusetts [Mr. FRANK] will be recognized for 30 minutes, and the gentlewoman from Tennessee [Mrs. LLOYD] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Chairman, I ask unanimous consent that I be allowed to give 15 minutes to my coauthor, the gentleman from Connecticut [Mr. SHAYS], and that he be allowed to manage that time.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. FRANK of Massachusetts. Mr. Chairman, to begin this debate, I yield 3 minutes to the majority whip, the gentleman from Michigan [Mr. BONIOR], the gentleman who pioneered the approach this amendment takes a few years ago when he offered an amendment that provided that Japan be asked to do what we here ask Western Europe to do.

Mr. BONIOR. Mr. Chairman, I want to applaud my colleagues from both sides of the aisle for offering this amendment today.

Mr. Chairman, there was once a time when America needed to foot the bill to defend our allies—when Europe lay in ashes after World War II, when the Marshall Plan was helping our allies rebuild, and even during much of the cold war—we were the only ones who were in the position to pay these expenses.

And we paid—at great sacrifice to ourselves—but we paid.

But that time has come and gone.

In 1990, Mr. Chairman, I offered an amendment that required Japan to pick up a fair share of their own defense.

Then, as now, critics said it would not work.

They said it would disrupt our defense alliances—and interfere with our relationships with our allies.

They said these countries couldn't afford to pay.

Well, let me tell you what happened.

The amendment passed with overwhelming bipartisan support.

And at 11 that night, I got a call from the Japanese Ambassador.

He called to tell me that as a result of the House action, the Japanese cabinet met in special session—and had agreed to increase Japan's contribution to the Persian Gulf war from $1 to $4 billion.

Eventually—they more than doubled that amount.

And within a year, Japan was paying half of the total cost to station United States troops there.

We would like it to be more—and it should be more—but at least they are paying for half.

The lesson to be learned from that experience is that burden sharing works.

The lesson is that when you get tough—you get respect.

And when you get respect—you get results.

With this amendment, we are saying that it is time for our European allies to pay their fair share, too.

It's not like they cannot afford to pay, Mr. Chairman.

Think about it: this year, for example, we will spend at least $4 billion—not counting salaries—to defend Germany.

Yet, Germany has wage rates that are about 140 percent of ours. They have national health care, parental leave, child care, a national job-training program, and a month's paid vacation for all their workers.

And to top it all off, last quarter, Germany ran a trade surplus with the United States of about $10 billion.

Yet, we are spending $4 billion to defend them?

It doesn't make any sense, Mr. Chairman. Not any more.

It's time for our European allies to pay their fair share.

We are proud of the role that the United States has played in the defense of freedom throughout the world. And we must and we will continue to lead the world with our military strength.

But there is no reason why American taxpayers should continue to foot the bill to defend countries that are more than capable of paying for their own defense.

This amendment says that the days of the free ride are over, and I urge my colleagues to support it.

Mrs. LLOYD. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to the Frank amendment because it would jeopardize what we have achieved in Europe over the past 50 years. It would jeopardize our country's ability to sustain its strategic interests abroad.

We cannot go below the 100,000 troop ceiling established by the Congress in the fiscal year 1993 defense authorization bill. The President has used that personnel limit in making his commitments to our European allies and I think we must keep our word and stand by those commitments.

Last year during my visit to countries in Central and Eastern Europe as chair of the committee's North Atlantic assembly panel, I was repeatedly asked by the leaders of those countries if the United States would continue to maintain a military presence of 100,000 troops in Europe as promised. Respecting the United States for its role in ending the cold war and bringing the opportunity for democracy to their countries, these new leaders of former Soviet Block countries wanted the assurance that the United States would continue to participate in the security of the European continent while they struggle to build democratic governments.

Mr. Chairman, I would like to read from a recent letter the Secretary of Defense, William J. Perry, sent to the chairman of the House Armed Services Committee.

Dear Mr. Chairman: I would like to express my concern about the potential damage to U.S. national interests that would result from burdensharing legislation such as the amendments being offered by Mr. FRANK and Mr. BRYANT.

Rather than compelling our European allies to greater burdensharing these amendments would force the withdrawal of U.S. troops from Europe, and with them would go our leadership position in NATO, and our ability to promote and protect our vital national interests in Eastern Europe. The extremely effective security structure which has served U.S. interests for more than 40 years would be shattered.

At the NATO summit in January, the President reaffirmed the U.S. commitment to Europe. He did this because our own security and well-being are inextricably tied to European stability. Pulling our forces out of Europe would undercut this interest, creating uncertainty and putting the U.S. itself at risk.

The Administration shares the Congress's concern about equitable "burdensharing" and this remains a primary administration policy. However, to make this the basis of our European policies would be shortsighted in the extreme. Moreover, it does not take into account the total contribution of our European allies to our common security interests today. Consider, for example, the stabilizing effect of European financial assistance to the East and the costs that the U.S. will not have to pay because of these efforts.

The Administration has made good progress in adapting NATO to the new post-cold war security environment. More still needs to be done. Forcing the withdrawal of U.S. forces from Europe would undercut U.S. leadership of NATO during this critical time of transition.

Mr. Chairman, that concludes the Secretary of Defense's remarks on this amendment. I hope my colleagues will give them serious consideration and vote against the Frank amendment.

□ 1750

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

Mr. SHAYS. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. UPTON], a coauthor of this amendment in support of burdensharing.

Mr. UPTON. Mr. Chairman, the premise of our amendment is simple and fair: Starting in 1996, if our allies don't increase their payments, we will gradually reduce our troops. What is wrong with that?

A number of years ago we heard some of the same arguments against burden sharing that we'll hear tonight. Back then, we were hammering out a way to get Japan to pay its fair share for our military presence there.

Some of our colleagues argued that we weren't in Japan merely to defend the Japanese, but that we use Japan as a base to protect our interests in an entire region.

Well, who could quibble with that logic? We don't maintain European bases simply to provide security for our host nations.

When we talk burden sharing, let's emphasize the word sharing. Let's understand that our regional interests are the shared interests of the nations in which we house our troops.

For many years, we've talked about how burden sharing is a nice idea. We've talked about how burden sharing is a laudable goal. The fact is we've talked and talked and talked and talked and talked about demanding that our European allies pay their fair share. Now, it's time to act.

Our host-nation support agreement with Japan requires Japan to pay 75 percent of the nonsalary costs for U.S. troops by 1995. Yet while Japan has agreed to pay 75 percent of all nonpersonnel costs for our military bases there, European countries typically contribute a puny 5 to 20 percent.

When we're saying "no" to increased funding for good programs that benefit people here at home, how can we continue to say yes to a $5 to $10 billion direct cash subsidy for the defense of wealthy European countries like Germany, France, Italy, and the United Kingdom?

Groups like the National Taxpayers's Union and the Citizens Against Government Waste strongly support the amendment before us today.

In their letter of endorsement, the National Taxpayers Union said:

This imbalance hurts Americans in two respects: As taxpayers, who must shoulder the burden of defense spending through high taxes or deficits; and as consumers, who are put at a competitive disadvantage to other countries whose economies need not bear the full price for defending their own territories * * *. It is time to eliminate unnecessary taxpayer subsidies abroad as well as at home.

Citizens Against Government Waste states the situation simply:

Your amendment serves the men and women of our armed forces in two ways: By freeing up the funds for the best weapons and support we can give them, and by using their tax dollars prudently.

Mr. Chairman, I was sadly disappointed when I read the front page of today's Washington Post quoting the chairman of the House Appropriations Committee, who said "we're cutting meat from the bone," referring to Head Start, a wonderful program.

Both he and the chairman of the Senate Appropriations Subcommittee on Labor, Health and Human Services, TOM HARKIN, are saying we can only finance about 18 cents of every dollar authorized for health programs. Breast cancer research and other very worthwhile programs and everything else will indeed suffer.

We need to change some priorities in the spending process, and that means other countries need to begin serious burden sharing. This bill saves the taxpayers almost $5 billion.

This amendment is a start in the right direction toward fiscal sanity and responsibility.

Mrs. LLOYD. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WELDON].

Mr. WELDON. Mr. Chairman, I rise in strong opposition to this amendment, and I thank the gentlewoman for yielding time to me.

It is easy to be partisan on this issue. Here we have President Clinton saying it is a bad amendment. We have Secretary Perry saying it is a bad amendment. We have Secretary Christopher saying it is a bad amendment. I, as a Republican, I could get up here and I could demagog and say it is a bad amendment and run home and get headlines in my newspaper saying I am great. I voted to bring all of our troops back home unless our foreign allies put money up.

I am proud of the golden bulldogs. I had, just as my colleague from Michigan is proud of his, for my votes as a fiscal conservative. But we are not here to get headlines back home. We are here to do the right thing.

We are here not to just protect the interests of our allies. We are here to protect America's interests. That is why our Secretary of State, that is why our Secretary of Defense, and that is why the majority of the members of the Committee on Armed Services who have looked at this issue in depth on both sides of the aisle think that we are making real progress in burden sharing.

In fact, we have brought home 40 percent, we have had a 40-percent reduction in our troops just in the last several years.

Let us get the facts on the table, Mr. Chairman. Everyone of our colleagues in this body wants burden sharing. There is no one group that wants to burden share and the others who want to send all of our money overseas. All of us want to burden share. But we want to do it in a way consistent with our foreign policy.

In this case, I want to support the administration. They know it is a very critical point in time. The European nations are at a terrible point where they do not know which way to go. This administration has taken a leadership role. They just passed a partnership for peace. And guess what, Mr. Chairman, the partnership for peace is going to be implemented by U.S. troops working our allies. Now what we are saying here is, let us pull the plug out. Let us not worry about what President Clinton said, about what Secretary Christopher or Secretary Perry say. Let us pull the plug, because we want the headlines back home that we really are for having the foreign allies pay their fair share of the costs. That is a bunch of baloney.

All of us in this body are for burden sharing, but we want to do it in the right way. I am willing, as a Republican, to give this administration a chance to do it logically, consistently and in the best interests of our foreign policy and not just to score cheap headlines.

Mr. FRANK of Massachusetts. Mr. Chairman, I am grateful for a very, very brief flicker of bipartisanship on the other side. I do not expect it to last too long.

Mr. Chairman, I yield 3 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER], whose name has been invoked and who has, in fact, been the pioneer in the whole area of burden sharing.

Mrs. SCHROEDER. Mr. Chairman, I thank the gentleman for yielding time to me.

Let us try and do something unique here. Let us try and look at the facts.

This is not about pulling our troops out of Europe, no, no, no.

Yes, I worked very hard to say that there should be no more than 100,000 troops in Europe.

□ 1800

That is one of the goals they are working to. They can all stay there, every one of them can stay there, if the allies work toward paying 75 percent of the cost of keeping them there, other than salaries. That is all. That is all it is. It is really very simple. If the allies think they are so important, this is a terrific deal for them.

I also must say, think of how expensive it is to maintain people there on rotations, on the cost of deploying over there. We got so used to assuming those costs that I love the people who come and say they are all for burden-sharing, but not this bill, not this time, not this day, because I got 20 years of those kinds of same statements. Have we not been pushing down here with these amendments, we would have not made the progress we made.

I want to give the Members some facts right out of the burden sharing thing that came from the Defense Department. We insist that they do this report, and in the recent reports the Secretary of Defense says to us, "Please don't call it 'burden sharing,' call it 'responsibility.'"

Okay, let us call it responsibility sharing. That is fine with me. I do not care. The politically correct thing is now "responsibility sharing." However, the Secretary of Defense goes on to say that "Even by that measure, Germany, Norway, Portugal, and the Netherlands, in their overall efforts, could best be characterized as mixed." Boy, that is exciting.

Then when it comes to Belgium, Italy, and Spain, they explain that away as "worse than mixed," but not to worry, because they are on the lower tier, so we certainly would not want to expect more out of them. So they are even failing on responsibility sharing, which is what the Secretary of Defense is saying we should hold them to, which is a lesser standard, for crying out loud.

Then the Secretary of Defense goes on to say that these allies face "persistent economic problems and increasing pressures on their own defense budgets." Do we not?

Not only that, these allies have much better education programs, much better health care programs. They are not talking about cutting Head Start. They would not cut it in a minute. They even immunize all their children, and we only do about 50 percent.

However, we cannot wait to rush to the well to keep saying: "Let us keep pretending like the Soviet Union is going to run over them any minute and we have to pre-position all our troops there so we will be ready."

Wait a minute, we are not protecting West Germany from East Germany, because it is now one country. All the West Germans and the East Germans can now go across the border, and the wall is a speed bump, and we are still there.

I encourage people to finally say, "Let us talk about this." It does not bring one troop home unless they do not start paying at least 75 percent of the cost. Let us keep the facts on the table.

Mrs. LLOYD. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. PICKETT].

Mr. PICKETT. Mr. Chairman, I rise in opposition to the Frank amendment. Mr. FRANK has been offering amendments aimed at cutting the defense budget and withdrawing our overseas troops for many years. In some years, he has targeted U.S. troop levels in Europe and Asia. In other years, he has specifically targeted our troops in Europe. His amendment before us now, would result in pulling out of Europe as much as 75 percent of the troops the Congress has decided we need to protect our national interests there.

Mr. FRANK's amendments of yesteryear were after the same sort of deep reductions in our overseas troop levels, but they were offered when we had hundreds of thousands more stationed in Europe alone. I would suggest, Mr. Chairman, that all of us, Mr. FRANK included—regardless of the ideology we espoused during the cold war—need to review our cold-war thinking in the light of new realities. In doing so, we must keep clearly before us the vision of a peaceful, stable world.

With the cold war over, the fundamental challenge becomes that of establishing and securing the peace. We should all realize by now that we can not accomplish that alone. Either we make peace in cooperation with other nations or it will not be made.

Continuing to work closely with our European partners in NATO and extending that partnership to our former adversaries in Eastern Europe, seems to this Member to be the best way to pursue peace and stability in Europe and to extend peace and stability elsewhere.

We all agree that we no longer need our cold-war level of 326 thousand American troops in Europe to pursue those objectives. But, we did decide in this Chamber to support the amendment of the gentlewoman of Colorado and establish in law a ceiling of 100 thousand troops there, and we are cutting back to that level on schedule. The troops we have decided to maintain in Europe are now engaged in pursuing NATO's new missions of peacekeeping beyond NATO's borders and reaching eastward to widen the circle of democracy and stability.

This partnership for peace we are trying to build now throughout Europe holds a great deal of promise for peace and stability not only on that continent but beyond. We should put our shoulders to the wheel to develop partnerships in Europe, including those involving our former adversaries, that we can apply to cooperative efforts to establish and keep the peace there and elsewhere. We need to work together in this way in order to preempt crisis and confrontation—to prevent the next Somalia and the next Bosnia—or to respond to them collectively and effectively if they occur.

Mr. Chairman, our military leadership and troops in Europe are far along in recognizing the challenges of the post-cold war world and working effectively to meet them. We have charged those troops with implementing the partnership for peace and accomplishing NATO's new missions. In my opinion, this is not the time to tell our troops in Europe that we are going to withdraw them.

I urge my colleagues to vote no on this amendment.

Mr. SHAYS. Mr. Chairman, I yield 2 minutes to the gentlewoman from Oregon [Ms. FURSE], the other coauthor of this burden-sharing amendment.

Ms. FURSE. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I want to tell you how my constituents respond when asked the question, "Should our allies bear more of the cost of their defense?" They respond with an overwhelming yes.

The Frank-Shays-Furse-Upton amendment gives us a choice. A real choice. We can choose to invest in our needs, our jobs, our businesses, our education, or we can choose to pick up billions of dollars for Europe's defense costs while they invest their money in their economy and race past us economically. I say the choice is simple. That is the bottom line of the Frank-Shays-Furse-Upton amendment. It is about fairness. It is about common sense.

The other day I heard someone say that the leaders in Europe want us to keep our troops there. Well, of course they do. It is the biggest bargain they could have—they can spend the money they save on other needs. I say it is time they begin to pay their fair share.

Well, Mr. Chairman, the people of Oregon have needs too. And there is not enough money to meet those needs. Oregon communities have been devastated by timber and fishing losses. We have had to lay off a thousand teachers this year because of a budget shortfall. Oregonians need health care and affordable housing.

When we ask Europe to pay their fair share they say they cannot afford it. Well, I say we can no longer afford this enormous cost alone. We need to support our military at home, to educate

our children, to protect our streets. We need to reduce the deficit and make us competitive once again.

If our allies find our troops useful, they should be willing to help share the cost of supporting them, just like Japan does. Japan pays 60 to 70 percent of the nonsalary costs of the United States troops stationed there.

Those who are serious about cutting unnecessary spending should vote for the Frank-Shays-Furse-Upton amendment. By bringing this money home, we stop giving Europe a bargain, and begin giving our own communities a break. My constituents, and all Americans, deserve nothing less.

Mrs. LLOYD. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. BATEMAN].

Mr. BATEMAN. Mr. Chairman, I will use my two minutes extemporaneously to try and deal with what I think is the major thrust on behalf of the proponents of this amendment.

In my view, and I think it is entirely a correct one, the flaw in this amendment is the same flaw that was in the Bryant amendment which we dealt with yesterday. That flaw is that the amendment, that one as well as this one, proceeds from the premise that we are stationing forces overseas and in Europe to protect them, and therefore, they must pay some determined figure that we in this elective political body determine they should pay, rather than the actual situation, which is that we deploy forces there not for their sake, not in their interests, but in our security interest.

One of the flaws that is further involved in this is that we are saying if they do not come up to a percentage of participation which we in a politically elected body arbitrarily establish, we are going to reduce our forces by 37,500 troops which would be brought home and forced out of our military, the equivalent of two Army divisions, when we are already at a point where, under bottom-up review, some of the most serious students of our force structure believe that the force structure contemplated is inadequate already. How insane can we get.

This is not a matter that we can say, Norway is not doing its share, Portugal is not doing its share, x, y, and z are not doing their share. We are dealing with things almost in a global, conglomerate point of view, instead of dealing with them on a discrete point of view.

If we are going to withdraw all these forces if they do not do this, do we withdraw all forces just from those who are not participating, even though that is where we need them? How do we manage it if we are going to try to manage it in keeping with our security interest?

This is a flawed concept. I do not charge that the people who are doing it are doing it for political reasons, but I do charge that it is terribly flawed conceptually, actually, impractical of implementation, and undesirable in implementation, and the amendment should be rejected.

Mr. Chairman, I rise in opposition to the Frank amendment that would cut our troop strength in Europe to untenably low levels well below the ceiling mandated by the Congress. No one can refute the fact that our men and women in uniform in Europe and their counterparts in other NATO nations were an essential factor in winning the cold war and preventing World War III. They accomplished this by their mere presence and solidarity in Europe with NATO allies, and did it without firing a single round in anger.

Now, we and the same NATO allies, along with the partners NATO seeks to develop across old lines of confrontation, are faced with the challenge of preserving the peace. I certainly hope that we do not repeat the costly errors we made following the end of World War I by running away from that challenge. At that time, the victorious Americans left Europe lock, stock, and barrel. President Woodrow Wilson argued that we needed an international organization to make the world a safer place, but, as many of us here know only too well, the isolationists prevailed. The world suffered the awful consequences of another world war, and another generation of Americans had to return to the same European battlefields to shed their blood to protect the same American interests.

Isolationism was the tragically wrong answer then, and would be the tragically wrong answer now. This is the time to build on the successes of our collective security organizations like NATO, not to return to the failures of the past.

Can anyone doubt the wisdom of such collective security efforts, when they offer so much promise in the post-cold war era. The alternative is the renationalization of security and all the dangers that would entail. If the two world wars were the explosions resulting from nationalized security, the terrible violence being experienced in tragic places like the former Yugoslavia is the implosion of nationalized security applied to ever smaller ethnic groups. I think we all agree that American presence in Europe has been crucial to securing our collective security. It contributes greatly to the solidarity and stability of Europe, partly because of the additional capabilities it provides and partly because it helps Europeans resist the urge to renationalize European security.

I will conclude, Mr. Chairman, by pointing out that, not only would this amendment have extremely dangerous outcomes in Europe, its damage would be spread throughout our national security structure. The amendment would withdraw as many as 75,000 more troops from Europe than the Congress has mandated, and half of that number would be forced out of our military. Mr. Chairman, that would reduce our military forces by another 37,500—the equivalent of about two Army divisions. Many here in Congress do not believe that the force levels as currently planned are adequate to meet our national security requirements. None of us should be willing to accept this backdoor approach to cutting well below those levels without full debate of the policy foundations involved—especially since this amendment would base such a cut not on our own national security requirements but on what others do or fail to do.

□ 1810

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 2 minutes to the gentleman from Maine [Mr. ANDREWS], a member of the Committee on Armed Services.

Mr. ANDREWS of Maine. Mr. Chairman, I think this debate needs a bit of perspective and I would like to give the perspective of someone that is working very hard and fighting very hard to restore commercial shipbuilding and shipbuilding jobs to the United States. Paying for the defense of our very wealthy allies in Europe and not insisting that they pay their fair share for their own defense means that we are in effect forcing American taxpayers to pay for the exportation of good paying American jobs overseas.

Mr. Chairman, we are subsidizing to the tune of billions of dollars the economies of our European allies by letting them off the hook when it comes to paying their fair share, and that is all we are talking about, paying their fair share for their own defense. That in turn enables them to put billions of dollars every year of subsidies into their commercial shipyards. For our NATO allies alone, that is $6 billion every single year, $2.3 billion for Germany. That has enabled them to make it virtually impossible for our shipbuilders, our commercial shipbuilders to compete in a promising new commercial market.

Mr. Chairman, we have lost 120,000 good paying jobs over the last 10 years and despite the fact that we have a promising commercial market, ladies and gentlemen, we are looking at the loss of an additional 180,000 jobs if we allow the status quo to continue. This status quo, Mr. Chairman, is weakening our economy, it is throwing thousands of hardworking Americans out of work, and it is weakening our defense by weakening our shipbuilding industrial base.

In short, since they do not have to pay their fair share for their own defense, they invest their dollars in taking our jobs. Americans end up paying billions of dollars to send our jobs overseas despite the fact of this promising market.

I urge everyone to vote yes on this important amendment and save American jobs and stop the rip-off of American taxpayers.

Mrs. LLOYD. Mr. Chairman, I yield 4 minutes to the gentleman from Florida [Mr. HUTTO], chairman of the Subcommittee on Readiness.

Mr. HUTTO. Mr. Chairman, I thank the gentlewoman for yielding time to me.

Mr. Chairman, I rise in opposition to the amendment. While I understand

that the stated objective of the amendment is to increase the contributions of the allies to support operating costs of overseas bases, I would caution my colleagues that increased allied contributions would not result from this amendment.

This amendment is nothing more than an ultimatum to the allies—pay up or the United States pulls the plug on troops. I don't know how the sponsors believe the allies will react, but I am quite certain that, in very short order, this amendment will become little more than a troop reduction plan. The amendment would suggest that the United States has no understanding of the immense value this Nation gains from having troops stationed overseas, and would appear to say that America has no intention to fairly negotiate the issue. Our negotiators are pressing hard for increased payments, and we should be tough.

For example, this year's budget request increases host nation support for our forces to $3.82 billion. The Committee on Armed Services added $400 million to the requirement during markup. There is no lack of commitment within the Armed Services Committee to require the allies to pay their share.

But that does not relieve us of the obligation to acknowledge the strategic value of our forward presence and negotiate a burdensharing agreement that includes a "fair share" contribution from the United States.

Accordingly, in my view, this amendment will leave the defense posture of this Nation stripped of the capabilities and benefits of forward presence.

In terms of capabilities, it is painfully clear that our ability to respond to every corner of the globe to protect America's interests would be greatly diminished without the en route airfields and supply bases that overseas basing provides us. Without an en route infrastructure we would subject our troops in the Persian Gulf, or Bosnia, or Africa, or the Far East to significantly increased risks because the flow of supplies and equipment, and the availability of reinforcements would be uncertain.

In terms of benefits, I would suggest to my colleagues that every American has a direct economic stake in preserving some level of overseas presence. Without the visible on-scene leadership of the United States, how many nations would be closed to American goods? How many shipping lanes would be blocked? I caution my colleagues to not overlook the powerful influence this Nation derives from forward presence. Our presence in an area of the world provides an important calming influence for which there is no substitute. I would suggest that whenever America withdraws from an area of the world that area will become less stable and we will pay a price in closed factories and lost jobs right here at home.

Mr. Chairman, I am not suggesting we need to maintain large overseas presence. The costs of our overseas presence is half what it was just 3 years ago. Our presence can be small, but we must be there or suffer the consequences of abdicating the important role we play preserving peace for all people around the world.

Mr. SHAYS. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. DREIER], a very distinguished member of the Committee on Rules.

Mr. DREIER. Mr. Chairman, I thank my friend for yielding the time and congratulate him for his work on this. I would also like to congratulate the thoughtful and hardworking members of the Committee on Armed Services and say that I have the utmost regard for that committee which addresses what I believe is the one key issue that the Federal Government has responsibility for, and that is national defense.

Mr. Chairman, yesterday I opposed the Bryant amendment. I did so because frankly I believed that it went too far. But I believe that the issue of burdensharing is something that we should try to compromise on. As I looked at this amendment, it seems to me that a gradual, I underscore the word gradual, increase in contribution from our allies is an important thing for us to try to put into effect, No. 1. No. 2, the fact that we have a waiver so that the President of the United States can make a decision that this is not the route to take if it is absolutely essential has led me to conclude that this is a modest compromise on the issue, facing the issue of both national security and deficit reduction. I have concluded that it is essential that we support this very balanced approach.

Mrs. LLOYD. Mr. Chairman, I yield such time as he may consume to the gentleman from South Carolina [Mr. SPENCE], the ranking minority member of the Committee on Armed Services.

Mr. SPENCE. Mr. Chairman, I rise in opposition to this amendment. It would do irreparable harm to our national security.

Mr. Chairman, I rise in opposition to the so-called burdensharing amendment offered by the gentleman from Massachusetts [Mr. FRANK].

This amendment, under the guise of burdensharing, seeks to dramatically reduce the number of U.S. troops deployed in Europe. It may surprise some of my colleagues to know that, contrary to the inaccurate conventional wisdom, less than 10 percent of the defense budget is actually allocated for the overseas activities of American forces—very little of which has to do with protecting some other country.

More to the point, U.S. Forces based in the European theater are responsible for promoting and defending America's interests in some 82 nations, spanning an area of responsibility that encompasses not just Europe but parts of the Middle East, North Africa, and Sub-Saharan Africa. In the past year alone, these forces have been called upon to perform a wide variety of missions critical to American national interests.

Mr. Chairman, I continue to be amazed by the logic used by proponents of these burdensharing amendments. I am always glad to hear my colleagues talk about the need to save the taxpayer money. Yet, the only place they ever seem willing to cut is in an already declining and underfunded defense budget.

Who stands to benefit from a reduced forward-deployed American military presence in Europe as implied by the Frank amendment? Not the United States and certainly not our allies. The principal beneficiaries of American retrenchment would be our adversaries. I can assure my colleagues that no tears will be shed in North Korea, Libya, Cuba, or Iraq, if Congress ultimately compels the President to reduce drastically our military presence abroad.

The best way to protect our interests is to remain strong militarily and to maintain our many international alliances which have brought an unprecedented measure of stability and security to Europe since World War II. In that context, it is vital that the United States sustain a credible force abroad, especially in Europe. As the Chairman of the Joint Chiefs of Staff, Gen. John Shalikashvili, has observed, "Our military contribution [to NATO] is significant compared to those of other member nations; so is our influence. Nothing can be more favorable for U.S. interests in Europe than to retain that degree of influence."

The amendment authored by Mr. FRANK would not reduce costs, it would simply reduce America's ability to influence global events. It is a wrong-headed approach to protecting and promoting U.S. security interests and should be defeated. I urge my colleagues to vote against this ill-considered amendment.

Mrs. LLOYD. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. GILMAN], the ranking minority member of the Committee on Foreign Affairs.

Mr. GILMAN. Mr. Chairman, I thank the gentlewoman for yielding me the time.

Mr. Chairman, at the heart of this debate, pure and simple, is the issue of defining and maintaining our country's ability to sustain its strategic interests abroad.

I know that my colleagues recognize that our allied security arrangements in Europe, Japan, Korea, and the South Pacific serve as the underpinning of our larger, vital interests in the world. Those vital interests cannot be protected without a substantial U.S.-forward deployed presence.

That presence, and the associated leadership and prestige it brings, is at risk if the House takes action to force untenable reductions in our forces in Europe.

NATO has adopted new missions that are critical to U.S. security interests. In particular, NATO has endorsed and is rapidly implementing the Partnership for Peace initiative which reaches out to the countries of Central and

Eastern Europe in an attempt to integrate them into the community of democratic nations.

There is a growing recognition that the West cannot afford continued ambiguity while nations with strong roots in Western culture and a growing commitment to democratic values struggle in the shadow of uncertainty. The continued presence of our troops in Europe is essential to the implementation of the Partnership for Peace and the preservation of NATO as an effective, stabilizing institution in a potentially volatile part of the world.

It would be the height of folly to take rash action now that could speed a return to the kind of confrontation that compelled us to station over 300,000 troops in Europe for decades during the cold war.

Given the uncertainty in Russia and elsewhere in Central and Eastern Europe, this is no time to precipitously withdraw our forces from that region.

This is not to say that the United States should not continue to vigorously pursue arrangements with our allies that would be more beneficial to the United States. Indeed, the American people deserve no less. But the American people must also know what is at stake in Europe if U.S. forces are reduced too far and too fast.

Accordingly, I urge my colleagues to vote against the Frank amendment.

□ 1820

Mr. SHAYS. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Minnesota [Mr. RAMSTAD].

Mr. RAMSTAD. Mr. Chairman, I rise in strong support of the Frank-Shays burdensharing amendment to H.R. 4301.

This amendment would reduce defense spending and budget deficits for years to come.

It gives our European allies 4 years to contribute 75 percent of the nonpersonnel costs of maintaining U.S. troops in their countries.

While the United States has already negotiated such an agreement with Japan, European countries continue to contribute only 5 to 20 percent of these costs.

Mr. Chairman, the United States can not afford to be the world's police department. We have the world's best troops, but using them all over the world without compensation from the protected nations makes no fiscal sense. We simply cannot afford it.

I also want to point out that this amendment also includes safeguards for national security. If the President declares an emergency, he may waive the amendment's provisions.

The bottom line is that, according to CBO, this amendment would save $4.8 billion over 5 years.

Mr. Chairman, I urge my colleagues to listen to the 600,000 members of Citizens Against Government Waste. Listen to the 250,000 members of the National Taxpayers Union. Let us strike a blow for deficit reduction and pass the Frank-Shays amendment.

Let us have our allies pay their fair share.

Mrs. LLOYD. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia [Mr. JOHNSON].

Mr. JOHNSON of Georgia. Mr. Chairman, I rise in strong opposition to this amendment.

Mr. Chairman, current Defense Department plans call for dramatic reduction in U.S. forces in Europe, from over 320,000 to a floor of 100,000 troops. We have already reduced real annual stationing costs overseas by one-third since 1990, or $10 billion.

This amendment will, in effect, arbitrarily reduce U.S. active-duty strength in Europe by as much as 75,000 troops and total active-duty strength by the equivalent of two army divisions. We simply cannot afford to make any further reductions in our European presence.

Our forces play a vital role in insuring a minimum capability to support NATO with operations in Europe as well as the Middle East, Africa, and the states of the former Soviet Union. They help deter aggression, enhance regional stability, demonstrate U.S. commitment, and promote U.S. values.

Importantly, they also ensure a continued close relationship with our NATO allies, several of whom played an invaluable role in the Persian Gulf war, and they will do so again and again as we face new threats to our vital interests in the decades ahead.

Those who are sincerely concerned about the reductions in our national defense capability understand that U.S. troop reductions overseas are already putting a tremendous strain on U.S. capabilities to project forces abroad. We are being forced to shift enormous resources toward new air and sealift capabilities, pre-positioning, more robust logistics, and better communications, all to compensate for the loss of forward operating areas.

In short, the United States needs the European operating areas as much as the alliance needs our stabilizing presence.

I urge opposition to this arbitrary approach to national security.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 1 minute to the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Chairman, I rise in support of the amendment, and I commend the sponsors.

This well-crafted, responsibility-sharing amendment recognizes a few fundamental realities. First, the pockets of the American taxpayer are not endlessly deep.

Second, our European allies commit far less of their wealth to defense than do we.

Third, the stationing of troops in Europe significantly enhances the security of our European allies.

Finally, those allies are paying less than one-fifth of the nonpersonnel costs associated with stationing our troops on their soil defending their security.

The amendment simply calls upon our European allies to do what the Japanese are already doing, pay 75 percent of the nonpersonnel costs of keeping our troops. This amendment is fair, and it is economically responsible.

I urge my colleagues to tell our European allies the free lunch is over.

Mrs. LLOYD. Mr. Chairman, I yield 5 minutes to the gentleman from North Carolina [Mr. LANCASTER].

Mr. LANCASTER. Mr. Chairman, I rise in opposition to the Frank amendment and would like to focus my comments on only one of the several faulty assumptions on which the amendment is based and which render it dangerously wrongheaded.

The amendment clearly attempts to apply the model of Japan's financial offsets blindly and restrictively to our arrangements with European allies with vastly different approaches to sharing the responsibilities and burdens of providing for our common security. Mr. Chairman, the Japanese model is not appropriate in Europe; it is not workable in Europe, and, most importantly, it would not be in our national interest in Europe.

Yes, Japan does offset about 75 percent of our financial costs associated with stationing troops in that country. But, Japan provides so much more in the way of financial offsets because it provides so much less in the many other important ways of equitably sharing the responsibilities and burdens of ensuring stability and security. Our financial arrangements with Japan are unique to the particular circumstances there.

In fact, Mr. Chairman, I am puzzled as to why the author of this amendment would choose the Japanese model to try to apply to Europe rather than the Korean model. In one letter from the sponsors of the amendment, they point approvingly to both models, saying that Japan pays about 75 percent of our nonsalary costs, and that Korea has agreed to pay about 33 percent.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. LANCASTER. I am happy to yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, Japan is a lot wealthier than Korea. Western Europe economically more nearly resembles economically Japan than Korea, so we thought from the economic standpoint, Western Europe was a better analogy to Japan than to South Korea.

Mr. LANCASTER. If the gentleman will allow me to do so, if I can continue my statement, I will respond directly to that question.

The sponsors find the much lower Korean offset acceptable, no doubt, be-

cause Korea contributes far more than Japan to our common security in other important ways, like investing far more in its own defense and participating far more in our multinational security efforts. Despite this apparent understanding of the differences between Japan and Korea, the amendment attempts to apply the financially more stringent Japanese model to our European allies who contribute far more than either the Japanese or the Koreans in these other ways.

Mr. Chairman, let me briefly outline the key differences between the situations with our Japanese and European allies that make the Japanese model inapplicable in Europe. First, NATO is a multilateral alliance with an international headquarters, an integrated military command structure, and a well-developed system of assigning national defense assets to coalition roles and missions. It is these elements of the alliance relationship—along with cost-sharing arrangements such as the infrastructure program to which our NATO allies contribute 72 percent—that constitute the most important aspect of responsibility sharing in NATO.

Our European allies also make tremendous contributions in support of related Western security objectives, for example, involvement in peacekeeping operations, absorption of large numbers of refugees, and—especially in the case of Germany—payment of substantial sums to expedite the departure of former Soviet troops, assist in the reconstruction, democratization, and stabilization of Eastern Europe, and underwrite German unification.

Even if our European allies were able to provide substantial cash increases comparable to Japan to offset United States stationing costs overseas, this would be a dangerously shortsighted policy to pursue, since it would almost certainly result in corresponding decreases in the allies' ability, for example, to field and maintain ready and modern forces. Such a tradeoff would have highly undesirable strategic implications, diminishing allied capability to participate effectively in multinational security and peace operations, and increasing the reliance of our allies on overstretched U.S. power projection capabilities during a period of increased global instability; and, at the same time, making U.S. forward presence policy dependent on tightly constrained allied budgets.

Mr. Chairman, achieving more equitable sharing of the responsibilities and financial burdens has been a very high priority of this Congress and this administration as well as their predecessors. The Armed Services Committee has been extremely active on this issue and, in this bill and last year's bill reduced funds for overseas stationing by a total of almost $1 billion in anticipation of accelerated troop withdrawals and increased allied contributions. Those contributions have been increasing and we are working for more.

But, Mr. Chairman, this attempt to apply a model of 75 percent payments to our European allies is unworkable and contrary to our national interests. Furthermore the troop reductions and active duty force level reductions that would result from this amendment would be disastrous.

I urge my colleagues to vote "no" on the Frank amendment.

□ 1830

Mr. SHAYS. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from California [Mr. CUNNINGHAM] who has spoken articulately for defense matters for so many years.

Mr. CUNNINGHAM. Mr. Chairman, I am known as a strong proponent of defense issues and very seldom do I find myself in support of the gentleman from Massachusetts [Mr. FRANK]. But when he is right, I think we need to align ourselves in that direction.

We are talking about burden sharing. We are talking about a country's defense that is going downhill and being cut too much. Most of my experience comes from Southeast Asia. I was on the 7th Fleet staff. Team spirit was the defense of Korea. Yet Korea today is overtaking Japan in economic development. They need us there. It is probably one of the biggest hotspots. Just like in Desert Storm, the United States cannot afford to take on the burdens of the world anymore.

We need help, we need help for our ships, our sailors and our troops who are fighting these battles.

I think that is time these countries support us. The question is why pick on Japan? I am on the Merchant Marine and Fisheries Committee. Japan subsidizes its shipbuilding by $3 billion a year. Then we turn around and kill our own shipbuilding and ship repair industry. They also repair our ships, our Navy ships and our ship repair industry is dying.

Look at the trade imbalance, are you telling me that they cannot afford to pay for part of that?

I look at the Philippine Islands. I would have loved to stay in the Philippine Islands. We could not afford it because our own deficit and our own debt in this country—I would love to stay in these countries if we had the capital to do it. But I am looking at a $4.9 trillion debt in which we are trying to reduce the deficit and the debt.

When we are talking about forward deployed, we have 12 aircraft carriers, and I would hope our colleagues would support maintaining those. We have B-2 bombers. I think that if we want a strong military, we need help from these other countries.

One other area that I would like to look at is the Soviet Union, which is now Russia. They are building many, many $5 billion to $9 billion submarines, and we are giving them $3 billion in aid. Let us take back and get some of that burden sharing back.

Mrs. LLOYD. Mr. Chairman, I yield an additional 2 minutes to the gentleman from Pennsylvania [Mr. WELDON].

Mr. WELDON. Mr. Chairman, I have one quick question for my colleague from California, my good friend, Mr. CUNNINGHAM. Does my colleague think that this amendment applies to Japan? Was that the tone of his comments?

Mr. CUNNINGHAM. Mr. Chairman, will the gentleman yield?

Mr. WELDON. I yield to the gentleman from California.

Mr. CUNNINGHAM. I think it applies to all burden sharing.

Mr. WELDON. I say to the gentleman it applies just to Europe.

Let me set the record straight: Mr. Chairman, all of our colleagues in this body are for burden sharing. There is no one small group of people who want to share the burden and the rest who want to pay more and more money overseas. Everyone is for burden sharing.

Members of the committee are for burden sharing.

The troops over in Europe are not just there to protect our allies. As a matter of fact, one of the key elements in our national security strategy, and I quote, "The forward presence of viable land, air and maritime forces."

As a matter of fact, NATO just recently adopted two new missions that are critical to U.S. security interests. One is projecting stability eastward, and the other involves peacekeeping operations outside of NATO borders.

President Clinton unveiled his Partnership for Peace as a primary vehicle to accomplish both of those objectives. Now what we are proposing is to ignore President Clinton, ignore the Secretary of Defense, and say forget about all that, forget about the instability of NATO, we are simply going to make the decision based on what is politically best in our interest here and not based upon what is best for us in terms of policy. Let us not just vote "no" because President Clinton wants us to vote "no," let us not just vote "no" because the Secretary, Secretary Perry, wants us to vote "no" or Secretary Christopher wants a "no" or the chairman of the Joint Chiefs of Staff wants a "no"' let us vote "no" because it is the right thing. We owe it to our troops, we owe it to our country, we owe it to the people. We want to protect our vital interests. This is a wrongheaded amendment. We need to do the right thing.

I urge my colleagues to vote "no."

Mr. FRANK of Massachusetts. Mr. Chairman, this has budgetary implications, and I yield 2 minutes to the gentleman from Ohio [Mr. KASICH], who is

a defense expert and who is also the ranking Republican on the Committee on the Budget.

Mr. KASICH. I thank the gentleman for yielding, but what I appreciate more is the fact that I finally got the gentleman from Massachusetts to move my way on burden sharing.

I have been an advocate of strong burden sharing in this Congress for a number of years. What I have objected to, however, is the idea that foreign governments ought to pay for the salaries of our troops. I think that is a very, very dangerous precedent that calls to mind the fact that our people then literally become mercenaries around the world.

But what I have been frustrated about over the years is the notion that somehow we should not ask the host nations on whose soil we have troops—and admittedly, we have troops in Europe as a benefit to the United States, early deployment—but there are also benefits that the host nations accrue. Over the years I have become increasingly frustrated by the lack of participation by the Europeans. In fact, the lack of participation by many nations around the world. I do not know how many of you are aware of this, but literally the Filipinos threw us out of their country, so did the Spanish. And we actually had to pay the people who lost their jobs, who were foreign nationals, severance pay. That is not just in the Philippines but in Spain as well. That is an outright rip-off of the taxpayers of this country.

Now, what I like about this amendment is it puts us on the model that I have been talking about for years, and that is the Japanese model. That we increase the amount of support that host nations pay for U.S. troops in terms of physical facilities. I want to tell my colleagues we have a number of issues that are at stake. With our troops coming home, we are leaving facilities, we are leaving our own equipment over there, and we are in the middle of a debate with our allies about what the fair return should be on the property that we put over there.

So I want to say to my Republican and Democratic colleagues, this is first of all not the end of the line. I am not convinced that this amendment will make it—I am not convinced that the other body will accept this in conference. But we are now in a position here in the House where, in my judgment, Republicans and Democrats alike who believe in a reasonable burden-sharing solution, a reasonable proposal, to say that host nations ought to join in supporting the common defense. This is a reasonable proposal and a reasonable solution that everybody in this House ought to be able to support.

We are no longer going to treat our troops as mercenaries, that is out of the mix. This essentially says the Japanese have agreed to provide a certain level of host nation support, the Japanese have agreed to do it. This is a country that we have been furious about their lack of participation for years. All this does is increase the amount of support that the Europeans are providing for our troops over there in Europe.

I mean, could you imagine the fact that we are moving toward the Japanese model? If the Japanese agreed to do this, and this is a country with which we have been frustrated for years—if the Japanese have agreed to do this, it makes absolutely perfect sense to get the Europeans on the same formula.

Now, there is going to be some time to negotiate, let everybody from over there send all the nasty letters over here, and work this out in conference if some feel it is too strong. But I say to my colleagues this is a very reasonable proposal to institute some reasonable burden sharing.

Mr. Chairman, I want to compliment the gentleman from Massachusetts [Mr. FRANK] and the gentleman from Connecticut [Mr. SHAYS] for moving in the direction of a responsible and reasonable burden-sharing proposal that we can in fact support as a Congress and as a Nation.

□ 1840

Mr. SHAYS. Mr. Chairman, I yield 1 minute to the very patient gentleman from Wisconsin [Mr. BARCA].

Mr. BARCA of Wisconsin. Mr. Chairman, I rise today in strong support of the Frank and Shays amendments.

We have been hearing from the opponents that they will support some burden-sharing amendment. Now the Bryant amendment might have gone too far. This amendment certainly does not. This amendment addresses one of America's most pressing policy concerns, our desire to maintain military presence overseas versus our need to cut spending and regain control of our economy. Cutting this funding will not diminish America's role as defender of the free world. We are still willing to put our young men and women on the guard posts and on the front lines. We want our allies to pay some share of that financial burden, a burden, I believe, that they will accept if they are pressed.

Our national debt, at $4 trillion, is too large, and our children's financial burden is too great, for us to continue shouldering this burden. We have one of the largest foreign trade deficits in the world, and our allies do not any longer need this subsidy.

Mr. Chairman, I urge my colleagues to vote in favor of this reasonable amendment and help make our allies pay their fair share.

Mr. SHAYS. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Chairman, I thank the gentleman from Connecticut [Mr. SHAYS] for yielding this time to me.

Mr. Chairman, I, too, as a self-styled hawk, find myself in a peculiar position, but I want to support this amendment and intend to vote for it.

I have one reservation, and that is: What effect does this have on the arrangements that our Nation has with NATO insofar as they may amount to a treaty of these arrangements? I do not want to be in a position of voting for a proposition that would somehow cause the President or the Secretary of Defense to be in violation of those kinds of arrangements or commitments.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. GEKAS. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. First, this has, at the insistence of the gentleman from Connecticut correctly, a complete waiver for the President.

Mr. GEKAS. I understand that.

Mr. FRANK of Massachusetts. So, on this ground he can waive it.

Second, a statute would not contravene a treaty. The treaty would be superior. I do not believe that the NATO treaty compels any specific level of American troops, but, if they were found to be in disparity, the treaty would supersede, and I would say to the gentleman——

Mr. GEKAS. Seizing back my time, notwithstanding the fact that NATO cannot dictate how many troops, the spirit, if not the words, of provisions of a treaty could be violated.

I am going to vote for the amendment and hope that we can straighten that out in——

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 30 additional seconds to the gentleman from Pennsylvania [Mr. GEKAS] and say to the gentleman, "If that proves to be a problem, I would agree, I think my cosponsor would agree, that we would work it out over there. All I am saying is, I don't think this does contravene the treaty because the treaty doesn't set a specific troop level."

Mr. GEKAS. Mr. Chairman, that is all I wanted to assure myself of, and the gentleman and I will talk later about further deliberations, but I am going to vote for the amendment.

Mr. SHAYS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I thank the participants on both sides of the aisle and both sides of the debate on this issue of burden sharing.

Mr. Chairman, as a member of the Committee on the Budget I have often wondered why does Europe contribute $392 million to the nonpersonnel costs of the United States troops in Europe when we have over 100,000 troops, and why does Japan contribute $2.3 billion, almost $2.4 billion, for the nonpersonnel costs of our troops in Japan? I do not understand it, and I do not understand why this country has permitted this to continue. The Japanese model

makes sense. The Japanese are working up close to the 75 percent nonpersonnel costs of our troops in Japan. It seems to me that we have got to begin to do the same in Europe. Right now Europe is paying about 5 percent of the nonpersonnel costs.

The bottom line, as far as I am concerned, Mr. Chairman, is that the only way we are going to get this administration, or the past administration, or any future administration is to set a course in this Congress by law that says they need to work and to negotiate with the Europeans. Without that, without Congress clearly making that message strong, loud, and clear, there is no incentive on the administration to do that.

The bottom line for me is we have this amendment that is before us. I do not question in any way the integrity or motive for why a Member is on one side of the issue or the other. To me it is a budgetary issue. –It is a defense issue. We simply cannot afford to do all the things we want to do around the world. We cannot continue to do it and also deal with national deficits that are over $300 billion a year. Our national debt is going up $1.6 trillion in the next 5 years. That is the largest increase in any 5-year period.

Mr. Chairman, this amendment does not spend the money somewhere else. It simply begins to say that the Europeans should pay, and, by the way, if they do pay, we do not just save $5 billion. We save $10 billion.

We have all made the assumption the Europeans are not going to pay. Why? Why do we make that assumption? Are our troops so unnecessary in Europe that Europe does not want them? In my judgment our troops are needed, and the Europeans should be willing to pay some or part of the costs.

Mr. Chairman, I yield back the balance of my time.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we have Members here saying, "Look, burden sharing is a good thing, and we are already getting there." But we would not have gotten where we are today had this House not insisted several years ago. The gentleman from Michigan, the gentleman from Colorado, and others, the gentleman from Ohio on the other side, took the lead, and the Secretary of Defense says no today. So did the Secretary of Defense 5 years ago. The Secretary of State says no today. So did the Secretary of State 5 years ago. So does the President. So does the Committee on Armed Services because there is a natural institutional relationship there.

The fact is that virtually every argument that says that this will not work today was said that it would not work with regard to Japan. So, first they said this would not work with regard to Japan, do not do it, it will be a disaster. Go back and look in the record. Now they say, Oh, it works for Japan, but it will not work for Europe. They are using the same arguments, and what are the arguments?

One of these gentlemen on the other side read from what the Pentagon said from my administration which I support most of the time. Here on page 11 is why they say there is a problem:

> While we believe progress can be made in this area, allies continue to indicate that persistent economic problems and increasing pressures on their own defense budgets make it impossible for them to help us.

Well, who is kidding whom? We are not saying this is solely in their interests. We are saying it is not solely in our interests. We are saying that a system in which we pay almost all of it, all of the personnel costs all of the transport costs and most of the stationing costs is inequitable now that they are wealthy.

Yes, this is a very moderate amendment. I voted for the Bryant amendment. I would go further. I did not have the votes. What this does is to set up a framework in which the Europeans begin to contribute, if they think it is worth it, and, by the way, there will be no troop withdrawal here unless the Western European Allies say that they are not willing to contribute to the costs of stationing American troops, and by that get the American troops for nothing.

Remember we will pay the troops. We will equip the troops. We are simply saying to the Europeans under this amendment, "Contribute to the costs of their being there," and if our European Allies, our wealthy European Allies, do not think that it is worth it, then I do not think we can be charged with running out on an alliance. We can continue to supply the nuclear deterrence for this alliance. We will continue to supply most of the force. We will continue to supply troops. We ask only that they make a contribution, and to say no is, in fact, to say no to burdensharing.

Mrs. LLOYD. Mr. Chairman, to close the debate I yield 5 minutes to the gentleman from Virginia [Mr. SISISKY].

□ 1850

Mr. SISISKY. Mr. Chairman, I rise in opposition to the Frank amendment that would cut U.S. troop strength in Europe to a level as low as 25,000—that is, as much as 75 percent below the ceiling that we established here in this Chamber. This amendment is based on at least three completely erroneous assumptions: First, it assumes that we have decided to deploy troops in Europe primarily to defend Europeans and their interests; second, it assumes that we should determine the troop level we need to maintain in Europe based entirely on what Europeans do or do not do; third, it assumes that the Japanese model of financial offsets of United States stationing costs should be applied to our basing arrangements in Europe.

Mr. Chairman, because this amendment is based on three such fallacious assumptions, it is no wonder that it arrives at policy conclusions that are so completely contrary to our national interest. Let me correct these assumptions one at a time. First, I would remind my colleagues that our troops are deployed in Europe not to defend Europeans or European interests but to defend American interests. Those troops and their European counterparts in NATO played a major role in winning the cold war without conducting a single offensive operation. We must now build on that success rather than returning to the failures of the past. I need not remind my colleagues that, following World War I, Americans left Europe only to have to return a generation later and spill blood on the same ground. After World War II, however, Americans stayed in Europe, and instead of having to return later to fight World War III, they helped secure victory in the cold war without major bloodshed on the continent. The challenge now is to establish and secure the peace, and I hope we all will respond in the same collective fashion.

Our troops in Europe today support a key element in United States national security strategy—the forward presence of viable land, sea, and air forces. These forces deter aggression, enhance regional stability, demonstrate U.S. commitment, provide initial crisis response capability, and promote U.S. influence.

Mr. Chairman, I cannot make this important point any better than the Chairman of the Joint Chiefs of Staff, General Shalikashvili, when I asked him about the importance of our troop commitment to NATO in a recent full-committee hearing. General Shalikashvili answered my question this way:

> Our interest in NATO is really our interest in Europe. I think it starts out with the fact that, if there is a lesson of this century, it really is whenever the United States and Europe begin to go their separate ways, we both—on both sides of the Atlantic—pay a terrible price for it. We have done so after World War I. We almost did it after World War II. At the last minute, we decided to stay and brought Europe the longest period of peace in its modern history. Not just for Europe, but for the United States every bit as well. The stability and security of Europe is inextricably tied to our own security. We gain a foothold in Europe really through NATO. We can talk until we are blue in the face about our common heritage, about economic linkages; but it is really through the alliance that we have not only a foothold in Europe but also have the right to leadership. Now, there is another half of Europe looking for the same anchor of stability that only NATO can give them to build their own democratic institutions, to build, for the first time, market economies. For the first time, I think, in history, we have the oppor-

tunity to build one Europe. If you travel through Eastern Europe and Central Europe, the one institution they believe can give that to them is NATO. Why? Because they see through NATO membership or through the alliance itself that opportunity that they will have to build themselves into nations that mirror, in time, that which Western Europe has become.

Mr. Chairman, I would only expand on the theme that our troops in Europe defend our economic interests as well as our security interests. We cannot afford to lose sight of the fact that Europe is already our largest market, even without the 400 million people in Central Europe and the former Soviet Union. Security throughout that region is important to securing economic development and economic opportunities for Americans.

Yes, we all agree that we no longer need 326,000 American troops in Europe, but we decided in this Chamber to support the amendment of the gentlewoman of Colorado and establish a ceiling of 100,000 troops there. And, I would remind my colleagues, that ceiling we established was already 50,000 troops below the number that our commander in Europe and the President said we needed to protect our interests in Europe.

Mr. Chairman, we are rapidly reducing to the level the Congress has established and the troops that remain are no longer defending against the old, cold war threats. Those troops are way ahead of most of us here in recognizing the new threats and challenges of the post-cold war world—they face them every day, and they are working hard with their counterparts across Europe—east and west—to meet those challenges. They are engaged in pursuing NATO's new missions of peacekeeping in Europe and elsewhere and reaching eastward to widen the circle of democracy and stability. This is not the time to tell our troops and their partners in these important missions that we are going to withdraw them.

Mr. Chairman, the second fallacious assumption underlying this amendment is that the United States should base its security and foreign policy and the troop levels we need to maintain in Europe entirely on what the Europeans do or do not do. As Secretary of Defense Perry says in his letter opposing this amendment, "To make this the basis of our European policies would be shortsighted in the extreme." I would say to my colleagues that, if we do decide later to lower the level of our troop commitment in Europe, we should do so on solid policy grounds—on the basis of what we need to do to protect our own interests, not on the basis of what the Europeans provide or do not provide to offset our costs there.

Finally, Mr. Chairman, this amendment erroneously attempts to apply the Japanese model of financial offsets to an entirely different situation in Europe. The Japanese model is inappropriate, unworkable, and not in our national interests in Europe. Japan does offset about 75 percent of United States nonpersonnel stationing costs, but Japan is constitutionally limited to a very small national defense budget, 1 percent of its GDP, and does not at all compare to our European Allies in terms of providing for its own or our common defense, cooperating with the United States and others in international peace operations, or investing in economic assistance in areas of key United States and international concern. That is not a model we want our European Allies to adopt.

Germany, for example, while hosting the largest number of United States overseas troops, spends, when compared to Japan, more than twice the percentage of its GDP on defense, has 4 times the percentage of its population on active duty, 20 times the percentage of its population involved in multinational peace operations, and invests more than twice the percentage of its GDP in grant aid overseas. In fact, Germany contributes more than any other country—including the United States—to the reconstruction, democratization, and economic reform of Central Europe and the former Soviet Union—including about 75 percent of all grant aid to the former Soviet Union, and more than $8 billion to facilitate the withdrawal of Russian troops from Germany. The Germans certainly cannot afford to do all that and meet the Japanese financial model of paying 75 percent of our costs as well. We most certainly do not want them to switch to the Japanese financial model and stop making all those other invaluable contributions to our mutual interests.

Mr. Chairman, I urge my colleagues to act responsibly in protecting U.S. national interests and to vote no on the Frank amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts [Mr. FRANK].

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

RECORDED VOTE

Mrs. LLOYD. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 268, noes 144, not voting 26, as follows:

[Roll No. 187]

AYES—268

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bachus (AL)
Barca
Barcia
Barrett (WI)
Becerra
Beilenson
Bentley
Berman
Bilirakis
Blackwell
Blute
Boehlert
Boehner
Bonior
Borski
Boucher
Brewster
Brooks
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Callahan
Calvert
Camp
Cantwell
Carr
Chapman
Clayton
Clement
Coble
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Coyne
Crane
Crapo
Cunningham
Danner
de la Garza
de Lugo (VI)
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dooley
Doolittle
Dreier
Duncan
Durbin
Edwards (CA)
Ehlers
Engel
English
Eshoo
Evans
Ewing
Farr
Fawell
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (NJ)
Frost
Furse
Gallegly
Gejdenson
Gekas
Gephardt
Gilchrest
Gillmor
Glickman
Goodlatte
Goodling
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hancock
Hayes
Hefner
Herger
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Hoyer
Hughes
Hutchinson
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnston
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
Kleczka
Klein
Klink
Klug
Kopetski
Kreidler
Lambert
Lantos
LaRocco
Laughlin
Leach
Lehman
Lewis (GA)
Lightfoot
Lipinski
Long
Lowey
Machtley
Maloney
Manton
Manzullo
Margolies-Mezvinsky
Martinez
McCandless
McCloskey
McDermott
McInnis
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Morella
Neal (MA)
Norton (DC)
Nussle
Oberstar
Obey
Olver
Orton
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Penny
Peterson (MN)
Petri
Pickle
Pombo
Pomeroy
Portman
Poshard
Pryce (OH)
Quinn
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Ridge
Roemer
Rogers
Rohrabacher
Rose
Rostenkowski
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sangmeister
Sawyer
Schaefer
Schenk
Schiff
Schroeder
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shepherd
Slaughter
Smith (NJ)
Snowe
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swett
Synar
Tauzin
Taylor (NC)
Thomas (WY)
Thompson
Thornton
Thurman
Torricelli
Towns
Traficant
Tucker
Unsoeld
Upton
Valentine
Velazquez
Vento
Volkmer
Waters
Watt
Waxman
Wheat
Williams
Wise
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zimmer

NOES—144

Archer
Armey
Bacchus (FL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bereuter
Bevill
Bilbray
Bishop
Bliley
Bonilla
Browder
Bunning
Burton
Buyer
Canady
Castle
Clinger
Clyburn
Collins (GA)
Combest
Coppersmith
Cox
Cramer
Darden
DeLay
Diaz-Balart
Dickey
Dicks
Dingell
Dornan
Dunn
Edwards (TX)
Everett
Fields (TX)
Fowler
Franks (CT)
Gallo
Geren

Gibbons	Lewis (CA)	Ros-Lehtinen
Gilman	Linder	Rowland
Gingrich	Lloyd	Sarpalius
Gonzalez	Lucas	Saxton
Goss	Mann	Scott
Grams	Mazzoli	Shuster
Greenwood	McCrery	Sisisky
Gunderson	McDade	Skaggs
Hamilton	McHale	Skeen
Hansen	McHugh	Skelton
Hastert	McKeon	Smith (MI)
Hastings	McMillan	Smith (OR)
Hefley	Michel	Smith (TX)
Houghton	Molinari	Solomon
Huffington	Mollohan	Spence
Hunter	Montgomery	Stearns
Hutto	Moorhead	Stenholm
Hyde	Moran	Stump
Inglis	Murphy	Sundquist
Inhofe	Murtha	Swift
Johnson (GA)	Myers	Talent
Johnson, Sam	Ortiz	Tanner
Kanjorski	Oxley	Taylor (MS)
King	Packard	Tejeda
Kingston	Paxon	Torkildsen
Knollenberg	Payne (VA)	Underwood (GU)
Kolbe	Peterson (FL)	Visclosky
Kyl	Pickett	Vucanovich
LaFalce	Porter	Walker
Lancaster	Price (NC)	Walsh
Lazio	Quillen	Weldon
Levin	Richardson	Wolf
Levy	Roberts	Zeliff

NOT VOTING—26

Barlow	Livingston	Santorum
Cardin	Markey	Slattery
Clay	Matsui	Smith (IA)
Dixon	McCollum	Thomas (CA)
Emerson	McCurdy	Torres
Faleomavaega (AS)	Nadler	Washington
Grandy	Neal (NC)	Whitten
Harman	Parker	Wilson
Lewis (FL)	Romero-Barcelo (PR)	

□ 1914

The Clerk announced the following pairs:

On this vote:

Mr. Nadler for, with Mr. Thomas of California against.

Ms. Harman for, with Mr. McCollum against.

Mr. BISHOP changed his vote from "aye" to "no."

Mr. MACHTLEY and Mr. GOODLING changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. DELLUMS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore [Mr. COPPERSMITH] having assumed the chair, Mr. DURBIN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4301) to authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 1995, and for other purposes, had come to no resolution thereon.

PERSONAL EXPLANATION

Mr. NADLER. Mr. Speaker, I unavoidably missed a number of votes, and I wish to indicate that had I been present, I would have voted as follows: "No" on rollcall No. 182; "no" on rollcall No. 183; "no" on rollcall No. 184; "no" on rollcall No. 185; "yes" on rollcall No. 186; and "yes" on rollcall No. 187.

PERSONAL EXPLANATION

Mr. CARDIN. Mr. Speaker, last Thursday, May 19, 1994, I missed roll call vote No. 187 on the Frank-Shays burdensharing amendment to the fiscal year 1995 Defense Department authorization bill. I would have voted aye on the amendment and I wanted the RECORD to reflect my position.

I was sorry to have missed this vote; it was unfortunate and unavoidable. I have a longstanding commitment and record of support for greater burdensharing of defense costs with our allies. In fact, the previous day I voted in support of the Bryant amendment that would have required even more burdensharing by our allies.

I am sorry the Bryant amendment failed this year. I was pleased, however, that as expected the Frank-Shays amendment carried easily.

TEMPORARY RESIGNATIONS AS MEMBERS OF COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY

The SPEAKER pro tempore laid before the House the following resignations as members of the Committee on Science, Space, and Technology:

HOUSE OF REPRESENTATIVES,
Washington, DC, February 10, 1994.

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

DEAR MR. SPEAKER: I hereby submit my temporary resignation as a Member of the Committee on Science, Space, and Technology in order to serve on the Committee on the Budget. It is my understand that my seniority status on the Committee on Science, Space, and Technology will be protected during my tenure on the Budget Committee.

Sincerely,

LYNN C. WOOLSEY.

HOUSE OF REPRESENTATIVES,
Washington, DC, May 12, 1994.

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

DEAR MR. SPEAKER: I hereby submit my temporary resignation as a member of the Committee on Science, Space and Technology in order that I may serve on the Committee on the Budget. It is my understanding that my seniority status on the Committee on Science, Space and Technology will be protected during my tenure on the Budget Committee.

Sincerely,

GLEN BROWDER.

The SPEAKER pro tempore. Without objection, the resignations are accepted.

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Without objection, the Democratic membership is revised for the following listed committees and printed in the RECORD at this point:

COMMITTEE ON AGRICULTURE

E de la Garza, TX, Chairman.
George E. Brown, Jr., CA.
Charlie Rose, NC.
Dan Glickman, KS.
Charles W. Stenholm, TX.
Harold L. Volkmer, MO.
Timothy J. Penny, MN.
Tim Johnson, SD.
Bill Sarpalius, TX.
Jill L. Long, IN.
Gary A. Condit, CA.
Collin C. Peterson, MN.
Calvin M. Dooley, CA.
Eva M. Clayton, NC.
David Minge, MN.
Earl F. Hillard, AL.
Jay Inslee, WA.
Thomas J. Barlow, III, KY.
Earl Pomeroy, ND.
Tim Holden, PA.
Cynthia A. McKinney, GA.
Scotty Baesler, KY.
Karen L. Thurman, FL.
Sanford D. Bishop, Jr., GA.
Bennie G. Thompson, MS.
Sam Farr, CA.
Pat Williams, MT.
Blanche M. Lambert, AR.

COMMITTEE ON MERCHANT MARINE AND FISHERIES

Gerry E. Studds, MA, Chairman.
William J. Hughes, NJ.
Earl Hutto, FL.
W.J. (Billy) Tauzin, LA.
William O. Lipinski, IL.
Solomon P. Ortiz, TX.
Thomas J. Manton, NY.
Owen B. Pickett, VA.
George J. Hochbrueckner, NY.
Frank Pallone, Jr., NJ.
Greg Laughlin, TX.
Jolene Unsoeld, WA.
Gene Taylor, MS.
Jack Reed, RI.
H. Martin Lancaster, NC.
Thomas H. Andrews, ME.
Elizabeth Furse, OR.
Lynn Schenk, CA.
Gene Green, TX.
Alcee L. Hastings, FL.
Dan Hamburg, CA.
Blanche M. Lambert, AR.
Anna G. Eshoo, CA.
Thomas J. Barlow III, KY.
Bart Stupak, MI.
Bennie G. Thompson, MS.
Maria Cantwell, WA.
Peter Deutsch, FL.
Gary L. Ackerman, NY.

COMMITTEE ON NATURAL RESOURCES

George Miller, CA, Chairman.
Philip R. Sharp, IN.
Edward J. Markey, MA.
Austin J. Murphy, PA.
Nick J. Rahall II, WV.
Bruce F. Vento, MN.
Pat Williams, MT.
Ron de Lugo, VI.
Sam Gejdenson, CT.
Richard H. Lehman, CA.
Bill Richardson, NM.
Peter A. DeFazio, OR.
Eni F.H. Faleomavaega, AS.
Tim Johnson, SD.
Larry LaRocco, ID.
Neil Abercrombie, HI.
Calvin M. Dooley, CA.
Carlos A. Romero-Barceló, PR.
Karan English, AZ.
Karen Shepherd, UT.

Nathan Deal, GA.
Maurice D. Hinchey, NY.
Robert A. Underwood, GU.
Sam Farr, CA.
Lane Evans, IL.
Patsy T. Mink, HI.
Thomas J. Barlow III, KY.
Thomas M. Barrett, WI.

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY

George E. Brown, Jr., CA, Chairman.
Marilyn Lloyd, TN.
Dan Glickman, KS.
Harold L. Volkmer, MO.
Ralph M. Hall, TX.
Dave McCurdy, OK.
Tim Valentine, NC.
Robert G. Torricelli, NJ.
Rick Boucher, VA.
James A. Traficant, Jr., OH.
James A. Hayes, LA.
John S. Tanner, TN.
Pete Geren, TX.
Jim Bacchus, FL.
Tim Roemer, IN.
Robert E. (Bud) Cramer, Jr., AL.
Dick Swett, NH.
James A. Barcia, MI.
Herb Klein, NJ.
Eric Fingerhut, OH.
Paul McHale, PA.
Jane Harman, CA.
Don Johnson, GA.
Sam Coppersmith, AZ.
Anna G. Eshoo, CA.
Jay Inslee, WA.
Eddie Bernice Johnson, TX.
David Minge, MN.
Peter W. Barca, WI.
Nathan Deal, GA.
Robert C. Scott, VA.
Xavier Becerra, CA.
Bobby L. Rush, IL.

GENERAL LEAVE

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the action taken thus far on H.R. 4301, the bill now under consideration.

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

There was no objection.

□ 1920

PUTTING THE SQUEEZE ON THE HAITIAN PEOPLE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. GOSS] is recognized for 5 minutes.

Mr. GOSS. Mr. Speaker, I want to address the subject of Haiti and our foreign policy. Many Americans are very puzzled about what is going on.

What exactly is our administration trying to achieve in Haiti? If they are trying to ensure that Haitians take to boats in record numbers, if they are trying to ensure that whatever progress Haiti has made toward democracy in the 1990 election is nullified, if they are trying to ignore President Aristide, if they are trying to create more misery in the economy and on the oppressed and the poor in that country, then they are doing exactly the right things, because that is exactly what is going on as a result of the administration's foreign policy.

On May 8 the President announced a new policy: Tougher sanctions and better visa processing for those who want to leave the areas that are impacted by tougher sanctions and that, of course, is across Haiti, and those visa processing centers are going to be either offshore or in some other country, some unspecified, some mythical country that does not exist. It turns out since May 8 the administration has in fact leased two cruise ships to do some type of processing for Haitian refugees who are now fleeing the country's misery in record numbers. One of these ships we are paying $29,000 a day for rent. Another we are paying $34,000 a day of taxpayer's dollars. I do not know where these ships are cruising. I do not know whether it is just offshore in the Windward Passage or nearby Caribbean waters, or they are planning to anchor them somewhere. But in addition to those rental costs for them per day, we now have the economy package, and crew, fuel, potable water, and a whole bunch of other extras that have to be included. So this is getting to be a very expensive processing center.

On top of that the State Department conceded Monday that there has been a marked increase in refugees since the announcement the President made on May 8. In fact, the Coast Guard reported last weekend was the highest weekend repatriation total since 1992.

So far in May we have repatriated 897 Haitian refugees; 877 of those have been intercepted since last Friday.

What that means is the President announced one policy on May 8 that encouraged Haitian refugees to leave Haiti, and the word did not get down to the executive branches. The Coast Guard is returning those people. So we have this vast flow of people who are trying to get out of economic harm's way in a country, being returned right back to where they started from after a perilous journey in the water. Not a good policy.

The President has said that he wanted to toughen up the sanctions, create a tougher embargo. What we are doing here is we are grinding further into poverty the poorest, the most needy people in the most needy nation in our hemisphere.

Just this week, AGAPE and MFI humanitarian aid flights were grounded because of an Executive order. On Wednesday a flight loaded with 5,000 pounds of food and other supplies on 2 flights that were supposed to go out of West Palm Beach have now been grounded. This group, incidentally, of these folks have been delivering humanitarian aid to Haiti for more than 14 years. So what we have done is stepped up a damaging embargo, and what it is going to do is it is going to enrich the military further and make the lives of the poor even worse.

A friend of mine, an associate who just came back from Haiti, explained to me when I asked him for a characterization, that is a public health disaster. What is going on in Haiti right now is as a result of our policies, and we are forcing the Haitians into the sea. They have eaten their seed corn, they have cut down their fruit trees for fuel, they have trashed their environment and they have polluted their waters. There is not much left. And then the coup de grace, we say we are going to have an invasion of Haiti. What better reasons to leave and seek a life abroad?

That is what the President's policies are doing for us in Haiti. And it is what they are doing to Haitians, and that is even worse.

Mr. Speaker, I think that it is fair to say that the President's policies have polarized the situation, and I hope not beyond repair. The right wing has been forced to rally. We have seen this new President who is now a President Premier, and now the President Premier with a new Cabinet appointed by him of the right wing, a Emile Jonason, and every time the President announces a new policy around the former Premier, Malval, they trump that policy with some other right-wing activity. So we now have a polarized situation, and we are further away from a democratic solution than we started out with.

Just yesterday in Florida, Haitians in this country are exhibiting their disgust with this policy. We had 500 or so demonstrating, clogging I-95 down in south Florida yesterday, holding up signs saying, "No Aristide—no peace." In other words, we cannot ignore President Aristide is their President.

There is more and more to this. There is a solution to all of this. It is in a place called Eoile de la Gonave off Haiti, and that is where we should take the Haitian refugees and set up a safe haven.

We will be talking about this more.

A CELEBRATION OF INDEPENDENCE AND A NEW STRUGGLE FOR A FREE AND INDEPENDENT CUBA

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, the gentleman from New Jersey [Mr. MENENDEZ] is recognized for 60 minutes as the majority leader's designee.

Mr. MENENDEZ. Mr. Speaker, today I join with freedom loving people throughout the entire world, and particularly with those here in the United States, on the eve of May 20, to commemorate Cuban Independence Day. I want to dedicate this speech to the many heroes and political prisoners

who have paid with their lives or years of improvement so that Cuba might be free.

The spirit of Cuban independence is alive and well, both among those Cubans who live outside their native country and those who live on the island. The great Cuban independence heroes, José Marti, Antonio Maceo, Maximo Gomez, Felix Varela, Ignacio Agramonte, and many more, struggled, sacrificed, and even died so that their dream of freedom could become a reality.

Thanks to them, the Cuban Republic was born 92 years ago. On May 20, 1902, United States forces withdrew from Cuba and an American military Governor turned over the Government of Cuba to the first elected President of Cuba.

Cuban independence was certainly long in coming. Cuba was the last country in Latin America to win its independence from the Spanish Empire. The first Cuban war of independence began in 1868, but it would take 34 more years for Cubans to secure their independence from colonial Spain. When that magic moment arrived a war-weary but victorious people paused to celebrate their independence.

Despite some problems, that Republic endured 58 years. But in 1959 a dictator named Fidel Castro betrayed the trust and dashed the dreams of the Cuban people and imposed a Communist dictatorship which has since ravaged that beautiful island nation. It has now been 35 years since Cuba has been held hostage by the ruthless dictator, Fidel Castro.

□ 1930

Once again, Cuban independence has been long in coming, but surely as the spirit of Cuban independence lives on, as we celebrate it today, it will once again prevail.

Mr. Speaker, I yield to my distinguished colleague, the gentleman from Florida [Mr. DIAZ-BALART], someone who has fought valiantly on behalf of the cause of Cuban independence and a member of the Committee on Foreign Affairs.

Mr. DIAZ-BALART. I thank the gentleman from New Jersey [Mr. MENENDEZ] for yielding to me on this important subject that unites us and so many others in this Chamber in solidarity with a people who have been suffering for too long.

I saw an article in the newspaper today, May 19, also an important date in Cuban history, because the great day that is celebrated, May 20, as the gentleman from New Jersey [Mr. MENENDEZ] has stated, the birth of tne republic after almost 100 years of struggle by the Cuban people in 1902.

May 19 is also remembered as another kind of day. It is not a day that is celebrated. It is the day on which the person who did more than anyone else to see May 20 become a reality, the day that he was killed, that Marti was killed at 44 years of age. After having left his native land at age 16, he finally returned, and within a few weeks of setting foot on his beloved island, he was killed on May 19. and so he never saw May 20, 1902, and yet the Republic that was founded on May 20, 1902, owes more to him than anyone else.

In that Republic and during that Republic so much solidarity was manifested, was constantly shown by the Cuban people for peoples throughout the world, and especially in our hemisphere, who had lost their freedom. What civic or labor or professional association during the republic did not have, for example, a committee for the liberation of the Dominican Republic during the dictatorship of Trujillo, had a committee for the liberation or the reinstatement of the republic in Spain during the 39-year-old dictatorship of General Franco, and many other committees in solidarity with dictatorships, especially, especially in this hemisphere? and yet today, after 35 years of suffering the most brutal dictatorship in the history of this hemisphere, where, where are the committees for the liberation of Cuba? In what Latin-American universities, in what Latin-American labor associations, in what Latin-American professional associations do we find committees for the liberation of Cuba? Where is the act of reciprocity, the elemental act of reciprocity with the Cuban people after the solidarity that was demonstrated in an unparalleled way during the years of the republic with exiles from throughout the hemisphere? Unfortunately, I do not recognize, I do not see that solidarity, and yet just as after almost 100 years of struggle, one nation, one nation stood with the Cuban people and helped the Cuban people achieve its independence from colonialism, European colonialism, and that one nation that stood with the Cuban people was the United States of America.

History repeats itself, and now after more than 30 years of brutal dictatorship, one nation in this Earth, one nation on this planet tells its business community, "We will not allow you to profit from the oppression of the Cuban people. We will not allow you to profit from the lack of the ability to unionize and to collectively bargain. In other words, we will not allow you to profit from the slave labor that Castro maintains and forces upon the Cuban people," and that one nation, that one nation that stands in solidarity with the Cuban people again, as a hundred years ago, is the United States.

So not only do we see the acts of repression more than ever, not only do we see the total economic devastation of a previously prosperous land at the hands of the dictatorship, but also on a daily basis and especially us in southern Florida who are able to meet with people who, risking their lives and the lives of their loved ones, reach our shores with their stories every day; we are able to witness the acts also of humiliation that the dictatorship commits upon its people today.

Today I read in the newspaper, May 19, 1994, of the 90-year-old widow of one of Cuba's most famous writers, Enrique Labrador Ruiz. She is 90 years old. A few weeks ago, reading the newspaper, she comes across a painting that was achieved, that was produced in 1942 of her late husband as the new exhibit at Christie's, the new sale of Cuban art. Christie's had announced a sale of Cuban art works and had given it much publicity. This lady seized the photograph of the painting of her husband. She is a 90-year-old widow without means, and Christie's states, "No, that is a painting that was obtained from Cuba, that was sold by Cuba." In other words, think of what this means: the impotence that the Cuban people have to live on a day-to-day basis, the humiliation that they have to live on a day-to-day basis, the lack of power, of empowerment of that people, all of these sad realities, all of these sad realities, not only this example which touches the heart of the 90-year-old widow who could not believe that her precious painting that had been left in a relative's home, even that was being sold by the dictator to achieve currency, even that was being sold by the dictator, and that she was impotent to stop it.

She settled apparently. "I settled," says the 90-year-old widow, "it was very poor compensation but at least it will pay for my burial. Enrique always said nobody buries me. I pay my own burial." That is the widow of Enrique Labrador Ruiz, one of the greatest writers produced by the Cuban nation in this century.

So this is another example of what the Cuban people have to live in a day, the humiliation and the impotence that the Cuban people have to live on a day-to-day basis, and we see the lack of solidarity in the hemisphere.

And yet we see the solidarity in this Nation. The Congress of the United States just a few weeks ago, as you know, I say to the gentleman from New Jersey [Mr. MENENDEZ] because you helped so much in that language that was inserted in the State Department authorization bill, requested formally of the President international sanctions, that international sanctions be sought at the U.N. Security Council against the brutal dictatorship of Castro.

The AFL–CIO, the most important labor union in the entire world, has a committee for the liberation of Cuba. Throughout professional and civic institutions, throughout this land, there is solidarity with the Cuban people, just as 100 years ago the American people stood side by side with the Cuban

people, the American people and its representative institutions including its supremely representative institution, this Congress, stands with the Cuban people in the certainty that just as May 19, the Sun set, on May 19, and the Sun rose on May 20, that just as that occurred at the end of the last century, it will also occur very soon, and the Cuban people will experience a rebirth and will create once again a republic that is, as it was, the envy of Latin America, will be again the envy of Latin America, with truly democratic institutions and respect for all divergent, dissident, and all points of view, for all human beings.

In other words, a republic based on and ruled by the rule of law, that we will see. I know as I stand here today, I know that we will see that reality and that we will see it soon and that we will then be witness to and be able to assist in the reconstruction of that republic.

I thank the gentleman from New Jersey for the honor of having participated this evening in his special order.

Mr. MENENDEZ. I thank the gentleman from Florida for his participation and continuous strong voice on behalf of human rights in Cuba and other places in the world.

Mr. Speaker, I yield to a distinguished colleague, also from Florida, who has spoken very strongly on the question of human rights not only in Cuba but in different parts of the world and who joins us tonight and joins her strong voice in support of this cause of Cuban independence. I yield to the gentlewoman from Florida [Mrs. MEEK].

Mrs. MEEK of Florida. I thank the gentleman for yielding to me.

Mr. Speaker, I am pleased to join with my colleagues this evening in commemorating the 92d anniversary of the independence of Cuba.

Tomorrow, May 20, is a day of celebration that freedom-loving people inside Cuba—and outside Cuba—hold dear.

Banners will fly everywhere and hearts will stir. For it was on this day in 1902 that the controls of government were turned over to the free and independent Republic of Cuba by the Government of the United States, which had helped liberate Cuba after 400 years of Spanish control.

But Mr. Speaker, there is a bittersweet aspect to this celebration. For on this day of celebration of the founding of a free and independent Cuba, Cuba is neither free nor independent.

Since 1959, Cuba has been under the domination of the last of his generation of Communist dictators, Fidel Castro, who has no regard for the welfare or the rights of his own people.

It is hard to celebrate the idea of Cuban independence when that national is under the domination of one who has no appreciation for the history of his own country.

For the history of Cuba demonstrates—no less than our own—an indomitable spirit, a yearning for freedom, and a repugnance of oppression.

We celebrate our Fourth of July and the great founders of our country—Jefferson, Washington, Madison, Adams, and the others.

But who among us could not be inspired by the life and words of Cuban patriot Jose Marti, a man of enormous talents, devoted to principle, and a patriot, who organized and unified the movement for Cuban independence and who died on the battlefield fighting for it.

Jose Marti was born in 1853 and educated in Havana.

But even as a young man, he saw his path clearly and knew his heart.

When he sided with freedom fighters during an uprising against the yoke of Spanish control, he was sentenced to 6 months of hard labor and deported to Spain.

Allowed to return to Cuba a few years later, he was again deported because of is continued political activities.

He eventually ended up in New York City, where he wrote newspaper articles, poetry, and essays that are considered a model of Spanish prose and that made him famous throughout Latin America.

But the central theme of Jose Marti's life was his passion for freedom. The eloquence of his words stirred a generation to action.

He died on the field of battle, fighting for the freedom is his country, in 1895, only 7 years before his lifelong goal of Cuban independence was achieved.

Mr. Speaker, I'm from Miami, FL—home to thousands of Cubans who fled Castro's oppression and the home of thousands of Cuban-Americans who have contributed so much to the strength and vitality of our community, and our Nation.

And so, on this Cuban Indpendence Day, let us reflect on the sacrifices of all of those who have worked so hard and given so much to achieve the elusive goal that I know will one day be ours—a free democratic, and independenct Cuba.

Mr. MENENDEZ. I thank the gentlewoman from Florida for her participation. Also let me take this opportunity to thank her here for her strong support as a member of the Committee on Appropriations on behalf of the Radio and Television Marti, which gives us an opportunity to transmit into Cuba a free and unfettered flow of information about what is happening in the world. We appreciate her support in that regard.

Mr. Speaker, I would like to turn to a distinguished colleague, again from Florida, on the Republican side, probably the first voice in these Chambers on behalf of the people of Cuba in terms of Cuban independence, in terms of human rights, the first American elected to this House of Cuban descent, the distinguished gentlewoman from Florida, ILEANA ROS-LEHTINEN.

Ms. ROS-LEHTINEN. I thank the gentleman from New Jersey for that wonderful introduction.

Thank goodness I am not the first to have risen in this Chamber to speak on the behalf of the enslaved Cuban people.

Thank goodness that we have had many fine Congressmen and Congresswomen on both sides of the aisle who have done their job very eloquently for more than 35 years. I am just one more humble addition to that, as all of us are. I thank the gentleman for this great opportunity.

Once again, unfortunately, we find ourselves making the same plea that we made last year when it was a sad anniversary and we were here in the Chamber with the guidance of the gentleman from New Jersey [Mr. MENENDEZ], on behalf of those enslaved Cuban brothers and sisters.

We hope that next year we will not be making the same urgent plea for freedom and democracy in our own land and that soon Cuba will be free.

Mr. Speaker, I join the voices of eloquence here, Congressman LINCOLN DIAZ-BALART, with whom I have had the honor of serving many years in the State legislature, we have a good team working here, always speaking out on behalf of the Cuban people in favor of democracy and against oppression wherever that oppression may be.

I also thank the gentlewoman from Miami, CARRIE MEEK, who has been so eloquent for so many years through her years in her service in the Florida house and now in the United States Congress, always speaking out on the right side of the issues, especially as they relate to freedom and democracy in Cuba.

Later on we will be hearing from Congressman PETER DEUTSCH, also from south Florida, a person with whom I also served in the Florida legislature and who also has been a leader for us in the right causes. I thank all of you for the opportunity to speak.

Mr. Speaker, for more than a century, the Cuban people fought for their independence.

Tomorrow, the 20th of May, marks the latest commemoration of the foundation of the Cuban Republic. We pay tribute to those unselfish patriots who, with firm conviction and valor, made its creation possible.

That same fighting spirit is still present today in the new generation of Cubans, who refuse to live under a tyrannical regime.

The Cuban people today face a cruel and despotic regime which progressively violates their basic human rights. As the latest Department of State human rights report indicates,

the Cuban Government drastically denies the Cuban people's basic political and civil rights. The regime does not allow freedom of expression. Does not allow for assembly. Does not allow free movement. It denies the people the right to privacy, the right to work, and the right of the Cuban people to freely elect their leaders. The Castro regime denies all labor rights to the Cuban people.

Over the past 35 years, hundreds of thousands of Cubans have been sent to prisons or concentration camps for expressing dissent against the regime and for voicing their support for democratic changes on the island. To this day, men and women are still imprisoned, battered and tortured, for raising their voices against the ruthless practices of Castro's regime.

Just last week, Mr. Speaker, Cuban dissident Francisco Chaviano, president of the National Council for Civil Rights in Cuba, an illegal dissident group, was arbitrarily arrested at his house for what the Cuban Government called revealing state secrets. This is but the latest example of Castro's iron fist at work.

□ 1950

In Cuba today, the Cuban people are not only deprived of their rights, but also of all basic needs, thanks to the perverse economic policies of the regime. Instead of creating equality, the regime has distributed misery and hunger—this is a shared trait of all the Cuban people. This is a country which once enjoyed one of the highest standards of living in Latin America. But as everything else in Cuba, the economy has been yet another one of Castro's victims.

The regime now pretends to be willing to reform the economic system in hopes of gaining international support. However, the willingness to spew this rhetoric has, of course, not been equaled by the regime's actions. These so-called reforms implemented are directed at maintaining the Communist elite in power, not to help the Cuban people.

The latest crackdown by the government has come through the implementation of decree-law 149 which calls on the Cuban authorities to adopt "effective and exemplary measures" against those who enrich themselves with "goods and assets obtained through illegal enrichment." Of course, what the Cuban regime terms "illegal enrichment" is what the Cuban people must engage in for their survival.

Reportedly, already more than 10 individuals have been victims of this latest repressive measure implemented by the regime.

This blatant disregard for the Cuban people's rights has now been going on for 35 years and it is time for them to end. It is time to step up pressure against Castro by calling for an international embargo against the repressive forces subjugating the Cuban people. I congratulate the gentleman from Florida [Mr. DIAZ-BALART] and the gentleman from New Jersey [Mr. MENENDEZ] for their leadership on this issue of making the embargo an international one.

Mr. Speaker, the international community has united against the undemocratic governments of Haiti, South Africa, and Iraq, yet only 90 miles from our shores one of the last bastions of totalitarian communism remains and the international community turns its back.

It is time for the international community to join together against Cuba's despotic dictator and implement an international embargo against Castro and his cronies.

Mr. Speaker, we condemn today and will continue condemning the brutal repression to which the Cuban people are subjected.

Cuba will again be free and it will become free thanks to the efforts of all its people, both inside and outside the island, who have not halted in their struggle and thanks to the firmness of the policy we defend.

We hope that soon a law-abiding, democratic regime is once again established in the fatherland of Jose Marti.

Mr. MENENDEZ. Mr. Speaker, I thank the gentlewoman from Florida [Ms. ROS-LEHTINEN] for her participation and for her constant strong voice on behalf of a free, independent Cuba.

Mr. Speaker, I call upon a Democratic colleague at this time and yield to him. We both entered the House together as freshmen this past year, but in fact he has had a strong voice on behalf of seeking freedom, and democracy and respect for human rights in Cuba, the gentleman from Florida [Mr. DEUTSCH].

Mr. DEUTSCH. Mr. Speaker, tomorrow the world will remember the 92d anniversary of Cuba's struggle for independence from Spain. What might otherwise be remembered as a joyous moment in history, however, now serves as a dismal reminder of the horrific conditions which exist in Cuba today. The 35 years of repression under the Castro regime have brought misery to the people of Cuba. The regime has stifled a once vibrant island economy and laid waste to a once flourishing nation. In addition, the Castro government has moved vigorously to stifle dissent and free thought in an attempt to beat an entire society into submission.

This year, as in years past, the United Nations has condemned the human rights situation in Cuba under Castro. The Castro government continues to bar the entry of U.N. human rights investigators and refuses to ratify the main U.N. human rights accord. In most cases, those brave enough to speak out are jailed, tortured, or killed. The silencing of dissidents through incarceration and physical violence is a common practice of which the world is well aware.

Yet, it appears that years of Castro's attempts to stifle free thought have not been able to squelch the Cuban people's commitment to democracy and freedom. The tactics of consistent humanitarian abuse has not been sufficient to break the will and the spirit of the Cuban people. And it is in honor of Cuban Independence Day that I take this opportunity to celebrate the indomitable spirit of the Cuban people.

The Castro regime, however, has chosen to make a mockery of the deep desire of the Cuban people for freedom. On February 14, 1994, Cuban Foreign Minister Robert Robaina announced that a conference between the Castro government and 200 Cuban exiles would be called in Cuba. The conference, held on April 22–24, 1994, focused on normalizing relations. While Mr. Robaina marketed the event as a significant attempt to reach out to the exile community, he later admitted that only those whose sympathies were with the revolution would be welcome.

While the Castro regime attempted to borrow from the principles of democracy by hosting this dialog, it must realize that it can not borrow selectively. For 35 years, the regime has worked to stifle free expression. It has harassed, jailed, harmed, and forced out those who have tried to express a different opinion. It has leveled fierce criticism against the United States, democracy, and capitalism. Now, the Castro regime seeks to feign openness in order to work toward normalized relations.

A free exchange of ideas is the hallmark of a democratic system, a system which allows all opinions to be heard, a system which clearly does not exist in Cuba. And when the regime ostensibly initiates a discussion with only one side represented, it is a sham. There is an old Cuban saying that when you have three Cubans in a room, you have at least four opinions. Cubans are no strangers to open discussion and free expression. And, many, including many Members of the United States Congress, would like to see a Cuba where this type of freedom is institutionalized. Instead, Mr. Castro's remedy was a reunion for Cuba's so-called revolutionaries.

The Castro regime has completely failed and abused the people of Cuba. Castro's unwillingness to institute comprehensive reforms demonstrates that only a complete transfer of power can restore Cuba to its people and to its place in the family of nations. By bargaining with Castro we prolong his time in power and the suffering he has inflicted on the people of Cuba. It is our moral obligation to reject any accommodation of this brutal dictatorship.

Today, I stand with my colleagues in solidarity with the people of Cuba. As

we celebrate their will and strength, we recall the legacy of José Marti and his commitment to the principle of personal liberty. And, as Americans we remember our own struggle for sovereignty and the belief that this was and is our fundamental right.

The year 1868 marked the beginning of the first war for Cuban independence. However, only after 34 years of struggle were the Cuban people finally free. Cuba has been under the thumb of the Castro regime for an unconscionable 35 years. Ironically, we are now beginning to see the seeds of the regime's collapse. I sincerely hope that soon the Cuban people will share my feelings of freedom and have the ability to live without fear. Castro's abuse of the Cuban people must come to an end. I look forward to celebrating Cuban Independence Day next year in a free Havana.

Mr. MENENDEZ. Mr. Speaker, I thank the gentleman from Florida [Mr. DEUTSCH] for his strong statement and his continuous support, and we share his goals. We certainly hope we can celebrate Cuba's independence day next year in a free and independent Cuba.

Mr. DEUTSCH. Mr. Speaker, I would like to add one point. The gentleman knows, and many of my colleagues know, that my district is physically the closest district to Cuba. I represent south Florida, including all of the Florida Keys, and, when I am in Key West, I am actually closer to Havana than I am to Miami, and we see on a daily basis the struggle that is going on in Cuba. Almost every day people who have risked their lives come to our shores. We do not know whether it is 1 out of 2 or 1 out of 10 that make it to our shores in vessels that are not adequately described as boats, but are vessels of whatever floats, and I have personally talked with hundreds of people who have risked their lives to come to our shores, and each person is a hero. Each person tells a story of conditions that are existing in Cuba today.

A process is going on in world history today that we see in south Florida on a daily basis that truly is an inspiration for the entire world. It is a story that unfortunately is not being told enough, and most people around the country and most people around the world do not know it, but it is a story of absolute commitment.

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I will mention it is not just the people who risk their lives in water almost every day. I had the opportunity to visit the American Naval Base in Guantanamo Bay and I had the opportunity to speak with several young people in their teens and early 20's who had either walked across mine fields or swam in shark-infested waters to get to Guantanamo Bay and to get to freedom. Each of those people again and some of their fellow victims—we know this when explosions occur in the mine field—had been killed, had a story, and truly was a hero. With those types of heroes, I think that the legacy and the independence that we believe will happen in Cuba is inevitable, will happen, and it will happen very soon.

Mr. MENENDEZ. Mr. Speaker, I thank the gentleman for those laughs of what he experiences daily in his district.

It is amazing what people will do in search of freedom and justice.

Mr. Speaker, I would like to give another face to what is happening in Cuba and it is Cuba's economic situation.

Cuba's economic situation is so dire that one critic compares it to Bosnia's, with the potential for deterioration to widespread hunger and a genuine food crisis more comparable to sub-Saharan Africa or Somalia.

Cuba is in the midst of her worst economic crisis in history. Absent the vanished free ride of 30 years of Soviet subsidies, the Castro regime is broke, heavily in debt, and uncreditworthy by any standard. Cuba is nearly incapable of trading anything at all at the moment.

According to the Cuban Government's own estimates—not statistics, as the Government has not released statistics since 1989—Cuban exports have shrunk from $5.4 billion in 1989 to $1.7 billion in 1993. Of this figure, the Government requires a minimum of $1 billion to purchase imports of food and oil for subsistence. The balance is required for purchase of inputs for the production of the few exports that Cuba can manage to generate, such as chemicals and fertilizers. The harvest of Cuba's major cash crop and main source of foreign exchange—sugar—has shrunk to half of 1950's levels: The 1993 harvest yielded just 4.2 billion tons—a 50 percent decline from 1990 levels. National income has shrunk by the same amount since the fall of the Soviet Union and the former East bloc.

Remember during the last Presidential election the slogan, "It's the economy, stupid"? It came about at the time the U.S. economy had shrunk less than 1 percent. That was enough to knock an American President out of office. Compare that to Cuba's 50 percent shrinkage, which has thrown it into a depression. Somehow, there are no consequences for the Cuban dictator, but plenty for the Cuban people.

Imports have shrunk over 75 percent in the last 4 years, from $8.1 billion to under $2 billion in 1993. Can anyone imagine the same occurring here at home?

Industrial production has shrunk an incredible 80 percent, and will not improve, as spare parts from the former East bloc are being cannibalized for other purposes. If you believe the Russians, Cuba's international hard currency debt stands at $40 billion, $8 billion of which is owed to the Paris club of mainly Western European creditor nations.

Let me put it more plainly. The Castro regime can barely conduct normal trade. It cannot feed the Cuban people. It neither grows enough food, nor generates enough money to purchase the food its citizens require. Cubans struggle everyday just to survive and get a bite to eat. This may involve eating cat and dog meat. Since the Cuban economy is in ruins, the black market is now the major source of food on the island.

HUMAN RIGHTS ABUSES

The indignity of scrounging for food everyday is not the worst of it by any means for the Cuban people. Castro's human rights record is abysmal and one of the worst in the world. Severe violations began right away in 1959, when Castro's henchmen executed thousands of Cubans.

Castro's human rights record—that is, based on what we are able to obtain—documents a horror story of systematic abuse and violations of the fundamental human rights of the Cuban people.

The only monitors in Cuba are Castro's security thugs. But they do not monitor human rights. They monitor and beat, imprison, and torture the brave defenders of human rights. Those courageous enough to express their opposition to the regime risk violent acts of repudiation by the infamous Rapid Response Brigades, and the ire of the regime's Big Brother Watchdogs, the Committees for the Defense of the Revolution.

Freedom House's 1994 annual review lists Cuba as among the 10 worst offenders of human rights in the world. The United Nations and the Organization of American States, Amnesty International, Human Rights Watch, the Lawyers Committee for Human Rights, and other reputable human rights groups continue to equally denounce Castro. Yet, since none have been to Cuba, none of them really knows how many thousands of political prisoners today languish in Castro's brutal jails.

Freedom House and the Freedom Forum recently determined that Cuba is one of the five worst offenders of press freedom in the world. Even the foreign press is not free when they are inside Cuba. The government continues to restrict the ability of the foreign media to operate. Journalist visas are required and reporters whom the government considers hostile are not allowed entry. As you might imagine, friendly reporters get the royal treatment. Foreign journalists interviewing dissidents risk being detained and expelled, and in a few cases reporters have been beaten up.

Let me tell you about a bizarre incident that occurred recently to a foreign reporter. Just days ago a reporter

from the Dominican Republic was mistaken for a Cuban citizen. He was apprehended, taken to Cuban state security headquarters, beaten, and tortured. Later, when Castro's men realized they had the wrong person they released him—but not before they threatened him with further violence if he didn't keep his mouth shut.

Every year, the U.N. Commission on Human Rights censures Cuba for its gross violations of human rights—and every year the Cuban Government responds by refusing to grant a visa to the U.N.-appointed special rapporteur on human rights in Cuba.

As a result no one seems to know how many political prisoners there are in Cuba. Is it 1,000? Is it 10,000? Is it 100,000 prisoners who languish in Castro's political jails? We may never know.

But we do know about Mario Chanes de Armas, the longest serving political prisoner in the Western Hemisphere. Mr. Chanes used to be Castro's comrade-in-arms. But like so many others, he was betrayed by his former friend. Chanes was sentenced to 30 years in prison.

I asked Chanes what was the most painful part of his experience in Castro's jails. His answer was revealing and profoundly sad. He told me that while he was in prison, his son was born. Many years later, while he was still in prison, his son died. Mario Chanes never had human contact with his son.

I was glad to join Chanes at the White House in a meeting with President Clinton. In an emotional meeting, Chanes thanked the President for his principled opposition to the Castro dictatorship. The President was visibly moved by the meeting with Chanes. In my presence, he told Chanes, "I will never forget you or this meeting."

We know about Rodolfo Gonzalez. Gonzalez, the spokesman of the Cuban Committee for Human Rights [CCHR]. Mr. Gonzalez was first arrested on International Human Rights Day on December 10, 1992. He was held for 16 months before trial. He was sentenced to 7 years for enemy propaganda. It turns out his crime was talking to foreign radio stations on the phone.

We also know about Francisco Chaviano Gonzalez, President of the National Council for Civil Rights [CNDCC] in Havana, Cuba. Mr. Chaviano was arrested less than 2 weeks ago at his home. He is being held at Villa Marista, the headquarters of Castro's state security. What was his crime? He dared to stand up for human rights. The regime says that makes him highly dangerous.

Unsatisfied with its cruelty toward Chaviano, Castro's thugs arrested the entire leadership of the National Council. Their names are: Jorge A. Lorenzo Pimienta, vice-president of the CNDCC; Mario Rodriguez Castellon, Abilio Ramos Moya, and, Terina Fernandez Gonzalez (Chaviano's sister). All members of the organization.

On and on it goes. Castro's state security apparatus, under the Cuban ministry of the interior is capable of monitoring every aspect of a person's life, in all realms of activity: Economic, political, social, and cultural. Since 1959 this has been the state of human rights in Cuba.

NATIONAL SECURITY CONCERNS

On the national security front, the United States needs to be concerned about Cuba's effort to finish building the Juragua nuclear power plant, near Cienfuegos. We certainly don't need another Chernobyl 90 miles from the United States. Nor would we like the former soviet spy station in Lourdes, Cuba to continue to intercept United States communications—especially in the wake of the Ames espionage case.

If that were not enough cause for concern, it is probable that the Cuban Government is pursuing the means to develop biological and chemical weapons in Cuba, through their biotechnology industry.

U.S. POLICY AND THE EMBARGO

People often ask me what should be our policy toward the Castro Dictatorship. Some suggest that the United States policy of economic sanctions or the embargo on Cuba should change.

Let me address this point, because I think it is important. I want to begin by citing a few basic facts about the embargo. Despite revisionist claims to the contrary, the United States embargo on Cuba is not an arbitrary punitive measure in response to Castro's radical political orientation. Nor is it an instance of American interventionism in Latin-American affairs, as unfortunately other policies indeed have been.

The U.S. embargo was first put into effect in 1962 by Executive order of the late President John F. Kennedy. President Kennedy did so in response to the Castro dictationship's expropriation of United States citizens' property with a value of $1.8 billion—without compensation and in violation of international law. That illegally confiscated property now is valued at close to $6 billion.

President Clinton, another Democrat, right now can lift President Kennedy's embargo with the stroke of a pen, but like his seven predecessors he sees no reason to do that, given the lack of any movement by Castro toward substantive political or economic reform or settlement of U.S. claims. I applaud the President, support his principled stance, and am confident that he will maintain his first position.

In respect to Cuba, our foreign policy objective is to promote democracy, human rights, and eventually prosperity in a country just 90 miles from our shores. We look forward to the day that relations between our two countries are constructive and based on mutual respect.

The fact is, lifting the embargo won't create hard currency to buy the goods Cuba needs.

The fact is, the food and medicine and other products Cuba might need are available from other countries throughout the world, but they won't sell to Cuba because it can't pay.

The fact is, Castro will not allow a free-market system to develop in Cuba and insists on what he said for so many years. He now claims that the embargo is the reason for the misery in Cuba. Not surprisingly, there are people in this country who suddenly agree with Castro. They suggest that we should lift the embargo unilaterally, no questions asked.

They would have us forget about human rights, although the President has just asked the U.N. Secretary-General to appoint a high commissioner for human rights to give human rights a higher profile in U.S. foreign policy.

They would have us forget the hundreds of innocent Cuban political prisoners languishing in jail.

They would have us forget the atrocities of the Cuban KGB.

During the time that Cuba was subsidized to the tune of $6 billion annually by the Soviet Union, Castro loudly insisted that the United States embargo on Cuba was irrelevant. He stated ad nauseam that Cuba's economic prosperity would enable her to sidestep the United States embargo. In the meantime, United States critics of the embargo denounced it as ineffectual and merely an irritant in relations with Cuba.

Yet now, we see what a little sunshine can do. The Soviet subsidies are gone. Trade with Russia and the countries of the former eastern bloc are conducted strictly on commercial terms. Castro's Cuba stands isolated and exposed.

With the cushion of Soviet subsidies gone, Castro is now saying precisely the opposite of keeping his centrally planned economy—which has failed.

The fact is, at the height of Soviet aid to Cuba, which amounted to nearly $6 billion a year, Castro still rationed the Cuban people—instead of using that money to provide for their needs.

The fact is, Castro took the money provided by the Soviets and used it to export revolution around the world instead of feeding the Cuban people.

At the moment there is one obstacle which stands in the way: That is the dictator, Fidel Castro—and not U.S. policy.

LENDING THE CUBAN PEOPLE A HAND

As a Nation, we need to look beyond the Castro regime and to a time when Cuba will once again join the Democratic Nations of the world. To that end, I introduced H.R. 2758, the Free and Independent Cuba Assistance Act, which details a plan of assistance and cooperation to a post-Castro government in Cuba. Under the plan, emer-

gency economic and humanitarian assistance and military adjustment assistance would be granted to a transitional government pledged to democracy and moving to a democratically-elected government.

Assistance to a Democratic government would include developmental aid and insertion of Cuba into the international financial community to ease the transition to democracy. The bill provides for negotiations to include Cuba in the Caribbean basin initiative and in a potential free-trade agreement, and offers the return of Guantanamo Bay Naval Station.

The Free and Independent Cuba Assistance Act will send a beacon of light to the Cuban people. It says that we are in solidarity with you, but not with those who enslave you. We are ready to help, but first you must help yourselves. Remove the impediments to democracy and we will offer a strong helping hand.

To the Cuban military we say: "We are not your enemy and have no interest other than to recognize that we understand the pain of adjustment and are willing to help—so long as you do not turn your back on your brother and sister as they move to seek freedom and democracy."

Finally, to the world community we erase the view that United States policy is strictly punitive toward the Cuban people—and show that we are eager to welcome Cuba into the family of Nations.

In conclusion, Mr. Speaker, given the dubious record of the Castro regime, I believe we should not take any steps to prolong the life of this odious dictatorship—especially at a time when the clock is ticking on its final hour.

Mr. GILMAN. Mr. Speaker, I want to commend my friend, the gentleman from New Jersey [Mr. MENENDEZ] for this special order.

Mr. Speaker, I also want to take this opportunity to commend our Cuban-American colleagues for their leadership on the question of U.S. policy toward Cuba. We are fortunate to have their insights on the Foreign Affairs Committee. They bring a depth of experience and commitment that is invaluable.

They also bring to their analysis the best interests of both the United States and the Cuban people. For that, we are grateful.

May 20 will mark 92 years of Cuban independence. Tragically for the Cuban people, it will not mark 92 years of freedom.

Fidel Castro is in his 35th year of totalitarian rule. When combined with the Batista regime, the Cuban people will have spent more than 40 years of their independence as a Nation under the heel of an authoritarian leader.

Violations of fundamental human and political rights occur on a daily basis. The Castro government continues its refusal to cooperate with the U.N. Secretary-General's special rapporteur. It is questionable whether the so-called reforms are genuine efforts to liberalize the country's political system and economy. More likely, they are merely a recognition of the economic dislocation caused by Castro's communism.

Despite this adversity, the Cuban people have never lost their spirit, their warmth and generosity, nor have they given up their struggle for democracy and respect for human rights.

This special order provides another opportunity to demonstrate to the Cuban people that both the American people and the U.S. Government stand together in our support for their desire for freedom and that most important right of being able to freely and democratically choose the system of government under which they wish to live, and their leaders.

These fundamental rights have been denied far too long.

I recently had the privilege of attending the inauguration of Nelson Mandela as President of South Africa. Frankly, that historic day in Pretoria was one that I did not expect to witness during my tenure in Congress. What happened in South Africa is relevant to Cuba: In South Africa, a closed, unrepresentative elite based on race, ran a country without regard to the fundamental rights of the majority of its own people.

In Cuba, a closed, unrepresentative elite based on an ideology runs Cuba without regard to the fundamental rights of the majority of the Cuban people.

In the case of South Africa, the United States together with the international community acted on our indignation of the injustices of apartheid.

In Haiti, we have joined an international effort to express our outrage at the situation there by the implementation of comprehensive economic sanctions.

But when it comes to Cuba, the same logic that applied to South Africa and that applies to Haiti is thrown out the window. In the case of Cuba, the United States stands alone in attempting to show its moral outrage at the abuse of an entire country.

Today, we should have one standard for authoritarian regimes regardless of whether they are based on an ideology, race, or result from the removal of a democratically-elected government: that standard should be to declare them illegitimate and to deny them the respect of, and normal interaction with, the rest of the international community.

It is my hope that when we next commemorate Cuban Independence Day, we will do so in a free and democratic Cuba. The Cuban people deserve nothing less. They are a heroic people with a proud history. We must not falter in our commitment to their democratic future.

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GENERAL LEAVE

Mr. MENENDEZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order.

The SPEAKER pro tempore. (Mr. COPPERSMITH). Is there objection to the request of the gentleman from New Jersey?

There was no objection.

VACATING OF SPECIAL ORDER

Mr. MENENDEZ. Mr. Speaker, I ask unanimous consent that the 5-minute special order granted today to the gentleman from California [Mr. HORN] for May 20, 1994, be vacated.

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

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. COX (at the request of Mr. MICHEL), until 3 p.m. today, on account of wife going into labor.

Mr. TORKILDSEN (at the request of Mr. MICHEL), for today until 4 p.m., on account of attending a funeral.

Mr. FALEOMAVAEGA (at the request of Mr. GEPHARDT), for today and tomorrow, on account of official business.

Mr. NADLER (at the request of Mr. GEPHARDT), after 2 p.m. today, on account of official business.

Mr. NEAL of North Carolina (at the request of Mr. GEPHARDT), for today and tomorrow, on account of personal business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. HORN) to revise and extend their remarks and include extraneous material:)

Mr. GOSS, for 5 minutes, today.

Mr. HORN, for 5 minutes, on Friday, May 20.

(The following Members (at the request of Mrs. MEEK of Florida) to revise and extend their remarks and include extraneous material:)

Mr. LAUGHLIN, for 5 minutes, today.

Mr. OWENS, for 5 minutes, today.

Mr. SCOTT, for 5 minutes, today.

Ms. KAPTUR, 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. HORN) and to include extraneous matter:)

Mr. WALSH.

Mr. OXLEY.

Mr. SHAW.

Mr. CAMP.

Mr. REGULA.

Mr. PETRI.

Mrs. BENTLEY.

Mr. GILMAN in two instances.

Mr. THOMAS of California.

Mr. THOMAS of Wyoming.

Mr. GINGRICH.

Mr. YOUNG of Florida.

(The following Members (at the request of Mrs. MEEK of Florida) and to include extraneous matter:)

Mr. SWETT.
Mr. CLYBURN.
Mr. TEJEDA.
Mr. MCDERMOTT.
Mr. MINGE.
Mr. BONIOR.
Ms. NORTON.
Mr. ROSE.
Mr. HOYER.
Mr. MATSUI.
Mr. RUSH.
Ms. KAPTUR in two instances.
Ms. DELAURO.
Mr. RICHARDSON.
Mr. STUDDS.
Mr. LANTOS.
Mr. OWENS.
Mr. DINGELL.
Mr. KILDEE.

(The following Members (at the request of Mr. MENENDEZ) and to include extraneous matter:)

Mr. POSHARD.
Mr. KINGSTON.
Mr. BECERRA.
Mr. TOWNS.
Mr. CONDIT.
Mr. GUTIERREZ.
Ms. ESHOO.

ENROLLED BILL SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker.

H.R. 2139. An act to authorize appropriations for the National Historical Publications and Records Commission for fiscal years 1994, 1995, 1996, and 1997.

SENATE ENROLLED BILL AND JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to an enrolled bill and a joint resolution of the Senate of the following title:

S. 2024. An act to provide temporary obligational authority for the airport improvement program and to provide for certain airport fees to be maintained at existing levels for up to 60 days, and for other purposes.

S.J. Res. 168. Joint resolution designating May 11, 1994 as "Vietnam Human Rights Day."

ADJOURNMENT

Mr. MENENDEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 21 minutes p.m.), the House adjourned until tomorrow, Friday, May 20, 1994, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3211. A letter from the Assistant Administrator, Environmental Protection Agency, transmitting a report regarding the latest date available in the Toxics Release Inventory; to the Committee on Energy and Commerce.

3212. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting a copy of Presidential Determination No. 94-23, authorizing for furnishing of assistance from the Emergency Refugee and Migration Assistance Fund to meet the urgent needs of Rwanda and Burundi refugees, returnees, displaced persons, and conflict victims, pursuant to 22 U.S.C. 2601(c)(3); to the Committee on Foreign Affairs.

3213. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report on special nuclear materials in the Commonwealth of Independent States, pursuant to 22 U.S.C. 5860; to the Committee on Foreign Affairs.

3214. A letter from the Director, Ballistic Missile Defense Organization, Department of Defense, transmitting a copy of Presidential Determination 94-24 certifying that the representatives of the member nations of NATO and Japan, Israel, and South Korea were formally presented with a proposal concerning coordination of U.S. theater missile defense programs with TMD programs of our friends and allies, pursuant to Public Law 103-160, section 242; to the Committee on Foreign Affairs.

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. BROWN of California: Committee on Science, Space, and Technology. H.R. 1432. A bill to establish missions for Department of Energy research and development laboratories, provide for the evaluation of laboratory effectiveness in accomplishing such missions, and reorganize and consolidate Department of Energy technology transfer activities, and for other purposes; with an amendment (Rept. 103-484 Pt. 2) Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee of Conference. Conference report on S. 24, an act to reauthorize the Independent Counsel Law for an additional 5 years, and for other purposes (Rept. 103-511). Ordered to be printed.

Mr. MINETA: Committee on Public Works and Transportation. H.R. 1638. A bill to amend the Excellence in Mathematics, Science, and Engineering Education Act of 1990 to establish the National Academy of Science, Space, and Technology at State universities, to expand the scholarship program associated with such academy, to direct the Administrator of General Services to construct a public building to provide space for the headquarters of such academy, and for other purposes; with an amendment (Rept. 103-512, Pt. 1). Ordered to be printed.

Mr. MINETA: Committee on Public Works and Transportation. H.R. 3724. A bill to designate the U.S. courthouse located in Bridgeport, CT, as the "Brien McMahon Federal Building" (Rept. 103-513). Referred to the House Calendar.

Mr. MINETA: Committee on Public Works and Transportation. H.R. 3840. A bill to designate the Federal building and U.S. courthouse located at 100 East Houston Street in Marshall, TX, as the "Sam B. Hall, Jr. Federal Building and United States Courthouse" (Rept. 103-514). Referred to the House Calendar.

Mr. MINETA: Committee on Public Works and Transportation. House Concurrent Resolution 238. Resolution authorizing the use of the Capitol grounds for the Greater Washington Soap Box Derby (Rept. 103-515). Referred to the House Calendar.

Mr. HEFNER: Committee on Appropriations. H.R. 4453. A bill making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes (Rept. 103-516). Referred to the Committee of the Whole House on the State of the Union.

Mr. FAZIO: Committee on Appropriations. H.R. 4454. A bill making appropriations for the legislative branch for the fiscal year ending September 30, 1995, and for other purposes (Rept. 103-517). Referred to the Committee of the Whole House on the State of the Union.

Mr. MINETA: Committee on Public Works and Transportation. H.R. 4385. A bill to amend title 23, United State Code, to designate the National Highway System, and for other purposes; with an amendment (Rept. 103-519). Referred to the Committee of the Whole House on the State of the Union.

Mr. MONTGOMERY: Committee on Veterans' Affairs. H.R. 4425. A bill to authorize major medical facility construction projects for the Department of Veterans Affairs for fiscal year 1995, to revise and improve veterans' health programs, and for other purposes (Rept. 103-518). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. HEFNER:

H.R. 4453. A bill making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes.

By Mr. FAZIO:

H.R. 4454. A bill making appropriations for the legislative branch for the fiscal year ending September 30, 1995, and for other purposes.

By Mr. BEREUTER:

H.R. 4455. A bill to authorize the Export-Import Bank of the United States to provide financing for the export of nonlethal defense articles and defense services the primary end use of which will be for civilian purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. JEFFERSON:

H.R. 4456. A bill to amend title 10, United States Code, to give a priority to the States for the transfer of nonlethal excess supplies of the Department of Defense; to the Committee on Armed Services.

By Mr. SAM JOHNSON:

H.R. 4457. A bill to amend the Balanced Budget and Emergency Deficit Control Act of 1985 to provide special look-back treatment for emergency appropriations, and for other purposes; jointly, to the Committees on Government Operations and Rules.

By Mr. KOLBE (for himself, Mr. KOPETSKI, Mr. DREIER, Mr. LIVINGSTON, Mr. HYDE, Mrs. JOHNSON of

Connecticut, Mr. GILCHREST, Mr. MCCRERY, Mr. EHLERS, Mr. HORN, and Mr. PORTMAN):

H.R. 4458. A bill to promote United States industry and technology in competition with Japan; to the Committee on Foreign Affairs.

By Mr. MCNULTY:

H.R. 4459. A bill to provide for retroactive award of the Navy Combat Action Ribbon based upon participation in ground or surface combat as a member of the Navy or Marine Corps during the period between July 4, 1943, and March 1, 1961; to the Committee on Armed Services.

By Mr. MINETA (for himself and Mr. APPLEGATE) (both by request):

H.R. 4460. A bill to provide for conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. OWENS (for himself, Mr. WILLIAMS, and Mr. MARTINEZ):

H.R. 4461. A bill to provide grants to partnerships to encourage work force diversity in order to improve the working conditions of all individuals in the United States and to help organizations compete more effectively both domestically and internationally, and for other purposes; to the Committee on Education and Labor.

By Mr. RICHARDSON (for himself and Mr. THOMAS of Wyoming):

H.R. 4462. A bill to provide for administrative procedures to extend Federal recognition to certain Indian groups, and for other purposes; to the Committee on Natural Resources.

By Mr. STUDDS:

H.R. 4463. A bill to provide for studies in order to establish a basis for evaluating the impact of health care reform; jointly, to the Committees on Energy and Commerce and Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 65: Ms. DANNER and Mr. LIGHTFOOT.

H.R. 408: Mr. BILIRAKIS.

H.R. 417: Mr. THOMAS of Wyoming.

H.R. 488: Mr. PETE GEREN of Texas and Mr. FROST.

H.R. 885: Mr. KINGSTON.

H.R. 896: Ms. MOLINARI.

H.R. 1314: Mr. ZELIFF.

H.R. 1487: Mr. BACHUS of Alabama.

H.R. 1493: Mr. SHAYS.

H.R. 1606: Mr. SHAYS.

H.R. 1671: Mr. MORAN and Mr. KYL.

H.R. 1736: Mr. STUPAK and Mr. INGLIS of South Carolina.

H.R. 1843: Mr. KIM.

H.R. 1945: Mr. SANDERS, Mr. BARCA of Wisconsin, Mr. GLICKMAN, and Mr. COBLE.

H.R. 2292: Mr. HOLDEN and Mr. BACCHUS of Florida.

H.R. 2394: Mr. ABERCROMBIE and Mr. HILLIARD.

H.R. 2395: Mr. ABERCROMBIE and Mr. HILLIARD.

H.R. 2623: Mr. NEAL of Massachusetts, Mr. KLINK, Mr. ISTOOK, Mr. ROYCE, and Mr. DELLUMS.

H.R. 2649: Mr. GEJDENSON.

H.R. 2736: Ms. ROYBAL-ALLARD.

H.R. 2741: Ms. SLAUGHTER.

H.R. 3173: Mr. RIDGE, Mr. GINGRICH, Mrs. MEYERS of Kansas, and Mr. CRANE.

H.R. 3396: Mr. ZELIFF.

H.R. 3439: Mr. ZELIFF.

H.R. 3440: Mr. WILSON and Mr. WAXMAN.

H.R. 3486: Mr. SANTORUM, Mr. QUILLEN, Mr. ROYCE, Mr. SCHAEFER, Mr. LIVINGSTON, and Mr. FROST.

H.R. 3519: Mr. EMERSON and Mr. MARTINEZ.

H.R. 3671: Mr. ACKERMAN and Ms. VELAZQUEZ.

H.R. 3738: Ms. ROYBAL-ALLARD and Mr. KILDEE.

H.R. 3797: Mr. INGLIS of South Ccrolina and Mr. SMITH of Texas.

H.R. 3820: Mr. SHUSTER, Mr. BLILEY, Mrs. MORELLA, Mr. RICHARDSON, Mr. FRANKS of Connecticut, Mr. GALLEGLY, Mr. GUNDERSON, Mr. KYL, Mr. MCKEON, Mr. SMITH of New Jersey, Mr. UPTON, Mr. WOLF, Mr. TRAFICANT, and Mr. CLYBURN.

H.R. 3897: Mr. SCHUMER, Mr. FARR, Mr. MILLER of California, Mr. EDWARDS of California, Ms. WOOLSEY, and Mr. LIPINSKI.

H.R. 3970: Mr. RANGEL, Mr. SUNDQUIST, and Mr. MATSUI.

H.R. 4047: Mr. LIPINSKI, Mr. RUSH, Mr. SANGMEISTER, and Mr. YATES.

H.R. 4050: Ms. MCKINNEY.

H.R. 4051: Mr. DELLUMS, Mr. TRAFICANT, and Ms. ESHOO.

H.R. 4057: Mr. WALSH, Mr. FAWELL, Mr. HOEKSTRA, Ms. MOLINARI, Mr. ARMEY, Mr. ROWLAND, Mr. DEAL, Mr. HAYES, Mr. MCCURDY, Mr. MONTGOMERY, and Mr. STUMP.

H.R. 4064: Mr. GEJDENSON.

H.R. 4065: Mr. GEJDENSON.

H.R. 4074: Mr. STUMP, Mr. LIPINSKI, Mr. MANTON, Mr. DIXON, Mr. BONIOR, and Mrs. MEYERS of Kansas.

H.R. 4095: Mr. DOOLITTLE, Mr. PAXON, and Mr. CANADY.

H.R. 4189: Mr. CAMP, Mr. SANTORUM, and Mr. OXLEY.

H.R. 4198: Mr. BARTON of Texas.

H.R. 4251: Mr. MURTHA and Mr. EVANS.

H.R. 4258: Mr. FINGERHUT.

H.R. 4260: Mr. ANDREWS of New Jersey, Mr. NADLER, and Mr. LEWIS of Georgia.

H.R. 4314: Mr. FROST, Mr. OLVER, Mrs. UNSOELD, Mr. RICHARDSON, Mr. EDWARDS of California, and Mr. WILLIAMS.

H.R. 4317: Mr. RANGEL.

H.R. 4318: Mrs. CLAYTON.

H.R. 4345: Mr. FINGERHUT and Mr. BACHUS of Alabama.

H.R. 4349: Mr. EDWARDS of California, Mr. OLVER, Ms. WOOLSEY, Mr. WAXMAN, and Mr. MILLER of California.

H.R. 4358: Mr. MICHEL, Mr. GILMAN, Mr. HANSEN, Mr. WILSON, Mr. STUMP, and Mrs. MEYERS of Kansas.

H.R. 4365: Mr. TALENT and Mr. CANADY.

H.R. 4000: Mr. POSHARD and Mr. ROMERO-BARCELO.

H.R. 4419: Ms. MOLINARI.

H.R. 4425: Mr. MONTGOMERY, Mr. STUMP, Mr. HEFNER, Mr. RICHARDSON, Mr. STENHOLM, Mr. PAYNE of Virginia, and Mr. PARKER.

H.J. Res. 44: Mr. ROTH.

H.J. Res. 209: Mr. MCCLOSKEY, Mr. TAUZIN, Mr. JOHNSON of South Dakota, Ms. MOLINARI, Mr. DARDEN, Mr. YOUNG of Alaska, Mr. APPLEGATE, Mr. HALL of Texas, Ms. SLAUGHTER, Mr. BARTLETT of Maryland, and Mr. HOEKSTRA.

H.J. Res. 287: Mr. MCNULTY, Mr. SABO, Mr. VENTO, Mr. SAWYER, Mr. TALENT, Mr. FOGLIETTA, Mr. VISCLOSKY, Mr. LEVIN, Mr. KLINK, Mr. LEWIS of Florida, Mr. KANJORSKI, and Mrs. THURMAN.

H.J. Res. 315: Ms. KAPTUR, Ms. PRYCE of Ohio, and Mr. MARTINEZ.

H.J. Res. 318: Mr. PETE GEREN of Texas, Ms. NORTON, Mr. GENE GREEN of Texas, Mr. MYERS of Indiana, Mr. DINGELL, Mr. ANDREWS of Texas, Mr. CALVERT, Ms. PRYCE of Ohio, Mr. ENGEL, and Mr. ROWLAND.

H.J. Res. 347: Mr. LIPINSKI, Mr. PETE GEREN of Texas, Mrs. MEEK of Florida, Mr. SAXTON, Mr. KLEIN, Mrs. BYRNE, Mr. SOLOMON, Mr. LEWIS of California, Mr. SMITH of Texas, and Ms. MOLINARI.

H.J. Res. 356: Mr. MARTINEZ, Mr. DELLUMS, Mr. CONYERS, and Mr. HILLIARD.

H. Con. Res. 152: Mrs. MEYERS of Kansas.

H. Con. Res. 166: Mr. PORTMAN and Mr. BAKER of Louisiana.

H. Con. Res. 210: Mr. BARTLETT of Maryland.

H. Con. Res. 223: Mr. LEVIN, Mr. GUTIERREZ, Mr. BILBRAY, Mr. HINCHEY, Mr. HOCHBRUECKNER, and Mr. HILLIARD.

H. Con. Res. 227: Mr. DOOLITTLE.

H. Con. Res. 245: Mr. DREIER, Mr. MCKEON, Mr. BACHUS of Alabama, Mr. TORKILDSEN, Mr. SOLOMON, Mr. BONILLA, Mr. POMBO, Mr. KIM, Mr. EWING, Mr. MILLER of Florida, Mr. FILNER, Mr. BLUTE, and Mr. LIPINSKI.

H. Res. 234: Mr. FLAKE.

H. Res. 291: Mr. STUMP and Mr. COX.

H. Res. 368: Mr. FLAKE, Mr. PORTMAN, Mr. FORD of Tennessee, and Mr. HILLIARD.

H. Res. 381: Mr. HASTERT.

H. Res. 424: Mr. GREENWOOD, Mr. CALVERT, Mr. ROWLAND, and Mr. SMITH of New Jersey.

SENATE—*Thursday, May 19, 1994*

(Legislative day of Monday, May 16, 1994)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. As we approach this morning, the God that made the world and all things therein, the Senate will be led in prayer by the Senate Chaplain, the Reverend Dr. Richard C. Halverson.

PRAYER

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

Let us pray:

*God that made the world and all things therein * * * hath made of one blood all nations of men for to dwell on all the face of the earth, and hath determined the times before appointed, and the bounds of their habitation; That they should seek the Lord * * *.*—Acts 17:24, 26–27.

Eternal God, the Apostle Paul reminds us that Thou art a sovereign Lord, that Thou hast determined the times and the boundaries of the nations that they should seek the Lord.

When we read the words of our Founding Fathers, we become aware of the profound faith in Thee which inspired them. It is not for nothing that our currency bears the words, "In God We Trust." But we tend to behave as though we have no need of Thee.

Mighty God, all wise, all powerful and unchanging, before it is too late, awaken us as a nation to our need of Thee that we may seek Thee and serve Thee, individually and corporately.

We pray this in the name of the King of Kings and the Lord of Lords. Amen.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business for not to extend beyond the hour of 10:30 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each. Special orders have been entered for the Senator from Connecticut [Mr. LIEBERMAN] to be recognized for up to 5 minutes; the Senator from Massachusetts [Mr. KERRY] to be recognized for up to 15 minutes; the Senator from Florida [Mr. GRAHAM] to be recognized up to 15 minutes; the Senator from New Jersey [Mr. BRADLEY] to speak for up to 15 minutes.

The Chair, in his capacity as a Senator from the State of West Virginia, suggests the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

The Senator from North Carolina [Mr. FAIRCLOTH] is recognized.

Mr. FAIRCLOTH. I thank the Chair.

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

The PRESIDENT pro tempore. Who yields time?

Mr. LUGAR addressed the Chair.

The PRESIDENT pro tempore. The Senator from Indiana [Mr. LUGAR] is recognized for not to exceed 5 minutes.

Mr. LUGAR. Mr. President, I ask unanimous consent that I may be permitted to speak for 10 minutes.

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

The Senator is recognized for not to exceed 10 minutes.

UNITED STATES POLICY TOWARD CHINA

Mr. LUGAR. Mr. President, President Clinton has commenced a consultation process with the congressional leadership in regard to continuing China's current trade status. Various Members are working with the White House staff in an effort to develop a compromise that might include limited sanctions while permitting a considerable amount of trade to continue if China fails to meet the administration's human rights objectives.

Several Members of the Senate have spoken to this issue.

My interest is not in debating the merits or demerits of targeted revocation of MFN status. Rather, I want to suggest that this debate is perhaps too narrow and misses the mark. The trade and human rights components of our China policy have been joined by a strategic component that belies the utility of any linkages in our policy. We must face the growing nuclear proliferation threat in the region as exemplified by the North Korean nuclear program and the need to need to bolster our diplomatic and negotiating position while simultaneously considering the imposition of sanctions on North Korea. Both will require the full support of and full implementation by countries in the region, most specifically China.

The practice of tying our human rights objectives in China to the continuation of MFN status for China, even if in a more limited and targeted way, makes less likely Chinese willingness to avoid a Security Council veto on any sanctions resolution or, even should China abstain in such vote, full participation in carrying out any such sanctions. A limited, targeted United States approach in conditioning the renewal of China's MFN status is likely to beget limited Chinese pressure on North Korea to be more forthcoming in the negotiations as well as conditional Chinese participation, if any, in any sanctions program initiated against North Korea.

This is not to suggest that we should lessen an energetic pursuit of our human rights objectives in China, even as we pursue the increasing trade and business opportunities offered by the fastest growing economy in Asia. But I do suggest that the linkage or conditional approach, even if practiced in a more nuanced and targeted way, denies the United States the ability to set policy priorities in the region. To our policy objectives of the promotion of human rights in China and increased economic interchange with the rapidly growing economies in the region must now be added the policy objective of nonproliferation or counterproliferation, an objective identified by the administration as one of its top priorities.

We need to adopt a strategic policy approach to China, one that is significantly influenced although not exclusively dominated by the nuclear proliferation dilemma posed by North Korea. At least some elements of the North Korean leadership understand that the worsening domestic economic situation and the accelerating gap between North and South increasingly will threaten the country's political and economic survival. The United States must use the leverage provided by the desperate straits in North Korea to help persuade that country to abandon its nuclear program. Any serious attempt to design a package of sanctions must center on cutting off North Korean imports of oil.

However, if the prospect of an oil cutoff is to be credible, Chinese cooperation is indispensable. China accounts

for about two-thirds of North Korea's current oil imports, most of which are delivered via pipeline. Should it so decide, China could easily provide all of North Korea's current oil needs, even if a naval blockade cut off tankers delivering oil from other suppliers. At a minimum, China needs to be convinced not to replace oil imports from other suppliers that might be cut off.

With China's support, manipulation of oil imports could provide an important source of leverage. Without that cooperation, economic measures are certain to be ineffective and to leave more forceful actions as the only alternative.

While China may not need to be convinced that a more mature North Korean nuclear capability is not necessarily in its interest, it will have to be persuaded that the North Korean nuclear problem requires urgent action and that the United States has in mind a strategy that can succeed with their active involvement but it will fail without Chinese involvement, leaving only worse and starker alternatives.

But if United States-China cooperation on the North Korean issue is to be realized, that cooperation must take a strategic dimension, grounded in serious dialog about mutual security interests and concerns that would benefit the United States-Chinese relationship more generally. Only if the North Korean issue is placed in a strategic framework, rather than submerged in the current agenda of MFN and human rights, can one realistically expect to convince the Chinese that the North Korean nuclear problem is not only serious but requires urgent action.

The issue is not one of ignoring our bilateral differences with China over human rights or conditioning MFN status because of those differences, but rather to find common ground on an issue of mutual importance that transcends the bilateral issues. If this goal can be achieved, it would hold the promise of a constructive multilateral or regional approach to North Korea's march toward nuclear weapons, of putting our key bilateral relationship with China on a new and stronger footing, and of providing a more constructive framework for tackling the bilateral problems of trade and human rights.

As Senator NUNN and I wrote in February following our trip to South Korea and Japan:

> We believe that avoiding another war on the Korean peninsula and preventing the spread of nuclear weapons are our paramount interests in Northeast Asia today. We cannot expect a China that is the object of United States economic sanctions (targeted or not) to participate in sanctions against North Korea.

As this body continues its deliberations on China's trade status, I would suggest that Members place the current debate over targeted sanctions in the larger strategic context that must be shaped by the nuclear proliferation dangers in that part of the world and the need for the United States to address those challenges in concert with real and would-be friends in the region. We must engage China fully in helping to prevent nuclear proliferation and preserve stability on the Korean peninsula. The negotiations with North Korea cannot be fruitfully concluded, nor can any economic sanctions be effectively implemented, without China's cooperation. The United States must communicate to China that this is the highest priority in our relationship.

I thank the Chair.

Mr. KERRY addressed the Chair.

The PRESIDENT pro tempore. The Senator from Massachusetts [Mr. KERRY] is recognized under the order previously entered for not to exceed 15 minutes.

Mr. KERRY. Mr. President, I believe that I was, under the order, to be recognized for not to exceed 30 minutes. I ask unanimous consent that that be the order.

The PRESIDENT pro tempore. Without objection, that will be the order, and the Senator will be recognized for not to exceed 30 minutes.

Mr. KERRY. I thank the President pro tempore.

Mr. President, the clock is ticking on the question of MFN for China. I congratulate the Senator from Indiana for his statement this morning and also the Senators from New Jersey and Montana for the statements they made yesterday with respect to this issue.

We all know that by June 3, the President of the United States has to decide whether China has made sufficient progress in the area of human rights to meet the conditions of his Executive order for the renewal of most-favored-nation trade status [MFN].

This is going to be a difficult decision, not the least because reasonable people will differ over the degree to which China has fulfilled the human rights conditions set out in that order. It is also, as my colleagues have already suggested, a critically important decision with far-reaching consequences for our overall relationship with China, our relationships with other nations in the Asian region, our role in Asia, and our domestic economy, though clearly the latter ought not to be put before other considerations.

Our present policy of conditioning MFN on improvements in human rights in China is rooted in the tragic events that took place 5 years ago in Tiananmen Square. It is not rooted in a 1994 assessment of the overall relationship or the interests that we have today in China. It is a policy that grew out of the grotesque, shocking confrontation that took place in June 1989 in Tiananmen Square, when students and other peaceful pro-democracy protesters were cut down by armed Chinese soldiers and run over by Chinese tanks. Those who were not killed were detained. Many of them subsequently were executed.

That, Mr. President, was an event that so outraged us that, in response, we in Congress sought to use all the means at our disposal, including the renewal of MFN, to put pressure on Chinese leaders to release those who were detained and to end the ongoing repression. At that time, before the cold war had ended and the Soviet Union had collapsed, we turned to an old and familiar tool from the cold war, the Jackson-Vanik amendment, which conditions the extension of MFN to Communist countries on freedom of emigration.

China had been receiving MFN routinely every year since 1979, when the Carter administration extended it as part of the normalization of United States-China relations. There was little opposition in Congress to the extension of MFN on human rights or any other grounds from 1979 to 1989. But the brutal attack in June 1989 on those seeking basic rights and freedoms in China changed all that. In the wake of Tiananmen Square, we sought to use the presumed leverage embodied in the extension of MFN to put pressure on China's leaders to release prodemocracy activists and fulfill other human rights conditions.

Linking trade and human rights was an instinctive American response to Chinese repression in 1989. It signaled our disapproval of China's behavior and our willingness to forgo whatever benefits we might derive from trade with China for higher, moral considerations.

I supported the policy of linking human rights to MFN at that time. To this day, I am convinced that that was the appropriate response at that moment and that we were correct in making the linkage.

Whether it ever achieved its full effectiveness remains a question because every time Congress threatened to revoke MFN, the Bush administration relied on party pressure and the veto to undermine that effort. At best, China's leaders received a blurred message. At worse, they knew that George Bush would bail them out.

Then we came to 1993. Unlike his predecessor who rejected the idea of linkage from the start, President Clinton formally embraced it. In his Executive order issued last May, the President set forth seven human rights conditions that must be met in order for China to obtain MFN again this year. I point out to my colleagues that only two of those criteria—freedom of emigration and refraining from exporting prison labor products to the United States as required by the 1992 United States-China agreement on prison labor—are mandatory, and China basically has met them.

In addition, the Executive order requires China to make "overall, signifi-

cant progress'' in five other areas: Adhering to the Universal Declaration of Human Rights, releasing and providing an acceptable accounting for political prisoners, allowing international humanitarian and human rights groups access to prisoners, protecting Tibet's religious and cultural heritage, and permitting international radio and television broadcasts into China.

It is easy to understand why the President of the United States elected to proceed on this course. It reflected our deepest values and our concern for those who are denied basic rights and freedoms. It enjoyed strong support among the American public and here in Congress. It reversed the Bush administration's policy toward China, which many regarded as too soft, as appeasement. However, I suggest that in 1994 this may no longer be the appropriate policy for achieving our objectives in China, beginning with human rights.

Ever since Secretary Christopher's hostile reception in Beijing in March, China has sent us mixed signals about its intention to comply with the Executive order. On the positive side, China, as I have said, seems to have met the two mandatory conditions relating to emigration and prison labor.

It has also moved, although not as far as we would like, on the five remaining conditions on which we seek ''overall, significant progress.'' China has issued a high level statement on its adherence to the Universal Declaration of Human Rights, but we know that it has a considerable distance to go to translate the words into practice. It is now in the process of negotiating an agreement with the ICRC to provide that organization with access to prisoners. Although Chinese officials still refuse to meet personally with the Dalai Lama, they have met with his representatives on several occasions. They have also taken technical data provided by the United States on the jamming of VOA broadcasts and expressed a willingness to review this issue.

Wang Juntao and Chen Ziming, two of the most well-known prodemocracy activists arrested in Tiananmen Square, have been released. At the same time, however, Wei Jinsheng, the most prominent democracy activist who was released and then taken again into custody at the time of the Christopher trip, is still being held. Beijing has yet to release others on the list of 200 plus prisoners held since the Tiananmen Square crackdown.

Moreover, last week the central government amended its public order law to broaden further the power of the police to detain and restrict the activities of labor and prodemocracy activists, those practicing unsanctioned religions, and national minorities such as the Tibetans. This is a particularly disturbing development.

Questions will be asked in the next days. Have China's leaders gone as far as they intend to go? Are they waiting, as in past years, until the eleventh hour to take a few last-minute steps, or are they serious about moving further down the road? The next 2 weeks will provide the answers. I, personally, believe that China can go further. There is not any question about that. Nor is there any question about our desire to have them go further. And I urge China to do so in these final days.

But the question before us is much larger than simple compliance with the Executive order. The question before us is how best to promote all of our interests in China. I respectfully submit to my colleagues that if we get bogged down in a debate that focuses exclusively on whether or not China has met the Executive order, we will be overlooking the totality of United States interests in China and avoiding our own responsibility in the United States Senate to protect those interests.

I believe the President of the United States must recognize that the policy of linkage, although rooted in the best of intentions, is outdated and ill-suited to the promotion of the totality of our interests in China. It is, as I said, principally a policy shaped by the image of tanks and protesters in Tiananmen Square. It is geared to the events of 1989, not the China of 1994. It ignores the sum of our interests and the realities of 1994. It ignores China's power and potential, China's role as a regional and international actor, and our need to have a viable relationship with China in the post-cold-war period, not a cold-war relationship.

With the end of the Cold War and the demise of the Soviet Union, China has become one of the most important foreign policy challenges for the United States. This challenge cannot be met by a policy of linkage, which excludes the many other critical interests that we and our allies share in China.

China accounts for 20 percent of the world's population. Its economy is the fastest growing in the world, at an annual rate of 13 percent in the last 2 years alone. According to the CIA, China has registered an average real growth rate of nearly 9 percent a year since the early 1980's. Last year, China signed contracts worth more than $100 billion with investors from more than 40 countries. Today, China is regarded as the largest emerging market in the world.

China is the strongest military power in Asia and an independent nuclear power. China is one of the five permanent members of the U.N. Security Council, whose vote we seek on critical issues such as Bosnia, peacekeeping, and, soon, sanctions against North Korea for nuclear proliferation. We need China's cooperation. We cannot afford to adopt a cold-war kind of policy that merely excludes and pushes China away.

Unlike Russia which is in a period of turmoil, China is on the rise. Already the major power in Asia, China has the potential to be an international superpower.

For these reasons alone, the United States needs to have a relationship with China that is more workable and manageable than the one that we have had in recent years. But there are other reasons as well.

China has a population of 1.2 billion people that are denied basic human rights and fundamental freedoms. China is a purveyor of nuclear weapons related materials to some of the most dangerous nations in Asia and the Mideast. China poses the largest single security threat to the Asian nations, especially Taiwan. China controls the future of the Tibetan people. China is the power with the most influence on North Korea, as my colleague from Indiana just said. China is one of the key members of APEC and a major player on the range of issues affecting the Asian-Pacific region.

China offers a growing and potentially large market for American goods, services, and technology. China is an ecological disaster in the making, and we must be part of the partnership to prevent that disaster. China needs our environmental technology and know-how to avoid that disaster. China wants our support for its admission into GATT, and we must have China as a partner in writing the new rules of trade in this new world marketplace.

Our interests in China and, by extension, in the Asian region dictate that we have a multidimensional relationship with Beijing. But our present policy undermines our ability to forge this kind of relationship. It puts us in an untenable bind. If China fails to make the necessary progress in human rights, the President, to be credible, will have to deny the renewal of MFN for all, or some, of China's products. The impact of this action would be disastrous for our ability to promote human rights in China, our bilateral relationship with China, our role in Asia, and our economy.

Let there be no doubt that the promotion of human rights has been, and must continue to be, a critical part of our China policy. It is consistent with our national history, our humanitarian traditions, and our values as the world's strongest democracy. Repressive governments throughout the world have been subjected to our condemnation and our pressure and, Mr. President, they ought to be. China, which has one of the world's worst human rights situation, should be no different.

China is a signatory to the Universal Declaration of Human Rights, the cornerstone of the international human rights regime. However, in policy and practice, it denies its citizens internationally recognized rights and freedoms, such as freedom of speech, assembly, and information. Domestic critics are repressed, imprisoned, and

often subject to torture, and other forms of physical abuse. Criminal defendants are denied legal safeguards and visits from family members. Trials are in reality sentencing hearings because "guilt" has already been assumed by the state. Detainees are held for indefinite periods of time. Confessions are forcibly extracted. Extrajudicial killings take place at the hands of government security and police forces. Hundreds of others are executed "officially."

Beijing denies that it has "political prisoners" because dissidents are generally charged and convicted, usually of "counterrevolutionary offenses" under criminal statutes. Many of China's political prisoners are sent to "reeducation through labor" camps. According to Chinese officials, there were 3,172 persons serving sentences for "counterrevolutionary" offenses at the end of last December. Even when released, former political prisoners retain "criminal" records, which affects their daily lives in countless ways including where they live, whether and where they can be employed, and their freedom of movement.

Although forced abortion and sterilization are no longer authorized by the central government, these practices continue to occur in rural areas. In urban areas, the government forces compliance through a combination of economic incentives, economic penalties, and psychological pressure.

Religious worship is allowed but only through official, state sanctioned churches. Those who attempt to practice religion outside of these channels are harassed, at times detained, and sometimes imprisoned. Bibles are confiscated. Unofficial or so-called house churches are sporadically closed down.

I learned of this first hand in January, when I visited the house church of Pastor Samuel Lamb in Guangzhou. Pastor Lamb was imprisoned for many years during the 1950's and 1960's because of his religious activities. Since his release he has continued preaching the Gospel in his house church.

His church consists of the second floor of his small, darkly lit home in the center of Guangzhou. His pulpit is a lectern on top of a table. Pastor Lamb told me that his church had been closed twice after Tiananmen Square and that government officials had threatened to close it a third time. He said that they have limited the number of sermons he can preach per week and confiscated his tapes, records, and other teaching materials. Yet, despite this, Pastor Lamb's congregation has grown dramatically, from 400 parishioners to over 1,200. Many of these new worshippers are young people who learn about the church by word of mouth.

Although the overall human rights situation in China remains poor, it is important to recognize two points. First, as I suggested earlier, China has basically met the two mandatory requirements in the President's Executive order and taken modest steps toward fulfillment of several of the remaining conditions. Second, the promotion of human rights takes place at many levels. In the case of China, other more dramatic changes, stemming from the decision to open China's economy, are taking hold.

Today, China is a more open society than at any time since the start of the Cold War. Access to information has increased, not only in the southern provinces bordering Taiwan and Hong Kong but even in rural areas where satellite dishes can be seen on the horizon. The practice of religion outside of official churches is growing, despite official attempts to stop it. A middle class is beginning to emerge, particularly in those areas such as Guangdong province, where foreign investment and trade has blossomed. Parallel with this is an improved standard of living, greater worker mobility, and more economic choice for citizens in these areas. For many Chinese citizens, the work unit is no longer the determinant of the everyday aspects of their lives.

Better living standards and greater economic choice are no substitute for fundamental political rights and freedoms. However, they are developments which should not be dismissed out of hand. Beijing's leaders have made a deliberate decision to open China's economy and markets to the outside world. We need to take advantage of that decision. We must not play into the hands of hardliners who would shut the door and go back to the age of doing everything and anything they want without the outside world looking in or objecting.

Our companies and businessmen cannot transform China into a Western society but they can expose the Chinese people to our values, our culture, our ideas, and our way of life. Over time that exposure will have a profound impact on Chinese society and China's political system. Frankly, we ought to have more confidence in the power of our ideas and values. They are a potent weapon in the struggle to promote respect for basic rights and freedoms.

At present there appears to be little support for the idea of cutting off MFN entirely. However, the administration is seriously considering the option of denying MFN for some Chinese exports to the United States, such as those produced in state-owned industries. Mr. President, this option would be as disastrous as cutting off MFN entirely because it would undermine the very process that is helping to bring about change in China. It would handicap, possibly even remove, our companies and thus our presence from China because Beijing would surely retaliate. It would close China off to our ideas and our knowledge. It would minimize, if not eliminate entirely, our direct influence on China's development and cede that over to our competitors.

In short, it would make us a bit player in a production of enormous proportions. This approach would not enhance our ability to promote human rights in China. It would reduce or, worse, eliminate it.

Failure to renew MFN would transform our bilateral relationship into one of confrontation, thereby diminishing our ability to influence China on the whole range of issues of importance to us. It would escalate the price of Chinese goods, making them unaffordable for lower income Americans and causing profit losses to many American retailers.

American exporters no doubt would find China's markets closed off to them. American investors would find business deals going to their Asian and European counterparts. This would reduce our influence, not just in China, but in all of the rest of Asia.

A confrontational relationship with China could increase the insecurity of other countries in Asia and undermine our ability to encourage peaceful resolution of economic and political problems in the region.

Clearly the stakes surrounding the MFN question are high for the United States. But they are also high for China. The United States is an important and growing market for China. China has a $25 billion trade surplus with us. As I mentioned earlier, China needs our technology, particularly in the environmental area to avoid costly environmental cleanups in the future. Our technology and know-how is critical to China's development.

China is not facing serious threats to its security at present. However, expansion of Russian power or North Korea's entry into the nuclear club could reverse this. From Beijing's perspective, a positive relationship with the United States could help to lessen these potential threats.

The high stakes involved in the revocation of MFN make it incumbent upon the President to renew MFN this year and move on to a new policy which abandons the link between trade and human rights. Undoubtedly, some are going to argue that this means sacrificing our commitment to human rights in favor of the commercial benefits of trade. I just do not agree. I think they miss the point. Delinking does not force us to choose one interest above the other. It allows us to pursue all of our interests simultaneously. It liberates us from the false choice embodied in linkage between trade and human rights.

The question is not MFN or human rights. It is a question of how we best advocate our interest in human rights and promote the development of those rights for the people of China. I believe that the best approach to achieve these

objectives is severing the link between trade and human rights.

Beijing must understand that we regard human rights as a legitimate issue in our bilateral relationship, that we will react negatively and decisively if there is another event like Tiananmen Square, and that we will continue to press China to abide by internationally recognized norms and standards of human rights. In turn, we in Washington must understand that there are many ways to press our case on human rights, that we cannot unilaterally compel China to comply, and that public confrontations are likely to produce the least results.

A new policy toward China must be multidimensional and where necessary multilateral. It must allow the United States and China to discuss differences without destroying the overall bilateral relationship. It must be flexible enough to respond to changing circumstances. It must enable us to interact with all levels of Chinese society including those that are striving for greater freedom. It must combine carrots and sticks in meaningful and effective ways.

If our efforts to promote change in China are to be successful, we must strengthen our support for those inside China who are pressing for change. This is essential if we are to make it clear to the Chinese people and the leadership in Beijing that we have not abandoned our commitment to human rights. We are simply changing the tools by which we seek to promote them.

We should establish a human rights assistance program to be administered out of the United States Embassy in Beijing and the United States consulate in Hong Kong to provide direct assistance to human rights activists. These programs could provide legal aide information, technical assistance, and financial support for grassroots undertakings when possible.

To make it clear to Chinese authorities that we are watching what they are doing, we should designate a full-time human rights officer in our Embassy in Beijing and in each of our consulates in China. These officers should press the limits of the system to obtain and convey to the outside world information about the abuses wrought by the government upon its citizens. They should be our watchdogs on the front line of the struggle for human rights.

We should establish a code of conduct for American companies in China, akin to the Sullivan Code adopted for American companies in South Africa in the 1980's. American companies would be called upon to set up programs providing information about worker rights, international labor laws and practices.

We should continue to press the human rights agenda in multilateral fora. We must make our allies understand that the only effective form of pressure on Beijing in the human rights area is multilateral. Just a few months ago China succeeded in preventing the U.N. Human Rights Commission in Geneva from voting upon a resolution condemning China's recent crackdown on dissidents. China controlled this situation because our allies were afraid that voting for this resolution would upset or undermine their commercial relationships. However, had all of China's trading partners stuck together, China would have failed in taking this issue off the table and no one country would have paid the price. China can take economic revenge on one trading partner; it cannot afford to take it on all.

We should maximize the flow of information into China through expanded radio and television broadcasting. It is essential for us to undertake responsible broadcasting that provides the citizens of China with the information they want to hear, not with propaganda we want to give them. The cold war is over; we must resist the temptation to use outmoded cold war tools to address post-cold-war problems.

International exchange programs are one of the most proven methods of exposing other nations to our values and ideas. China's need for Western, and particularly American, know-how and technology provides us with a ready-made opportunity. Existing United States governmental exchange programs with China, such as Fulbright, should be expanded. New ones should be developed in those areas where China is reaching outward. For example, China desperately needs to establish a rule of law to regularize commercial and financial transactions. China also needs more trained lawyers and judges. The establishment of a legal exchange program would be attractive to the leaders in Beijing. While, at the same time, promoting Western legal values and procedures.

We need to find ways to support Tibetans struggling to preserve their culture and society. For example, the fiscal year 1994–95 Foreign Relations authorization bill contains a provision, offered by the Chairman of the Foreign Relations Committee, Senator PELL, establishing a small exchange program for Tibetan students.

The past has clearly demonstrated that we possess no stick, including MFN, which can force China to embrace internationally recognized human rights and freedoms. We can encourage, we can cajole, we can entreat, we can embarrass the rulers in Beijing but we cannot compel. However, that is not the case in other areas.

When it comes to trade, we have plenty of sticks that can and should be used to force China to open its markets and to become a responsible member of the world trading community. We can initiate investigations and impose sanctions against China under section 301 and special 301. The record to date suggests that these sanctions work. Each time we have initiated 301 investigations, the leadership in Beijing has responded positively. Why? No doubt because they regard this as a legitimate form of pressure exerted through legitimate instruments of trade.

We can also use China's desire to join GATT as a means of forcing China to open its markets and change its laws and administrative regulations to enhance the daily business of trade and investment. The GATT card is significant and we should maximize it.

Similarly, in the nonproliferation area, we can bring effective pressure on China, both unilaterally and multilaterally, through the Missile Technology Control Regime [MTCR] and through the sanctions regime on the proliferation of chemical and biological weapons. Last year the administration imposed sanctions against China under the MTCR for its sale of the M-11 missile to Pakistan. The administration was absolutely correct in taking this step. China's activities in the proliferation area are dangerous and seriously undermine our efforts to stem the tide of nuclear weapons proliferation. These kinds of sanctions can be effective, but only if we are vigilant and hardline about their imposition and implementation.

Mr. President, the passing of the cold war has initiated a period of uncertainty in international politics. The elements of power are realigning. The rules of the game are unclear. International institutions have yet to find their new role. International powers are not fully defined.

In this context we cannot afford to ignore or to alienate China. China does not pose the threat to us that the Soviet Union did. However, China is a country on the march, a country whose power and influence will grow not only in Asia but in the world at large. Our national interests demand that we have a constructive relationship with China. That can only happen if we recognize the inappropriateness of our current policy and move on to a new one which delinks trade and human rights and allows us to pursue all of our interests in tandem.

The PRESIDENT pro tempore. The time of the Senator has expired.

Mr. KERRY. I thank the Chair.

Mr. DANFORTH and Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri [Mr. DANFORTH], is recognized for not to exceed 5 minutes.

MFN STATUS FOR CHINA

Mr. DANFORTH. Mr. President, I think the comments of the Senator from Massachusetts are very important comments. I certainly associate myself with the Senator's conclusion. As the Senator pointed out, the continued

linkage of MFN status for China to human rights conditions for China is not now suited to the promotion of human rights or the interests of the United States.

Mr. President, we have had a lengthy debate in our country between people who think that it is a good idea and people who do not think it is a good idea to link trade policy with various other objectives we might have. I have been a Senator who has been very wary, very skeptical of attempts to condition trade relations on other objectives. This issue has been hotly contested in the Senate.

But I would say, as somebody who has been skeptical about such attempts, that I recognize that those who do want to get some handle on human rights within China are representing the finest traditions of the United States. I do not think it is a good strategy to use, but I recognize what they are trying to do, and I compliment them because who can turn a blind eye to human rights abuses in other parts of the world. It is very characteristic of American principles to try to do something about China and about human rights.

As the Senator from Massachusetts has just pointed out, the fact is that continued linkage will not serve the purpose of human rights in China. There is no reasonable likelihood that to continue such linkage would do anything other than make matters worse within China. It would clearly be contrary to the commercial interests of the United States, to job opportunities in the United States. In short, it simply would not work.

At a time when the most significant foreign policy challenge we face in the world is nuclear proliferation in North Korea, clearly the cooperation of China is very important to the world order as well as to the interests of the United States.

So I do compliment Senator KERRY for his comments. I believe they are very important. I am concerned, Mr. President, that the typical political approach right now to try to resolve the conundrum we are in with respect to MFN for China is that the administration will somehow try to compromise the issue, to cut the baby in half, to maintain some kind of partial linkage of MFN and human rights or, as Senator KERRY pointed out—and really I think one of the few points where I disagreed with his comments—some sort of code of conduct for American businesses that are doing business in China.

It is the view of this Senator that that would be a mistake; that the efforts to have a partial MFN linkage or impose partial trade sanctions against China, or the efforts to have a code of conduct for American businesses, would get us basically in the same soup we are in right now.

So I would urge the administration not to do that, and to take the very simple position that continued linkage of MFN and human rights is not in the best interests of the United States. Continued linkage is not in the best interests of human rights in the People's Republic of China, and it is not in the best interests of maintaining peace in the world.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that I be allowed to proceed for 8 minutes under the time of Senator BRADLEY. I believe that was the arrangement.

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

The Senator from Louisiana [Mr. JOHNSTON] is recognized for 8 minutes.

Mr. JOHNSTON. Mr. President, I wish to associate myself with the remarks of the distinguished Senator from Missouri as well as the outstanding statement of the Senator from Massachusetts [Mr. KERRY] on China and MFN. I believe their statements were totally persuasive, totally correct, and in the very primary interest of this country.

The question, I believe, as the Senator from Missouri told us, is really not whether we would deny MFN altogether to China. I think that would be an act of such abject foolishness that this country would really not consider that, notwithstanding the fact that calls for that come occasionally from Members of the Congress. That really is not the question.

The question is whether we will take some half-step, some cutting of the baby in two, as the Senator from Missouri calls it, something like, for example, an embargo on goods made by the Chinese military, an increase of the tariff from 8 to 10 percent, or some half-action that would be designed politically to please both sides in this conflict.

I very strongly urge the administration not to take what I believe would be a very foolish action because it is not likely to achieve any of the results that those who seek it would have it do. There is no paradigm for these half-actions, an increase in tariff related to one country. There is no paradigm for a partial embargo on items such as goods made by the military. It would not be possible to have a partial embargo on goods made by the military or goods made by the Government because, in China in this period of transition, determining what is made purely by private enterprise versus the Government is very difficult to discern.

If we took one of these half-actions, it would call for an annual review. I think even this year, if we had an annual review of MFN and graded, in effect, the actions of a prideful and sovereign foreign country, it would not likely affect the question of what would China's reaction likely be to one of these partial actions.

When you talk about MFN, I believe there are three operative words or phrases—pride, stability, and the law of unintended consequences.

We should not underestimate the role that pride plays in this whole scenario with China. Those who know history—and I know the present occupant of the chair is without peer in his knowledge of history—will know that China is one of the oldest civilizations in the world, one of the most developed civilizations in the world. Indeed, the Chinese now and always have called their country the "middle kingdom," the center, in effect, of the world. They have always considered it such. Yet in late centuries China has been the subject of great abuse. The opium wars in the late 1830's and the early 1840's were wars caused by the British policy of insisting that they send opium and open the opium markets in China.

If there was ever a case of abuse of a country by a foreign power, the opium wars and the policy that begat that war show it. This is a country that has been subjected to gunboat diplomacy, that has been occupied three times in the last 150 years. That caused Mao Tse-tung on October 1, 1949, when he finally took over, to say with great resonance around the country, "The Chinese people have stood up. They will never again be humiliated."

Mr. President, those words and the pride that they bespeak of the Chinese people and the Chinese leadership should not be lost on our foreign policymakers, because the Chinese will not be pushed around, Mr. President. They will not have the United States try to impose its value systems, its culture upon them, right or wrong. Their history, their culture, their feelings, their innermost feelings, dictate this. If ever we undertook some kind of action against the Chinese, surely they would retaliate, and surely retaliation is easy to do. They can retaliate on fertilizers where we have a tremendous market—and I might say from my State we ship a lot of fertilizer—in agricultural products, in commercial aircraft, telecommunications, energy, particularly energy efficiency. Mr. President, they can retaliate very easily just in the trade market.

I agree with my friend from Massachusetts when he says this should not be dollars and cents where you in effect worry about American jobs for human rights. That is not the tradeoff. But that is part of the equation.

The effect of denying of MFN, by some estimates, would result in the loss of 10 million jobs in China if it were a total revocation. What it would do to our relationship with North Korea, where the Chinese have been our strong ally, no one can say. It is clear that it would not have a salutary effect on that relationship. And, more to the point, Mr. President, what would be the reaction of the People's Libera-

tion Army, which is one of the most conservative groups in China?

China has its doves and its hawks just as we do, and the People's Liberation Army constitute the hawks, constitute what we would call the conservatives, constitute those who say that China has done too much to placate America, saying that China has done too much in terms of being humiliated by the United States. The PLA, and what they represent, desiring a larger proportion of the budget of China, could very well spark a new cold war where they build up and we have to build up in reaction to that.

Finally, Mr. President, there is the question of stability. China is the most dynamic, growing country in the world, the largest country in the world, of 1.2 billion people. It had a growth rate last year of 13 percent real. It has had a growth rate of over 7 percent for decades and decades.

Mr. President, I ask unanimous consent that I be allowed to proceed under the time of Senator BRADLEY for an additional 5 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered. The Senator is recognized for 5 additional minutes.

Mr. JOHNSTON. Mr. President, this growth, this transition from a total command economy to a capitalist economy, a free-market economy, leads to tremendous instabilities in China, vast differences in wealth, tremendous unemployment as formerly Government owned and run enterprises are forced into the free enterprise system.

Mr. President, it is an unstable country. Deng Xiaoping, its leader, is reputed to be in very ill health, aged 90. They do not have a model for transition, a constitutional system as we do, where someone peacefully and automatically succeeds. There is likely to be, or there could very well be, a power struggle. The Chinese see stability as an order of first priority in that country, stability before even prosperity—stability even before prosperity, Mr. President. So they are not going to install a democratic system in a country that has no background, no understanding, no culture, no history of democracy. They ought to do it, but they are not, Mr. President. That is not the way they see their own interests.

They look at Russia, which installed democracy first before free enterprise, and they see a model that they do not wish to imitate or emulate. They look at Taiwan and South Korea, which first put in free enterprise, and both of those countries used to be very much authoritarian countries. They were our allies, and we did not talk about MFN with Taiwan or South Korea. But their human rights record was no better than China's. We stuck with them because they were our allies in the cold war.

China can look at Taiwan and South Korea and see in both cases very prosperous countries, which now have some of the leading democracies in the world, which have democratic practices that even the United States does not criticize.

So here is China in a period of instability, in a period of transition from command economy to free enterprise economy, in a period of transition from Deng Xiaoping to who knows what, very concerned about their stability, who looks at these models of Russia, Taiwan, and South Korea, and the Chinese say to me, "Do you really think we should do what the Russians are doing rather than what the South Koreans and Taiwanese have done?"

It is a compelling case, Mr. President. Whether it is logical or proper, it is what they believe. They are motivated by concerns about pride and stability.

Mr. President, finally, I want to speak about the law of unintended consequences. The intentions of all who promote the connection between human rights and MFN are the very best and the very finest of emotions, just as our entry into the Vietnam war was caused by the very finest of emotions—a desire to help people, to promote democracy and freedom.

But just as in Vietnam, unintended consequences happen. So in MFN for China, unintended consequences can very well arise—tit for tat, retaliation here, and before you know it, Mr. President, it is not too much to say that the whole of Asia could be destabilized, and that a new cold war could actually begin over trade and MFN.

Mr. President, I trust this country will not be foolish enough to do that.

One final point: Is there progress? In some ways, there has been a very disappointing lack of progress in China. In other ways, the progress for human rights has been leaping forward by light years.

Mr. President, there are now 150 million people in China who are free to seek jobs, to be employed, to make their own deal with employers; whereas, just a few years ago, they were all under a controlled economy. I believe there is evidence of progress, and I believe we should delink MFN and human rights.

Mr. MURKOWSKI addressed the Chair.

The PRESIDENT pro tempore. The Senator from Alaska [Mr. MURKOWSKI] is recognized.

UNITED STATES POLICY TOWARD CHINA AND TAIWAN

Mr. MURKOWSKI. Mr. President, we have heard a good deal of discussion this morning about the issue of most-favored-nation status. I rise this morning to extend my feelings about the necessity of extending most-favored-nation status to China.

Other speakers this morning have addressed the issue of linkage between human rights and trade. Obviously, we all want to see human rights advancements take place as quickly as possible. But the U.S. mentality is for a quick fix. We want to see the problem resolved and see it behind us. From the standpoint of the Chinese, however, they feel they are making progress. The Chinese are making progress, but not as quickly as the Americans would prefer.

Nevertheless, the question is extending most-favored-nation status or terminating it. You bring about change through trade and commerce. MFN is the vehicle which gives us an opportunity to influence the Chinese, and therefore, bring about change.

I think it is rather interesting to reflect on some of the dialog that has taken place over the last several months concerning most-favored-nation status, statements by some of our colleagues, as well as our President, concerning the adequacy of human rights advancements. I have detected some inconsistencies in these statements as compared to speeches by these same people 1 year ago. I don't think the Chinese have changed over this time period, but the attitude of the administration and many of my colleagues has changed as they have come to realize the consequences of their actions. We are faced with the harsh reality of where we will be if we do not extend MFN to China.

The Senator from Alaska feels very strongly that the concept of encouraging advancements, at the same time extending the channels through which trade and commerce can take place, will ultimately bring about a greater sensitivity toward human rights in China.

This morning I want to also talk about the one-China-and-two-systems policy of the United States—the two systems being Hong Kong and Taiwan. I think that Taiwan and Hong Kong should be an integral part of our Asian policy.

Tomorrow is the fourth anniversary of President Lee Teng-hui's presidency. President Lee, as all my colleagues are aware, is the freely elected leader of the Republic of China on Taiwan. I would like to commend President Lee for his leadership. Taiwan is a stable, prosperous, democratic country. It is a model for the emerging democracies. In recognition of these accomplishments, President Lee received a letter from over 70 Senators congratulating him. That letter is certainly evidence of this Chamber's good will toward the people of Taiwan.

Yesterday, as a further gesture of good will, Senator BROWN and I sent President Lee an individual letter asking him to consider visiting the United States, specifically the States of Alaska and Colorado.

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

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

U.S. SENATE,
Washington, DC, May 17, 1994.

Hon. LEE TENG-HUI,
President, Republic of China on Taiwan, c/o Mou Shih Ding, Representative, CCNAA.

DEAR PRESIDENT LEE: The Republic of China on Taiwan, under your leadership, has become a leader in the industrialized world with a dynamic and growing economy and a prosperous and free people. As Senators from states with a strong focus on the Pacific Rim, we see tremendous opportunities to expand and strengthen ties between the people of the United States and the people of the Republic of China on Taiwan. We are firmly in favor of preserving and promoting extensive, close, and friendly commercial, cultural and other relations between the United States and Taiwan.

For that reason, we would like to formally invite you to come to the United States to see for yourself the strong sentiments and support for the Republic of China on Taiwan. Specifically, we would like to invite you as our guest to visit our home states—Alaska and Colorado. We would also be honored if you could be our guest in Washington, D.C.

Thank you for your consideration of our invitation.

Sincerely,

HANK BROWN,
U.S. Senator.
FRANK H. MURKOWSKI,
U.S. Senator.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent to print in the RECORD a letter to President Clinton, dated May 17, 1994, from Senator BROWN and me regarding our invitation to President Lee.

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

U.S. SENATE,
Washington, DC, May 17, 1994.

Hon. WILLIAM J. CLINTON,
The President,
The White House.

DEAR MR. PRESIDENT: On April 30, 1994, you signed into law the Foreign Relations Authorization Act. Section 508 of that Act urges you to "take steps to show clear United States support for Taiwan * * *." This expression of congressional intent is consistent with the Taiwan Relations Act which sets forth the policy of the United States "to preserve and promote extensive, close, and friendly commercial, cultural, and other relations between the people of the United States and the people on Taiwan * * *." 22 U.S.C. 3301.

Despite this expression of congressional intent, we were embarrassed to learn that the Department of State refused the request of the Honorable Lee Teng-hui, the freely elected leader of the democratic Republic of China on Taiwan, to overnight in Hawaii enroute to Costa Rica. We believe this decision was ill advised. We were particularly dismayed to hear that this decision was made to appease the PRC's Ambassador who had protested the presence of President Lee on American soil.

Mr. President, we believe that our country should be doing everything it can to promote close and friendly ties with the Republic of China on Taiwan—a democratic country that is extremely important to our economic and security interests in East Asia. For that reason, we have attached a letter that we have sent to the Honorable Lee Teng-hui inviting him to visit our home states of Alaska and Colorado, and to be our guest in Washington. We think that such a visit by Mr. Lee can go a long way to repair the damage done by the recent snubbing at the hands of the State Department, and to promote extensive, close, and friendly relations with the people of the Republic of China on Taiwan.

Sincerely,

FRANK MURKOWSKI,
U.S. Senator.
HANK BROWN,
U.S. Senator.

Mr. MURKOWSKI. Mr. President, we think such a visit by President Lee will help preserve and promote close and friendly ties between the United States and Taiwan. We believe that such increased ties can be made without harming relations with the People's Republic of China.

While Congress is intent on improved relations with Taiwan, to some extent, our administration stays rooted in history. Fifteen years have passed since Congress passed the Taiwan Relations Act. Yet, our actions towards Taiwan have not moved forward during that time to any great degree.

Few of my colleagues know that 2 weeks ago the State Department—after protests of the ambassador of the People's Republic of China—refused to let President Lee's plane stay overnight in Hawaii en route to Costa Rica. The base commander was not even allowed to come out and greet the President.

RESTRICTIVE POLICY ON VISITS

The State Department's explanation is that it is a sensitive issue because of the lack of diplomatic relations between the United States and the Republic of China. But within 1 month of President Lee's visit, we have seen several individuals who have no official relations with the United States Government hold meetings in Washington: The Dalai Lama of Tibet's Government-in-exile; Yasser Arafat of the PLO; Gerry Adams of Sinn Fein; Mrs. Anson Chan of Hong Kong's government.

NO HIGH-LEVEL VISITS

We have had no high-level visits to Taiwan since USTR Carla Hills went in 1991. But France, Germany, the United Kingdom, and other allies send high-level officials to Taiwan frequently, while still maintaining normal relations with Beijing.

REPRESENTATIVE OFFICES HAVE CODE NAMES

We have unbelievable procedures for identifying offices for Taiwan. The offices have code names. The CCNAA—Coordinating Council for North American Affairs—is the name of the Republic of China's office here. The name has no identification with Taiwan. In Taiwan, we have the American Institute of Taiwan. At least our office is identified with America.

VISA STAMPS

If you want a visa to come to the United States, it bears a Hong Kong stamp. That is what our representative office, AIT, issues. What happens in 1997? The State Department has not addressed that issue yet—but it must.

PASSPORT PLACE OF BIRTH

Taiwanese with United States passports are not allowed to record Taiwan as their place of birth on the United States passport. We hope that recently passed legislation will solve this inconsistency.

The list goes on and on, but time is short so I will stop here.

The point is that this is simply a crazy way to treat a friend and ally. The administration and Congress should work together to make positive changes.

Mr. President, I am convinced that these changes should be made as part of an overall policy approach to Asia that stresses greater balance in our relationship not only toward Taiwan but toward China as well. But I will save that speech for another day, some time closer to June 3.

I wish the President pro tempore a good day.

The PRESIDENT pro tempore. The Senator from Connecticut [Mr. LIEBERMAN], is recognized for not to exceed 5 minutes.

Mr. LIEBERMAN. Mr. President, I thank the Chair.

INTEREST RATES

Mr. LIEBERMAN. Mr. President, yesterday I came to the floor to speak with my colleagues about my concern, indeed my anger, about the decision the Federal Reserve Board made on Tuesday to raise short-term interest rates. My concern is that that decision was made in spite of the fact that every economic indicator we see suggests that the economy is not overheated. In fact, we are growing at a moderate 2.6-percent rate. There is no sign of inflation, and in April the key indicators, the consumer price index, the producer price index, one went down and one went up a little. The housing industry tells us that new housing starts went down 2.5 percent in April.

In the midst of all that, the Federal Reserve comes along and raises the cost of money to small businesses that need to create jobs, on consumers that need to buy cars and buy houses.

Today, Mr. President, I want to speak not just about the fact of the rise in interest rates but, if I may put it this way, the speed with which some rates go up and the slowness with which others seem to move or, to put it more directly, I am troubled by the way in which the banks have so quickly raised the interest rate on the money that businesses and consumers borrow from them and how slowly, how

long it takes them to raise the interest rates they are willing to pay to consumers who put money into the bank in savings.

Mr. President, on Tuesday the Federal Reserve announced at 2 p.m. that they were raising short-term interest rates. By 2:30, a half hour later, three of the major regional bank centers, Citibank, First Chicago, and Bank of New York had already raised the prime rate a half percent to 7¼ percent interest, which represented a cumulative increase in of a point and a quarter in the prime rate since February. It was one-half hour to achieve that. In one-half hour the cost for borrowing for small businesses that need the money to create jobs went up dramatically. The cost of a car loan, a $10,000 4-year car loan will cost the average consumer $300 more at 2:30 than at 2 on Tuesday afternoon. Another example. A $50,000 small business loan at prime plus 3 will cost $2,700 more today than the same loan would have cost last February. All that in a half hour.

But, Mr. President, have we seen any increase in the interest rates paid to consumers, particularly elderly Americans, who believe in the traditional savings bank certificate of deposit? Have we seen any increase in the interest rates paid to those consumers in the time since 2 o'clock on Tuesday? No. It was a half hour to raise interest rates on money we want to borrow; it is 44 hours plus and the clock is running and no increase in the interest paid on savings that hard-working Americans put away in a bank that have been hovering around 3 percent, which, Mr. President, in real terms adjusted for inflation basically comes to just about no interest at all.

So I have come to the floor today to make an appeal to the banking industry of America to be fair with consumers. If the Fed has created the context, erroneous as I think it is, to raise interest rates on money borrowed, is it not fair to raise interest rates also on the money we put into the bank?

I call on consumers. There was a TV debate the other night between the representative of the banking industry and a consumer representative about this, and the bankings industry representative said maybe consumers should go to the local banks and say they want more interest; maybe that is the way the interest rates will go up.

Maybe that is the way it will go up. If it is, I urge American consumers again, particularly those senior citizens, those hardworking middle-class families that are putting in the dollars in the bank, that are not putting their money into the speculative futures markets and sophisticated instruments that travel so quickly around Wall Street these days—these are the traditional American savings, the bedrock of our country and what used to be the bedrock of our economy who deserve a better deal at the bank, who deserve higher interest rates. The clock is ticking. It is almost 44½ hours since the Fed raised interest rates with no increase in interest rates on savings given to consumers. Let us see those interest rates go up as we watch the clock tick away. That is fair, Mr. President.

I thank the Chair and I yield the floor.

The PRESIDENT pro tempore. The Senator from Minnesota [Mr. KOHL], is recognized for not to exceed 5 minutes.

Mr. KOHL. Thank you, Mr. President.

SAFE DRINKING WATER

Mr. KOHL. Mr. President, this morning we are going to vote on final passage of the Safe Drinking Water Act reauthorization. I am very pleased that we have included in this bill strong provisions to address the growing concerns about parasite contamination. The bill requires EPA to set standards for safe levels of cryptosporidium in drinking water. And it requires EPA to institute an aggressive research program to develop better ways to detect and treat for cryptosporidium and other parasite contamination.

And Mr. President it is not a moment too soon, because the city of Milwaukee just last night learned that a water sample taken 9 days earlier has again turned up traces of cryptosporidium, the same parasite that caused death and illness in that city 1 year ago.

Despite these traces, no disease has been reported. In reality, we do not really know what the positive test means from the standpoint of public health, and this precisely demonstrates the problem.

The state of science is extremely limited with regard to our understanding of how to detect and treat for parasites like cryptosporidium. We do not even understand what levels of cryptosporidium will cause illness.

It is shocking that Milwaukee has to wait 9 days to get the results from a water sample, and it is ludicrous that we do not know exactly what it means to human health when they do get back the results of those tests.

It just so happens that since Milwaukee's outbreak a year ago, the city has been aggressively monitoring for cryptosporidium. But it is suspected that the parasite is much more widespread than we recognize in other parts of the Nation, where no such monitoring is taking place.

So, Mr. President, again, I believe that Milwaukee's continuing problems are a clear example of the need to move this bill forward as quickly as possible. We have a lot to learn about drinking water safety, and we have no time to waste. I urge my colleagues to vote in favor of final passage of S. 2019, to reauthorize, and to improve, the Safe Drinking Water Act.

I thank you, Mr. President.

The PRESIDENT pro tempore. The Senator from Rhode Island [Mr. CHAFEE] is recognized.

Mr. CHAFEE. Mr. President, it appears that we have secured broad, bipartisan support for a series of reforms to the Safe Drinking Water Act, a law that has become most controversial in recent months.

Achieving this much reflects the contributions of many Senators and others, including the Administrator of the Environmental Protection Agency, Carol Browner, and her team in the EPA water office.

The problems with the Safe Drinking Water Act were first brought to the attention of the Senate in 1992 by the Senator from New Mexico [Mr. DOMENICI]. He alerted us then to the problems in the program and to the need for promptly enacted reforms. His determination to see real changes in the Safe Drinking Water Act has been steadfast right through to today. He was our sentinel out on the frontlines of this battle.

In response to the concerns Senator DOMENICI raised, the Congress adopted an amendment that I offered along with Senator LAUTENBERG to the 1993 EPA appropriations bill. That amendment delayed the proposed radon standard, provided some relief to small systems from monitoring requirements and requested a report from EPA on the status of the program.

EPA's report arrived in September 1993. It is a thorough analysis and has been very helpful to Senators in understanding the intricacies of this law. The head of the drinking water office, Jim Elder, deserves special praise for the quality of his report and the foundation that it has laid for this Senate debate.

Administrator Browner included 10 recommendations to strengthen the program along with the EPA report. At the top of her list was the proposal by President Clinton to establish a new State revolving fund program to support infrastructure investments for drinking water treatment. The President committed $1 billion per year in Federal grants to this new program. It does not miss the mark by much to say that the promise of capitalization grants for State revolving funds has been the glue that has held this legislative effort together at many difficult moments. The President's bold proposal for a new Federal grant program deserves some of the credit for our presence here today.

Senator BAUCUS used the 10 EPA recommendations as the foundation for his bill, S. 1547, which was introduced in October of last year. The committee held hearings on that bill and it was the starting point for the bill that is now before the Senate.

Some parts of that bill, including new fees to be imposed on drinking

water systems and criminal enforcement provisions that had been recommended by EPA, generated strong opposition among officials of State and local government. Because of these objections, some significant adjustments were required when the bill reached markup at the full committee.

I want to applaud my colleagues on the Republican side of the aisle for the help they gave us at that point in the process. Although some of them preferred a much stronger dose of reform, they voted unanimously to support the committee process and report a reauthorization bill to the Senate. The votes by Senators SIMPSON, DURENBERGER, WARNER, SMITH, FAIRCLOTH, and KEMPTHORNE gave us a 17-0 vote in committee and real momentum to move the chairman's bill with significant amendments to the floor of the Senate.

Most people were expecting a pitched battle here on the floor when the leaders called up this bill. But through the assistance of Senator KERREY of Nebraska and Senator HATFIELD of Oregon, that battle has been avoided. They have ably represented the concerns of their States and their drinking water systems in working with us to develop a series of additional amendments that brought this bill into a form that most Senators will support.

It is rare for Senators who are not members of the committee of jurisdiction to play such a strong and constructive role in developing a bill. I know that Senator HATFIELD prepared for this effort by holding many town meetings in Oregon. At the meetings they discussed problems with the drinking water program as it is experienced by people who actually run small drinking water systems. Senator KERREY is a very able member of the Appropriations Subcommittee with jurisdiction over EPA and the needs of the program first came to his attention because of the issues related to the radon standard. We are grateful for their interest and the time they have spent to find thoughtful solutions to the concerns their constituents have raised.

Reaching this degree of consensus on a program that has generated so much controversy is a considerable achievement. We all congratulate Senator BAUCUS on his success. I know he joins with me in extending appreciation to each of those I have mentioned and to the other Members of the Senate, administration officials, and State and local government officials who have played a constructive role in this process.

Mr. President, the principal difficulty that we face in designing a workable Federal drinking water program is the great disparity in the size of public water systems. Most Americans get their drinking water from large municipal utilities that serve 10,000 or more people. But most drinking water systems are quite small serving only a few hundred people.

Let me give you the statistics. There are more than 220,000 public drinking water systems covered by the requirements of this act; 60,000 of those systems are community systems with connections to homes or other residential buildings. Of the 60,000 community systems, 36,000 are very small serving fewer than 500 people.

On the other hand, 79 percent of the population receives its drinking water from systems that serve more than 10,000 people. That is the disparity—79 percent of the population gets its drinking water from large systems that can afford relatively sophisticated treatment while at the same time there are 36,000 very small community drinking water systems that often do not have the technical or financial ability to use even simple treatment like chlorination or filtration.

As is the case with most utility services, there are large economies of scale in drinking water supply. A large system that serves tens of thousands can afford monitoring and treatment programs that are absolutely out of reach for small systems. That makes it very difficult to set a uniform Federal standard that applies in a workable way to all drinking water systems. What people living in large cities can afford, and want, in the way of health protection is often not affordable in small towns.

There are several ways to resolve that dilemma. You could have two standards—one urban and one rural. But most people reject that idea. It sounds too much like second class health protection for Americans living in small towns.

There are others who apparently believe that the best solution is to abandon the notion of a Federal drinking water program. They would resolve the dilemma by passing the problem off to the State. That proposition was offered in an amendment by Senator WALLOP yesterday afternoon. Making the program voluntary with the States would take the pressure off EPA and the Congress, I suppose, but it does not solve the dilemma. At some level of government it would still be necessary to confront the challenge of meeting health-protection drinking water standards in communities served by small public water systems.

A coalition of State and local government interests have put another proposal on the table. They suggest that existing provisions of the law requiring EPA to set standards as close to the health goal as feasible be put aside and that EPA be allowed to weigh a wide range of cost and risk information in picking a drinking water standard. The corollary to their theme is that current drinking water standards are not based on good science. Many Senators came to the view that better scientific information and a more carefully balancing of cost and health risk concerns might produce standards that would resolve the big city-small town dilemma.

That is not a correct view. It is usually not possible to find one standard that is ideal for systems of all sizes. No amount of analysis can overcome the economic reality of drinking water supply. Large systems can afford more health protection, more monitoring, more treatment, more source water protection.

The bill before the Senate attempts to resolve the dilemma with a four-part strategy. First, the bill mandates that EPA reconsider the monitoring regime it has promulgated, especially for the contaminants that are pesticides or industrial chemicals. It is possible to substantially reduce monitoring costs in this program without sacrificing an ounce of health protection.

Second, the bill allows States to give variances to small systems that cannot afford to comply with the Federal standards. These variances would require the systems to use the best treatment technology they can afford and would only be granted after other options like alternative sources of water supply or consolidation with other systems have been considered.

Third, the bill establishes a new basis for a radon standard. Radon is a small system contaminant. It occurs in ground water which is the source of supply for small systems. It is expensive to treat water to remove radon. The standard proposed by EPA would force thousands of systems with no other drinking water problem to install treatment. Because EPA's proposed rule would establish a health protection level far below the threat from other sources of radon including indoor and outdoor air, the bill provides an alternative approach to reduce the risks from radon. In States that have programs addressing the indoor air radon risk, the drinking water standard will be set at a less stringent level reflecting risks from exposure to radon in outdoor air.

Finally, and perhaps most important, the bill authorizes a substantial Federal grant program to assist small communities in acquiring the treatment systems that are necessary to provide safe drinking water. Money for the new revolving loan fund program has already been appropriated awaiting enactment of this bill. EPA has estimated that the total cost to install treatment to meet all standards that have been promulgated under the 1986 amendments to the Safe Drinking Water Act is $8.6 billion. This bill authorizes $6.6 billion in grants to meet these needs. It is also important to note that the Rural Development Administration provides grants and loans amounting to hundreds of millions of dollars per year to small drinking water systems, as well.

This four-part solution to the dilemma confronted by any effort to set uniform Federal health standards for all drinking water systems has not been easy to sell. It would have been far easier to pretend that the standard setting authority of the law is the problem and that wide-open discretion to pick an objective and unbiased standard based on sound science the sure solution. In my view that course would have led to paralysis at EPA, or to a relaxation of the health standards so sweeping as to deny the American people the safe drinking water they want and can readily afford.

That we have been able to reject the simplistic solutions and recognize that the problem is in the economics of drinking water supply, rather than structure of the law or the competency of the Agency is a substantial achievement for this body. As I have said, we owe thanks to many who serve in this Chamber but especially to the distinguished chairman of the Environment and Public Works Committee, Senator BAUCUS, and to the Senators from Oregon [Mr. HATFIELD] and Nebraska [Mr. KERREY].

Mr. President, I see the Senator from Idaho is about to speak.

I just want to briefly say that a lot of thanks are due to the chairman of the committee, Senator BAUCUS; for Tom Sliter, his top aide in this; and Jimmie Powell, the leading staff worker on this side. They are two of the hardest working, bright, even-tempered, and talented people I have had the pleasure to work with and we all owe them a hearty thanks for their work on this bill. And I want to congratulate each and every one of them.

The chairman has worked diligently on this program and deserves a lot of credit for it. I salute him and those members of the staff.

Last night, Senator BAUCUS mentioned many of the staff people who worked on this bill, including those from EPA who gave us valuable assistance throughout this process, and I want to join him in thanking all of them.

In addition to those he mentioned last night, I want to acknowledge the long hours and dedicated effort put into this bill by several people who work for members of the committee. They are: Brent Erickson with Senator SIMPSON, Ann Loomis with Senator WARNER, Chris Russell with Senator SMITH, George Howard with Senator FAIRCLOTH, and Meg Hunt with Senator KEMPTHORNE.

From my staff, I want to thank Lori Williams, Dan Delich, and John Grezebien as well as those staffers who work behind the scenes, those who never get to the Senate floor but play a vital role in the legislative process: Carolyn Streeter, Donna Campbell, Marie Balderson, and Irene Sarate.

I thank: Martha Bennett and Doug Pahl with Senator HATFIELD and Diane Hill with Senator KERREY.

From the EPW majority staff: JoEllen Darcy, Jeff Peterson, John Reeder—on loan from EPA—Bob Irvin, Karen Ilardo, Jerry Reynoldson, and Peter Scher.

From the EPA staff: Carol Browner, Administrator; Bob Perciascepe, Assistant Administrator for Water; Chuck Fox; Phil Metzger; and Jim Elder, Director of the Safe Drinking Water Program.

I thank the Senator from Idaho very much.

The PRESIDENT pro tempore. The Senator from Idaho [Mr. KEMPTHORNE] is recognized.

SAFE DRINKING WATER REAUTHORIZATION

Mr. KEMPTHORNE. Mr. President, I am pleased the Senate is acting on the safe drinking water reauthorization. It is an important bill for my State, where many communities have been struggling to comply with the existing law.

As I approached this authorization, I had two principal goals. First and foremost, I wanted to make sure that any reform initiative undertaken by the committee continued to protect public health. Second, I hoped we could introduce some badly needed flexibility into the law. I believed that it was time to allow States to tailor drinking water requirements to fit their unique circumstances and to provide better assistance to communities, especially the smaller communities that face large costs to comply with the law. As Senator BAUCUS himself pointed out, the Safe Drinking Water Act has, for most of American States and cities, become a symbol of Federal heavy-handedness and abuse.

I voted to report this bill from committee because I believe we had made significant progress in producing a bill that met my goals. Following the markup, I joined some of my committee colleagues in outlining issues that we thought needed more work prior to full Senate consideration. Together, we helped to initiate an effort to see that happen.

While I think there is always more than we can do, I believe that we have reached a point today that, on balance, gives us a bill that is an enormous improvement over current law. In an ideal world I would have done even more to empower State decisionmaking and to redefine the Federal-State relationship. But we have struck a balance here, retaining EPA oversight while giving the States significant responsibility for developing alternative monitoring schemes and for administering a program for small system variances.

I hope the States use the authorities under this act to help public water systems comply with the law and to reduce their costs of doing so. I also hope that EPA will reject past practice and withstand the temptation to micromanage the States, or to dictate the details of State programs because it prefers uniformity to variation. Should these reforms survive a conference with the House, I expect to watch very closely the implementation of these reforms, and I will press to make further changes should our intended result not happen.

For today, I am pleased the committee has responded so well to the issues defined by the additional views that I prepared jointly with Senators SIMPSON, WARNER, SMITH, and FAIRCLOTH, my colleagues on the committee. I also congratulate Senators HATFIELD and KERREY for their role in helping to bring about the improvements that have been offered today, and Senators DOMENICI and BOREN for introducing their bill, which provided a goal line to move toward.

Needless to say, the good will and hard work of Senator BAUCUS and Senator CHAFEE made it possible for us to achieve a product that comes closer to addressing those of my concerns that were still outstanding at the close of the markup in committee.

Since that time, the bill has been substantially modified. I would like to highlight some of the improvements to the bill that were of particular interest to me. Under the bill, States are given more flexibility to develop alternative monitoring programs without undue interference by the EPA. The language pertaining to the selection of future contaminants has been modified to delete the presumption that any contaminant studied for regulation would actually be regulated.

More than at any other time in the past, we are likely to see future contaminants regulated on the basis of good science, their actual occurrence in drinking water, and their risk to public health.

My State had expressed serious concern about the bill's original mandate requiring State programs to address the viability of new and existing systems in a manner prescribed by EPA. Failure to have an EPA-approved program would have jeopardized both primacy and a State's revolving loan fund allocation.

We've worked out a program that should give States maximum flexibility to deal with viable systems and allowed for the development of a purely State-based program. I believe these ingredients are essential if States are to be successful in working with presently nonviable systems.

In the area of standard setting, the present language is an improvement over that contained in the bill reported by committee. I think it provides a good basis from which to work, and one which we can revisit in the future should it be necessary.

I am still concerned about the mandates imposed in the context of this bill. The committee has been responsive in providing funding for State administrative costs, including a means to fund the upsurge in State administrative needs in the immediate future. It has also been generous with the State revolving loan fund, which is crucial to assist with the capital costs for treatment facilities.

I do not believe the funding we have provided is adequate to cover the ultimate cost to local government of complying with the requirements of this bill, particularly as new contaminants are regulated. But it is also true that the significant reforms that we have made today in monitoring, variances for small systems, the scientific basis for EPA decisions to regulate, and standard setting may provide the kind of flexibility that will produce substantial reductions in any remaining unfunded mandated costs. On that basis, and at the behest of State and local officials who have worked so hard to achieve this compromise, I withhold offering an unfunded mandates amendment.

I intend to support this bill on final passage.

I would like to then address the Safe Water Drinking Act which in just a few moments we will be voting upon.

Mr. President, I think it is very important that if you disagree with something you should speak out, but I think also when you agree with something you should speak out as well.

As a member of the Environment and Public Works Committee I was very involved in this legislation as it was being dealt with in the committee. I hope that I brought to that process the perspective of a local official because, as you know, I was the former mayor of Boise, ID.

There are a number of issues I am very concerned about with the existing law. Therefore, I tried to bring that focus when we talked about the new legislation that is proposed. A number of those concerns were addressed by the chairman and the ranking member and were included in the chairman's opening remarks.

I know there are a number of colleagues who are still considering how they may vote on this measure. I would just ask them this question, as I have asked myself: Are there improvements in this proposed Safe Drinking Water Act reauthorization over the existing law? The answer that I have concluded is there are vast improvements. There are significant achievements, such as a substantial State's flexibility for designing alternative monitoring programs. There is the small systems variance, the risk assessment, both for non-carcinogens as well as carcinogens. Are there costs involved in this? Absolutely. Are all costs taken care of? No.

But there has been genuine effort to authorize funds for many of the costs involved, and that again is a vast improvement.

So today, Mr. President, I would just like to state before this vote that I will vote for the Safe Water Drinking Act reauthorization. I urge my colleagues to do so as well. I believe that if they do, they will find that a number of mayors and county commissioners in their respective States will be grateful for their support of this legislation, which I hope will have strong support and will be carried in the House, as well.

I commend Chairman BAUCUS and the ranking member, Senator CHAFEE, for their efforts in crafting what I think is a very balanced and progressive bill.

Mr. President, thank you very much.

HONORING THE LATE LEONARD CARPENTER

Mr. DURENBERGER. Mr. President, I rise today to commemorate the passing of a major contributor to the commercial and cultural life of Minnesota. Last Sunday, my friend Leonard Carpenter died at the age of 91.

Leonard was truly a man for all seasons. Born in Orono, MN, he went from Yale to the 1924 Paris Olympics, where he was a member of the gold-medal United States rowing team.

Back home, he became a key figure in Minnesota's lumber industry, impressing industry observers with his accomplishment in turning a struggling enterprise—McCloud Lumber Co.—into a major economic success.

But Minnesotans—myself included—will miss him most as a driving force behind the Minnesota Orchestra. For over half a century, he devoted his very best efforts to making that symphony the pride of our State—serving in various capacities, including vice president and member of the board of the Minnesota Orchestral Association.

He will be missed by the many of us who knew him and loved him. I would like to take this opportunity to extend the warmest condolences to his widow Geraldine—and especially to thank her for the terrific contribution she made to building the Leonard Carpenter success story. All Minnesotans stand in the debt of Leonard and Geraldine Carpenter.

Mr. President, I ask unanimous consent that the Minneapolis Star Tribune obituary of Leonard Carpenter be included at the conclusion of my remarks.

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

(From The Minneapolis (MN) Star Tribune, May 17, 1994)

LEONARD CARPENTER, KEY ORCHESTRA SUPPORTER, DIES

(By David Chanen)

Leonard G. Carpenter devoted more than 50 years to the Minnesota Orchestra, but it was only a small part of what made his life special.

He ran one of the largest lumber companies in the United States and was a member of the rowing crew that won a gold medal in the 1924 Summer Olympics in Paris. Through all his accomplishments, his greatest joy might have come from classical music and his work with the orchestra.

He died Sunday at Abbott Northwestern Hospital in Minneapolis. He was 91.

"He had an interest in everything that was going on around him, from business to his extended family," said his son, Tom, of Buffalo, Colo.

His longtime friend and former next-door neighbor, John Pillsbury, said Carpenter was a gentleman with capital letters. He took Pillsbury, the retired chairman of Northwestern National Life Insurance Co., on his first sailboat ride. Both raced at the Minnetonka Yacht Club, where Carpenter was a champion.

The Minnesota Orchestra was known as the Minneapolis Symphony until 1968. Carpenter was a board member of its governing body, the Minnesota Orchestral Association, for 56 years, including long terms as vice president and member of the executive committee. He was named a life director, the association's highest honor, in 1970. His father, Albert, was a charter member of the board of the association when it was formed in 1903 and was its president from 1905 to 1945.

"If he was in town, Carpenter and family members were always attending concerts," said Richard Cisek, former president of the association "He had a great devotion to the orchestra and wanted to make sure it was a gift to the community."

He said Carpenter had a great understanding of classical music and was tenacious when it came to defending the orchestra's artistic standards. His son was a board member of the association, and his daughter-in-law, Vicky B. Carpenter, is now chairwoman of the board.

Carpenter was born in Orono and attended the Blake School in Hopkins and Hotchkiss School in Lakeville, Conn. He earned a bachelor's degree in English from Yale University. While at Yale, he was part of the team that won a gold medal in rowing at the 1924 Summer Olympics in Paris. The crew never lost a race and set a world record.

Except for a stint in the Navy during World War II, he worked for the family lumber business, Shevlin, Carpenter & Clarke. It was a sawmill operation that operated a railroad and distribution sites throughout the United States.

He was president and director of McCloud Lumber Co. in Minneapolis and president of McCloud River Lumber Co. in McCloud, Calif., both associated with Shevlin, Carpenter & Clarke. The company was sold to U.S. Plywood Corp. for more than $40 million in 1962.

"He took the company, that for a time was floundering, and turned it around with his leadership abilities," said Curt Lee, former comptroller at McCloud Lumber Co. "He had a phenomenal success record."

Preservation of the forest and the proper management of timber was important to Carpenter, Lee said. He was a board member of the National Lumber Manufacturers Association and the National Forest Products Association, president of American Forest Products Industries and a member of the American Forest Society.

He was a director of First Bank System, Northwestern National Life Insurance Co., the Minneapolis Institute of Arts, the Minneapolis Foundation, the Minnesota Historical Society and the Community Chest of

Hennepin County (now United Way of Minneapolis Area), trustee of the old Farmers & Mechanics Savings Bank of Minneapolis and a member of the Minneapolis Club and Woodhill Country Club in Orono.

Besides his son, Carpenter is survived by his wife, Geraldine, and a daughter, Nina Carpenter Masek, of Sonoita, Ariz.

A celebration of life and music including members of the Minnesota Orchestra and assistant conductor William Eddins will be held in his honor at 3 p.m. Thursday at Orchestra Hall, 1111 Nicollet Mall, Minneapolis. Memorials to the Minnesota Orchestra Association's Leonard G. Carpenter Family Fund are suggested. Arrangements are by the David Lee Funeral Home, Wayzata.

THE 40TH ANNIVERSARY OF BROWN VERSUS BOARD OF EDUCATION

Mr. DOLE. Mr. President, this week marks the 40th anniversary of the landmark Brown versus Board of Education decision. With this single ruling, the Supreme Court changed America for the better, forever altering our Nation's social landscape. No longer did separate mean equal. No longer did black American mean second-class citizen.

The Brown decision soon led to other civil rights successes: The Civil Rights Act of 1964, prohibiting job discrimination; the Voting Rights Act of 1965, a law that has made the right to vote something real for millions of Americans.

Even the Americans With Disabilities Act owes much to the Brown legacy. Yes, separate is not inherently equal, and that's why the A.D.A. seeks to offer all of our Nation's citizens, including those with disabilities, the opportunity to enter the mainstream of American life.

Since the Brown decision, there have been many individual success stories. Young black men and women graduate from our finest universities. Minorities continue to move ahead in corporate America—though much more work needs to be done in this area. Thousands of black Americans have been elected to public office—in Congress, in State legislatures, as mayors of our Nation's largest cities, even as Governor of Virginia. And a black American from the Bronx, Colin Powell, has inspired us all, rising from the ranks of the ROTC to become our Nation's top military official, Chairman of the Joint Chiefs of Staff.

Yet today, 40 years after Brown, America remains a deeply divided country. Race relations are shockingly poor. In too many communities, fear has replaced hope, distrust has replaced understanding.

Forty years after Brown, it has become obvious that the so-called rights revolution started in 1954 has not, and cannot, do it all. It is self-deception, pure and simple, to believe that America's tattered social fabric can somehow be patched together simply by using an ever-expanding list of rights as the stitches.

No right can solve the daunting problem of illegitimacy. No right can end the violence in our inner cities. No right can raise educational standards and guarantee educational success.

Three years ago, Congress' top legislative priority was the Civil Rights Act of 1991, which codified an area of employment law known as the law of disparate impact. Mainstream civil rights leaders where effusive in their praise of the bill, saying it was essential to restoring the principle of equal opportunity.

Yet, today, if you were to walk into any public housing project and ask its residents about the Civil Rights Act of 1991, you are likely to be met by a wall of blank stares. Why? Because the law of disparate impact is irrelevant to the millions of black Americans who spend their lives wading through the dangerous shoals of the underclass.

Mr. President, the times have changed—and these times demand a civil rights agenda that is not merely popular, but one that can also make a real difference, as the Brown decision did 40 years ago.

This past weekend, University of Pennsylvania law professor Lani Guinier suggested that our country should engage in "a national conversation on race," I agree.

Indeed, having a frank discussion about race is difficult because the cost of plain talk can be so high: Whites who argue against racial preferences or who cite rising black crime rates are too often branded as "racists." They may even try to lace their arguments with quotes from like-minded blacks, as if compelled by a need for political cover. Blacks who challenge the prevailing orthodoxy on, say, affirmative action, have suffered the indignity of being labeled an "Uncle Tom."

And yes, those of us in positions of leadership have been slow to act, shying away from a frank and meaningful discussion about illegitimacy, single-parent families, violent crime, welfare dependency, the absence of moral values among our young—the forces of social decay, in other words, that are crashing against black America, as well as white America, and poisoning relations among the races.

Mr. President, when Oliver Brown and his daughter, Linda Brown Thompson, succeeded 40 years ago in challenging Topeka's segregated school system, they taught us that individuals, acting out of conviction, can make a big, big difference in the lives of us all. That's why I sponsored the legislation establishing the Brown Historic Site at Topeka's Monroe School.

But the Brown family also taught us another lesson. They taught us how important it is to have the courage to ask questions. Oliver Brown didn't simply accept that "separate was equal," but questioned why that was so.

And that's what we have to do today. We have to question: Why do we have a thriving black middle class, but a despairing black underclass? What social forces feed a Louis Farrakhan, whose message of racial separatism continues to tap a responsive chord? Why are the illegitimacy rates in some communities so high, and the carnage of crime so vast?

I don't pretend to have all the answers. But we must start asking the questions * * * publicly, fearlessly, and with optimism. That's the most important legacy of Brown versus Board of Education.

U.N. PROTECTION FORCES ARE NOT PROTECTING BOSNIA

Mr. DOLE. Mr. President, yesterday, the United Nations Protection Forces units in the United Nations declared safe haven of Tuzla again came under attack by Bosnian Serb forces. Once again, these forces requested NATO air strikes. And once again, the U.N. special representative, Yasushi Akashi, turned down their request.

Well, the Nordic battalion cannot count on Akashi to come to their defense, but the Bosnian Serbs can. The Bosnian Serbs have an overwhelming advantage in tanks and artillery, but their biggest advantage appears to be Akashi and his refusal to use NATO air forces at his disposal—even when United Nations forces are under direct and serious attacks by Serb forces.

I do not know how many times U.N. forces have requested air support. I would like to know, but apparently the Pentagon does not keep track of these requests—which is odd in view of the administration's support for this NATO-U.N. arrangement.

The bottom line is that the United Nations protection forces are not protecting Bosnians—they can hardly protect themselves. The only rational way out of this absurd situation is to withdraw UNPROFOR and lift the arms embargo so that the Bosnians can defend themselves. As I mentioned here last week, if the administration does not move to lift the embargo in the near future, Senator LIEBERMAN and I—and I think many others who were on the other side the last time—will offer our bill once again as an amendment to pending legislation. Lifting the embargo is the right thing to do and the smart thing to do, and now is the time to do it.

COMMENCEMENT ADDRESS OF SENATOR THAD COCHRAN AT MISSISSIPPI STATE UNIVERSITY

Mr. DOLE. Mr. President, someone once said that the role of a commencement speaker is like the role of a body at a funeral—they cannot hold the ceremony without you, but no one expects you to say very much.

Those who graduated from Mississippi State on May 14 were very fortunate. For they had the privilege of hearing a commencement speech that contained a great deal of wisdom, and that said a great deal about America and its future.

The speech was delivered by our friend and colleague, Senator THAD COCHRAN. Senator COCHRAN reminded the graduates of the promise of America, and the threat to this promise which comes from the loss of character.

It is a message that all of us should read, Mr. President. I ask unanimous consent that the text of Senator COCHRAN'S commencement address be printed in the RECORD.

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

COMMENCEMENT ADDRESS—MISSISSIPPI STATE UNIVERSITY

(By U.S. Senator Thad Cochran)

Thank you very much. Dr. Zacharias, I appreciate having the honor of being commencement speaker today.

I know some of you may wonder why they invited an Old Miss graduate to do this speech. Well, I want you to know I'm pulling for State to beat LSU in the baseball game today, and if some of you are listening to the game instead of to me, I don't blame you.

And I'm also here at least once each year to cheer for the Dawgs during football season. * * * And my mother's father graduated from State in 1908.

Also, my father had two first cousins who went to State—one was President of the student body and captain of the basketball team in 1935, and the other is a member of the State sports hall of fame and was an Olympic gold medal winner in track in 1924.

And, I'm a friend of Sonny Montgomery, and John Stennis, with whom I have worked very closely and cordially, in Washington. A good bit of their love and affection for this University has rubbed off on me.

So, I feel especially honored today to be on this platform * * * and my Mississippi State kinfolk are delighted.

In his 1953 book, The People's College: A History of Mississippi State, John K. Bettersworth said: "[This] college has been a symbol of the search of the Mississippian for the better life. This has involved, among other things, pushing out into that broader field of human culture where men learn to live with men as civilized and responsible citizens."

Today, your graduation pushes you into that broader field better equipped now with the skills and knowledge to help you reach your goals; and with your goals set higher than they otherwise would have been were it not for your experience here at this fine University.

As you enter this next phase of your lives, you should think about your resources and your assets. You may think you don't have any—that you are broke or even in debt.

But, I hope after today you will realize instead that you have what many others around the world wish they had—a country that is strong and free and rich with diversity and opportunity.

William Faulkner made a speech 42 years ago to the annual meeting of the Delta Council in Cleveland, Mississippi and he said:

"The United States is the whole world's golden envy. * * * [There never has been] such a land of opportunity in which all a man needed were two legs to move to a new place on, and two hands to grasp and hold with, in order to amass to himself enough material substance to last him the rest of his days and who knew? even something over for his and his wife's children."

In that year, 1952, the United States produced forty percent of the goods and services in the world. Almost half of the value of the economic output of the entire world was produced by the United States. We were the dominant power economically, politically, and militarily.

And guess what? We still are—William Faulkner's words are still true today. The United States is the envy of the world and a land of opportunity like no other.

Last year, America's gross domestic product was $6.4 trillion—more than twice that of Japan and four times that of Germany.

We sold more of what we produced, on our farms and in our factories, in the world marketplace than any other country in the world. $430 billion worth.

America leads the world in technological and scientific achievement. During the last twenty years we have won more Nobel prizes in physics, chemistry, medicine and physiology than all of the other countries of the world combined.

People in other countries want to come here and to live here because of the opportunities we have. Last year, 1 million three hundred thousand people were apprehended trying to enter the United States illegally. 10,000 were arrested at Kennedy airport in New York alone.

A few weeks ago 63 Chinese were found living in the basement of a house in Maryland, hiding from the immigration authorities. Four men from Colombia stowed away on a container ship on its way to New York City. Three of them smothered to death. The sole survivor told their story of risking death to get to the United States which he said they had heard was paradise so they could find a good paying job and take the money back home to their families.

All around the world struggles for life, for freedom, for opportunity lead so many to yearn for and even to die for the chance to have what you have, what we all have.

What you have is an unparalleled opportunity to start a business, to go to college, to go where you want to go, to be who you want to be and to do what you want to do.

But, I must acknowledge our example is being tarnished by a real threat to the American dream of freedom, prosperity, and opportunity. We observe an erosion of pride, self-confidence, self-reliance and character in our society.

Today in America a crime of violence occurs every 22 seconds. Each year, 25 percent of all homes are victimized by crime. The chances of being the victim of a violent crime are now greater than being injured in an automobile accident.

In 1992, according to a National Education Goals Panel report, ten percent of those in the tenth grade admitted carrying a gun to school at least once.

I believe these problems are symptoms of a more serious national ailment—loss of character.

William Faulkner also said in his Delta Council speech in 1952 that our country was founded upon "the inalienable duty of man to be free and independent and responsible."

Last month, I joined with seven other United States Senators from both parties, four Republicans and four Democrats, to sponsor a resolution to urge national recognition of the fact that the present and future well being of our society requires an involved, caring citizenry with good character. This is an effort to support the Character Counts Coalition which is cochaired by actor Tom Selleck and former Congresswoman Barbara Jordan.

Our resolution and the national Character Counts Coalition seeks to make all citizens more aware of the importance of the core elements of character, which are: trustworthiness, respect, responsibility, fairness, caring, and citizenship. We should all become active in this national crusade to help make good character traits an intrinsic part of the lives of all Americans.

A part of the effort is to support education initiatives to help provide students with opportunities to discuss how to build a strong sense of character in our schools. Churches and other organizations are also becoming involved to promote a greater sense of community awareness of the need for good character.

Teachers across the country have started integrating discussions of these personal attributes into the daily classwork of their students. Early reports are very positive. They say good character traits are contagious, among students as well as teachers.

This crusade is important because we must ensure that our country's legacy as the greatest democracy in the world continues to meet the needs and expectations of this and future generations of Americans.

We are at a critical point in the life of our country. We can continue down the road toward anarchy—with a diminishing sense of responsibility for ourselves and for others, with more crime and more violence.

Or, we can take the road that leads to a renewed sense of caring, and responsibility that means fairness and justice for all.

The well being of our society depends upon all of us accepting this responsibility, and realizing in our daily lives our example counts.

Thank you very much, and good luck!

COMMENCEMENT ADDRESS OF GEN. COLIN POWELL AT HOWARD UNIVERSITY

Mr. DOLE. There is no doubt about the fact that Colin Powell—as I have just indicated in commenting on the Brown decision—is one of America's most respected public figures. His record of service to his country, his patriotism, and his character make him a role model for all young Americans.

This past Saturday, General Powell delivered an eloquent commencement speech at Howard University here in Washington, DC. His speech speaks to many of the complex challenges of our time, and I recommend it highly to all of my colleagues and anybody else who might have an interest in what I think was one of the outstanding speeches of our time.

I ask unanimous consent that the text of General Powell's entire speech be printed in the CONGRESSIONAL RECORD.

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

COMMENCEMENT ADDRESS AT HOWARD UNIVERSITY

(By Gen. Colin L. Powell)

Thank you for your very warm reception.

Mr. President, Mr. Chairman, members of the board of trustees, fellow honorees, alumni, faculty members, family members, the great Howard Class of 1994.

I am so pleased to be with you on this very beautiful spring morning. I am deeply honored to be the recipient of an honorary degree, alongside two gentlemen as distinguished as Dr. Cheek and Ambassador Annenberg. For that, I thank the university and the board of trustees.

Let me also take this opportunity to extend my thanks to President and Mrs. Jennifer for their service to Howard University and to wish them every success at the University of Texas as they begin a new phase in their life of service to American youth. I also congratulate Dr. Ladner on her elevation to acting president.

I am especially pleased to be the commencement speaker for the class of 1994. I have wanted to be the commencement speaker for a number of years and this is my lucky year.

Because you know, these days you get a lot of attention being a speaker at Howard University.

Is Connie Chung here today so I can get on her "Eye to Eye" television show.

The real challenge in being a commencement speaker is figuring out how long to speak.

The graduating students want a short speech, 5–6 minutes and let's get it over. They are not going to remember who their commencement speaker was anyway. P-O-W-E-L-L.

Parents are another matter, arrayed in all their finery they have waited a long time for this day, some not sure it would every come, and they want it to last. So go on and talk for two or three hours. We brought our lunch and want our money's worth.

The faculty member who suggested the speaker hopes the speech will be long enough to be respectable, but not so long that he has to take leave for a few weeks beginning Monday.

So the poor speaker is left figuring out what to do. My simple rule is to respond to audience reaction. If you are appreciative and applaud a lot early on, you get a nice short speech. If you make me work for it, we're liable to be here a long time.

You know, the controversy over Howard's speaking policy has its positive side. It has caused the university to go through a process of self-examination, which is always a healthy thing to do.

Since many people have been giving advice about how to handle this matter, I thought I might as well too.

First, I believe with all my heart that Howard must continue to serve as an institution of learning excellence where freedom of speech is strongly encouraged and rigorously protected.

That is at the very essence of a great university and Howard is a great university.

And freedom of speech means permitting the widest range of views to be presented for debate, however controversial those views may be.

The first amendment right of free speech is intended to protect the controversial and even outrageous word, and not just comforting platitudes, too mundane to need protection.

Some say that by hosting controversial speakers who shock our sensibilities Howard is in some way promoting or endorsing their message. Not at all. Howard has helped put their message in perspective while protecting their right to be heard. So that the message can be exposed to the full light of day.

I have every confidence in the ability of the administration, the faculty and the students of Howard to determine who should speak on this campus. No outside help needed, thank you.

I also have complete confidence in the students of Howard to make informed, educated judgments about what they hear.

But for this freedom to hear all views, you bear a burden to sort out wisdom from foolishness.

There is great wisdom in the message of self-reliance, of education, of hard work, and of the need to raise strong families.

There is utter foolishness, evil and danger in the message of hatred, or of condoning violence, however cleverly the message is packaged or entertainingly it is presented.

We must find nothing to stand up and cheer about or applaud in a message of racial or ethnic hatred.

I was at the inauguration of President Mandela in South Africa earlier this week. You were there too by television and watched that remarkable event.

Together, we saw what can happen when people stop hating and begin reconciling.

De Klerk the jailer became de Klerk the liberator and Mandela the prisoner became Mandela the president.

Twenty-seven years of imprisonment did not embitter Nelson Mandela. He invited his three jail keepers to the ceremony.

He used his liberation to work with his former tormentors to create a new South Africa and to eliminate the curse of apartheid from the face of the Earth. What a glorious example! What a glorious day it was!

Last week you also saw Prime Minister Rabin and PLO Chairman Arafat sign another agreement on their still difficult, long road to peace, trying to end hundreds of years of hatred and two generations of violence. Palestinian authorities have now begun entering Gaza and Jericho.

In these two historic events, intractable enemies of the past have shown how you can join hands to create a force of moral authority more powerful than any army and which can change the world.

Although there are still places of darkness in the world where the light of reconciliation has not penetrated, these two beacons of hope show what can be done when men and women of good will work together for peace and for progress.

There is a message in these two historic events for us assembled here today. As the world goes forward, we cannot start going backward.

African-Americans have come too far and we have too far yet to go to take a detour into the swamp of hatred.

We, as a people who have suffered so much from the hatred of others, must not now show tolerance for any movement or philosophy that has at its core the hatred of Jews or of anyone else.

Our future lies in the philosophy of love and understanding and caring and building. Not of hatred and tearing down.

We know that. We must stand up for it and speak up for it!

We must not be silent if we would live up to the legacy of those who have gone before us from this campus.

I have no doubt that this controversy will pass and Howard University will emerge even stronger, even more than ever a symbol of hope, of promise and of excellence.

That is Howard's destiny!

Ambassador Annenberg, one of your honorees today, is a dear friend of mine and is one of America's leading businessmen and greatest philanthropists.

You have heard of his recent contributions to American education and his generous gift to Howard.

A few years ago I told Mr. Annenberg about a project I was involved in to build a memorial to the Buffalo Soldiers, those brave black cavalrymen of the West whose valor had long gone unrecognized.

Ambassador Annenberg responded immediately and with his help the Memorial now stands proudly at Fort Leavenworth, Kansas.

The Buffalo Soldiers were formed in 1867, at the same time as Howard University. It is even said that your mascot, the bison, came from the bison, or buffalo, soldiers.

Both Howard and the Buffalo Soldiers owe their early success to the dedication and faith of white military officers who served in the Civil War.

In Howard's case, of course, it was your namesake, Major General Oliver Howard.

For the 10th cavalry Buffalo Soldiers, it was Colonel Benjamin Grierson who formed and commanded that regiment for almost 25 years. And he fought that entire time to achieve equal status for his black comrades.

Together, Howard University and the Buffalo Soldiers showed what black Americans were capable of when given the education and opportunity; and when shown respect and when accorded dignity.

I am a direct descendent of those Buffalo Soldiers, of the Tuskegee airmen; and of the Navy's golden thirteen, the Montfort Point Marines, and all the black men and women who served this Nation in uniform for over 300 years.

All of whom served in their time and in their way and with whatever opportunity existed then to break down the walls of discrimination and racism to make the path easier for those of us who came after them.

I climbed on their backs and stood on their shoulders to reach the top of my chosen profession to become chairman of the American JCS.

I will never forget my debt to them and to the many white "Colonel Greirsons" and "General Howards" who helped me over the 35 years of my life as a soldier.

They would say to me now, "Well done, and now let others climb up on your shoulders."

Howard's "Buffalo soldiers" did the same thing and on their shoulders now stand governors and mayors and Congressmen and generals and doctors and artists and writers and teachers and leaders in every segment of American society.

And they did it for the class of 1994. So that you can now continue climbing to reach the top of the mountain; while reaching down and back to help those less fortunate.

You face 'great expectations.' Much has been given to you and much is expected from you.

You have been given a quality education, presented by a distinguished faculty who sit here today in pride of you.

You have inquiring minds and strong bodies given to you by God and by your parents; who sit behind you and pass on to you today their still unrealized dreams and ambitions.

You have been given citizenship in a country like none other on Earth; with opportunities available to you like nowhere else on Earth; beyond anything available to me when I sat in a place similar to this 36 years ago.

What will be asked of you is hard work. Nothing will be handed to you. You are entering a life of continuous study and struggle to achieve your goals.

A life of searching to find that which you do well and love doing. Never stop seeking.

I want you to have faith in yourselves. I want you to believe to the depth of your soul that you can accomplish any task that you set your mind and energy to.

I want you to be proud of your heritage. Study your origins. Teach your children racial pride and draw strength and inspiration from the cultures of our forbearers.

Not as a way of drawing back from American society and its European roots.

But as a way of showing that there are other roots as well. African and Caribbean roots that are also a source of nourishment for the American family tree.

To show that African-Americans are more than a product of our slave experience.

To show that our varied backgrounds are as rich as that of any other American; not better or greater, but every bit as equal.

Our black heritage must be a foundation stone we can build on, not a place to withdraw into.

I want you to fight racism. But remember, as Doctor King and Doctor Mandela have taught us, racism is a disease of the racist. Never let it become yours. White South Africans were cured of the outward symptoms of this disease by President Mandela's inauguration, just as surely as black South Africans were liberated from apartheid.

Racism is a disease you can help cure here by standing up for your rights and by your commitment to excellence and to performance.

By being ready to take advantage of your rights and the opportunities that will come from those rights.

Never let the dying hand of racism rest on your shoulder, weighing you down. Let racism always be someone else's burden to carry.

As you seek your way in the world, never fail to find a way to serve your community. Use your education and your success in life to help those still trapped in cycles of poverty and violence.

Above all, never lose faith in America. Its faults are yours to fix, not to curse.

America is a family. There may be differences and disputes in the family but we must not allow the family to be broken into warring factions.

From the diversity of our people, let us draw strength and not cause weakness.

Believe in America with all your heart and soul and mind. It remains the 'last best hope of Earth.'

You are its inheritors and its future is today placed in your hands.

Go forth from this place today inspired by those who went before you. Go forth with the love of your families and the blessings of your teachers.

Go forth to make this a better country and society. Prosper, raise strong families, remembering that all you will leave behind is your good works and your children.

Go forth with my humble congratulations.

And let your dreams be your only limitations. Now and forever.

Thank you and God bless you.

Have a great life!

THE MANDELA OF NEPAL

Mr. DURENBERGER. Mr. President, all Americans have a right to be proud as we watch the transformation of South Africa into a democratic regime based on equality and respect for human rights. It is nothing short of a re-enactment of the American idea—the noble quest that was expressed by President Kennedy in his declaration that Americans are willing to "pay any price (and) bear any burden, to assure the survival and the success of liberty."

Nelson Mandela's odyssey from political prisoner to democratic President is a thrilling human drama. But it is not unique. I would like to bring to the attention of my colleagues the story of another world statesman who made the perilous journey from political prisoner to leader of his Nation.

Today, Girija Prasad Koirala is the Prime Minister of Nepal—a powerful force leading his Nation toward full economic and political freedom. He has traveled a very long road to reach this summit of leadership.

For two centuries, Nepal has been an island of independence in a world marked by great-power European colonialism. But Nepal's independence from colonial powers did not provide for the self-government of its own people. From the consolidation of Gurkha power in 1775 until 1951, the politics of Nepal was characterized by ruling-class rivalries between the royal family and various factions of the nobility.

In 1947, the withdrawal of the British from India—and the consequent withdrawal of their tacit support for the Nepali regime—had wide-ranging consequences. Democratic forces were heartened by the Indian example, but their forces were blunted for a decade by compromise with the royal family.

In 1959, a democratic constitution was finally approved, and Koirala's brother—Bisheshwar Prasad Koirala—was elected Prime Minister of Nepal. In the following year, King Mahendra—declaring the democratic experiment a failure—dissolved the Parliament and imprisoned B.P. Koirala and his Cabinet ministers.

Subsequently—as part of an agreement with India—the Koirala family and other democratic leaders were allowed to emigrate to India. But this opportunity for permanent exile did not satisfy the desire of G.P. Koirala to bring democracy to his own land.

The so-called basic democracy system implemented by King Mahendra in 1962—basically a monarchy, with the support of traditional village councils—was not the full political democracy of which Koirala believed Nepal to be capable.

For 29 years, political activity was banned in Nepal. According to the British journal the Economist, the Nepalese government under the basic democracy system was dominated by corrupt feudal families—and consequently did little to promote the real interests of the Nepalese people.

After returning from exile in the 1970's, Koirala spoke out for democratic change—and served a 7-year jail sentence as a result.

Throughout his years of imprisonment and exile, Koirala never lost sight of his ideals. Armed with right—like Nelson Mandela in South Africa—he prevailed over the might of the right-wing royalists.

In 1990, a democratic revolution overtook King Birendra, Mahendra's son and successor. Ten weeks of demonstration led to the formation of an interim government and a new constitution featuring multi-party elections.

The first elections under the new regime were held in the following year—and on May 12, 1991, G.P. Koirala won a slim majority to become Prime Minister.

The new regime is a constitutional monarchy, and while a majority of Nepalese citizens believe that King Birendra is an incarnation of the Hindu divinity Vishnu and consequently must play some role in public life, nobody doubts that the Prime Minister is the chief responsible officer of the government.

The analogy with South Africa is suggestive. Nelson Mandela—like G.P. Koirala—is not an absolute ruler free to reshape society in complete accordance with his own wishes. He inherits a racial situation—and some established sources of power—that are potentially explosive. But the example of G.P. Koirala—the hard work and perseverance he has demonstrated in his 3 years as Prime Minister—show that democracy can work if the people go about it in the right spirit.

Nepal is one of the poorest countries in the world—only about a third of its citizens are literate and 80 percent of the people are engaged in farming at the subsistence level. This is the society that G.P. Koirala leads—in the firm faith that they can govern themselves, without recourse to absolute monarchy or Communist class warfare.

Just 2 months ago—on March 7—Koirala's vision was reaffirmed by the Parliament, as he beat back a no-confidence motion. During the debate on the no-confidence motion, Koirala collapsed on the floor of the Parliament after delivering 70 minutes of remarks in defense of his government.

He has been ordered by his doctors to slow down his pace. But Koirala is a man with a mission. He had time to relax when he was in prison—now he wants to share the benefit of his wisdom and ideals with the people of Nepal.

The criticism, the infighting, and the partisanship are all part of the price that he is willing to pay for his vision of Nepal. While his aides reflect on occasion that it was easier to be in the opposition, Koirala knows that he has duties to perform.

Mr. President, I would offer to my colleagues the heartening example of this statesman. Prison and exile can teach two very different lessons: They can teach anger, hatred, and revenge. And they can teach endurance, com-

mitment, and faith in fundamental bedrock values.

Like Vaclav Havel before him—and, I am confident, Nelson Mandela as well—G.P. Koirala has learned the right lessons from his hard experience. He has become a strong person—and he is going to bring those lessons to bear on the creation of a better future for Nepal.

COMMEMORATING BICENTENNIAL OF CHESHIRE ACADEMY

Mr. DODD. Mr. President, I rise today to recognize the bicentennial of Cheshire Academy, a cherished educational institution in my home State. Cheshire is one of the oldest schools in the Nation, and I believe it exemplifies the American commitment to fostering an intelligent, thoughtful, and compassionate citizenry.

The Academy has been through many changes through the years, though it has always remained committed to the highest standards of excellence in education. Cheshire Academy was founded in 1794 as the Episcopal Academy of Connecticut. Its charge was to prepare boys for college and for the ministry.

After World War II, Cheshire Academy, in conjunction with the Federal Government, set up a program to help returning soldiers earn their high school diplomas. In 1969, it began to admit girls. Today, Cheshire has a very successful postgraduate program for high school graduates who want an extra year to prepare for college.

The Academy has seen a host of headmasters and owners over the years. Originally founded by the residents of Cheshire, the Academy's first principal was the Reverend John Bowden. The Reverend Sanford J. Horton instituted a military system during the Civil War and had all students wear blue-grey uniforms. In 1917 the Roxbury training school bought the Academy and redesigned the school to prepare young men for admission to Yale University. Arthur N. Sheriff, headmaster from 1923 to 1966, took the school from being a for-profit to a nonprofit in 1937.

Throughout this long and nuanced history, Cheshire Academy has never lost its dedication to excellence in education. But it is important to remember that the school's mission is not only to educate the young men and women of Connecticut, but also to instill in them a sense of personal worth and character. Such people as Prof. Eri Woodbury, a teacher at Cheshire Academy and a winner of the Congressional Medal of Honor during the Civil War, worked tirelessly to impart upon their students academic skills as well as self-confidence.

Mr. President, I am proud to be able to speak on behalf of the Cheshire Academy because it has meant so much both to my State and to my family. Among the institution's graduates is John Daniels, former mayor of New Haven. In addition, Cheshire has two alumni who are very close and dear to me, my brothers Tom and Jeremy. Though I did not attend Cheshire myself, I almost feel as if I did after hearing so many warm and enthusiastic tales about the school from my brothers.

I would like to once again congratulate Cheshire Academy on the occasion of its 200th birthday.

THE INTEREST RATE SCANDAL

Mr. DECONCINI. Mr. President, just 2 weeks ago I took the floor to voice my concern about the string of decisions by the Federal Reserve to raise interest rates. Here we go again. The Federal Reserve's decision yesterday to raise interest rates by another half a point, after having just raised them half of a percent on April 18, doesn't make sense. If the purpose of raising interest rates is to slow business expansion to prevent spiraling inflation, one has to wonder what credible evidence the FED used to make its decision.

I see no frightening expansion of the economy and neither does the ordinary consumer. Inflation performance is the best it has been in 30 years. The economy is expanding at a very modest rate of 2.6 percent according to the latest statistics. The increases in interest rates over previous months have already had a negative impact on a recovering but skittish economy. Retail sales were down in April. Housing starts fell by 2½ percent. The producer price index is down. Are these signs of a inflationary economy? The answer is quite clearly no. Are there any signs whatsoever that the economy is growing at an unsustainable rapid rate? Again, the answer is clearly "no."

What these economic statistics show is that recent FED actions have already frightened consumers. They are once again uncertain about the future strength of the economy. Unemployment and lack of job opportunities are once again creeping into their consciences and tempering their optimism. They are once again concerned about the prospects for retaining their jobs or finding new ones. Because of these concerns, they are increasingly wary of their futures. They are not buying at the same rate, and they are putting off long-term investments such as houses and cars. And yesterday's actions will only heighten their concerns. This seemingly inexplicable action by the FED conjures up the public's stereotypical image of decisionmakers at the FED as academics in ivory towers or green eye-shade bureaucrats who are totally out of touch with the real world.

While the administration now appears to have tempered its views on rising interest rates, Secretary Bentsen did at least express his concerns to Alan Greenspan about these steady, incremental bumps in rates telling him that he "didn't want to get into a Chinese water torture on interest rates." I guess the administration has concluded that it is better to take the bitter pill of rising interest rates now rather than to swallow them closer to the election. I, for one, disagree strongly with that view.

I am convinced that these rising interest rates will deter economic growth just as it will undermine consumer confidence. Nothing, in my view, could have a more devastating effect on Democratic success at the polls this November than a shrinking economy, and I fear that is the direction we are heading. The President had it right during his election campaign: "It's the economy, stupid." The bottom line in the election results this fall will still be: "It's the economy, stupid." If we don't get it, we will pay a high price for losing our focus.

Our current monetary policy is a policy gone amok. It is made by the Federal Reserve's Board of Governors which is totally unaccountable for its actions. The policy makes no sense to this Senator and to a vast majority of the American public. It will choke off economic growth. It will make capital more expensive and more scarce. It will deter business investment and expansion. It will cause uncertainty in the financial markets and will surely shake consumer confidence. But the FED is free to make monetary policy without ever having to explain why or how it came to its decisions. Yet the decisions of the FED have an immediate impact on the lives of millions of Americans. I think it is just plain wrong that the FED remains totally unaccountable for its actions. At the very least, I think the FED ought to make public the reasons for its decisions. And I think there should be some congressional oversight. Policymaking which is accountable to no one can be dangerous indeed. What is wrong with having a sensible discussion on monetary policy just as we have on fiscal policy? What's wrong with requiring the Chairman of the FED to appear at a limited number of congressional hearings to respond to lawmakers' concerns? What's wrong with subjecting the Federal Reserve to oversight? By oversight, I do not mean verbally beating the FED into submission to congressional wishes. No one wants Congress to make monetary policy. We know that would be a disaster of the first order. What I want, and what I think the American people deserve, is an intelligent discussion and explanation of the monetary policies which affect them so personally. I do not concur with the current FED policy. In fact, I vehemently disagree. But at the very least, I think the American public deserves a credible explanation for those policies.

THE LIVING ROOM WAR

Mr. COHEN. Mr. President, those of us from States with major military installations that have closed or are scheduled to close are painfully aware of the economic devastation that the downsizing of the U.S. military is having on our States and communities.

Downsizing defense and closing bases are also wreaking havoc on the lives of thousands of servicemen and servicewomen as they face uncertainty over the future of their military careers and the financial security of their families. As a recent article in Time magazine noted, "Soldiers and sailors who once dreamed of a secure, 20-year career and a handsome pension now find themselves facing a truncated career, no pension and bleak employment prospects in the civilian world."

These pressures may be contributing to a staggering increase in the number of reported cases of domestic violence within military families, which have risen from 27,783 in 1986 to 46,287 last year. The Pentagon program for tracking and preventing domestic violence began in 1986 and some of the increase may be due to better reporting.

A recent survey conducted for the Department of the Army revealed, according to Time magazine, that each week a family member dies at the hands of a relative in uniform, and that spousal abuse is occurring in one in every three Army families. Regrettably, members of military families are well represented among the thousands of individuals in this Nation who are being held hostage in their own homes, plagued by physical and emotional abuse.

The tragedy of domestic abuse is not, of course, new to the military. Military families are no more immune to domestic battering than civilian families, and they are just as in need of prevention and intervention services.

As communities struggle to deal with the rising tide of crime and violence that is sweeping this country, domestic abuse is one aspect of this plague that has received and continues to receive too little attention. It has only been in the last 20 years that police, prosecutors, courts, and society in general have been forced to confront an issue that has too long been considered a private family matter.

The Department of Defense has recognized the seriousness of domestic abuse and is very much aware that it may be growing within the military. More importantly, the Pentagon is attempting to confront the problem. The Army's Family Advocacy Program, for example, provides community education, prevention services, crisis intervention, emergency shelter, and counseling for troubled families.

As the Defense Department implements reductions in force and oversees the closure of hundreds of military installations, it must do everything within its power to ease the difficult transitions facing service members and their families. To the extent this situation is exacerbating the problem of domestic violence, DOD must redouble its efforts to prevent battering and, when it occurs, effectively help those in need.

Today, I am writing to the heads of each of the military services to request an assessment of the scope of the problem and what measures are being taken to address it. Specifically, I have asked each to report on the following:

The extent to which the incidence of reported domestic violence has increased overall since 1988 and, specifically, at installations being closed;

The extent to which the incidence of domestic violence is related to disruptions caused by defense cutbacks and reductions in force;

The steps being taken to ensure that family support services are maintained at closing facilities through closure;

The level and adequacy of resources currently allocated to prevent and respond to domestic violence; and

The measures in place to ensure confidentiality for victims seeking assistance.

According to press reports, at least some military officials are failing to comply with a requirement to notify victims of the impending release of their batterers from military prisons, in some cases with tragic results. I am, therefore, also asking the services to survey all military prisons on the extent to which such notifications are being made and to report their findings to the Senate Armed Services Committee. In addition, the letters urge that they take all appropriate steps to ensure compliance with the notification requirement.

It is my intention to vigorously pursue these questions with the Defense Department in an effort to ensure, first, that effective measures are being taken to prevent and reduce the incidence of domestic violence among military families; second, that services such as counseling and shelter are available to those families in need; and third, that military personnel who are committing abuse receive appropriate counseling and are subject to appropriate disciplinary measures.

Mr. President, I ask unanimous consent that the full text of the Time magazine article on this issue be printed in the RECORD.

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

THE LIVING ROOM WAR

(By Mark Thompson)

Jeromy Willis, an Air Force enlisted man and ex-Army marksman, had been trained to kill the enemy. But when the cold war ended and his base faced closure and his career began looking less secure and his marriage came under strain, the enemy started looking a lot like his wife Marie. First he tried to kill her with a flaming propane torch. Weeks later he tried to strangle her. She fled to her mother's home in Rhode Island, and the Air Force confined Jeromy to his base in Myrtle Beach, South Carolina. But when Marie returned there to press charges against her husband, he had somehow learned of her supposedly secret appointment. Outraged that she was ruining his career, Jeromy confronted Marie inside the waiting room of the base legal office early last year. He fired a pawnshop pistol into her chest. As horrified witnesses watched her yellow dress turn crimson, she screamed, "Jeromy, no!" And then he fired a second round into her brain.

Marie Willis became another victim of an alarming increase in domestic violence on America's military bases. The rise in abuse of spouses and children, researchers and the Pentagon believe, may be connected to the painful reduction in U.S. fighting forces following the end of the cold war. In 1986 there were 27,783 reported cases of violence in military families; last year there were 46,287. Now, a confidential—and unprecedented—Army survey obtained by Time suggests that spousal abuse is occurring in one of every three Army families each year—double the civilian rate. Each week someone dies at the hands of a relative in uniform, and nearly 1,000 formal complaints of injury are lodged against family members in the service. Untold thousands may suffer in silence.

Over the past year there has been gory evidence of the home-front carnage. A soldier in Washington state killed his wife, packed her body into a suitcase and threw it off a bridge. In Southern California a Marine who was a hero in the Persian Gulf War shot and killed his newly divorced wife and their five-year-old daughter. In North Carolina an airman hacked his wife to pieces, wrapped her remains in plastic garbage bags and stored them in the refrigerator. In Hawaii a sailor killed his baby daughter, stuffing her into a duffel bag and tossing her into Pearl Harbor. A soldier in Germany, angered at his wayward spouse, decapitated her G.I. lover and placed the severed head atop his wife's nightstand.

The new Army survey offers an unvarnished and quantifiable look at the problem. "The rates of marital aggression are considerably higher than anticipated," declared the researchers, who have questioned more than 55,000 soldiers at 47 bases since 1989, and continue to do so. The growing number of victims seeking help "is soon likely to exceed treatment resources." And the problem isn't restricted to low-level or poorly performing soldiers. "Often those in the most responsible and stressful positions," the report says referring to noncommissioned officers, "appear to be more likely to be involved in abusive episodes." The violence ranges from kicking, biting and punching to attacks with knives and guns.

The Army's efforts to curb such violence—through counseling and other help—are rarely mandatory. That, says the study, leads to two critical failings: few soldiers take advantage of the help, and the worst abusers don't participate. Researcher Peter Neidig, whose company, Behavioral Science Associates in Stony Brook, New York, is conducting the Army survey, believes similar levels of domestic abuse exist in the other services. While Neidig believes the Army is ahead of the civilian world in confronting the issue, Army officials admit they are only starting to understand the extent of the problem. "We were being very reactionary," explains Delores Johnson, who heads the service's program to combat such abuse. Rather than

trying to prevent it, the Army emphasized medical and legal help after the violence occurred. "We're just beginning to take a look at what prevention means," says Johnson. The Army study, which is designed to identify groups at high risk of domestic violence, found evidence that abuse tends to escalate at bases scheduled to shut down. "We're very interested in that," Johnson says, "because we're in the middle of downsizing." Pentagon officials also say their efforts to encourage military families to report such abuse has played a role in the rising number of reported cases.

But the military is spending only $80 million of the $120 million it says it needs this year to fight domestic abuse. That $40 million gap is less than the price of one of the three dozen F/A-18 fighters the Navy is buying in 1994. The shortfall, officials concede, means most of the money will still go toward the medical and legal bills of those already ensnared in domestic terror, instead of focusing on prevention.

Gail McGinn, a top Pentagon personnel official, says the military family's nomadic existence contributes to the problem. Most move every three years, ripping the military family from the support network of relatives and friends that civilian families count on when times get tough. The long absences of the breadwinner—on lengthy cruises, battlefield exercises or peacekeeping missions-add to familial stress. The military drawdown, from 2.2 million troops in 1987 to 1.5 million in 1997, compounds the problem. Soldiers and sailors who once dreamed of a secure, 20-year career and a handsome pension now find themselves facing a truncated career, no pension and bleak employment prospects in the civilian world. "Everybody is wondering about what their own careers and their own finances will be, and of course, financial issues are major contributors to family violence," McGinn says "There's lot of tension." Outside experts point to other factors. Compared with civilian society, the military population is younger and drawn from lower socioeconomic ranks, and consequently more violence prone. Alcohol abuse in relatively high, pay tends to be poor and the military attracts men who have authoritarian tendencies.

Also boosting the opportunity for such violence is the fact that nearly 58% of the military are married, perhaps the highest proportion in history. According to Pentagon figures, abuse is largely confined to midlevel enlisted personnel like Air Force, Army and Marine sergeants and Navy petty officers. They're old enough to be married and have children—and the resulting debts—but often earn less than $20,000 a year.

Some military training contributes to a misogynist attitude, says Joan Zorza, director of the National Battered Women's Law Project in New York City. "A man is criticized by being told he's acting like a woman—a ——— —to humiliate him and make him tougher." she says. "That often translates into seeing women as not being important and therefore easier to oppress."

An earlier study had already found a correlation between combat jobs and domestic violence. Troops trained to fight are more likely to batter children than their uniformed colleagues in noncombat jobs, according to a 1979 study of 985 cases of child abuse among Air Force personnel by the University of New Hampshire. "There's a spillover from what one does in one sphere of life in one role to what one does in other roles," says Murray Straus, A University of New Hampshire family-violence expert who worked on the study. "If you're in a occupation whose business is killing, it legitimizes violence."

The inherent lack of autonomy in a military job also sets the stage for abuse. "It's all about control," says Cindy Zamora, the wife of an Army tanker. She now lives in a shelter for battered women in Killeen, Texas, just outside huge Fort Hood. She moved there after her husband bit her, beat her and threatened her with a knife. "There's a lot of women in here married to soldiers whose sergeants protect them if they're good soldiers," she says. "They can't control their superiors on the job, so they control us." Although her husband admitted under oath last month in a Texas courtroom that he is married to two women, he remains in the Army. "He was under a lot of stress and was nervous about being kicked out," she says. "He said if he didn't get his sergeant's stripes, I was going to get hurt." She's angered that he remains in the Army in good standing even as it investigates his bigamy. "The military knows he has two wives, but he's still in the Army," she says. "They just sweep it under the rug."

Katherine Coleman was married to an Army major and psychologist. "It's a myth that domestic violence doesn't happen in officers' families," says Coleman, now divorced and living in San Antonio, Texas. Her husband went so far as to draft a prenuptial pact detailing sexual obligations and rules governing outside friendships. She recalls him cornering her in the kitchen or bathroom and not letting her leave until she gave in to his demands. "We argued once for four hours in the kitchen, and he wouldn't let me out," she says. "I had to urinate on the kitchen floor." But she had power over him too. "He hit me a couple of times until I told him his career would be over if he did it again," Coleman says. He remains in the Army, training its mental-health workers.

The men involved in such episodes aren't eager to discuss them. But some acknowledge that the prospect of watching lifelong dreams shatter as the military shrinks can make them lash out in rage and frustration. "It stresses you out, but you can't hit the officers," an Army man says. "So you wait till you get home and take it out on her and the kids." Another soldier will only say of his wife that "we abused each other." In fact, the Army survey suggests that spousal abuse usually involves violence by both partners. But women, it notes, are far more likely than men to be injured.

The military has reacted to the problem by creating counseling programs and discipline boards. Military families are told to report any instances of domestic violence they witness, even if it occurs outside their family. But few abused spouses are willing to risk their family's financial future by seeking help through Army channels, because such complaints often end up on the desk of the abuser's commander. "The military needs to do something to ensure the confidentiality of spouses so the wife can go and get help without hurting his career," says Phyllis Lonneman, a Kentucky attorney representing a woman charged with the slaying of her Army husband in August after years of alleged abuse. "It doesn't matter how good or bad the military's programs are if the spouses are afraid to use them."

And the abuser's commander often isn't sympathetic to the battered spouse, according to Sadonna Polhill, who is the top caseworker at the Killeen shelter. "They'll tell the wife, 'This is a bunch of bull—quit making these accusations because you're ruining your husband's career,'" she says. "They try to make the one who's being battered at fault." Anxiety over their husbands' careers has led to a sharp drop in the number of women—from 85% to 50% over the past two years—who permit the shelter's staff to alert military officials to the women's visits. "A lot of that has to do with the pressures on the soldiers and their families," Polhill says. "And many are deathly afraid of their husbands."

While many civilian domestic-violence experts praise the strides the military has made in dealing with the problem, they say follow-through is often lacking. A Pentagon investigation last year surveyed 13 Pentagon prisons to see how many were complying with a 1982 federal law obligating them to alert crime victims, including abused spouses, when perpetrators are released. Not a single one was. In a 1990 case, a Kentucky woman, Andrea Turner, was murdered by her husband three days after his release from a military prison. The killer, who had been locked up for abusing her, said he shot her five times in the back because she ruined his Army career. She had made plans to move secretly to a new home before his official release date, but the military neglected to tell her that he was getting out two months early because of accumulated military leave. "It was a nightmare," one Army official involved in the case says. "Nobody told her."

The problem isn't limited to spouses. Child abuse is also on the rise, leading the Pentagon to create a child death-review task force that will eventually probe all child deaths in the U.S. military to determine if abuse is to blame. "After a child dies, people say it was an accident," says Army Colonel Will Hatcher, who is helping to launch the program. "But we want to go back and check." For several months the task force has been examining child deaths at the Fitzsimons Army Medical Center in Colorado and at hospitals at the Bremerton naval base in Washington and Travis Air Force Base in California.

Despite the Pentagon's intentions, its sometimes haphazard efforts offer little comfort to victims and their families. Jeromy Willis, for example, was sentenced to life imprisonment for the murder of his wife and is now serving time at Fort Leavenworth, Kansas. Yet Marie Willis' family remains bitter, because the military ignored so many warnings that a tragedy was afoot. Her family says Jeromy was confined to base twice because he tried to kill Marie, but he was allowed to roam freely on the base when the Air Force invited and paid for her to return there and testify against him. "Abused people should not rely on the military for protection," says her father, Eugene Mello, himself an Air Force veteran. Her mother, Marie Mello, puts it more simply: "The Air Force was an accomplice in my daughter's death."

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

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

To be exact, as of the close of business on Wednesday, May 18, the Federal debt stood—down to the penny—at $4,590,201,572,619.26. This means that

every man, woman, and child in America owes $17,606.47, computed on a per capita basis.

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

J.P. "JAY" HUMPHREYS, 1923–1993

Mr. HELMS. Mr. President, it is my regret to announce the death of a man of principle and integrity, a man who dedicated his life to the preservation of freedom.

Jay Humphreys died on October 6, 1993, in Joplin, MO, where he had lived for 38 years. He was 70.

He was a man who lived his life according to his principles—all of which sprung from his cornerstone belief in the God-given right to freedom.

Jay Humphreys was born September 13, 1923, in Raymond, KS.

He graduated from the University of Kansas with a bachelor of science in business administration.

In 1956, he joined TAMKO Asphalt Products, Inc. He served as the company's president from 1960 until his death. During his tenure as president, he turned TAMKO from a small local business into a national concern with seven manufacturing plants, providing jobs for over 1,000 employees.

Throughout his life, Jay Humphreys took to heart Thomas Paine's admonition that "those who expect to reap the blessings of freedom must, like men, undergo the fatigue of supporting it."

As a businessman, Jay Humphreys promoted freedom by becoming a pioneer in the movement to make the workplace consistent with the values of a free society.

In his role as employer, he stood up for the liberty and integrity of his employees, never forcing them to join or support a union, Jay Humphreys believed that the decision whether to support or join a union ought to rest with each individual.

It was because of his commitment to employee freedom that in 1981 he was elected to the board of trustees of the National Right to Work Legal Defense Foundation. He served on the board until his death.

In his lifetime, Jay Humphreys played many roles: Father, husband, community leader, employer, businessman. But in all parts of his life, he was first and foremost a champion for freedom. For all this, he shall be remembered and missed.

IN CELEBRATION OF THE FOURTH ANNIVERSARY OF THE PRESIDENT OF THE REPUBLIC OF CHINA, PRESIDENT LEE TENG-HUI

Mr. CRAIG. Mr. President, I wish to take this opportunity to express my sincere congratulations to President Lee Teng-Hui on the occasion of his 4th anniversary of his Presidency. The excellent representatives at the Coordinating Council of North American Affairs have kept me well informed of the many economic successes that the Republic of China has enjoyed, as well as the political progress that has occurred during President Lee's years of leadership.

The Republic of China on Taiwan is a tremendous example of economic prosperity and democratic freedom for developing nations around the world.

Mr. President, I would also like to mention the long and close relationship that has existed between the Republic of China and my home State, Idaho. Through that friendship my State has greatly benefited by expanding trade. Idaho exports range from agricultural and wood products to electronics.

The relationship between the Republic of China and the United States has been very beneficial for both parties. Not only do I look forward to the continued relations between the United States and the Republic of China, but the friendly and mutually beneficial ties that have developed between the Republic of China and my home State of Idaho.

Mr. President, I ask unanimous consent to insert a congratulatory letter in the RECORD to President Lee that is signed by myself and 44 of my Republican colleagues.

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

U.S. SENATE,
Washington, DC, May 11, 1994.

President LEE TENG-HUI,
c/o Foreign Minister Frederick Chien, Ministry of Foreign Affairs, Taipei, Taiwan, The Republic of China.

DEAR MR. PRESIDENT: We wish to take this opportunity to congratulate you on the occasion of the Fourth Anniversary of your Presidency. Your leadership has enabled the Republic of China on Taiwan to become a leader in the industrialized world as well as a model for emerging market democracies. Continuous prosperity and steady economic growth have afforded your people a standard of living comparable to that of western nations. We are impressed by the fact that in Taiwan, full democracy has rapidly taken root with a multi-party system in place and free elections held regularly.

As we observe the 15th Anniversary of the passage of the Taiwan Relations Act, we also note that you are vigorously trying to upgrade your country's participation as a constructive member of the world community. Your successful visit to Southeast Asia earlier this year and the follow-up investment activities there certainly testify to this effect.

We believe that maintaining stability in today's world relies on the joint efforts of all countries. We consequently note with approval your contributions to many international humanitarian relief efforts, not to mention your generosity last year in helping needy communities in the flooded Midwest and the areas of California ravaged by the recent earthquake. In addition, we in this body together with several administrations in the recent decade have consistently supported your constructive role in multilateral institutions such as the Asian Development Bank, the General Agreement on Tariffs and Trade and the Asian Pacific Economic Cooperation. In return, your country's continuing participation or involvement in such institutions and your substantial financial support of other important multi-lateral organizations such as the Inter-American Development Bank and the Central American Bank for Economic Integration clearly illustrate the benefits of constructive cooperation in today's world. We therefore support your further participation in other important international organizations.

We also wish you every success in your continued tenure in office, and hope that at some appropriate time in the future you and Mrs. Lee will be able to visit us in the United States.

May God bless you, your country and your people.

Congratulations:

Bob Dole, Larry E. Craig, Charles E. Grassley, Christopher Bond, Bob Smith, Connie Mack, Dan Coats, David Durenberger, John W. Warner, Paul Coverdell, Lauch Faircloth, Mitch McConnell, Conrad Burns, Jim Jeffords, Trent Lott, Richard G. Lugar, Don Nickles, Malcolm Wallop, Slade Gorton, William S. Cohen, Judd Gregg, Hank Brown, Arlen Specter, Pete V. Domenici, Nancy Landon Kessebaum, Orrin Hatch, Strom Thurmond, Ted Stevens, John H. Chafee, Jesse Helms, Kay Bailey Hutchison, Robert F. Bennett, Phil Gramm, Larry Pressler, William V. Roth, Alan K. Simpson, Alfonse D'Amato, Bob Packwood, Dirk Kempthorne, Thad Cochran, John Danforth, Mark Hatfield, John McCain.

AMERICA'S FOREIGN POLICY: DOES A DEBACLE LIE AHEAD?

Mr. HELMS. Mr. President, when President Clinton assumed the office and the responsibilities of the Presidency, everyone knew he was not going to be the foreign policy president. Notwithstanding, it was hoped that Mr. Clinton would assemble a strong foreign policy team with the mission of thinking out international problems—and with providing the President with sound recommendations upon which he could base his decision.

Regrettably, that has not been the case. As someone has observed the Clinton foreign policy team consists largely of Carter retreads, friends of Bill and Vietnam war protesters.

I am a Republican, but I am an American first. The situation that now exists does not bring any joy to me. It is troubling. It is serious. It is dangerous. Charles de Gaulle said, "There are no friends in international politics." His point, of course, was that there are only nations that respect you, that fear you or nations that hold you in contempt.

Democrats and Republicans alike know that this administration has caused international respect and international fear of the United States to

disappear. Only international contempt is left. I am aghast at seeing Boutros Boutros-Ghali jerk the United States around.

What has America come to when a few thugs in Haiti have the nerve to turn a United States warship away? How should others interpret us kowtowing to Aristide in the face of his contemptuous disdain for the United States? Given how the United States bows, and scrapes with the likes of Aristide, is there any surprise when the Chinese treat the Secretary of State of the United States with contempt, as they did on his recent trip to Beijing?

A new low in U.S. foreign policy history.

There is an actuarial principle employed by experts who calculate insurance premiums for industrial customers: when a pattern of many small accidents occurs, you raise the premium, because a major accident is just a matter of time.

The same holds true for those assessing foreign policy risks; a pattern of many smaller miscues suggests that debacles lie ahead.

The time has come to recalculate the insurance premium on this administration's foreign policies, and perhaps take out some additional risk insurance.

Neither the American people nor foreign leaders have much confidence in this administration's foreign policy management, and for good cause. Neither the Serbian warlords, nor the municipality of Singapore places importance on the word of the man who occupies America's highest office in the one remaining superpower.

There are two ways that a beleaguered President can recoup his credibility. He can send American troops somewhere on a shoot-em-up mission that may or may not solve his problems. Indeed, his problems may worsen in the aftermath of a landing on some distant coast. Frankly, in the aftermath of the draconian cuts in our military strength during this administration, invasions may no longer be an option.

The other, less expensive method of repairing credibility involves performing major surgery in both the Department of State and the National Security Council. Professional, true professionals, hard-nosed professionals—a complete house cleaning—must replace the retreads, the friends of Bill and the Vietnam war protestors. For the security of the United States this is imperative. This must be done now. If it is not, a major catastrophe will surely follow.

There is, of course, a danger in the second course of action as well. In the event that a new team at the Department of State and the National Security Council continues in the current mode of visionless, flip-flopping foreign policy, the entire world will know for sure what it now perceives: That the problem with American foreign policy does not rest with the State Department or the National Security Council, but with the President himself.

CONCLUSION OF MORNING BUSINESS

The PRESIDENT pro tempore. Under the order, morning business is now closed.

SAFE DRINKING WATER ACT AMENDMENTS OF 1994

The PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to vote on the passage of S. 2019, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 2019) to reauthorize and amend title XIV of the Public Health Service Act (commonly known as the "Safe Drinking Water Act"), and for other purposes.

The Senate resumed consideration of the bill.

Mr. LEAHY. Mr. President, I rise to bring attention to a new dimension of the safe drinking water issue that has become increasingly important to several States, and very important to Vermont.

The goal of the legislation before us, S. 2019, is to guarantee that the water from our taps in our homes will be safe—not just from bacteria that cause immediate health hazards but also from chemicals that can cause expensive, chronic, and life-threatening health problems.

In Vermont, however, with the discovery and the inevitable proliferation of the zebra mussel in Lake Champlain, we cannot take for granted that we will have water in our taps at all. The zebra mussel threatens to clog the water intake pipes of 11 water systems serving over 20 communities. In fact, the zebra mussel could cut off the drinking water supply for 25 percent of Vermont's population.

For this reason, I have sponsored an amendment to the Safe Drinking Water Act that addresses this important issue. My amendment expands the authority in the Non-indigenous Aquatic Nuisance Prevention and Control Act to enable the State of Vermont to tackle this problem more effectively.

The Non-indigenous Aquatic Prevention and Control Act, Public Law 101-646 is a comprehensive and far-sighted piece of legislation that addresses the zebra mussel problem. I want to commend Senator GLENN, former Representative Bob Davis, and others for providing the leadership to pass this bill in 1990. It was drafted at a time when zebra mussels were a Great Lakes problem, and my amendment incorporates perhaps the sixth "great lake," Lake Champlain, into this law.

My amendment stresses the opportunity that Lake Champlain communities have to act quickly to establish controls before the zebra mussel becomes established. This is an important opportunity, and one that could save many thousands of dollars. With appropriate Federal support, Lake Champlain can nip the problem at the bud and lead the Nation in early action measures.

Finally, my amendment allows the State of Vermont to undertake research on the zebra mussel with Federal assistance. Ironically, the only State in New England that is not eligible for certain zebra mussel funds under Public Law 101-646 is also the only State that actually has zebra mussels, the State of Vermont. My amendment changes this.

I know that this amendment will be welcome to the State of Vermont. The current legislature is considering an appropriation of almost $6 million for zebra mussel control and prevention. This substantial investment takes away from concurrent efforts to meet safe drinking water standards. Without this amendment, towns like South Hero, VT—a community that has already made a huge investment to upgrade their water system—face a daunting task with few resources. Ultimately, this amendment helps promote the vital goal of protecting the water supply for the American public.

I want to thank Chairman BAUCUS and Senator CHAFEE for their leadership on this difficult bill. I appreciate their hard work to bring this bill to the floor with the unanimous support of the Committee on Environment and Public Works. I also want to thank Tom Sliter and Jo-Ellen Darcy for their hard work on this bill, and especially for their work on the amendment.

Mr. NICKLES. Mr. President, imagine, Mr. President, the burden the Federal Government has placed upon the water systems of our country. No matter how well intentioned, the Safe Drinking Water Act has begun to strangle our water suppliers with costly mandates and red tape. Today the Senate will finally vote on long overdue amendments to the Safe Drinking Water Act.

It has been 2 years since I came to this floor and raised serious issues with the current safe drinking water law and stated that changes needed to be made to make this law more workable. No action occurred. In April 1993, I introduced the Water Supply Protection Act of 1993, which was a total reauthorization of the Safe Drinking Water Act. Still no action occurred despite the pleas from water systems all over the Nation.

Then on March 10, 1994. I cosponsored S. 1920, with Senators DOMENICI, BOREN, and HATFIELD, which is another safe drinking water reauthorization bill. Yet, it was not until April 14 of this year that the committee reported

out a safe drinking water bill and even then, major changes were required before this bill was brought to the floor of the Senate.

My interest in this issue began when rural water systems started to raise concerns with the current law during meetings I attended in Oklahoma. I repeatedly heard complaints about the cost of the testing and monitoring requirements of the current law and the lack of health risks associated with many of the act's requirements.

Under existing law, water systems are required to test and monitor for contaminants that do not even exist in their water and EPA has to set standards for contaminants which do not even post a health risk. The current law requires that by the year 2000, water systems would have to be testing, monitoring, and treating for over 200 contaminants for little to no health benefits.

The bill, as reported by the committee, failed to address the majority of my concerns with the current law. However, I commend Senators BAUCUS and CHAFEE for the steps they have taken to address many of my concerns in the managers amendment. Improvements were made to several key aspects of the bill including the way EPA sets standards for contaminants, selection of contaminants for regulation, monitoring requirements, variances for water systems, and the state viability program provisions.

These changes to the bill are significant improvements over current law and I strongly encourage the Senators who will be appointed as conferees on this bill to insist on these provisions as a minimum. The changes made in the managers amendment are good steps in the right direction and must be maintained if improvements to the current law are to be made.

Although these amendments are an improvement, I believe additional changes may be needed in the future to ensure that public health is protected from real risks, not hypothetical risks. Also, additional safeguards may be needed to make sure EPA does not impose costly requirements on water systems that do not result in true health benefits. With these reservations, I intend to support these much needed changes to an act that has been broken for too long.

Mr. BOND. Mr. President, the bill before the Senate represents a triumph of common sense and a true legislative success story. As every Senator who has heard from their local water operators knows, current law has developed into a symbol of the growing frustration over prescriptive, often arbitrary, Federal regulations unaccompanied by sufficient funds to finance them. Small rural operators who have the fewest resources at their disposal have been hit the hardest.

This bill confirms the Senate's recognition that significant changes in current law are necessary. Further, it demonstrates that important concepts that are often only included in political speech material can be incorporated into affirmative legislative action. These principal concepts include: making sound science the basis for Federal regulation; relieving States and localities of the growing burdens of unfunded Federal mandates; and permitting far more discretion and flexibility to those who carry out this important program on the local level.

This legislative success story was driven by the grassroots involvement of a coalition of citizens and state and local officials outside of Washington who worked constructively and untiringly with Senators inside Washington. This is the way the process should work if our laws are to become more sensible and this is the way the process will have to work if we are to restore the confidence of the American people in the ability of Congress to act affirmatively on their behalf.

I have heard from a number of water operators regarding this bill. They are pleased that the bill would permit them to spend thousands of dollars treating contaminants that are present in their systems instead of the old requirement of wasting thousands of dollars re-testing for contaminants that are not present. They are pleased at the recognition that even though they are not located in Washington, they are a public interest group concerned with public health and, consequently, they should be entrusted with greater authority in carrying out this law.

On behalf of the water operators in Missouri who accept the responsibility of providing a safe product and on behalf of Missouri citizens who rely on that product, I personally commend the bill and its authors. I congratulate the managers of the bill, Chairman BAUCUS and Senator CHAFEE, and Senators HATFIELD and KERREY who helped craft the compromise language that brought the bill to the floor.

In addition to these Senators, I believe special mention should be made of the efforts to Senator DOMINICI who first worked with the coalition to coauthor S. 1920 and whose tireless determination through the process helped in very large measure to drive us toward the final product we have today. Senator DOMINICI insisted that this opportunity not be missed and pressed diligently in the background. His efforts helped to ensure that the EPA use the best available peer-reviewed science when promulgating regulations under the bill and to ensure that costs and benefits of regulations are weighed to maximize the level of water safety each dollar purchases.

There are many deserving of credit in bringing us to where we are today, but I make special mention of Senator DOMINICI, whose efforts, though less visible, were instrumental in the crafting of a good safe drinking water bill.

RISK ASSESSMENTS

Mr. BUMPERS. Mr. President, I would like to offer an observation regarding the amendment by Mr. JOHNSTON on risk assessments, which has been included in this bill. We all know that the issue of risk assessments has captured the attention of people all across the country and that it has become closely tied to the larger concept of unfunded Federal mandates.

The amendment by Mr. JOHNSTON will require EPA to use the best reasonably obtainable scientific information in conducting the analyses set forth in the amendment. These analyses are directed at EPA's description of the risks to be addressed by a regulation, a comparison of those risks to other risks regulated by the agency and risks not regulated by the agency, and an estimate of the costs of those regulations to the Federal, State, and local governments, and the private sector. However, the amendment does not direct EPA to establish any specific procedure for conducting the original risk assessment itself.

Mr. President, during consideration of this legislation a number of Senators, including myself, have raised the issues of unfunded Federal mandates, private property rights, and a host of other topics described as the unavoidable negative implications of burdensome Federal regulation, especially in the area of environmental protection. While I am sensitive to the often harsh result of some regulatory programs, we need look no further than article 1 of the U.S. Constitution to be reminded that Congress is charged with the responsibility "to provide for the common Defence and general Welfare of the United States." This is a responsibility that I do not take lightly nor, do I believe, does any other Member of this body.

If the Congress were to refrain from taking any action that would impose a cost or burden on any individual, State, or community, then we would have never enacted the Internal Revenue Code, pest and disease quarantine laws, food safety inspection and drug safety and efficacy laws, civil rights legislation, and a host of other programs that the American public has come to recognize as a proper and necessary function of Government.

In many ways, environmental protection is no less an integral part of the general welfare than those items mentioned above. Without clean air, clean and safe drinking water, and other environmental considerations, this Nation and this planet would be a less comfortable place to live, and at some point it would be life itself that would be at risk. We have a responsibility, founded in the Constitution, to ensure these protections, and we also have a responsibility to ensure that the pro-

grams designed to maintain those protections are carried out in a proper and deliberate manner. The risk assessment process at EPA, which the Senator from Louisiana addresses in his amendment, is often the basis for many of the environmental programs facing American communities, businesses, and individuals, and that process clearly must withstand the scrutiny of the best science available in order to ensure a reasonable application of regulation to the regulated community and a resulting proper allocation of financial resources to fully comply with the dictates of those regulations.

On April 5, 1994, the General Accounting Office released a report on the perspectives of State and local government representatives on the impact of unfunded Federal mandates. Not surprisingly, many of the concerns raised in that report fall in the category of environmental regulations. In addition to problems related to the costs and inflexibility of those regulations, the report also noted that a major concern of States and local governments is the absence of conclusive scientific evidence to support the need for some mandate prescriptions. The report goes on to state that the lack of conclusive data often leads to regulations that are unreasonable, inefficient, or extremely costly. Mr. President, I don't feel anyone in this Chamber would oppose the implementation of a necessary environmental program grounded in sound science, but I think we would all have problems with one that is unreasonable, inefficient, and extremely costly.

On April 22, 1994, an editorial appeared in the Delta Farm Press, a farm publication with a wide readership throughout the Midsouth, which outlined the high costs of environmental regulations and the need for the application of sound science to the process. The editorial quotes former EPA Administrator, William K. Reilly, as stating, "Our society is being forced to make enormously costly decisions on a very small science base." Although the Delta Farm Press is written largely for an audience within the farming community, this editorial and the statement by Mr. Reilly are just as true when applied to all communities, industries, and individuals throughout the United States.

Mr. President, I am not a scientist. I have no intention of dictating to the EPA a specific method of precisely how they should conduct risk assessments that will ultimately affect us all in the form of Federal regulations. However, this country is blessed with an outstanding scientific community which does have the knowledge, expertise, and experience to understand what makes risk assessments work and why they fail. Toward the goal of injecting a better scientific base into the risk assessment process, I was prepared to offer an amendment to this bill.

My amendment would require EPA to establish uniform guidelines for risk assessments which would be subject to notice and comment rulemaking. This would accomplish several objectives, it would guarantee that all risk assessments would be subject to an objective scientific standard, it would involve the expertise of the entire scientific community, and it would result in a more reasonable, efficient, and hopefully less costly, set of regulatory programs. My amendment would in no way change the substance of any environmental statute, the standards of protection would remain the same. My amendment would simply mandate that the procedures by which we measure those standards be based on sound science.

The Senate Committee on Energy and Natural Resources has held hearings on risk assessments, and a clear message from the testimony we heard expressed the need for a better application of science to the process. That sentiment has also been echoed recently by the National Academy of Sciences and EPA's own Science Advisory Board. Since the specific nature of my amendment has not undergone the scrutiny of Senate hearings, I have not offered it to the bill we have passed today, but I will introduce it as a separate bill that I hope my colleagues will study closely and join me as cosponsors.

The American people are crying for relief from unreasonable and costly regulations, not for a repeal of measures truly intended to protect the environment and other aspects of the general welfare of the United States. My legislation will not turn the regulatory community on its head, but it will be a first good start, along with the efforts of Mr. JOHNSTON, to bring an objective standard to the problems imposed on the regulated community which, Mr. President, includes every one of us.

Mr. LEVIN. Mr. President, with the passage of this bill, the Senate has produced a piece of legislation that is flexible and reasonable. We have listened carefully to the concerns voiced to us since the passage of the 1986 amendments by local governments and small communities. In response to their justifiable concerns, we are now moving legislation that does not contain major new, overly prescriptive requirements that provide only marginal returns to public or environmental health. Instead, this bill reduces the financial and administrative burdens imposed on small communities by current monitoring requirements without sacrificing public health. And the bill is intended to simplify the entire regulatory process.

Mr. President, the Senate is now more attuned to the effect that Congress' action has on small communities. I hope that this bill creates a new setting for the Senate's future consideration of other environmental and public health protection measures.

The PRESIDENT pro tempore. The yeas and nays having been ordered, the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Rhode Island [Mr. PELL] is necessarily absent.

I also announce that the Senator from Alabama [Mr. SHELBY] is absent because of illness.

I further announce that, if present and voting, the Senator from Rhode Island [Mr. PELL] would vote "aye."

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

The result was announced—yeas 95, nays 3, as follows:

[Rollcall Vote No. 122 Leg.]

YEAS—95

Akaka	Exon	Mathews
Baucus	Feingold	McCain
Bennett	Feinstein	McConnell
Biden	Ford	Metzenbaum
Bingaman	Glenn	Mikulski
Bond	Gorton	Mitchell
Boren	Graham	Moseley-Braun
Boxer	Gramm	Moynihan
Bradley	Grassley	Murkowski
Breaux	Gregg	Murray
Brown	Harkin	Nickles
Bryan	Hatch	Nunn
Bumpers	Hatfield	Packwood
Burns	Heflin	Pryor
Byrd	Hollings	Reid
Campbell	Hutchison	Riegle
Chafee	Inouye	Robb
Coats	Jeffords	Rockefeller
Cochran	Johnston	Roth
Cohen	Kassebaum	Sarbanes
Conrad	Kempthorne	Sasser
Coverdell	Kennedy	Simon
Craig	Kerrey	Simpson
D'Amato	Kerry	Smith
Danforth	Kohl	Specter
Daschle	Lautenberg	Stevens
DeConcini	Leahy	Thurmond
Dodd	Levin	Wallop
Dole	Lieberman	Warner
Domenici	Lott	Wellstone
Dorgan	Lugar	Wofford
Durenberger	Mack	

NAYS—3

Faircloth	Helms	Pressler

NOT VOTING—2

Pell	Shelby

So the bill (S. 2019), as amended, was passed as follows:

S. 2019

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS; REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the "Safe Drinking Water Act Amendments of 1994".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents; references.
Sec. 2. Findings.
Sec. 3. State revolving loan funds.
Sec. 4. National drinking water regulations.
Sec. 5. Small systems programs.
Sec. 6. Enforcement of drinking water regulations.
Sec. 7. Control of lead in drinking water.
Sec. 8. Radon in drinking water.

Sec. 9. Water quality protection partnership.
Sec. 10. Emergency powers.
Sec. 11. Drinking water research, education, and certification.
Sec. 12. State drinking water program funding.
Sec. 13. Information and inspections.
Sec. 14. Federal agencies.
Sec. 15. Assessing environmental priorities, costs, and benefits.
Sec. 16. Bottled drinking water standards.
Sec. 17. Research plan for harmful substances in drinking water.
Sec. 18. Risk assessment and cost-benefit analysis.
Sec. 19. Private property rights.
Sec. 20. Other amendments.

4TITLE I—DEPARTMENT OF ENVIRONMENTAL PROTECTION

Sec. 100. Short title.

SUBTITLE A—ELEVATION OF THE ENVIRONMENTAL PROTECTION AGENCY TO CABINET LEVEL

Sec. 101. Short title.
Sec. 102. Findings.
Sec. 103. Establishment of the Department of Environmental Protection.
Sec. 104. Assistant Secretaries.
Sec. 105. Deputy Assistant Secretaries.
Sec. 106. Office of the General Counsel.
Sec. 107. Office of the Inspector General.
Sec. 108. Small business compliance assistance.
Sec. 109. Small governmental jurisdiction compliance assistance.
Sec. 110. Bureau of Environmental Statistics.
Sec. 111. Grant and contract authority for certain activities.
Sec. 112. Study of data needs.
Sec. 113. Miscellaneous employment restrictions.
Sec. 114. Termination of the Council on Environmental Quality and transfer of functions.
Sec. 115. Administrative provisions.
Sec. 116. Inherently governmental functions.
Sec. 117. References.
Sec. 118. Savings provisions.
Sec. 119. Conforming amendments.
Sec. 120. Additional conforming amendments.
Sec. 121. Sense of the Senate.
Sec. 122. Office of Environmental Justice.
Sec. 123. Wetland determinations by a single agency.

SUBTITLE B—ESTABLISHMENT OF THE COMMISSION ON IMPROVING ENVIRONMENTAL PROTECTION

Sec. 201. Establishment; membership.
Sec. 202. Commission responsibilities.
Sec. 203. Report to the President and Congress.
Sec. 204. Commission staff.
Sec. 205. Advisory groups.
Sec. 206. Termination of Commission.
Sec. 207. Funding; authorization of appropriations.

SUBTITLE C—EFFECTIVE DATE

Sec. 301. Effective date.

(c) REFERENCES TO TITLE XIV OF THE PUBLIC HEALTH SERVICE ACT.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title XIV of the Public Health Service Act (commonly known as the "Safe Drinking Water Act") (42 U.S.C. 300f et seq.).

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SEC. 2. FINDINGS.

Congress finds that—

(1) safe drinking water is essential to the protection of public health;

(2) the Federal Government needs to assist communities in the financing of drinking water treatment and related projects;

(3) small drinking water systems need additional technical assistance and information from State and Federal agencies to ensure the provision of safe and affordable drinking water;

(4) the existing process for the assessment and regulation of additional drinking water contaminants needs to be improved and revised to provide for more extensive participation from interested parties and to strengthen the scientific basis for drinking water regulations;

(5) States play a central role in the implementation of safe drinking water programs and States need increased financial resources to ensure the prompt and effective development and implementation of drinking water programs; and

(6) there is substantial noncompliance with requirements of the Safe Drinking Water Act (42 U.S.C. 300f et seq.) and Federal and State agencies need more effective authorities to ensure the implementation of the Act.

SEC. 3. STATE REVOLVING LOAN FUNDS.

(a) ESTABLISHMENT OF STATE LOAN FUNDS.—The title (42 U.S.C. 300f et seq.) is amended by adding at the end the following new part:

"PART G—STATE REVOLVING LOAN FUNDS

"GENERAL AUTHORITY

"SEC. 1471. (a) CAPITALIZATION GRANT AGREEMENTS.—The Administrator shall offer to enter into an agreement with each State to make capitalization grants to the State pursuant to section 1472 (referred to in this part as 'capitalization grants') to establish a drinking water treatment State revolving loan fund (referred to in this part as a 'State loan fund').

"(b) REQUIREMENTS OF AGREEMENTS.—An agreement entered into pursuant to this section shall establish, to the satisfaction of the Administrator, that—

"(1) the State has established a State loan fund that complies with the requirements of this part;

"(2) the State loan fund will be administered by an instrumentality of the State that has the powers and authorities that are required to operate the State loan fund in accordance with this part;

"(3) the State will deposit the capitalization grants into the State loan fund;

"(4) the State will deposit all loan repayments received, and interest earned on the amounts deposited into the State loan fund under this part, into the State loan fund;

"(5) the State will deposit into the State loan fund an amount equal to at least 20 percent of the total amount of each payment to be made to the State on or before the date on which the payment is made to the State, except as provided in subsection (c)(4);

"(6) the State will use funds in the State loan fund in accordance with an intended use plan prepared pursuant to section 1474(b);

"(7) the State and loan recipients that receive funds that the State makes available from the State loan fund will use accounting, audit, and fiscal procedures that conform to generally accepted accounting standards, as determined by the Administrator; and

"(8) the State has adopted policies and procedures to ensure that loan recipients are reasonably likely to be able to repay a loan.

"(c) ADMINISTRATION OF STATE LOAN FUNDS.—

"(1) IN GENERAL.—The authority to establish assistance priorities for financial assistance provided with amounts deposited into the State loan fund shall remain with the State agency that has primary responsibility for the administration of the State program pursuant to section 1413(a), after consultation with other appropriate State agencies.

"(2) FINANCIAL ADMINISTRATION.—A State may combine the financial administration of the State loan fund pursuant to this part with the financial administration of a State water pollution control revolving fund established by the State pursuant to title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et seq.) or other State revolving funds providing financing for similar purposes if the Administrator determines that the grants to be provided to the State under this part, together with loan repayments and interest deposited into the State loan fund pursuant to this part, will be separately accounted for and used solely for the purposes of and in compliance with the requirements specified in this part.

"(3) TRANSFER OF FUNDS.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, a Governor of a State may—

"(i) reserve up to 50 percent of a capitalization grant made pursuant to section 1472 and add the funds reserved to any funds provided to the State pursuant to section 601 of the Federal Water Pollution Control Act (33 U.S.C. 1381); and

"(ii) reserve in any year a dollar amount up to the dollar amount that may be reserved under clause (i) for that year from capitalization grants made pursuant to section 601 of such Act (33 U.S.C. 1381) and add the reserved funds to any funds provided to the State pursuant to section 1472.

"(B) STATE MATCH.—Funds reserved pursuant to this paragraph shall not be considered a State match of a capitalization grant required pursuant to this title or the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

"(4) STATE MATCH.—Notwithstanding subsection (b)(5), a State shall not be required to deposit a State matching amount in the fund prior to the date on which each payment is made for payments from funds appropriated for fiscal years 1994 and 1995, if the matching amounts for the payments are deposited in the State fund prior to September 30, 1998.

"CAPITALIZATION GRANTS

"SEC. 1472. (a) GENERAL AUTHORITY.—The Administrator may make grants to capitalize State loan funds to a State that has entered into an agreement pursuant to section 1471.

"(b) FORMULA FOR ALLOTMENT OF FUNDS.—

"(1) IN GENERAL.—Subject to subsection (c) and paragraph (2), funds made available to carry out this part shall be allotted to States that have entered into an agreement pursuant to section 1471 in accordance with—

"(A) for each of fiscal years 1994 through 1997, a formula that is the same as the formula used to distribute public water system supervision grant funds under section 1443 in fiscal year 1994, except that the minimum proportionate share established in the formula shall be 1 percent of available funds and the formula shall be adjusted to include a minimum proportionate share for the State of Wyoming; and

"(B) for each of fiscal years 1998 through 2000, a formula that allocates to each State the proportional share of the State needs

identified in the most recent survey conducted pursuant to section 1475(c), except that the minimum proportion provided to each State shall be the same as the minimum proportion provided under subparagraph (A).

"(2) OTHER JURISDICTIONS.—The formula established pursuant to paragraph (1) shall reserve a total of not less than 0.5 percent of the amounts made available to carry out this part for a fiscal year for providing direct grants to the jurisdictions, other than Indian tribes, referred to in subsection (f).

"(c) RESERVATION OF FUNDS FOR INDIAN TRIBES.—

"(1) IN GENERAL.—For each fiscal year, prior to the allotment of funds made available to carry out this part, the Administrator shall reserve 1.5 percent of the funds for providing financial assistance to Indian tribes pursuant to subsection (f).

"(2) USE OF FUNDS.—Funds reserved pursuant to paragraph (1) shall be used to address the most significant threats to public health associated with public water systems that serve Indian tribes, as determined by the Administrator in consultation with the Commissioner of Indian Affairs and Indian tribes.

"(3) NEEDS ASSESSMENT.—The Administrator, in consultation with the Commissioner of Indian Affairs and Indian tribes, shall, in accordance with a schedule that is consistent with the needs surveys conducted pursuant to section 1475(c), prepare surveys and assess the needs of drinking water treatment facilities to serve Indian tribes, including an evaluation of the public water systems that pose the most significant threats to public health.

"(d) TECHNICAL ASSISTANCE FOR SMALL SYSTEMS.—

"(1) DEFINITIONS.—As used in this subsection:

"(A) SMALL SYSTEM.—The term 'small system' means a public water system that serves a population of 10,000 or less.

"(B) TECHNICAL ASSISTANCE.—The term 'technical assistance' means assistance provided by a State to a small system, including assistance to potential loan recipients and assistance for planning and design related to the development and implementation of a source water quality protection petition program, alternative supplies of drinking water, restructuring or consolidation of a small system, and treatment to comply with a national primary drinking water regulation.

"(2) RESERVATION OF FUNDS.—To provide technical assistance pursuant to this subsection, each State may reserve from capitalization grants received in any year an amount that does not exceed the greater of—

"(A) an amount equal to 2 percent of the amount of the capitalization grants received by the State pursuant to this section; or

"(B) $300,000.

"(e) ALLOTMENT PERIOD.—

"(1) PERIOD OF AVAILABILITY FOR FINANCIAL ASSISTANCE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the sums allotted to a State pursuant to subsection (b) for a fiscal year shall be available to the State for obligation during the fiscal year for which the sums are authorized and during the following fiscal year.

"(B) FUNDS MADE AVAILABLE FOR FISCAL YEAR 1994.—The sums allotted to a State pursuant to subsection (b) from funds that are made available by appropriations for fiscal year 1994 shall be available to the State for obligation during each of fiscal years 1994 through 1996.

"(2) REALLOTMENT OF UNOBLIGATED FUNDS.—Prior to obligating new allotments made available to the State pursuant to subsection (b), each State shall obligate funds accumulated before a date that is 180 days prior to the date of the obligation of a new allotment from loan repayments and interest earned on amounts deposited in a State loan fund. The amount of any allotment that is not obligated by a State by the last day of the period of availability established by paragraph (1) may, at the election of the Governor of such State, be reallocated in the form of additional grants pursuant to subsection (f)(1) for eligible projects. Otherwise such amount shall be immediately reallotted by the Administrator on the basis of the same ratio as is applicable to sums allotted under subsection (b), except that the Administrator may reserve and allocate 10 percent of such remaining amount for financial assistance to Indian tribes in addition to the amount allotted under section 1472(c). None of the funds reallotted by the Administrator shall be reallotted to any State that has not obligated all sums allotted to the State pursuant to this section during the period that the sums were available for obligation.

"(3) ALLOTMENT OF WITHHELD FUNDS.—All funds withheld by the Administrator pursuant to subsection (g) and section 1442(e)(4) shall be allotted by the Administrator on the basis of the same ratio as is applicable to funds allotted under subsection (b). None of the funds allotted by the Administrator pursuant to this paragraph shall be allotted to a State unless the State has viability authority pursuant to section 1418 and has an adequate certification program pursuant to section 1442(e).

"(f) DIRECT GRANTS.—

"(1) IN GENERAL.—The Administrator is authorized to make grants for the improvement of public water systems of Indian tribes, the District of Columbia, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, and the Republic of Palau (pending the entry into full force and effect of the Compact of Free Association between the United States and the Republic of Palau); and

"(2) ALASKA NATIVE VILLAGES.—In the case of a grant for a project under this subsection in an Alaska Native village, the Administrator is also authorized to make grants to the State of Alaska for the benefit of Native villages. An amount not to exceed 4 percent of the grant amount may be used by the State of Alaska for project management.

"(g) VIABILITY.—Beginning in fiscal year 1998, the Administrator shall withhold the percentage prescribed in the following sentence of each capitalization grant made pursuant to this section to a State if the Administrator has not approved a viability program pursuant to section 1418(c) for the State. The percentage withheld shall be 10 percent for fiscal year 1998, 30 percent for fiscal year 1999, and 30 percent for each subsequent fiscal year.

"ELIGIBLE ASSISTANCE

"SEC. 1473. (a) IN GENERAL.—The amounts deposited into a State loan fund, including any amounts equal to the amounts of loan repayments and interest earned on the amounts deposited, may be used by the State to carry out projects that are consistent with this section.

"(b) PROJECTS ELIGIBLE FOR ASSISTANCE.—

"(1) IN GENERAL.—The amounts deposited into a State loan fund shall be used only for providing financial assistance for capital expenditures (excluding the cost of land acquisition, unless the cost is incurred to acquire land for the construction of a treatment facility or for a consolidation project) for—

"(A) capital expenditures for a project that will facilitate compliance with national primary drinking water regulations promulgated pursuant to section 1412;

"(B) capital expenditures for a project that will facilitate the consolidation of public water systems or the use of an alternative source of water supply;

"(C) capital expenditures for a project that will upgrade a drinking water treatment system; and

"(D) capital expenditures for the development of a public water system to replace private drinking water supplies if the water poses a significant threat to human health.

"(2) ASSISTANCE TO NONVIABLE SYSTEMS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), no assistance under this part shall be provided to a public water system that—

"(i) does not have the technical, managerial, and financial capability to ensure compliance with the requirements of this title; and

"(ii) has a history of past violations of any maximum contaminant level, treatment technique, monitoring requirement, or other requirement of a national primary drinking water regulation or variance.

"(B) RESTRUCTURING.—A nonviable public water system may receive assistance under this part if the owner or operator of the system agrees to undertake changes in operations (including ownership, management, accounting, rates, maintenance, consolidation, alternative water supply, or other procedures) to ensure that the system has the technical, managerial, and financial capability to comply with the requirements of this title over the long-term.

"(C) PROHIBITION.—No assistance under this part shall be provided to a public water system for a project for which the State determines that consolidation is appropriate other than assistance for consolidation.

"(c) ELIGIBLE PUBLIC WATER SYSTEMS.—A State loan fund may provide financial assistance only to community water systems and publicly owned and nonprofit noncommunity water systems.

"(d) TYPES OF ASSISTANCE.—Except as otherwise limited by State law, the amounts deposited into a State loan fund under this section may be used only—

"(1) to make loans, on the condition that—

"(A) the interest rate for each loan is less than or equal to the market interest rate, including an interest free loan;

"(B) principal and interest payments on each loan will commence not later than 1 year after completion of the project for which the loan was made and each loan will be fully amortized not later than 20 years after the completion of the project, except that in the case of a disadvantaged community (as defined in subsection (e)(1)), a State may provide an extended term for a loan, if the extended term—

"(i) terminates not later than the date that is 30 years after the date of project completion; and

"(ii) does not exceed the expected design life of the project;

"(C) the recipient of each loan will establish a dedicated source of revenue for the repayment of the loan; and

"(D) the State loan fund will be credited with all payments of principal and interest on each loan;

"(2) to buy or refinance the debt obligation of a municipality or an intermunicipal or interstate agency within the State at an interest rate that is less than or equal to the market interest rate in any case in which a

debt obligation is incurred after October 14, 1993, or to refinance a debt obligation for a project constructed to comply with a regulation established pursuant to an amendment to this title made by the Safe Drinking Water Act Amendments of 1986 (Public Law 99-339; 100 Stat. 642);

"(3) to guarantee, or purchase insurance for, a local obligation if the guarantee or purchase would improve credit market access or reduce the interest rate applicable to the obligation;

"(4) as a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the State if the proceeds of the sale of the bonds will be deposited into the State loan fund;

"(5) as a source of revenue or security for the payment of interest on a local obligation; and

"(6) to earn interest on the amounts deposited into the State loan fund.

"(e) ASSISTANCE FOR DISADVANTAGED COMMUNITIES.—

"(1) DEFINITION OF DISADVANTAGED COMMUNITY.—As used in this subsection, the term 'disadvantaged community' means the service area of a public water system that meets affordability criteria established after public review and comment by the State in which the public water system is located. The Administrator may publish information to assist States in establishing affordability criteria.

"(2) LOAN SUBSIDY.—Notwithstanding subsection (d), in any case in which the State makes a loan pursuant to subsection (d) to a disadvantaged community or to a community that the State expects to become a disadvantaged community as the result of a proposed project, the State may provide additional subsidization (including forgiveness of principal).

"(3) TOTAL AMOUNT OF SUBSIDIES.—For each fiscal year, the total amount of loan subsidies made by a State pursuant to paragraph (2) may not exceed 30 percent of the amount of the capitalization grant received by the State for the year.

"STATE LOAN FUND ADMINISTRATION

"SEC. 1474. (a) ADMINISTRATION, TECHNICAL ASSISTANCE, AND MANAGEMENT.—

"(1) ADMINISTRATION.—Each State that has a State loan fund is authorized to expend from the State loan fund a reasonable amount not to exceed 4 percent of the capitalization grant made to the State, for the costs of the administration of the State loan fund.

"(2) STATE PROGRAM MANAGEMENT ASSISTANCE.—

"(A) IN GENERAL.—Each State that has a loan fund is authorized to expend from the State loan fund an amount, determined pursuant to this paragraph, to carry out the public water system supervision program and source water quality protection petition program in the State.

"(B) LIMITATION.—Amounts expended pursuant to this paragraph in a fiscal year may not exceed the amount that is equal to the percentage specified in subparagraph (C) of the amount that is the difference between the grant funds available to the State in the fiscal year pursuant to section 1443(a) (including non-Federal funds matching the grant funds) and the amounts identified in the public water system supervision resource model established pursuant to section 1443, including State source water protection programs established pursuant to section 1429.

"(C) PERCENTAGE.—The percentage referred to in subparagraph (B) shall be—

"(i) 50 percent in fiscal year 1995;

"(ii) 100 percent in each of fiscal years 1996, 1997, and 1998; and

"(iii) 50 percent in fiscal year 1999.

"(D) STATE FUNDS.—Funds may not be expended pursuant to this paragraph unless the Administrator determines that—

"(i) the amount of State funds supporting the water supply supervision program is not less than the amount of State funds provided in fiscal year 1993; and

"(ii) in fiscal year 1999, funding for the water supply supervision program in the State (including funding provided pursuant to this paragraph) will be at a level that is no less than the level specified in the resource model established pursuant to section 1443.

"(b) INTENDED USE PLANS.—

"(1) IN GENERAL.—After providing for public review and comment, each State that has entered into a capitalization agreement pursuant to this part shall annually prepare a plan that identifies the intended uses of the amounts available to its State loan fund.

"(2) CONTENTS.—An intended use plan shall include—

"(A) a list of the projects to be assisted in the first fiscal year that begins after the date of the plan, including a description of the project, the expected terms of financial assistance, and the size of the community served;

"(B) the criteria and methods established for the distribution of funds;

"(C) a description of the financial status of the State loan fund and the short-term and long-term goals of the State loan fund;

"(D) to the maximum extent practicable, a description of all projects for which public water systems sought financial assistance for the fiscal year and the per household costs for drinking water for the systems; and

"(E) to the maximum extent practicable, a description of projects expected to be assisted in the 2 fiscal years following the fiscal year for which a list was prepared under subparagraph (A).

"(3) USE OF FUNDS.—An intended use plan shall provide, to the maximum extent practicable, that priority for the use of funds be given to those projects that address the most serious risk to human health and that assist systems most in need on a per household basis according to State affordability criteria.

"STATE LOAN FUND MANAGEMENT

"SEC. 1475. (a) IN GENERAL.—Not later than 1 year after the date of enactment of this part, and annually thereafter, the Administrator shall conduct such reviews and audits as the Administrator considers appropriate, or require each State to have the reviews and audits independently conducted, in accordance with the single audit requirements of chapter 75 of title 31, United States Code.

"(b) STATE REPORTS.—Not later than 2 years after the date of enactment of this part, and biennially thereafter, each State that administers a State loan fund shall publish and submit to the Administrator a report on the activities of the State under this part, including the findings of the most recent audit of the State loan fund.

"(c) DRINKING WATER NEEDS SURVEY AND ASSESSMENT.—Not later than 2 years after the date of enactment of this part, and every 2 years thereafter, the Administrator shall submit to Congress a survey and assessment of the needs for facilities in each State eligible for assistance under this part. The survey shall be submitted in even-numbered years so as to alternate annually with the estimate and comprehensive study of costs required to be submitted to Congress in each odd-numbered year under section 516(b) of the Federal Water Pollution Control Act (33 U.S.C. 1381(b)). The survey and assessment conducted pursuant to this subsection shall—

"(1) identify, by State, the needs for projects or facilities owned or controlled by community water systems eligible for assistance under this part on the date of the assessment (other than refinancing for a project pursuant to section 1473(d)(2));

"(2) estimate the needs for eligible facilities over the 20-year period following the date of the assessment;

"(3) identify, by size category, the population served by public water systems with needs identified pursuant to paragraph (1); and

"(4) include such other information as the Administrator determines to be appropriate.

"(d) EVALUATION.—The Administrator shall conduct an evaluation of the effectiveness of the State loan funds through fiscal year 1996. The evaluation shall be submitted to Congress at the same time as the President submits to Congress, pursuant to section 1108 of title 31, United States Code, an appropriations request for fiscal year 1998 relating to the budget of the Environmental Protection Agency.

"ENFORCEMENT

"SEC. 1476. The failure or inability of any public water system to receive funds under this part or any other loan or grant program, or any delay in obtaining the funds, shall not alter the obligation of the system to comply in a timely manner with all applicable drinking water standards and requirements of this title.

"LABOR STANDARDS

"SEC. 1477. (a) IN GENERAL.—The Administrator shall take such action as is necessary to ensure that all laborers and mechanics employed by contractors or subcontractors of projects for which financial assistance is provided under this part (including any assistance derived from repayments to the State loan fund) shall be paid wages at rates not less than the prevailing rates for the same type of work on similar construction in the immediate locality, as determined by the Secretary of Labor in accordance with the Act entitled 'An Act relating to the rate of wages for laborers and mechanics employed on public buildings of the United States and the District of Columbia by contractors and subcontractors, and for other purposes', approved March 3, 1931 (commonly known as the 'Davis-Bacon Act') (40 U.S.C. 276a et seq.).

"(b) AUTHORITY AND FUNCTIONS.—With respect to the labor standards described in subsection (a), the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 Fed. Reg. 3176) and section 2 of the Act of June 13, 1934 (48 Stat. 948, chapter 482; 40 U.S.C. 276c).

"REGULATIONS AND GUIDANCE

"SEC. 1478. The Administrator shall publish such guidance and promulgate such regulations as are necessary to carry out this part, including guidance and regulations to ensure that—

"(1) each State commits and expends funds from State loan funds in accordance with the requirements of this part and applicable Federal and State laws; and

"(2) the States and eligible public water systems that receive funds under this part use accounting, audit, and fiscal procedures that conform to generally accepted accounting standards.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1479. (a) GENERAL AUTHORIZATION.—There are authorized to be appropriated to the Environmental Protection Agency to carry out this part $600,000,000 for fiscal year 1994 and $1,000,000,000 for each of fiscal years 1995 through 2000.

"(b) NATIONAL ACADEMY OF SCIENCES.—The Administrator is authorized to reserve from funds appropriated pursuant to this section for fiscal year 1995 an amount not to exceed $1,000,000 to support a study by the National Academy of Sciences of scientific practices related to the development of drinking water standards for contaminants that are regulated on the basis of a health effect other than a carcinogenic effect.".

(b) DEFINITIONS.—Section 1401 (42 U.S.C. 300f) is amended—

(1) in paragraph (13)—

(A) by striking "The" and inserting "(A) Except as provided in subparagraph (B), the"; and

(B) by adding at the end the following new subparagraph:

"(B) For purposes of part G, the term 'State' means each of the 50 States and the Commonwealth of Puerto Rico.";

(2) in paragraph (14), by adding at the end the following new sentence: "For purposes of part G, the term includes any Native village, as defined in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(c)).."; and

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

"(15) The term 'community water system' means a public water system that—

"(A) serves at least 15 service connections used by year-round residents of the area served by the system; or

"(B) regularly serves at least 25 year-round residents.

"(16) The term 'noncommunity water system' means a public water system that is not a community water system.".

SEC. 4. NATIONAL DRINKING WATER REGULATIONS.

(a) STANDARDS.—Section 1412(b) (42 U.S.C. 300g-1(b)) is amended by striking "(b)(1)" and all that follows through the end of paragraph (2) and inserting the following:

"(b) STANDARD SETTING SCHEDULES AND DEADLINES.—

"(1) IN GENERAL.—

"(A) GOALS AND REGULATIONS FOR CERTAIN CONTAMINANTS.—In the case of those contaminants listed in the Advance Notice of Proposed Rulemaking published in volume 47, Federal Register, page 9352, and in volume 48, Federal Register, page 45502, the Administrator shall publish maximum contaminant level goals and promulgate national primary drinking water regulations—

"(i) not later than 12 months after June 19, 1986, for not less than 9 of the listed contaminants;

"(ii) not later than 24 months after June 19, 1986, for not less than 40 of the listed contaminants; and

"(iii) not later than 36 months after June 19, 1986, for the remainder of the listed contaminants.

"(B) SUBSTITUTION OF CONTAMINANTS.—If the Administrator identifies a drinking water contaminant the regulation of which, in the judgment of the Administrator, is more likely to be protective of public health (taking into account the schedule for regulation under subparagraph (A)), the Administrator may publish a maximum contaminant level goal and promulgate a national primary drinking water regulation for the identified contaminant in lieu of regulating the contaminant referred to in such subparagraph. There may be no more than 7 contaminants in subparagraph (A) for which substitutions may be made. Regulation of a contaminant identified under this subparagraph shall be in accordance with the schedule applicable to the contaminant for which the substitution is made.

"(2) DISINFECTANTS AND DISINFECTION BYPRODUCTS.—

"(A) PROPOSED GOALS AND REGULATION.—Not later than May 31, 1994, the Administrator shall propose maximum contaminant level goals or maximum residual disinfectant level goals, and a national primary drinking water regulation, for disinfectants and disinfection byproducts (including maximum residual disinfectant levels). The Administrator shall also propose an interim enhanced surface water treatment rule for systems serving a population of more than 10,000 that includes a maximum contaminant level goal for cryptosporidium. The proposed regulation shall be consistent with the 'Disinfection and Disinfection Byproducts Negotiated Rulemaking Committee Agreement'.

"(B) STAGE I REGULATION.—Not later than December 31, 1996, the Administrator shall, after notice and opportunity for public comment, publish maximum contaminant level goals or maximum residual disinfectant level goals, and promulgate a revised national primary drinking water regulation for disinfectants and disinfection byproducts (including maximum residual disinfectant levels) and an interim enhanced surface water treatment rule for systems serving a population of more than 10,000 for microbial contaminants, including cryptosporidium.

"(C) INFORMATION COLLECTION RULE.—Not later than July 29, 1994, the Administrator shall, after notice and opportunity for comment, promulgate an information collection rule to obtain information that will facilitate further revisions to the national primary drinking water regulation for disinfectants and disinfection byproducts, including information on microbial contaminants such as cryptosporidium.

"(D) PROPOSED RULE.—Not later than June 30, 1997, the Administrator shall propose a long-term enhanced surface water treatment rule for all public water systems (including any appropriate revisions to the interim regulations for public water systems serving a population of more than 10,000) promulgated pursuant to subparagraph (B).

"(E) FINAL RULE.—Not later than December 31, 1998, the Administrator shall promulgate a long-term enhanced surface water treatment rule for all public water systems (including any appropriate revisions to the interim regulations for public water systems serving a population of more than 10,000) promulgated pursuant to subparagraph (B).

"(F) STAGE II REGULATION.—Not later than June 30, 2000, the Administrator shall, after notice and opportunity for comment, promulgate a revised national primary drinking water regulation for disinfectants and disinfection byproducts taking into account the information collected under subparagraph (C). To the extent practicable, the Administrator shall develop the revised national primary drinking water regulation through the negotiated rulemaking procedure provided for under subchapter III of chapter 5 of title 5, United States Code.".

(b) FILTRATION TECHNOLOGY FOR SMALL SYSTEMS.—Section 1412(b)(7)(C) (42 U.S.C. 300g-1(b)(7)(C)) is amended by adding at the end the following new clause:

"(v) FILTRATION TECHNOLOGY FOR SMALL SYSTEMS.—At the same time as the Administrator proposes a regulation pursuant to paragraph (2)(A), the Administrator shall propose a regulation that describes treatment techniques that meet the requirements for filtration pursuant to this subparagraph and are feasible for community water systems serving a population of 3,300 or less and noncommunity water systems.".

(c) IDENTIFICATION OF CONTAMINANTS FOR LISTING.—Paragraph (3) of section 1412(b) (42 U.S.C. 300g-1(b)(3)) is amended to read as follows:

"(3) IDENTIFICATION OF CONTAMINANTS FOR LISTING.—

"(A) GENERAL AUTHORITY.—The Administrator shall publish a maximum contaminant level goal, and promulgate a national primary drinking water regulation, for each contaminant (other than a contaminant referred to in paragraph (1) or (2) for which a national primary drinking water regulation has been promulgated) if, in the judgment of the Administrator, the contaminant may have an adverse effect on the health of persons and the contaminant is known or anticipated to occur in public water systems with a frequency and at levels of public health concern.

"(B) CONTAMINANTS TO BE CONSIDERED.—

"(i) INITIAL LIST.—Not later than 3 years after the date of enactment of the Safe Drinking Water Act Amendments of 1994, the Administrator shall publish a list of not fewer than 15 contaminants that, in the judgment of the Administrator (after consultation with the Secretary of the Department of Health and Human Services acting through the Director of the Centers for Disease Control and Prevention), present the greatest public health concern, based on available information with respect to the adverse health effects associated with the contaminants and the known or anticipated occurrence of the contaminants in public water systems.

"(ii) SUBSEQUENT LISTS.—Not later than 5 years after the date of publication of the initial list under clause (i), and every 5 years thereafter, the Administrator shall publish a list of not fewer than 7 additional contaminants meeting the criteria set forth in clause (i).

"(iii) COMMENT.—The Administrator shall seek comment on each of the lists required under clauses (i) and (ii) prior to publication of each list from officials of State and local governments, operators of public water systems, the scientific community, and the general public.

"(iv) LIST OF CONTAMINANTS.—Each of the contaminants listed pursuant to clause (ii) shall be on the list of contaminants established pursuant to section 1445(a)(2)(B).

"(v) PROPOSED WORK PLANS.—Proposed work plans, including schedules and milestones, for meeting the requirements of subparagraphs (C), (D), and (E) shall be published at the time a list is published under this subparagraph.

"(C) PROPOSED GOAL AND REGULATION.—Not later than 18 months after the date on which a contaminant has been listed pursuant to subparagraph (B), the Administrator shall publish a maximum contaminant level goal, and propose a national primary drinking water regulation, for the contaminant, if the Administrator determines that—

"(i) appropriate, peer-reviewed, scientific information and an assessment of health risks, conducted in accordance with sound scientific practices (considering applicable guidance from the National Academy of Sciences), have been considered;

"(ii) adequate data are available to develop the regulation; and

"(iii) the contaminant meets the criteria for regulation established in subparagraph (A).

A determination under this subparagraph shall be a final agency action for purposes of section 1448.

"(D) FINAL WORK PLAN FOR INFORMATION.—Not later than 18 months after the date on which a contaminant is listed pursuant to subparagraph (B) and for each of the contaminants for which a national primary drinking water regulation is not proposed pursuant to subparagraph (C)(ii), the Administrator shall publish a final work plan with respect to the contaminant for collecting information and conducting studies necessary for development of a national primary drinking water regulation for the contaminant.

"(E) PUBLICATION OF GOAL AND REGULATION OR DETERMINATION.—After the completion of studies for a contaminant identified in a work plan under subparagraph (D), but not later than 5 years after a contaminant is first listed under subparagraph (B), the Administrator shall publish—

"(i) a maximum contaminant level goal and propose a national primary drinking water regulation for the contaminant; or

"(ii) a determination that the contaminant does not meet the criteria for regulation under subparagraph (A).

A determination under clause (ii) shall be a final agency action for purposes of section 1448.

"(F) ISSUANCE OF REGULATIONS.—The Administrator shall promulgate a national primary drinking water regulation for each contaminant for which a regulation is proposed under this paragraph not later than 24 months after the date on which the regulation is proposed.

"(G) URGENT THREATS TO PUBLIC HEALTH.—The Administrator may promulgate a national primary drinking water regulation for a contaminant using procedures other than the procedures specified in subparagraphs (B) through (F) to address an urgent threat to public health.

"(H) MONITORING DATA AND OTHER INFORMATION.—The Administrator may require, in accordance with section 1445(a)(2), the submission of monitoring data and other information necessary for the development of studies, work plans, or national primary drinking water regulations.

"(I) NATIONAL DRINKING WATER OCCURRENCE DATA BASE.—

"(i) IN GENERAL.—Not later than 3 years after the date of enactment of the Safe Drinking Water Act Amendments of 1994, the Administrator shall assemble and maintain a national drinking water occurrence data base, using information on the occurrence of both regulated and unregulated contaminants in public water systems obtained under section 1445(a) and information from other public and private sources.

"(ii) USE.—The data shall be used by the Administrator in making determinations under this section with respect to the occurrence of a contaminant in drinking water at a level of public health concern.

"(iii) PUBLIC RECOMMENDATIONS.—The Administrator shall periodically solicit recommendations from the appropriate officials of the National Academy of Sciences, and any person may submit recommendations to the Administrator, with respect to contaminants that should be included in the national drinking water occurrence data base, including recommendations with respect to additional unregulated contaminants that should be listed under section 1445(a)(2).

"(iv) PUBLIC AVAILABILITY.—The information from the data base shall be available to the public in readily accessible form.

"(v) REGULATED CONTAMINANTS.—With respect to each contaminant for which a national primary drinking water regulation has been established, the data base shall include information on the detection of the contaminant at a quantifiable level in public water systems (including detection of the contaminant at levels not constituting a violation of the maximum contaminant level for the contaminant).

"(vi) UNREGULATED CONTAMINANTS.—With respect to contaminants for which a national primary drinking water regulation has not been established, the data base shall include—

"(I) monitoring information collected by public water systems that serve a population of more than 10,000, as required by the Administrator under section 1445;

"(II) monitoring information collected by the States from a representative sampling of public water systems that serve a population of 10,000 or less; and

"(III) other appropriate monitoring information on the occurrence of the contaminants in public water systems that is available to the Administrator.

"(J) PRIOR REQUIREMENTS.—The requirements of subparagraph (C) of this paragraph (as it existed before the amendment made by section 4(b) of the Safe Drinking Water Act Amendments of 1994), and any obligations to promulgate regulations not promulgated as of the date of enactment of such Act, are superseded by this paragraph and paragraph (2).".

(d) GOALS AND STANDARDS.—Section 1412(b)(4) (42 U.S.C. 300g-1(b)(4)) is amended—

(1) by striking "(4) Each maximum" and inserting the following:

"(4) GOALS AND STANDARDS.—

"(A) IN GENERAL.—Each maximum"; and

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

"(B) HEALTH RISK REDUCTION AND COST.—At the time a maximum contaminant level is proposed, the Administrator shall publish and seek public comment on, and consider for the purposes of subparagraph (C), an analysis of—

"(i) the health risk reduction benefits that are likely to occur as the result of treatment to comply with the maximum contaminant level;

"(ii) the costs that will be experienced as a result of compliance with the maximum contaminant level, including monitoring, treatment, and other costs;

"(iii) any potential increased health risk that may occur as a result of compliance with the maximum contaminant level; and

"(iv) the effects of the contaminant upon subpopulations that are identified as being at greater risk for adverse health effects in the research and evidence described in section 1442(j).

"(C) ADDITIONAL AUTHORITY.—

"(i) Notwithstanding subparagraph (A), the Administrator may establish a maximum contaminant level that is less stringent than is feasible (as determined under paragraph (5)), if the Administrator determines that the less stringent level will result in compliance costs that are substantially less than costs that would be experienced by public water systems to comply with the level that is feasible and that the less stringent level will—

"(I) for any contaminant that is regulated on the basis of the carcinogenic effects of the contaminant, not result in a significant increase in individual lifetime cancer risks from concentrations of the contaminant in drinking water relative to the feasible level; or

"(II) for any contaminant that is regulated on the basis of a health effect other than a carcinogenic effect, ensure a reasonable certainty of no harm.

"(ii) For contaminants that are regulated on the basis of health effects other than carcinogenic effects, the Administrator shall use the authority provided in this subparagraph only after the Administrator publishes in the Federal Register guidelines establishing sound scientific practices for the implementation of the authority with respect to the contaminant. The Administrator may publish guidelines pursuant to this clause only after the National Academy of Sciences has completed a study and made recommendations concerning the scientific information, methods, and practices that would be necessary to support the implementation of clause (i)(II) and ensure that decisions by the Administrator pursuant to clause (i)(II) are based on appropriate, peer-reviewed, scientific information and sound scientific practices. The study by the National Academy of Sciences shall be completed as expeditiously as practicable.

"(D) CONSIDERATION OF OTHER HEALTH EFFECTS.—

"(i) Notwithstanding the provisions of subparagraph (A), the Administrator may establish a maximum contaminant level for a contaminant at a level that is less stringent than is feasible if the technology, treatment techniques, and other means used to determine the feasible level would result in an increase in the overall health risk from drinking water by—

"(I) increasing the concentration of other contaminants in drinking water; or

"(II) interfering with the efficacy of drinking water treatment techniques or processes that are used to comply with other national primary drinking water regulations.

"(ii) If the Administrator establishes a maximum contaminant level for any contaminant pursuant to the authority of this subparagraph, the level shall minimize the overall risk of adverse health effects, including the risk from the contaminant and the risk from other contaminants the concentrations of which may be affected by the use of treatment techniques and processes that would be employed to attain the maximum contaminant level.".

(e) MONITORING FOR UNREGULATED CONTAMINANTS.—Section 1445(a) (42 U.S.C. 300j-4(a)) is amended by striking paragraphs (2) through (8) and inserting the following new paragraphs:

"(2) MONITORING PROGRAM FOR UNREGULATED CONTAMINANTS.—

"(A) ESTABLISHMENT.—The Administrator shall promulgate regulations establishing the criteria for a monitoring program for unregulated contaminants. The regulations shall require monitoring of drinking water supplied by public water systems and shall vary the frequency and schedule for monitoring requirements for systems based on the number of persons served by the system, the source of supply, and the contaminants likely to be found.

"(B) MONITORING PROGRAM FOR CERTAIN UNREGULATED CONTAMINANTS.—

"(i) IN GENERAL.—Not later than 3 years after the date of enactment of the Safe Drinking Water Amendments of 1994, and every 5 years thereafter, the Administrator shall issue a list pursuant to subparagraph (A) of not more than 30 unregulated contami-

nants to be monitored by public water systems and to be included in the national drinking water data base maintained pursuant to section 1412(b)(3)(I).

"(ii) GOVERNORS' PETITION.—The Administrator shall include among the list of contaminants for which monitoring is required under section 1445(a)(2) each contaminant recommended in a petition signed by the Governor of each of 7 or more States, unless the Administrator determines that the action would prevent the listing of other contaminants of a higher public health concern.

"(C) MONITORING BY LARGE SYSTEMS.—A public water system that serves a population of more than 10,000 shall conduct monitoring for all contaminants listed under subparagraph (B).

"(D) MONITORING PLAN FOR SMALL AND MEDIUM SYSTEMS.—Based on the regulations promulgated by the Administrator, each State shall develop a representative monitoring plan to assess the occurrence of unregulated contaminants in public water systems that serves a population of 10,000 or less. The plan shall require monitoring for systems representative of different sizes, types, and geographic locations within the State.

"(E) MONITORING RESULTS.—Each public water system that conducts monitoring of unregulated contaminants pursuant to this paragraph shall provide the results of the monitoring to the primary enforcement authority for the system.

"(F) WAIVER OF MONITORING REQUIREMENT.—The Administrator may waive the requirement for monitoring for a contaminant under this paragraph in a State, if the State demonstrates that the criteria for listing the contaminant do not apply in that State.

"(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $15,000,000 for each of fiscal years 1995 through 2000.".

(f) DRINKING WATER STANDARD REVIEW AND COMPLIANCE PERIODS.—

(1) REVIEW PERIOD.—The first and second sentences of section 1412(b)(9) (42 U.S.C. 300g-1(b)(9)) are each amended by striking "3" each place it appears and inserting "6".

(2) COMPLIANCE PERIOD.—Paragraph (10) of section 1412(b) (42 U.S.C. 300g-1(b)(10)) is amended to read as follows:

"(10) COMPLIANCE PERIOD.—A national primary drinking water regulation promulgated under this section shall take effect on the date that is 3 years after the date on which the regulation is promulgated unless the Administrator determines that an earlier date is practicable, except that the Administrator or, a State in the case of an individual system, may allow up to 2 additional years to comply with a maximum contaminant level or treatment technique if the Administrator or State determines that additional time is necessary for capital improvements.".

(3) EXEMPTIONS.—Section 1416 (42 U.S.C. 300g-5) is amended—

(A) in subsection (a)(1)—

(i) by inserting after "(which may include economic factors" the following: ", including qualification of the public water system as a 'disadvantaged community' pursuant to section 1473(e)(1)"; and

(ii) by inserting after "treatment technique requirement," the following: "or to implement measures to develop an alternative source of water supply or restructure or consolidate the system."; and

(B) in subsection (b)—

(i) in the first sentence of paragraph (1)—

(I) by inserting after "(A)" the following: "(i)";

(II) by striking "(B)" and inserting "(ii)";

(III) by striking the period at the end of the sentence and inserting "; or"; and

(IV) by inserting after subparagraph (A) (as amended by subclauses (I), (II), and (III)) the following new subparagraph:

"(B) implementation by the public water system of measures needed to ensure compliance with the requirements of this title, including development of an alternative source of water supply or restructuring or consolidation of the system."; and

(ii) in paragraph (2)—

(I) by striking "(except as provided in subparagraph (B))" in subparagraph (A) and all that follows through "3 years after the date of the issuance of the exemption if" in subparagraph (B) and inserting the following: "not later than 3 years after the otherwise applicable compliance date established in section 1412(b)(10).

"(B) No exemption shall be granted unless";

(II) in subparagraph (B)(i), by striking "within the period of such exemption" and inserting "prior to the date established pursuant to section 1412(b)(10)";

(III) in subparagraph (B)(ii), by inserting after "such financial assistance" the following: "or assistance pursuant to part G or any other Federal or State program is reasonably likely to be available within the period of the exemption";

(IV) in subparagraph (C)—

(aa) by striking "500 service connections" and inserting "a population of 3,300"; and

(bb) by striking "for one or more additional 2-year periods" and inserting "for one additional 2-year period"; and

(V) by adding at the end the following new subparagraph:

"(D) VARIANCES.—A public water system may not receive an exemption under this section if the system was granted a variance under section 1415(e).".

(g) MONITORING REQUIREMENTS.—

(1) ALTERNATIVE MONITORING PROGRAM.—Section 1445(a)(1) (42 U.S.C. 300j-4(a)(1)) is amended—

(A) by designating the first and second sentences as subparagraphs (A) and (B), respectively; and

(B) by adding at the end the following new subparagraphs:

"(C) REVIEW.—The Administrator shall—

"(i) not later than 1 year after the date of enactment of this subparagraph, after consultation with public health experts, representatives of the general public, and officials of State and local governments, review the monitoring requirements for not less than 12 contaminants identified by the Administrator; and

"(ii) not later than 1 year after the review, promulgate any necessary modifications.

"(D) STATE-ESTABLISHED REQUIREMENTS.—

"(i) IN GENERAL.—Each State with primary enforcement responsibility may submit an application to the Administrator to establish for any national drinking water regulation, other than a regulation applicable to a microbial contaminant (or indicator of a microbial contaminant), monitoring requirements applicable to public water systems identified by the State, in lieu of the monitoring requirements contained in the regulation, if the monitoring requirements established by the State—

"(I) are based on occurrence data and other relevant characteristics of the contaminant or the systems subject to the requirements; and

"(II) include monitoring frequencies for public water systems in which a contaminant has been detected at a quantifiable level no less frequent than required in the national primary drinking water regulation for the contaminant for a period of 5 years after the detection.

"(ii) COMPLIANCE AND ENFORCEMENT.—The monitoring requirement established by the State shall be adequate to ensure compliance with, and enforcement of, each national primary drinking water regulation.

"(iii) APPROVAL.—The Administrator shall review an application submitted by a State pursuant to this subparagraph and approve the application, in whole or in part, if the application meets the requirements of this subparagraph. If the Administrator has not acted pursuant to this clause within 180 days after submission of the application, the application shall be deemed to be approved. If the Administrator disapproves an application, or a part of an application, the Administrator shall provide to the State a description of the changes needed for the program to be approved. A monitoring program approved pursuant to this clause shall be approved for a period of 3 years and each subsequent approval shall be for a period of 5 years.

"(iv) OTHER STATES.—The Governor of any State that does not have primary enforcement responsibility under section 1413 on the date of enactment of this clause may submit to the Administrator a request that the Administrator modify the monitoring requirements established by the Administrator and applicable to public water systems in that State, and the Administrator shall modify the requirements for public water systems in that State if the request of the Governor is in accordance with each of the requirements of this subparagraph that apply to applications from States that have primary enforcement responsibility. A decision by the Administrator to approve a request under this clause shall be for a period of 3 years and may subsequently be extended for periods of 5 years.".

(2) SMALL SYSTEM MONITORING.—Section 1445(a)(1) (42 U.S.C. 300j-4(a)(1)) (as amended by paragraph (1)(B)) is further amended by adding at the end the following new subparagraph:

"(E) SMALL SYSTEM MONITORING.—With respect to monitoring requirements for contaminants regulated on the basis of the carcinogenic effects of the contaminants, the Administrator or a State that has primary enforcement responsibility pursuant to section 1413(a) may modify the requirements to provide that any public water system that serves a population of 10,000 or less shall not be required to conduct additional quarterly monitoring during any 3-year period for a specific contaminant if monitoring conducted at the beginning of the period for the contaminant fails to detect the presence of the contaminant in the water supplied by the public water system, and the State determines that the contaminant is unlikely to be detected by further monitoring in the period.".

SEC. 5. SMALL SYSTEMS PROGRAMS.

(a) SMALL SYSTEM VARIANCES.—

(1) IN GENERAL.—Section 1415 (42 U.S.C. 300g-4) is amended by adding at the end the following new subsection:

"(e) SMALL SYSTEM VARIANCES.—

"(1) IN GENERAL.—The Administrator, or a State with primary enforcement responsibility for public water systems under section 1413, may grant to a public water system serving a population of 10,000 or less (referred to in this subsection as a 'small system') a variance under this subsection for compli-

ance with a requirement specifying a maximum contaminant level or treatment technique contained in a national primary drinking water regulation, if the variance meets all the requirements of this subsection.

"(2) AVAILABILITY OF VARIANCES.—A small system may receive a variance under this subsection if the system installs, operates, and maintains, in accordance with guidance or regulations issued by the Administrator, treatment technology that is feasible for small systems as determined by the Administrator pursuant to section 1412(b)(12).

"(3) CONDITIONS FOR GRANTING VARIANCES.—A variance under this subsection shall be available only to a system—

"(A) that cannot afford to comply, in accordance with affordability criteria established by the State (or the Administrator for State that does not have primary enforcement responsibility under section 1413), with a national primary drinking water regulation, including compliance through treatment, alternative source water supply, or restructuring, including consolidation; and

"(B) for which the Administrator or, if the State has primary enforcement responsibility under section 1413, the State determines that the terms of the variance ensure adequate protection of human health, considering the quality of the source water for the system and the removal efficiencies and expected useful life of the treatment technology required by the variance.

"(4) APPLICATIONS.—An application for a variance for a national primary drinking water regulation under this subsection shall be submitted to the Administrator or the State not later than the date that is the later of—

"(A) 3 years after the date of enactment of this subsection; or

"(B) 1 year after the compliance date of the national primary drinking water regulation as established under section 1412(b)(10) for which a variance is requested.

"(5) VARIANCE REVIEW AND DECISION.—

"(A) TIMETABLE.—The Administrator or the State shall grant or deny a variance not later than 1 year after the application deadlines established in paragraph (4).

"(B) PENALTY MORATORIUM.—Each public water system that submits a timely application for a variance under this subsection shall not be subject to a penalty in an enforcement action under section 1414 for a violation of a maximum contaminant level or treatment technique in the national primary drinking water regulation with respect to which the variance application was submitted prior to the date of a decision to grant or deny the variance.

"(6) COMPLIANCE SCHEDULES.—

"(A) VARIANCES.—A variance granted under this subsection shall require compliance with the conditions of the variance not later than 3 years after the date on which the variance is granted, except that the State may allow up to 2 additional years to comply with a treatment technique if the State determines that additional time is necessary for capital improvements, or to allow for financial assistance provided pursuant to part G or any other Federal or State program.

"(B) DENIED APPLICATIONS.—If the Administrator or a State denies a variance application under this subsection, the public water system shall be in compliance with the requirements of the national primary drinking water regulation for which the variance was requested not later than 4 years after the date on which the national primary drinking water regulation was promulgated.

"(7) DURATION OF VARIANCES.—

"(A) IN GENERAL.—A State shall review each variance granted under this subsection not less often than every 5 years after the compliance date established in the variance to determine whether the system remains eligible for the variance and is conforming to all conditions of the variance.

"(B) REVOCATION OF VARIANCES.—The Administrator or, if the State has primary enforcement responsibility under section 1413, the State shall revoke a variance in effect under this subsection if the Administrator or the State determines that—

"(i) the system is no longer eligible for a variance;

"(ii) the system has failed to comply with any term or condition of the variance, other than a reporting or monitoring requirement; or

"(iii) the terms of the variance do not ensure adequate protection of human health, considering the quality of source water available to the system and the removal efficiencies and expected useful life of the treatment technology required by the variance.

"(8) INELIGIBILITY FOR VARIANCES.—A variance shall not be available under this subsection for—

"(A) any maximum contaminant level or treatment technique for a contaminant with respect to which a national primary drinking water regulation was promulgated prior to January 1, 1986; or

"(B) a national primary drinking water regulation for a microbial contaminant (including a bacterium, virus, or other organism) or an indicator or treatment technique for a microbial contaminant.

"(9) REGULATIONS AND GUIDANCE.—

"(A) IN GENERAL.—Not later than 2 years after the date of enactment of this subsection, the Administrator shall promulgate regulations for variances to be granted under this subsection. The regulations shall, at a minimum, specify—

"(i) procedures to be used by the Administrator or a State to grant or deny variances, including requirements for notifying the Administrator and consumers of the public water system applying for a variance and requirements for a public hearing on the variance before the variance is granted;

"(ii) requirements for the installation and proper operation of treatment technology that is feasible for small systems;

"(iii) eligibility criteria for a variance for each national primary drinking water regulation, including requirements for the quality of the source water (pursuant to section 1412(b)(12)(A)) and the financial and technical capability to operate the treatment system, including operator training and certification; and

"(iv) information requirements for variance applications.

"(B) AFFORDABILITY CRITERIA.—Not later than 18 months after the date of enactment of the Safe Drinking Water Act Amendments of 1994, the Administrator, in consultation with the States, shall publish information to assist the States in developing affordability criteria. The affordability criteria shall be reviewed by the States not less often than every 5 years to determine if changes are needed to the criteria.

"(10) REVIEW BY THE ADMINISTRATOR.—

"(A) IN GENERAL.—The Administrator shall periodically review State decisions with respect to variances to determine whether the variances granted by the State comply with the requirements of this subsection and the regulations promulgated by the Administrator. With respect to affordability, the determination of the Administrator shall be limited to whether the variances granted by the State comply with the affordability criteria developed by the State.

"(B) OBJECTIONS TO VARIANCES.—

"(i) BY THE ADMINISTRATOR.—If any variance proposed to be granted by a State contains provisions that are determined by the Administrator as not in compliance with this subsection (including the requirement that a variance not be granted to a system that can comply with the national primary drinking water regulations through treatment, an alternative source of water supply, or restructuring) and the regulations promulgated by the Administrator pursuant to paragraph (9), the Administrator shall object to the granting of the variance. The State shall respond in writing to each objection of the Administrator. The State shall not grant the variance until the objections of the Administrator have been resolved.

"(ii) PETITION BY CONSUMERS.—If the Administrator does not object to the granting of a variance, any person served by the system may petition the Administrator to object to the granting of a variance. The Administrator shall respond to the petition not later than 90 days after the receipt of the petition. The State shall not grant the variance during the 90-day period. The petition shall be based on comments made by the petitioner during public review of the variance by the State.

"(C) NOTICE AND PUBLICATION.—If the Administrator determines that variances granted by a State are not in full compliance with affordability criteria developed by the State and the regulations promulgated by the Administrator pursuant to paragraph (9), the Administrator shall notify the State in writing of the deficiencies and make public the determination.".

(2) SMALL SYSTEM TREATMENT TECHNOLOGIES.—Section 1412(b) (42 U.S.C. 300g-1(b)) is amended by adding at the end the following new paragraph:

"(12) SMALL SYSTEM TREATMENT TECHNOLOGIES.—

"(A) IN GENERAL.—At the same time as the Administrator promulgates a national primary drinking water regulation pursuant to this section, the Administrator shall issue guidance or regulations describing a treatment technology (or technologies) for the contaminant that is the subject of the regulation that is feasible (as defined in paragraph (5)) for public water systems serving a population of 10,000 or less. The Administrator may classify systems by the size of the population served and describe a technology or technologies that are appropriate for systems in each class. The guidance or regulations shall identify the effectiveness of the technology, the cost of the technology, and other factors related to the use of the technology, including requirements for the quality of source water to ensure adequate protection of human health, considering removal efficiencies of the technology, and installation, and operation and maintenance requirements, for the technology. The Administrator shall not issue guidance or regulations for a technology under this paragraph unless the technology adequately protects human health, considering the expected useful life of the technology and the source waters available to systems for which the technology is considered feasible.

"(B) REGULATIONS AND GUIDANCE.—Not later than 2 years after the date of enactment of this paragraph, the Administrator shall issue guidance or regulations under subparagraph (A) for each national primary

drinking water regulation promulgated prior to the date of enactment of this paragraph for which a variance may be granted under section 1415(e). The Administrator may, at any time after a national primary drinking water regulation has been promulgated, issue guidance or regulations describing additional treatment technologies that meet the requirements of subparagraph (A) for public water systems serving a population of 3,300 or less that are subject to the regulation.".

(3) AVAILABILITY OF INFORMATION ON SMALL SYSTEM TECHNOLOGIES.—Section 1445 (42 U.S.C. 300j-4) is amended by adding at the end the following new subsection:

"(g) AVAILABILITY OF INFORMATION ON SMALL SYSTEM TECHNOLOGIES.—For purposes of section 1412(b)(12), the Administrator may request information on the characteristics of commercially available treatment systems and technologies, including the effectiveness and performance of the systems and technologies under various operating conditions. The Administrator may specify the form, content, and date by which information shall be submitted by manufacturers, States, and other interested persons for the purpose of considering the systems and technologies in the development of regulations or guidance under section 1412(b)(12).".

(b) VIABILITY OF PUBLIC WATER SYSTEMS.—Part B (42 U.S.C. 300g et seq.) is amended by adding at the end the following new section:

"STATE VIABILITY PROGRAMS

"SEC. 1418. (a) IN GENERAL.—Each State shall adopt a State Drinking Water System Viability Program (referred to in this section as the 'State Viability Program') to ensure the capability of public water systems in the State to comply with the requirements of this title.

"(b) PROGRAM ELEMENTS.—A State Viability Program complies with this section if it includes—

"(1) the legal authority to ensure that all new public water systems commencing operation after October 1, 1997, have the managerial, technical, and financial capability to comply with national primary drinking water regulations and other requirements of this title; and

"(2) a program to secure the voluntary restructuring (including physical consolidation) of existing systems that are in violation of a national primary drinking water regulation or other requirement of this title and that lack the managerial, technical, or financial capability to comply with the regulation or requirement.

"(c) SUBMISSION AND APPROVAL OF PROGRAMS.—

"(1) SUBMISSION.—Not later than 36 months after the date of enactment of this section, each State shall submit to the Administrator a proposal for a State Viability Program that meets the requirements of this section.

"(2) APPROVAL OR DISAPPROVAL.—The Administrator shall approve or disapprove each State Viability Program not later than 180 days after receipt of the Program. If the Administrator disapproves a Program, the Administrator shall notify the State of the reasons for disapproval in writing and the State may resubmit the Program as modified to resolve the objections of the Administrator.

"(3) WITHDRAWAL OF APPROVAL.—The Administrator may, after notifying a State, withdraw approval of a State Viability Program, if the State fails to carry out the Program as provided in this section.

"(d) PENALTY MORATORIUM.—A public water system in violation of a requirement specifying a maximum contaminant level or treatment technique that seeks assistance from a State for restructuring, including physical consolidation, shall not be subject to a penalty in an enforcement action under section 1414 for a violation of the requirement for a period of 3 years, if the system is meeting the terms and conditions of a State restructuring order. The extension described in the preceding sentence shall not apply to a system that applies for assistance after the date that is 4 years after the date of enactment of this section.

"(e) SYSTEMS IN COMPLIANCE.—Nothing in this section requires a State to prohibit the operation of a public water system that is in compliance with national primary drinking water regulations and other requirements of this title.

"(f) EPA GUIDANCE.—Not later than 2 years after the date of enactment of this section, the Administrator shall, after consultation with officials of State and local governments, publish guidance for use by the States—

(1) identifying the factors contributing to nonviability of public water systems; and

(2) identifying technical, managerial, financial, and other options to address the factors, including options that have been successfully employed by States.

"(g) EPA SURVEY.—Not later than 2 years after the date of enactment of this section, the Administrator shall conduct a survey of public water systems to identify public water systems that are likely to be nonviable based on the requirements of law and factors contributing to nonviability, including the economic circumstances of the community. The results of the survey shall be published with the guidance prepared by the Administrator pursuant to subsection (f).".

(c) SMALL WATER SYSTEMS TECHNOLOGY CENTERS.—Section 1442 (42 U.S.C. 300j-1) is amended by adding at the end the following new subsection:

"(h) SMALL PUBLIC WATER SYSTEMS TECHNOLOGY ASSISTANCE CENTERS.—

"(1) GRANT PROGRAM.—The Administrator shall make grants to institutions of higher learning to establish and operate not fewer than 5 small public water system technology assistance centers in the United States.

"(2) RESPONSIBILITIES OF THE CENTERS.—The responsibilities of the small public water system technology assistance centers established under this subsection shall include the conduct of research, training, and technical assistance relating to the information, performance, and technical needs of small public water systems or public water systems that serve Indian tribes.

"(3) APPLICATIONS.—Any institution of higher learning interested in receiving a grant under this subsection shall submit to the Administrator an application in such form and containing such information as the Administrator may require by regulation.

"(4) SELECTION CRITERIA.—The Administrator shall select recipients of grants under this subsection on the basis of the following criteria:

"(A) The small public water system technology assistance center shall be located in a State that is representative of the needs of the region in which the State is located for addressing the drinking water needs of rural small communities or Indian tribes.

"(B) The grant recipient shall be located in a region that has experienced problems with rural water supplies.

"(C) There is available to the grant recipient for carrying out this subsection demonstrated expertise in water resources research, technical assistance, and training.

"(D) The grant recipient shall have the capability to provide leadership in making national and regional contributions to the solution of both long-range and intermediate rural water system technology management problems.

"(E) The grant recipient shall have a demonstrated interdisciplinary capability with expertise in small public water system technology management and research.

"(F) The grant recipient shall have a demonstrated capability to disseminate the results of small public water system technology research and training programs through an interdisciplinary continuing education program.

"(G) The projects that the grant recipient proposes to carry out under the grant are necessary and appropriate.

"(H) The grant recipient has regional support beyond the host institution.

"(I) For purposes of this subsection, the State of Alaska shall be considered a region.

"(5) CONSORTIA OF STATES.—At least 2 of the grants shall be made to consortia of States with low population densities. As used in this paragraph, the term 'consortia of States with low population densities' means a consortia of States, each State of which has an average population density of less than 12.3 persons per square mile, based on data for 1993 from the Bureau of the Census.".

(d) Section 1412(b)(6) (42 U.S.C. 300g-1(b)(6)) is amended by adding at the end thereof the following: "The Administrator shall include in the list any technology, treatment technique or other means that is feasible for small public water systems and that achieves compliance with the maximum contaminant level, including (A) packaged or modular systems; and (B) point of entry treatment units that are controlled by the public water system to ensure proper operation and maintenance and compliance with the maximum contaminant level and equipped with mechanical warnings to ensure that customers are automatically notified of operational problems.".

SEC. 6. ENFORCEMENT OF DRINKING WATER REGULATIONS.

(a) IN GENERAL.—Section 1414 (42 U.S.C. 300g-3) is amended to read as follows:

"ENFORCEMENT OF DRINKING WATER REGULATIONS

"SEC. 1414. (a) CIVIL ENFORCEMENT AUTHORITY.—If, on the basis of information available to the Administrator, the Administrator finds that a person has violated an applicable requirement and the State with primary enforcement responsibility for the requirement has not commenced or is not diligently prosecuting an enforcement action to require compliance with the requirement, the Administrator shall notify the person and the State of the finding and shall issue an order pursuant to subsection (b) requiring the person to comply with the requirement or shall initiate an action for the assessment of an administrative penalty pursuant to subsection (c), or both, or shall initiate a civil action pursuant to subsection (e).

"(b) ADMINISTRATIVE COMPLIANCE ORDERS.—If the Administrator finds that a person has violated an applicable requirement, the Administrator may issue a compliance order. A compliance order shall be served by personal service, state with reasonable specificity the nature of the violation, and specify a reasonable time for compliance that takes into account the nature of the violation. If an administrative compliance order is issued to a corporation, a copy of the compliance order shall be served on any appropriate corporate officer.

"(c) ADMINISTRATIVE PENALTY ORDERS.—

"(1) IN GENERAL.—If the Administrator finds that a person has violated an applicable requirement, the Administrator may issue a penalty order assessing a class I or a class II civil penalty against the person.

"(2) PENALTIES.—

"(A) CLASS I.—Except as provided in subsection (d), the Administrator may, after notice and opportunity for hearing (but without regard to chapters 5 and 7 of title 5, United States Code), assess a class I civil penalty under paragraph (1) in an amount not to exceed $10,000 per day per violation, except that the maximum amount of a class I civil penalty may not exceed $25,000.

"(B) CLASS II.—

"(i) IN GENERAL.—Except as provided in subsection (d), the Administrator may, after notice and opportunity for a hearing on the record in accordance with chapters 5 and 7 of title 5, United States Code, assess a class II civil penalty under paragraph (1) in an amount not to exceed $10,000 per day per violation, except that the maximum amount of a class II civil penalty may not exceed $200,000.

"(ii) PUBLIC NOTICE AND OPPORTUNITY TO COMMENT.—Before assessing a class II civil penalty under clause (i), the Administrator shall provide public notice of, and reasonable opportunity to comment on, the proposed issuance of such order.

"(3) FINALITY OF ORDERS.—An order assessing a civil penalty under this subsection shall become final 30 days after the order is issued, except that an order issued upon consent shall become final upon issuance.

"(4) ELECTION OF CIVIL PENALTY REMEDY.—If a civil penalty is assessed by the Administrator for a violation pursuant to this subsection, an additional penalty may not be assessed by the Administrator or a Federal court pursuant to this section for the same violation.

"(5) JUDICIAL REVIEW.—

"(A) IN GENERAL.—A person against whom a penalty order is issued under this subsection, except upon consent, or who commented on the proposed assessment of the penalty in accordance with paragraph (2)(B)(ii), may obtain review of the order in the United States District Court for the District of Columbia or in the district court in the district in which the violation is alleged to have occurred by filing, during the 30-day period beginning on the date the penalty order becomes final, a complaint with the court. The person shall simultaneously send a copy of the complaint by certified mail to the Administrator and the Attorney General. The Administrator shall promptly file in the court a certified copy of the record on which the order was issued.

"(B) STANDARD OF REVIEW.—The court shall not set aside or remand the order unless the court finds that there is not substantial evidence in the record, taken as a whole, to support the finding of a violation or that the assessment of the penalty by the Administrator constitutes an abuse of discretion. The court may not impose an additional civil penalty for a violation that is the subject of the assessment by the Administrator unless the court finds that the assessment constitutes an abuse of discretion by the Administrator.

"(C) FORUM.—Notwithstanding section 1448(a)(2), a penalty order issued under this subsection shall be subject to judicial review only under subparagraph (A).

"(6) COLLECTION.—If a person fails to pay an assessed civil penalty after the order making the assessment has become final, or after a court in an action brought under paragraph (5) has entered a final judgment in favor of the Administrator, the Administrator shall request the Attorney General to bring a civil action in an appropriate district court to recover the amount assessed (plus interest at currently prevailing rates from the date of the final order or the date of the final judgment, as the case may be). In the action, the validity, amount, and appropriateness of the penalty shall not be subject to judicial review. A person who fails to pay on a timely basis the amount of an assessed civil penalty as described in the first sentence of this paragraph shall be required to pay, in addition to the amount and interest, attorney fees and costs for collection proceedings and a quarterly nonpayment penalty for each quarter during which the failure to pay persists. The nonpayment penalty shall be in an amount equal to 20 percent of the aggregate amount of the penalties and nonpayment penalties of the person that are unpaid as of the beginning of the quarter.

"(7) SUBPOENAS.—The Administrator, in connection with administrative proceedings brought under this subsection or in connection with investigations conducted pursuant to this part, may issue subpoenas for the attendance and testimony of witnesses and subpoenas duces tecum, and may request the Attorney General to bring an action to enforce any subpoena under this part. The district courts shall have jurisdiction to enforce the subpoenas and impose sanctions.

"(d) FEDERAL FACILITIES.—

"(1) MAXIMUM PENALTY AMOUNTS.—The amount of a civil penalty assessed against a Federal agency may exceed the maximum amounts described in subsection (c)(2), but may not exceed $25,000 per day per violation.

"(2) PROCEDURE.—Before a civil penalty order or administrative compliance order issued pursuant to this section applicable to a Federal agency becomes final, the Administrator shall provide the agency an opportunity to confer with the Administrator and shall provide the agency notice and an opportunity for a hearing on the record in accordance with chapters 5 and 7 of title 5, United States Code.

"(3) PUBLIC REVIEW.—Any interested person may obtain review of a civil penalty order issued pursuant to this subsection to a Federal agency. The review shall be in accordance with the procedures provided under subsection (c)(5) for persons against whom a penalty order is issued under subsection (c).

"(e) CIVIL ACTIONS.—

"(1) IN GENERAL.—If the Administrator finds that a person has violated an applicable requirement or has failed to comply with an order issued under subsection (b) or section 1431, the Administrator may commence a civil action pursuant to this subsection for appropriate relief, including a permanent or temporary injunction.

"(2) JURISDICTION.—An action under this subsection may be brought in the district court of the United States for the district in which the defendant is located, resides, or is doing business. The court shall have jurisdiction to restrain any applicable violation and to require compliance with a requirement referred to in paragraph (1). The court may enter such judgment as the protection of public health requires.

"(3) PENALTIES.—A person who has violated an applicable requirement or has failed to comply with any order issued under subsection (b) or section 1431 shall be subject to a civil judicial penalty in an amount not to exceed $25,000 per day for each violation.

"(f) PENALTY FACTORS.—In determining the amount of a civil penalty assessed pursuant to this section, the Administrator or court shall consider the seriousness of each violation, the economic benefit (if any) resulting from the violation, any history of similar violations including violations that are not part of the current action, any good faith efforts to comply with applicable requirements before the initiation of the civil action, the size of the system, the economic impact of the penalty on the violator, and such other matters as justice may require.

"(g) EFFECT OF ENFORCEMENT ACTION.—Nothing in this section limits the authority of the Administrator to take enforcement action against a person under any other provision or affects the obligation of a person to comply with an applicable requirement or an order issued by the Administrator pursuant to this title (except an order superseding a previous order issued under subsection (b)).

"(h) DEFINITION OF APPLICABLE REQUIREMENT.—As used in this section, the term 'applicable requirement' means—

"(1) a requirement of section 1412, 1415, 1416, 1417, 1419, 1441, 1442, 1445, 1447, 1463, 1464, 1466, or 1471;

"(2) a regulation promulgated pursuant to a section referred to in paragraph (1);

"(3) a schedule or requirement imposed pursuant to a section referred to in paragraph (1);

"(4) a duty to allow access under section 1445(b); and

"(5) a requirement of, or permit issued, under an applicable State program for which the Administrator has made a determination that the requirements of section 1413 have been satisfied, or an applicable State program approved pursuant to this part.

"(i) VARIANCES AND EXEMPTIONS.—For purposes of this section, compliance with the requirements of a variance granted pursuant to section 1415 or an exemption issued pursuant to section 1416 for any national primary drinking water regulation shall be considered compliance with the regulation during the term of the variance or exemption.

"(j) CONSOLIDATION INCENTIVE.—

"(1) IN GENERAL.—An owner or operator of a public water system may submit to the State in which the system is located (if the State has primary enforcement responsibility pursuant to section 1413) or to the Administrator (if the State does not have primary enforcement responsibility) a plan (including specific measures and schedules) for—

"(A) the physical consolidation of the system with 1 or more other systems;

"(B) the consolidation of significant management and administrative functions of the system with 1 or more other systems; or

"(C) the transfer of ownership of the system that may reasonably be expected to improve drinking water quality.

"(2) CONSEQUENCES OF APPROVAL.—If the State or the Administrator approves a plan pursuant to paragraph (1) no enforcement action shall be taken pursuant to this part and with respect to a specific violation identified in the approved plan prior to the date that is the earlier of the date that consolidation is completed according to the plan or the date that is 2 years after the plan is approved.

"(k) NOTICE OF PUBLIC WATER SYSTEM TO PERSONS SERVED.—

"(1) IN GENERAL.—Each owner or operator of a public water system shall give notice to the persons served by the system—

"(A) of any failure on the part of the public water system to—

"(i) comply with an applicable maximum contaminant level or treatment technique requirement of, or a testing procedure pre-

scribed by, a national primary drinking water regulation; or

"(ii) perform monitoring required by section 1445(a); and

"(B) if the public water system is subject to a variance granted under section 1415(a)(1)(A), 1415(a)(2), or 1415(e) for an inability to meet a maximum contaminant level requirement or is subject to an exemption granted under section 1416, of—

"(i) the existence of the variance or exemption; and

"(ii) any failure to comply with the requirements of any schedule prescribed pursuant to the variance or exemption.

"(2) FORM, MANNER, AND FREQUENCY OF NOTICE.—

"(A) IN GENERAL.—The Administrator shall, by regulation, prescribe the form, manner, and frequency for giving notice under this subsection.

"(B) VIOLATIONS WITH POTENTIAL TO CAUSE SERIOUS ADVERSE EFFECTS ON HUMAN HEALTH.—Regulations promulgated under this subsection shall specify notification procedures for each violation by a community water system that has the potential to cause serious adverse effects on human health. Each notice of a violation provided under this subparagraph shall—

"(i) be distributed as soon as practicable after the violation, but not later than 24 hours after the violation;

"(ii) be provided to appropriate broadcast media;

"(iii) be prominently published in a newspaper of general circulation serving the area not later than 1 day after the distribution of a notice pursuant to clause (i), or the date of publication of the next issue of the newspaper;

"(iv) provide a clear and readily understandable explanation of—

"(I) the violation;

"(II) any potential adverse effects on human health;

"(III) the steps that the public water system is taking to correct the violation; and

"(IV) the necessity of seeking alternative water supplies until the violation is corrected; and

"(v) be provided to the State agency that has primary enforcement responsibility pursuant to section 1413 and to the Administrator.

"(C) NOTICE BY MAIL.—Regulations promulgated under this subsection shall specify that community water systems shall provide notice by mail to each customer of the system of any violation of a maximum contaminant level or treatment technique, in the first billing, if any, that occurs after the violation, but not later than 1 year after the violation. The Administrator shall prescribe the form and manner of the notice to ensure a clear and readily understandable explanation of the violation, any potential adverse health effects, the steps that the system is taking to correct the violation, and the necessity to seek alternative water supplies, if any, until the violation is corrected.

"(D) OTHER VIOLATIONS.—Notice of violations other than violations by a community water system identified under subparagraph (B) shall be—

"(i) provided not less frequently than annually and prominently published in a newspaper of general circulation serving the area; and

"(ii) provided to the State agency that has primary enforcement responsibility pursuant to section 1413 and to the Administrator.

"(E) VIOLATIONS BY NONCOMMUNITY SYSTEMS.—The Administrator shall establish appropriate procedures for notifying the users or potential users of a noncommunity water system of violations by the system, including posting wherever access to the water of the system is available to the public, if the violation may present a serious threat to human health.

"(F) ANNUAL REPORT BY STATE.—Not later than January 1, 1996, and annually thereafter, each State that has primary enforcement responsibility pursuant to section 1413 shall publish an annual report on public water system compliance in the State and submit the report to the Administrator.

"(G) ANNUAL REPORT BY ADMINISTRATOR.—Not later than July 1, 1996, and annually thereafter, the Administrator shall submit to Congress an annual report summarizing and evaluating reports submitted by States pursuant to subparagraph (F) and notices submitted by public water systems serving Indian tribes provided to the Administrator pursuant to subparagraph (B) or (D) and making recommendations concerning the resources needed to improve compliance with this title. The report shall include information about public water system compliance on Indian reservations and about enforcement activities undertaken and financial assistance provided by the Administrator on Indian reservations, and shall make specific recommendations concerning the resources needed to improve compliance with this title on Indian reservations.

"(l) NOTICE OF NONCOMPLIANCE WITH SECONDARY DRINKING WATER REGULATIONS.—Whenever, on the basis of information available to the Administrator, the Administrator finds that within a reasonable time after national secondary drinking water regulations have been promulgated, 1 or more public water systems in a State do not comply with the secondary regulations, and that the noncompliance appears to result from a failure of the State to take reasonable action to ensure that public water systems throughout the State meet the secondary regulations, the Administrator shall so notify the State.

"(m) STATE AUTHORITY TO ADOPT OR ENFORCE LAWS OR REGULATIONS.—Nothing in this title shall diminish any authority of a State or political subdivision to adopt or enforce any law or regulation respecting drinking water regulations or public water systems, but no such law or regulation shall relieve any person of any requirement otherwise applicable under this title.".

(b) STATE AUTHORITY FOR ADMINISTRATIVE PENALTIES.—Section 1413(a) (42 U.S.C. 300g-2(a)) is amended—

(1) by striking "and" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting "; and"; and

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

"(6) has adopted authority for administrative penalties comparable to the authority in section 1414(c).".

SEC. 7. CONTROL OF LEAD IN DRINKING WATER.

(a) FITTINGS AND FIXTURES.—Section 1417 (42 U.S.C. 300g-6) is amended—

(1) in subsection (a)—

(A) by striking paragraph (1) and inserting the following new paragraph:

"(1) PROHIBITIONS.—

"(A) IN GENERAL.—No person may use any pipe, pipe or plumbing fitting or fixture, solder, or flux, after June 19, 1986, in the installation or repair of—

"(i) any public water system; or

"(ii) any plumbing in a residential or nonresidential facility providing water for human consumption, that is not lead free (within the meaning of subsections (d) and (e)(4)).

"(B) LEADED JOINTS.—Subparagraph (A) shall not apply to leaded joints necessary for the repair of cast iron pipes.";

(B) in paragraph (2)(A), by inserting after "Each" the following: "owner or operator of a"; and

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

"(3) UNLAWFUL ACTS.—Effective 2 years after the date of enactment of this paragraph, it shall be unlawful—

"(A) for any person to introduce into commerce any pipe or pipe or plumbing fitting or fixture that is not lead free;

"(B) for any person engaged in the business of selling plumbing supplies, except manufacturers, to sell solder or flux that is not lead free; or

"(C) for any person to introduce into commerce any solder or flux that is not lead free unless the solder or flux bears a prominent label stating that it is illegal to use the solder or flux in the installation or repair of any plumbing providing water for human consumption.";

(2) in subsection (d)—

(A) by striking "For" and inserting "Except as provided in subsection (e)(4), for"; and

(B) in paragraph (2), by striking "pipe fittings" each place it appears and inserting "pipe and plumbing fittings and fixtures"; and

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

"(e) PLUMBING FITTINGS AND FIXTURES.—

"(1) IN GENERAL.—The Administrator shall provide accurate and timely technical information and assistance to qualified third-party certifiers in the development of voluntary standards and testing protocols for the leaching of lead from new plumbing fittings and fixtures that are intended by the manufacturer to dispense water for human ingestion.

"(2) STANDARDS.—

"(A) IN GENERAL.—If a voluntary standard for the leaching of lead is not established by the date that is 1 year after the date of enactment of this subsection, the Administrator shall, not later than 2 years after the date of enactment of this subsection, promulgate regulations setting a health-effects-based performance standard establishing maximum leaching levels from new plumbing fittings and fixtures that are intended by the manufacturer to dispense water for human ingestion. The standard shall become effective on the date that is 5 years after the date of promulgation of the standard.

"(B) ALTERNATIVE REQUIREMENT.—If regulations are required to be promulgated under subparagraph (A) and have not been promulgated by the date that is 5 years after the date of enactment of this subsection, no person may import, manufacture, process, or distribute in commerce a new plumbing fitting or fixture, intended by the manufacturer to dispense water for human ingestion, that contains more than 4 percent lead by dry weight.

"(f) WATER WELL PUMPS AND WATER WELL SYSTEM COMPONENT PARTS.—

"(1) The Administrator shall, within one year from the date of enactment, complete a report reviewing data and information on the leaching of lead from water well pumps and water well system component parts (not to include above-ground pipes, pipe fittings and fixtures specified under subsection (e)) that come into contact with drinking water and the adequacy of voluntary consensus

standards for protecting the health of persons from the leaching of lead. In conducting a review under this paragraph, the Administrator shall identify the potential health risks to children and other vulnerable subpopulations associated with water well pumps and water well system component parts.

"(2) Not later than two years after the date of enactment of this paragraph, if the Administrator determines that a voluntary consensus standard is not effectively protecting the health of persons, then the Administrator shall establish a health-effects based performance standard and testing protocol for the maximum leaching of lead from water well pumps and water well system components parts (not to include aboveground pipes, pipe fittings and fixtures specified under subsection (e)) in water well systems that come into contact with drinking water.

"(3) It shall be a violation of this Act to import, manufacture, sell, distribute or install a water well pump or water well system component parts (not to include aboveground pipes, pipe fittings and fixtures specified in subsection (e)) that leach lead above the maximum level identified in the standard established by the Administrator under paragraph (2).

"(4) Not later than 180 days after the date of enactment of this subsection, the Administrator shall request information as is reasonably required to assist the administrator in carrying out the requirements of this subsection.

"(5) REPORT ON LEAKING OIL FROM SUBMERSIBLE WELL PUMPS.—

"(A) STUDY.—Not later than 1 year after the date of enactment of this subsection, the Administrator shall complete a study that—

"(i) reviews data and information on the leaking of oil, including nonfood grade oil and food grade oil, and polychlorinated biphenyls from well pumps that come into contact with drinking water in private wells and wells in public water systems; and

"(ii) identifies potential health risks from the leaking oil and polychlorinated biphenyls in wells.

"(B) REPORT.—Not later than 18 months after the date of enactment of this subsection, the Administrator shall publish a report, to be provided to the environmental agency of each State for distribution to the public, that—

"(i) identifies each pump that presents a health risk referred to in subparagraph (A), including the manufacturer and model number of the pump; and

"(ii) provides recommendations on precautions to be taken to avoid the risk, such as the replacement of the pump, cleaning of the well and plumbing system in which the pump is located, and testing of the well after the removal of the pump.".

(b) RECORDS AND INSPECTIONS.—Subparagraph (A) of section 1445(a)(1) (42 U.S.C. 300j-4(a)(1)) (as designated by section 4(g)(1)(A)) is amended by striking "Every person" and all that follows through "is a grantee," and inserting "Every person who is subject to any requirement of this title or who is a grantee".

SEC. 8. RADON IN DRINKING WATER.

Part B (42 U.S.C. 300g et seq.) (as amended by section 5(b)(2)) is further amended by adding at the end the following new section:

"RADON IN DRINKING WATER

"SEC. 1419. (a) REGULATIONS FOR RADON IN DRINKING WATER.—Notwithstanding any other provision of this title or any other Federal law, not later than 1 year after the date of enactment of this section, the Administrator shall promulgate national primary drinking water regulations for radon.

"(b) RADON STANDARD.—

"(1) MAXIMUM CONTAMINANT LEVEL.—The regulations promulgated pursuant to subsection (a) shall specify a maximum contaminant level goal and a maximum contaminant level determined pursuant to section 1412(b).

"(2) ALTERNATIVE CONTAMINANT LEVEL.—Notwithstanding the requirements of section 1412(b), the regulations promulgated pursuant to subsection (a) shall—

"(A) specify an alternative contaminant level that—

"(i) results in a radon concentration level in indoor air from drinking water that is equivalent to the national average concentration in outdoor air; or

"(ii) is not less than 50 percent of the national level specified in clause (i), reflecting consideration of risks other than risks from radon in ambient air, including risks from ingestion of radon in drinking water and episodic uses of drinking water, if the National Academy of Sciences considers it appropriate to include the risk referred to in this clause;

"(B) specify a period of compliance of 3 years; and

"(C) require compliance pursuant to paragraph (3).

"(3) ALTERNATIVE COMPLIANCE PROGRAMS.—A public water system may comply with the alternative contaminant level specified in paragraph (2) in lieu of the maximum contaminant level established pursuant to paragraph (1) if the system is—

"(A) located in a State that is implementing a program to reduce radon in indoor air or is receiving State grant assistance for the program pursuant to section 306 of the Toxic Substances Control Act (15 U.S.C. 2666); or

"(B) implementing a service area alternative compliance program pursuant to subsection (c).

"(c) SERVICE AREA ALTERNATIVE COMPLIANCE PROGRAM.—

"(1) IN GENERAL.

"(A) SUBMITTAL OF PROGRAM.—The appropriate official of a public water system that proposes to carry out an alternative compliance program shall submit a program to the State agency that has primary enforcement responsibility pursuant to section 1413 or another appropriate State agency designated by the Governor.

"(B) PUBLIC REVIEW AND COMMENT.—The appropriate official of the public water system shall provide opportunity for public review and comment on the program prior to the submittal of the program to the State pursuant to subparagraph (A) and shall provide to the State a summary of public comments concerning the program.

"(C) REVIEW BY STATE.—

"(i) IN GENERAL.—Not later than 180 days after the date of submittal of the program, the appropriate official of the State shall review and approve the program if the program is consistent with the requirements of this section.

"(ii) REVIEW BY ADMINISTRATOR.—The Administrator shall, at the request of a State, review and approve a program submitted to the State pursuant to this subparagraph.

"(2) EDUCATIONAL MATERIAL.—Each alternative compliance program referred to in paragraph (1)(A) shall provide for the distribution to each residential customer, not later than 1 year after the approval by the State of the program and every 5 years thereafter, educational material concerning radon.

"(3) TESTING FOR RADON IN INDOOR AIR.—

"(A) IN GENERAL.—Each alternative compliance program referred to in paragraph (1)(A) shall provide for testing of radon in indoor air (or evidence that the resident declined to have the residence tested) in not less than 50 percent of the residences of residential customers served by the public water system as expeditiously as practicable, but not later than 5 years after the date of approval of an alternative compliance program pursuant to this subsection.

"(B) REQUIREMENT FOR TESTING.—Testing for radon in indoor air conducted pursuant to this paragraph shall be conducted by a person certified as proficient in conducting testing for radon in air by the Administrator.

"(4) RADON NEW CONSTRUCTION STANDARDS.—Each program developed pursuant to this subsection shall include the adoption, prior to approval of the program, of enforceable mechanisms requiring compliance with radon new home construction standards established by the Administrator pursuant to section 304 of the Toxic Substances Control Act (15 U.S.C. 2664) for each new home to be served by the public water system that is the subject of the program beginning on the date that is 2 years after the date of adoption of the mechanisms.

"(5) ASSESSMENT AND EVALUATION.—

"(A) SUBMITTAL OF ASSESSMENTS.—Each public water system with a program approved by a State pursuant to this subsection shall report on program implementation to the State not later than 5 years after the date of approval of the program, and every 5 years thereafter.

"(B) PROGRAM DISAPPROVAL.—In any case in which a State or the Administrator determines that a public water system has not fully complied with the requirements of this subsection, the State or the Administrator shall—

"(i) notify the public water system of the determination; and

"(ii) disapprove the alternative compliance program not later than 1 year after providing notice pursuant to clause (i), unless the system takes sufficient corrective action.

"(C) COMPLIANCE.—A public water system for which an alternative compliance program is disapproved shall comply with the maximum contaminant level for radon (as determined by the regulations promulgated under subsection (a)) not later than 3 years after the date of disapproval by the Administrator or the State.

"(6) ROLE OF STATE.—A State may assume some or all of the responsibilities of carrying out an alternative compliance program approved pursuant to this subsection.

"(d) REPORT.—

"(1) IN GENERAL.—Not later than 7 years after the date of enactment of this section, the Administrator shall submit a report to Congress that assesses and evaluates the implementation of the regulations promulgated pursuant to subsection (a).

"(2) CONTENTS OF REPORT.—The report shall—

"(A) identify the number of public water systems that are in violation of a maximum contaminant level or alternative contaminant level established pursuant to the regulations;

"(B) identify the number of programs of public water systems approved by a State pursuant to this subsection and the number of States receiving grant assistance under section 306 of the Toxic Substances Control Act (15 U.S.C. 2666);

"(C) evaluate the implementation of the public water system and State programs; and

"(D) estimate the overall change in radon exposure attained as a result of alternative compliance programs and State radon programs.

"(e) RESIDENTIAL CUSTOMER DEFINED.—As used in this section, the term 'residential customer' means a customer of a public water system that occupies a residence other than an apartment located above the first story of a building.".

SEC. 9. WATER QUALITY PROTECTION PARTNERSHIP.

(a) SOURCE WATER QUALITY PROTECTION.—Part B (42 U.S.C. 300g et seq.) (as amended by section 8) is further amended by adding at the end the following new section:

"SOURCE WATER QUALITY PROTECTION

"SEC. 1420. (a) SOURCE WATER QUALITY PROTECTION PETITION PROGRAM.—

"(1) IN GENERAL.—

"(A) ESTABLISHMENT.—A State may establish a program under which an owner or operator of a community water system of the State, or a municipal or local government or political subdivision of the government in the State, may submit a water quality protection petition to the State requesting that the State assist in addressing—

"(i) the origins of drinking water contaminants of public health concern, including to the extent practicable the specific activities, that affect the drinking water supply of a community; and

"(ii) the financial or technical limitations that impair the ability of a community water system to provide drinking water that complies with a national primary drinking water regulation for—

"(I) a contaminant listed under this title; or

"(II) an unregulated contaminant for which the Administrator has determined that there is an urgent threat to public health pursuant to section 1412(b)(3)(G).

"(B) FUNDING.—The State may provide assistance in response to the petition using funds referred to in subsections (b)(2)(C) and (c).

"(2) GOAL.—The objective of a petition submitted under this subsection shall be to seek assistance from the State in directing or redirecting resources under Federal or State water quality programs to establish voluntary, incentive-based partnerships in order to address the origins of drinking water contaminants of public health concern, including to the extent practicable the specific activities, that affect the drinking water supply of a community.

"(3) CONTENTS OF PETITION.—A petition submitted under this subsection shall, at a minimum—

"(A) include a delineation of the source water area in the State that is the subject of the petition;

"(B) identify the origins of the drinking water contaminants of public health concern, including to the extent practicable the specific activities, in the source water area delineated under subparagraph (A);

"(C) identify any deficiencies in information that will inhibit the identification of significant origins of drinking water contaminants of public health concern; and

"(D) identify any public participation solicited from affected persons in the source water area delineated under subparagraph (A), including—

"(i) voluntary efforts to address the origins of the drinking water contaminants of public health concern, including specific activities; and

"(ii) the assistance that may be needed to facilitate the efforts.

"(b) APPROVAL OR DISAPPROVAL OF PETITIONS.—

"(1) IN GENERAL.—After providing notice and an opportunity for public comment on a petition submitted under subsection (a), the State shall approve or disapprove in whole or in part the petition in an expeditious manner.

"(2) APPROVAL.—The State may approve a petition if the petition meets the requirements established under subsection (a). The notice of approval shall, at a minimum, include—

"(A) a determination that the drinking water contaminants referred to in the petition pose a public health concern;

"(B) a description of the options available, including voluntary measures and practices, for the protection of source waters to address the problems described in the petition;

"(C) an identification of technical or financial assistance that the State will provide to assist in addressing the drinking water contaminants of public health concern based on—

"(i) the relative priority of the public health concern identified in the petition as compared to the other water quality needs identified by the State;

"(ii) any appropriate studies or assessments that are available to identify significant origins of drinking water contaminants of public health concern;

"(iii) any necessary coordination that the State will perform of the program established under this section with programs implemented or planned by other States under this section; and

"(iv) funds available (including funds available from a State revolving loan fund established under title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et seq.) or part G) and the appropriate distribution of the funds to assist in addressing the problems described in the petition;

"(D) a description of Federal and State programs available to assist in addressing the problems described in the petition, including—

"(i) any program established under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

"(ii) the program established under section 6217 of the Coastal Zone Act Reauthorization Amendments of 1990 (16 U.S.C. 1455b);

"(iii) the agricultural water quality protection program established under chapter 2 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3838 et seq.);

"(iv) the sole source aquifer protection program established under section 1427;

"(v) the community wellhead protection program established under section 1428;

"(vi) any pesticide or ground water management plan; and

"(vii) any abandoned well closure program;

"(E) a description of activities that will be undertaken to coordinate Federal and State programs to respond to the petition; and

"(F) a description of alternative management measures or treatment techniques and other strategies, including an evaluation of the costs associated with each alternative, and a description of sources of funding available to implement the alternative.

"(3) DISAPPROVAL.—If the State disapproves a petition submitted under subsection (a), the State shall notify the entity submitting the petition in writing of the reasons for disapproval. A petition may be resubmitted at any time if new information becomes available or conditions affecting the source water that is the subject of the petition change.

"(c) ELIGIBILITY FOR WATER QUALITY PROTECTION ASSISTANCE.—A sole source aquifer plan developed pursuant to section 1427, a wellhead protection plan developed pursuant to section 1428, and a source water quality protection measure assisted in response to a petition submitted under subsection (a) shall be eligible for assistance under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), including assistance provided under section 319 and title VI of such Act (33 U.S.C. 1329 and 1381 et seq.), in the same manner as a project, measure, or practice identified in a State plan under such section 319 is eligible for assistance under such Act. In the case of funds made available under such section 319 to assist a source water quality protection measure in response to a petition submitted under subsection (a), the funds may be used only for a measure that addresses nonpoint source pollution.

"(d) GRANTS TO SUPPORT STATE PROGRAMS.—

"(1) IN GENERAL.—The Administrator is authorized to make grants to each State that establishes a program under this section that is approved under paragraph (2). The amount of each grant shall not exceed 50 percent of the cost of administering the petition program for the year in which the grant is available.

"(2) APPROVAL.—As a condition of receiving grant assistance under this subsection, a State shall submit to the Administrator for approval a source water protection petition program that is consistent with the guidance published under paragraph (3).

"(3) GUIDANCE.—Not later than 1 year after the date of enactment of this section, the Administrator shall publish guidance to assist States in the development of a source water protection petition program. The guidance shall, at a minimum—

"(A) recommend procedures for the approval by a State of a source water protection petition submitted under subsection (a);

"(B) recommend procedures by which a community water system may submit a source water protection petition developed under subsection (a);

"(C) recommend criteria for the delineation of source water protection areas within a State; and

"(D) describe sources of funding that are available to develop and respond to source water protection petitions.

"(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection such sums as are necessary for each of fiscal years 1995 through 2000. Each State with a program approved under paragraph (2) shall receive an equitable portion of the funds available for any fiscal year.".

(b) CRITICAL AQUIFER PROTECTION.—Section 1427 (42 U.S.C. 300h-6) is amended—

(1) by striking subsections (a) and (b) and inserting the following new subsections:

"(a) PURPOSE.—The purpose of this section is to support and assist the establishment of programs for the protection of critical aquifer protection areas.

"(b) DEFINITION OF CRITICAL AQUIFER PROTECTION AREA.—As used in this section, the term 'critical aquifer protection area' means an area that contains ground water that—

"(1) is the principal source of supply to a public water system;

"(2) if contaminated, would create a significant hazard to public health; and

"(3) satisfies the criteria established pursuant to subsection (d).";

(2) in subsection (c)—

(A) in the first sentence—

(i) by striking "State,";

(ii) by striking "the Administrator" and inserting "a State with a program pursuant to section 1420"; and

(iii) by striking "selection of such area for a demonstration program" and inserting "approval of an application for the designation of the area"; and

(B) by striking the last sentence; and

(3) in the first sentence of subsection (n), by adding at the end the following:

"1992–2000 .....20,000,000.".

(c) WELLHEAD PROTECTION AREAS.—

(1) APPLICATIONS.—Section 1428(a) (42 U.S.C. 300h–7(a)) is amended by striking "shall, within 3 years of the date of enactment of the Safe Drinking Water Act Amendments of 1986," and inserting "may".

(2) AUTHORIZATION OF APPROPRIATIONS.—Section 1428(k) (42 U.S.C. 300h–7(k)) is amended by adding at the end the following:

"1992–2000 .....35,000,000.".

SEC. 10. EMERGENCY POWERS.

Section 1431 (42 U.S.C. 300i) is amended—

(1) in subsection (a)—

(A) by striking "(a)";

(B) in the first sentence, by striking "and that appropriate State and local authorities have not acted to protect the health of such persons" and inserting "and upon providing concurrent notice to appropriate State and local officials";

(C) by striking the second sentence; and

(D) in the last sentence, by inserting "or to restore or protect the public water system or underground source of drinking water" after "endangerment,"; and

(2) by striking subsection (b).

SEC. 11. DRINKING WATER RESEARCH, EDUCATION, AND CERTIFICATION.

Section 1442 (42 U.S.C. 300j–1) (as amended by section 5(c)) is further amended—

(1) by redesignating paragraph (3) of subsection (b) as paragraph (3) of subsection (d) and moving such paragraph to appear after paragraph (2) of subsection (d);

(2) by striking subsection (b) (as so amended);

(3) by redesignating subparagraph (B) of subsection (a)(2) as subsection (b) and moving such subsection to appear after subsection (a);

(4) in subsection (a)—

(A) by striking paragraph (2) (as so amended) and inserting the following new paragraph:

"(2) INFORMATION AND RESEARCH FACILITIES.—In carrying out this title, the Administrator is authorized to—

"(A) collect and make available information pertaining to research, investigations, and demonstrations with respect to providing a dependably safe supply of drinking water, together with appropriate recommendations in connection with the information; and

"(B) make available research facilities of the Agency to appropriate public authorities, institutions, and individuals engaged in studies and research relating to this title.";

(B) by striking paragraph (3) and inserting the following new paragraph:

"(3) SCIENTIFIC BASIS FOR DECISIONS.—

"(A) IN GENERAL.—In carrying out this title, the Administrator shall use the best available peer-reviewed science and supporting studies conducted in accordance with sound and objective scientific practices.

"(B) PUBLIC INFORMATION.—In carrying out this title, the Administrator shall ensure that the presentation of information on public health effects is complete and informative. The Administrator shall, in a document made available to the public in support of a regulation issued under this title, specify, to the extent feasible—

"(i) each population addressed by any estimate of public health effects;

"(ii) the expected risk or central estimate of risk for the specific population;

"(iii) each appropriate upper-bound or lower-bound estimate of risk;

"(iv) each uncertainty identified in the process of the assessment of public health effects and future research that is necessary to address the uncertainty; and

"(v) any study known to the Administrator that supports or fails to support any estimate of public health effects, including the methodology used to reconcile varying scientific data."; and

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

"(12) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection and subsection (h) $25,000,000 for each of fiscal years 1994 through 2000.";

(5) in subsection (b) (as so amended)—

(A) by striking "subparagraph" each place it appears and inserting "subsection"; and

(B) by adding at the end the following new sentence: "There are authorized to be appropriated to carry out this subsection $8,000,000 for each of fiscal years 1995 through 2000.";

(6) in the first sentence of subsection (c), by striking "eighteen months after the date of enactment of this subsection" and inserting "2 years after the date of enactment of the Safe Drinking Water Act Amendments of 1994, and every 5 years thereafter";

(7) in subsection (d) (as amended by paragraph (1))—

(A) in paragraph (1), by striking ", and" at the end and inserting a semicolon;

(B) in paragraph (2), by striking the period at the end and inserting "; and";

(C) by adding after paragraph (3) (as redesignated by paragraph (1)) the following new paragraph:

"(4) develop and maintain a system for forecasting the supply of, and demand for, various professional occupational categories and other occupational categories needed for the protection and treatment of drinking water in each region of the United States."; and

(D) by adding at the end the following new sentence: "There are authorized to be appropriated to carry out this subsection $10,000,000 for each of fiscal years 1994 through 2000.";

(8) by striking subsection (e) and inserting the following new subsection:

"(e) CERTIFICATION OF OPERATORS AND LABORATORIES.—

"(1) REQUIREMENT.—The principal operator of each community and noncommunity water systems serving nontransient populations and any laboratory conducting tests pursuant to this title, and such additional personnel as may be designated by the Administrator, shall be required to be certified as proficient pursuant to this section by a State or the Administrator.

"(2) EFFECTIVE DATE.—The requirement referred to in paragraph (1) shall become effective on the date that is 4 years after the date of enactment of the Safe Drinking Water Act Amendments of 1994.

"(3) GUIDELINES.—Not later than 2 years after the date of enactment of the Safe Drinking Water Act Amendments of 1994, the Administrator shall publish guidelines developed in consultation with the States describing minimum standards for certification of the proficiency of operators and other appropriate personnel by a State pursuant to this subsection.

"(4) NONCOMPLIANCE.—Effective beginning October 1, 1999, if the Administrator determines that the certification program implemented by a State lacks a major element identified in the guidance published pursuant to paragraph (3) or an element of the program is substantially inconsistent with the guidelines established in paragraph (3), the Administrator shall withhold a percentage (prescribed in the second sentence) of the capitalization grant made to the State pursuant to part G. The percentage withheld shall be 10 percent for fiscal year 1999, 30 percent for fiscal year 2000, and 50 percent for each subsequent fiscal year.";

(9) in subsection (g)—

(A) in the second sentence, by inserting "and multi-State regional technical assistance" after "'circuit rider'"; and

(B) in the third sentence, by striking "1987 through 1991" and inserting "1994 through 2000. If the Administrator makes a grant to a non-profit organization to provide technical assistance under this section, the Administrator shall assure that the program administered by the non-profit organization, in combination with other grants under this section, provides technical assistance among the States in an equitable manner. A non-profit organization conducting any activities supported by a grant under this subsection, shall consult with the State agency having primary enforcement responsibility under section 1413 on the activities to be conducted in the State"; and

(10) by adding at the end the following new subsections:

"(i) RESEARCH.—

"(1) IN GENERAL.—In conducting research under this section, the Administrator shall conduct studies to—

"(A) determine the levels and national distributions of contaminants in drinking water that have adverse effects on human populations;

"(B) develop more reliable and cost-effective monitoring methods to identify and characterize drinking water contaminants;

"(C) determine the diseases drinking water contaminants likely cause;

"(D) identify other sources of exposure that exist for the hazardous agents found in drinking water and whether drinking water is a major or minor contributor to the overall exposure to the hazardous agents;

"(E) develop improved technologies and alternative strategies for treating water, particularly for small systems, that emphasize risk reduction; and

"(F) evaluate the relative risks, costs, and benefits of each strategy to provide safe drinking water to citizens of the United States.

"(2) RISK ASSESSMENT RESEARCH.—In carrying out paragraph (1), the Administrator shall conduct research necessary to—

"(A) develop a more accurate, coordinated national data base on the occurrence of contaminants (including chemicals, microbes, and radiologics) in drinking water, as well as in air, food, and other media;

"(B) understand the mechanisms by which chemical contaminants are absorbed, distributed, metabolized, and eliminated from the human body, so as to develop more accurate physiologically based models of the phenomena;

"(C) understand the effects of contaminants referred to in subparagraph (A) and the mechanisms by which the contaminants cause adverse effects (especially noncancer and infectious effects) and the variations in

the effects among humans, especially sensitive subpopulations, and from test animals to humans;

"(D) develop new tools, such as biomarkers, to allow epidemiological studies of higher resolution so as to confirm the predictions of health hazards to humans that are derived from animal studies; and

"(E) develop new approaches to the study of complex mixtures, such as mixtures found in drinking water, especially to determine the prospects for synergistic or antagonistic interactions that may affect the shape of the dose-response relationship of the individual chemicals and microbes, and to examine noncancer endpoints and infectious diseases, and susceptible individuals and subpopulations.

"(3) STUDIES.—In carrying out paragraph (1), the Administrator shall—

"(A) conduct studies on the relative risks of alternative disinfectants and the byproducts of the disinfectants;

"(B) conduct studies on the microorganisms that occur in drinking water and surveys to identify highly susceptible populations that are at greater risk of disease because of the microorganisms found in drinking water;

"(C) conduct social science studies to better evaluate how to weigh and analyze competing risks, such as risks associated with chemical exposures versus microbial exposures in drinking water;

"(D) establish a national data base that describes the occurrences of the synthetic organic chemicals found in drinking water, and conduct studies to identify the relative contributions of the chemicals from poor quality source water, highly treated wastewaters considered for direct reuse, treatment processes, and materials used in plumbing or distribution systems;

"(E) conduct studies on inorganic and synthetic organic chemicals to evaluate the effects of treatment processes, such as coagulation and chemical oxidation, on the level and toxic effects of chemicals in drinking water and the potential risks associated with the disposal of sludges and other wastes resulting from drinking water treatment; and

"(F) develop microbial models to predict the impact of waterborne microorganisms on community health, assess the costs and benefits of control strategies, evaluate competing risks, and develop and implement risk management decisions.

"(4) PRIORITIZATION.—Congress finds that research conducted under this section will be costly and will require years to achieve. In light of the costs, a high priority for research under this section should be placed on any substance in drinking water that meets the following criteria:

"(A) The concentrations at which the substance is commonly found in drinking water are sufficiently high to suggest that the substance may significantly impact the public health as judged by then current risk assessments.

"(B) There is significant concern over the accuracy of then current assessments.

"(C) Viable and compelling hypotheses can be proposed concerning potential mechanisms of action that are amenable to testing.

"(D) Measurement of the substance and, in the case of a chemical, the important metabolites of the substance, in the body is feasible.

"(E) There is significant concern over the substance such that there is a need to develop methods to measure the substance or the important metabolites of the substance, or both.

"(F) Regulation has the potential of imposing adverse impacts on public health, such as dictating the use of a water treatment process that is less well proven or potentially more toxic than the process in use.

"(5) RISK CHARACTERIZATION AND RISK MANAGEMENT.—

"(A) IN GENERAL.—The Administrator shall develop an integrated risk characterization strategy for drinking water quality.

"(B) DEADLINES.—The strategy shall be—

"(i) submitted to Congress not later than 1 year after the date of enactment of this subsection; and

"(ii) revised every 3 years thereafter.

"(C) PURPOSES.—The strategy shall—

"(i) define the policy of the Administrator for drinking water protection;

"(ii) describe the plans of the Administrator to conduct research, over the 12- to 15-year period beginning on the date of the submission or revision, to resolve the uncertainties about drinking water risks;

"(iii) identify unmet needs, priorities for study, how the results of the studies may be used to better understand the risks of drinking water exposures for near-term decisionmaking, and to improve the scientific basis for decisionmaking over time; and

"(iv) address the uncertainties that will likely remain even after the research is completed and what the uncertainties imply for decisionmaking by the Administrator and for communicating the decisions to the public and Congress.

"(j) SUBPOPULATIONS AT GREATER RISK.—The Administrator shall conduct a continuing program of research to identify groups within the general population that may be at greater risk of adverse health effects due to exposure to contaminants in drinking water than the general population. The Administrator shall report to Congress on the results of this research not later than 3 years after the date of enactment of this subsection, and every 3 years thereafter, and indicate in the reports whether there is any evidence that infants, children, pregnant women, the elderly, individuals with a history of serious illness, or other subpopulations that can be identified and characterized are likely to experience elevated health risks, including risks of cancer, from contaminants in drinking water. In characterizing the health effects of drinking water contaminants under this Act, the Administrator shall take into account all relevant factors, including the margin of safety for variability in the general population and the results of research required under this subsection and other sound scientific evidence (including the 1993 and 1994 reports of the National Academy of Sciences) regarding subpopulations at greater risk for adverse health effects.".

SEC. 12. STATE DRINKING WATER PROGRAM FUNDING.

(a) PUBLIC WATER SYSTEM SUPERVISION PROGRAM.—Section 1443(a) (42 U.S.C. 300j-2(a)) is amended—

(1) in paragraph (3)—

(A) by striking "(3) A grant" and inserting the following:

"(3) AMOUNT OF GRANT.—

"(A) IN GENERAL.—A grant"; and

(B) by adding at the end the following new subparagraphs:

"(B) DETERMINATION OF COSTS.—In order to determine the costs of a grant recipient pursuant to this paragraph, the Administrator shall, in cooperation with the States and not later than 60 days after the date of enactment of this subparagraph, establish a resource model for the public water system supervision program and review and revise the model as necessary.

"(C) STATE COST ADJUSTMENTS.—The Administrator shall revise cost estimates used in the resource model for any particular State to reflect costs more likely to be experienced in that State, if—

"(i) the State requests the modification;

"(ii) the revised estimates assure full and effective administration of the public water system supervision program in the States and the revised estimates do not overstate the resources needed to administer such program; and

"(iii) the basis for the estimates are used consistently under this title, including for purposes of section 1474(a)(2) in each fiscal year for which such section is applicable.";

(2) in paragraph (7), by adding at the end a period and the following new flush sentence: "For the purpose of making grants under paragraph (1), there are authorized to be appropriated such sums as are necessary for each of fiscal years 1992 and 1993 and $100,000,000 for each of fiscal years 1994 through 2000."; and

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

"(8) RESERVATION OF FUNDS BY THE ADMINISTRATOR.—If the Administrator assumes the primary enforcement responsibility of a State water system supervision program, the Administrator may reserve from funds made available pursuant to this subsection, an amount equal to the amount that would otherwise have been provided to the State pursuant to this subsection. The Administrator shall use the funds reserved pursuant to this paragraph to ensure the full and effective administration of a public water system supervision program in the State.

"(9) STATE LOAN FUNDS.—

"(A) IN GENERAL.—In addition to amounts made available pursuant to paragraph (8), the Administrator may use the amount reserved pursuant to subparagraph (B) for the administration of the public water system supervision program of States in which the Administrator implements the program.

"(B) RESERVATION OF FUNDS.—For any fiscal year for which the amounts made available to the Administrator by appropriation are less than the amount the Administrator determines is needed to supplement funds made available pursuant to paragraph (8) and ensure the full and effective administration of a public water system supervision program in a State, the Administrator may reserve from funds made available to the State pursuant to section 1479 the difference between the amounts.".

(b) STATE GROUND WATER PROTECTION GRANTS.—Section 1443 (42 U.S.C. 300j-2) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c) STATE GROUND WATER PROTECTION GRANTS.—

"(1) IN GENERAL.—The Administrator may make a grant to a State for the development and implementation of a State program to ensure the coordinated and comprehensive protection of ground water resources within the State.

"(2) GUIDANCE.—Not later than 1 year after the date of enactment of the Safe Drinking Water Act Amendments of 1994, and annually thereafter, the Administrator shall publish guidance that establishes procedures for application for State ground water protection program assistance and that identifies key elements of State ground water protection programs.

"(3) CONDITIONS OF GRANTS.—

"(A) IN GENERAL.—The Administrator shall award grants to States that submit an application that is approved by the Administrator. The Administrator shall determine the amount of a grant awarded pursuant to this paragraph on the basis of an assessment of the extent of ground water resources in the State and the likelihood that awarding the grant will result in sustained and reliable protection of ground water quality.

"(B) INNOVATIVE PROGRAM GRANTS.—The Administrator may also award a grant pursuant to this paragraph for innovative programs proposed by a State for the prevention of ground water contamination.

"(C) ALLOCATION OF FUNDS.—The Administrator shall, at a minimum, ensure that, for each fiscal year, not less than 1 percent of funds made available to the Administrator by appropriations to carry out this subsection are allocated to each State that submits an application that is approved by the Administrator pursuant to this subsection.

"(D) LIMITATION ON GRANTS.—No grant awarded by the Administrator may be used for a project to remediate ground water contamination.

"(4) COORDINATION WITH OTHER GRANT PROGRAMS.—The awarding of grants by the Administrator pursuant to this subsection shall be coordinated with the awarding of grants pursuant to section 319(i) of the Federal Water Pollution Control Act (33 U.S.C. 1329(i)) and the awarding of other Federal grant assistance that provides funding for programs related to ground water protection.

"(5) AMOUNT OF GRANTS.—The amount of a grant awarded pursuant to paragraph (1) shall not exceed 50 percent of the eligible costs of carrying out the ground water protection program that is the subject of the grant (as determined by the Administrator) for the 1-year period beginning on the date that the grant is awarded. The State shall pay a State share to cover the costs of the ground water protection program from State funds in an amount that is not less than 50 percent of the cost of conducting the program.

"(6) EVALUATIONS AND REPORTS.—Not later than 3 years after the date of enactment of the Safe Drinking Water Act Amendments of 1994, and every 3 years thereafter, the Administrator shall evaluate the State ground water protection programs that are the subject of grants awarded pursuant to this subsection and report to Congress on the status of ground water quality in the United States and the effectiveness of State programs for ground water protection.

"(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Environmental Protection Agency to carry out this subsection $20,000,000 for each of fiscal years 1995 through 2000.".

(c) UNDERGROUND INJECTION CONTROL GRANT.—Section 1443(b)(5) (42 U.S.C. 300j-2(b)(5)) is amended by adding at the end the following:

"1992	$20,850,000
1993	$20,850,000
1994	$20,850,000
1995	$20,850,000
1996	$20,850,000
1997	$20,850,000
1998	$20,850,000
1999	$20,850,000
2000	$20,850,000.".

SEC. 13. INFORMATION AND INSPECTIONS.

(a) INFORMATION GATHERING.—Subparagraph (A) of section 1445(a)(1) (42 U.S.C. 300j-4(a)(1)) (as designated by section 4(g)(1)(A)) is amended by striking "such information as the Administrator may reasonably require" and all that follows through the period at the end and inserting the following: "such information as the Administrator may reasonably require—

"(i) to assist the Administrator in establishing regulations under this title or to assist the Administrator in determining, on a case-by-case basis, whether the person has acted or is acting in compliance with this title; and

"(ii) by regulation to assist the Administrator in determining compliance with national primary drinking water regulations promulgated under section 1412 or in administering any program of financial assistance under this title.".

(b) INSPECTIONS.—Subsections (b) and (c) of section 1445 (42 U.S.C. 300j-4) are amended to read as follows:

"(b) INSPECTIONS.—

"(1) IN GENERAL.—The Administrator, or the authorized representative of the Administrator (including an authorized contractor acting as a representative of the Administrator), on presentation of appropriate credentials to any person who is or may be subject to—

"(A) a national primary drinking water regulation prescribed pursuant to section 1412;

"(B) an applicable underground injection control program;

"(C) any requirement to monitor an unregulated contaminant pursuant to subsection (a); or

"(D) any other requirement of this title,

or to a person in charge of any of the property of a person referred to in subparagraph (A), (B), (C), or (D) (or the senior employee present at the site), is authorized to enter any establishment, facility, or other property of a person referred to in subparagraph (A), (B), (C), or (D).

"(2) PURPOSES OF INSPECTIONS.—The Administrator or an authorized representative of the Administrator may enter an establishment, facility, or other property pursuant to paragraph (1)—

"(A) in order to determine whether a person has acted or is acting in compliance with this title, including for this purpose, inspecting, at reasonable times, records, files, papers, processes, controls, and facilities; or

"(B) in order to test any feature of a public water system, including the raw water source of the system.

"(3) ACCESS TO RECORDS.—The Administrator or the Comptroller General of the United States (or any authorized representative designated by the Administrator or the Comptroller General of the United States) shall have access for the purpose of audit and examination to any record, report, or information of a person or grantee that—

"(A) is required to be maintained under subsection (a); or

"(B) is pertinent to any financial assistance provided pursuant to this title.

"(4) SCHEDULE OF INSPECTIONS.—

"(A) IN GENERAL.—The Administrator or authorized representative of the Administrator shall conduct inspections undertaken pursuant to this subsection during the normal operating hours of the establishment, facility, or other property.

"(B) SMALL SYSTEMS.—For a public water system serving a population of 3,300 or less, the Administrator or authorized representative of the Administrator shall, to the extent practicable—

"(i) notify the person referred to in paragraph (1), at least 3 days before the inspection, of the time when the inspection is scheduled to occur, and

"(ii) schedule the inspection at a mutually convenient time.

"(C) WAIVER.—The Administrator or an authorized representative of the Administrator may waive the requirements of subparagraphs (A) or (B) if the Administrator or authorized representative of the Administrator determines that it may be necessary to conduct an inspection to protect public health.

"(c) COMPLIANCE.—Any person, who is subject to any requirement of this title (including a person that the Administrator determines may be subject to a requirement of this title), shall—

"(1) comply with the requirements of subsection (a);

"(2) allow the Administrator or the authorized representative of the Administrator to enter and make determinations and test and take samples pursuant to paragraphs (1) and (2) of subsection (b); and

"(3) allow the Administrator, the Comptroller General of the United States, or an authorized representative of the Administrator or the Comptroller General of the United States, to have access to, audit, and examine records, reports, and information pursuant to subsection (b)(3).".

SEC. 14. FEDERAL AGENCIES.

(a) IN GENERAL.—Subsections (a) and (b) of section 1447 (42 U.S.C. 300j-6) are amended to read as follows:

"(a) COMPLIANCE.—

"(1) IN GENERAL.—Each Federal agency shall be subject to, and comply with, all Federal, State, interstate, and local substantive and procedural requirements, administrative authorities, and process and sanctions concerning the provision of safe drinking water or underground injection in the same manner, and to the same extent, as any nongovernmental entity is subject to, and shall comply with, the requirements, authorities, and process and sanctions.

"(2) ADMINISTRATIVE ORDERS AND PENALTIES.—The Federal, State, interstate, and local substantive and procedural requirements, administrative authorities, and process and sanctions referred to in paragraph (1) include all administrative orders and all civil and administrative penalties or fines, regardless of whether the penalties or fines are punitive or coercive in nature or are imposed for isolated, intermittent, or continuing violations.

"(3) LIMITED WAIVER OF SOVEREIGN IMMUNITY.—The United States expressly waives any immunity otherwise applicable to the United States with respect to any requirement, administrative authority, or process or sanction referred to in paragraph (2) (including any injunctive relief, administrative order, or civil or administrative penalty or fine referred to in paragraph (2), or reasonable service charge). The reasonable service charge referred to in the preceding sentence includes a fee or charge assessed in connection with the processing, issuance, renewal, or amendment of a permit, variance, or exemption, review of a plan, study, or other document, or inspection or monitoring of a facility, as well as any other nondiscriminatory charge that is assessed in connection with a Federal, State, interstate, or local safe drinking water regulatory program.

"(4) CIVIL PENALTIES.—No agent, employee, or officer of the United States shall be personally liable for any civil penalty under this subsection with respect to any act or omission within the scope of the official duties of the agent, employee, or officer.

"(5) CRIMINAL SANCTIONS.—An agent, employee, or officer of the United States may

be subject to a criminal sanction under a State, interstate, or local law concerning the provision of drinking water or underground injection. No department, agency, or instrumentality of the executive, legislative, or judicial branch of the Federal Government shall be subject to a sanction referred to in the preceding sentence.

"(b) WAIVER OF COMPLIANCE.—

"(1) IN GENERAL.—The President may waive compliance with subsection (a) by any department, agency, or instrumentality in the executive branch if the President determines waiving compliance with such subsection to be in the paramount interest of the United States.

"(2) WAIVERS DUE TO LACK OF APPROPRIATIONS.—No waiver described in paragraph (1) shall be granted due to the lack of an appropriation unless the President has specifically requested the appropriation as part of the budgetary process and Congress has failed to make available the requested appropriation.

"(3) PERIOD OF WAIVER.—A waiver under this subsection shall be for a period of not to exceed 1 year, but an additional waiver may be granted for a period of not to exceed 1 year on the termination of a waiver if the President reviews the waiver and makes a determination that it is in the paramount interest of the United States to grant an additional waiver.

"(4) REPORT.—Not later than January 31 of each year, the President shall report to Congress on each waiver granted pursuant to this subsection during the preceding calendar year, together with the reason for granting the waiver.".

(b) CITIZEN ENFORCEMENT.—The first sentence of section 1449(a) (42 U.S.C. 300j-8(a)) is amended—

(1) in paragraph (1), by striking ", or" and inserting a semicolon;

(2) in paragraph (2), by striking the period at the end and inserting "; or"; and

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

"(3) for the collection of a penalty (and associated costs and interest) against any Federal agency that fails, by the date that is 1 year after the effective date of a final order to pay a penalty assessed by the Administrator pursuant to section 1414(c), to pay the penalty.".

(c) CONFORMING AMENDMENTS.—Subsection (c) of section 1447 (42 U.S.C. 300j-6(c)) is amended—

(1) by striking "(c)(1)" and inserting the following:

"(c) INDIANS.—

"(1) INDIAN LANDS.—"; and

(2) in paragraph (2), by striking "(2) For" and inserting the following:

"(2) DEFINITION OF FEDERAL AGENCY.—For".

SEC. 15. ASSESSING ENVIRONMENTAL PRIORITIES, COSTS, AND BENEFITS.

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

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) ADVERSE EFFECT ON HUMAN HEALTH.—The term "adverse effect on human health" includes any increase in the rate of death or serious illness, including disease, cancer, birth defects, reproductive dysfunction, developmental effects (including effects on the endocrine and nervous systems), and other impairments in bodily functions.

(3) RISK.—The term "risk" means the likelihood of an occurrence of an adverse effect on human health, the environment, or public welfare.

(4) SOURCE OF POLLUTION.—The term "source of pollution" means a category or class of facilities or activities that alter the chemical, physical, or biological character of the natural environment.

(b) FINDINGS.—Congress finds that—

(1) cost-benefit analysis and risk assessment are useful but imperfect tools that serve to enhance the information available in developing environmental regulations and programs;

(2) cost-benefit analysis and risk assessment can also serve as useful tools in setting priorities and evaluating the success of environmental protection programs;

(3) cost and risk are not the only factors that need to be considered in evaluating environmental programs as other factors, including values and equity, must also be considered;

(4) cost-benefit analysis and risk assessment should be presented with a clear statement of the uncertainties in the analysis or assessment;

(5) current methods for valuing ecological resources and assessing intergenerational effects of sources of pollution need further development before integrated rankings of sources of pollution based on the factors referred to in paragraph (3) can be used with high levels of confidence;

(6) methods to assess and describe the risks of adverse human health effects, other than cancer, need further development before integrated rankings of sources of pollution based on the risk to human health can be used with high levels of confidence;

(7) periodic reports by the Administrator on the costs and benefits of regulations promulgated under Federal environmental laws, and other Federal actions with impacts on human health, the environment, or public welfare, will provide Congress and the general public with a better understanding of—

(A) national environmental priorities; and

(B) expenditures being made to achieve reductions in risk to human health, the environment, and public welfare; and

(8) periodic reports by the Administrator on the costs and benefits of environmental regulations will also—

(A) provide Congress and the general public with a better understanding of the strengths, weaknesses, and uncertainties of cost-benefit analysis and risk assessment and the research needed to reduce major uncertainties; and

(B) assist Congress and the general public in evaluating environmental protection regulations and programs, and other Federal actions with impacts on human health, the environment, or public welfare, to determine the extent to which the regulations, programs, and actions adequately and fairly protect affected segments of society.

(c) REPORT ON ENVIRONMENTAL PRIORITIES, COSTS, AND BENEFITS.—

(1) RANKING.—

(A) IN GENERAL.—The Administrator shall identify and, taking into account available data, to the extent practicable, rank sources of pollution with respect to the relative degree of risk of adverse effects on human health, the environment, and public welfare.

(B) METHOD OF RANKING.—In carrying out the rankings under subparagraph (A), the Administrator shall—

(i) rank the sources of pollution considering the extent and duration of the risk; and

(ii) take into account broad societal values, including the role of natural resources in sustaining economic activity into the future.

(2) EVALUATION OF REGULATORY AND OTHER COSTS.—In addition to carrying out the rankings under paragraph (1), the Administrator shall estimate the private and public costs associated with each source of pollution and the costs and benefits of complying with regulations designed to protect against risks associated with the sources of pollution; and

(3) EVALUATION OF OTHER FEDERAL ACTIONS.—In addition to carrying out the requirements of paragraphs (1) and (2), the Administrator shall also estimate the private and public costs and benefits associated with selected major Federal actions chosen by the Administrator that have the most significant impact on human health or the environment, including the direct development projects, grant and loan programs to support infrastructure construction and repair, and permits, licenses, and leases to use natural resources or to release pollution to the environment, and other similar actions.

(4) RISK REDUCTION OPPORTUNITIES.—In assessing risks, costs, and benefits as provided in paragraphs (1) and (2), the Administrator shall also identify reasonable opportunities to achieve significant risk reduction through modifications in environmental regulations and programs and other Federal actions with impacts on human health, the environment, or public welfare.

(5) UNCERTAINTIES.—In evaluating the risks referred to in paragraphs (1) and (2), the Administrator shall—

(A) identify the major uncertainties associated with the risks;

(B) explain the meaning of the uncertainties in terms of interpreting the ranking and evaluation; and

(C) determine—

(i) the type and nature of research that would likely reduce the uncertainties; and

(ii) the cost of conducting the research.

(6) CONSIDERATION OF BENEFITS.—In carrying out this section, the Administrator shall consider and, to the extent practicable, estimate the monetary value, and such other values as the Administrator determines to be appropriate, of the benefits associated with reducing risk to human health and the environment, including—

(A) avoiding premature mortality;

(B) avoiding cancer and noncancer diseases that reduce the quality of life;

(C) preserving biological diversity and the sustainability of ecological resources;

(D) maintaining an aesthetically pleasing environment;

(E) valuing services performed by ecosystems (such as flood mitigation, provision of food or material, or regulating the chemistry of the air or water) that, if lost or degraded, would have to be replaced by technology;

(F) avoiding other risks identified by the Administrator; and

(G) considering the benefits even if it is not possible to estimate the monetary value of the benefits in exact terms.

(7) REPORTS.—

(A) PRELIMINARY REPORT.—Not later than 1 year after the date of enactment of this Act, the Administrator shall report to Congress on the sources of pollution and other Federal actions that the Administrator will address, and the approaches and methodology the Administrator will use, in carrying out the rankings and evaluations under this section. The report shall also include an evaluation by the Administrator of the need for the development of methodologies to carry out the ranking.

(B) PERIODIC REPORT.—

(i) IN GENERAL.—On completion of the ranking and evaluations conducted by the Administrator under this section, but not

later than 3 years after the date of enactment of this Act, and every 3 years thereafter, the Administrator shall report the findings of the rankings and evaluations to Congress and make the report available to the general public.

(ii) EVALUATION OF RISKS.—Each periodic report prepared pursuant to this subparagraph shall, to the extent practicable, evaluate risk management decisions under Federal environmental laws, including title XIV of the Public Health Service Act (commonly known as the "Safe Drinking Water Act") (42 U.S.C. 300f et seq.), that present inherent and unavoidable choices between competing risks, including risks of controlling microbial versus disinfection contaminants in drinking water. Each periodic report shall address the policy of the Administrator concerning the most appropriate methods of weighing and analyzing the risks, and shall incorporate information concerning—

(I) the severity and certainty of any adverse effect on human health, the environment, or public welfare;

(II) whether the effect is immediate or delayed;

(III) whether the burden associated with the adverse effect is borne disproportionately by a segment of the general population or spread evenly across the general population; and

(IV) whether a threatened adverse effect can be eliminated or remedied by the use of an alternative technology or a protection mechanism.

(d) IMPLEMENTATION.—In carrying out this section, the Administrator shall—

(1) consult with the appropriate officials of other Federal agencies and State and local governments, members of the academic community, representatives of regulated businesses and industry, representatives of citizen groups, and other knowledgeable individuals to develop, evaluate, and interpret scientific and economic information;

(2) make available to the general public the information on which rankings and evaluations under this section are based; and

(3) establish, not later than 24 months after the date of enactment of this Act, methods for determining costs and benefits of environmental regulations and other Federal actions, including the valuation of natural resources and intergenerational costs and benefits, by rule after notice and opportunity for public comment.

(e) REVIEW BY THE SCIENCE ADVISORY BOARD.—Before the Administrator submits a report prepared under this section to Congress, the Science Advisory Board, established by section 8 of the Environmental Research, Development, and Demonstration Act of 1978 (42 U.S.C. 4365), shall conduct a technical review of the report in a public session.

SEC. 16. BOTTLED DRINKING WATER STANDARDS.

Section 410 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 349) is amended—

(1) by striking "Whenever" and inserting "(a) Except as provided in subsection (b), whenever"; and

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

"(b)(1) After the Administrator of the Environmental Protection Agency publishes a proposed maximum contaminant level, but not later than 180 days after the Administrator of the Environmental Protection Agency publishes a final maximum contaminant level, for a contaminant under section 1412 of the Public Health Service Act (42 U.S.C. 300g-1), the Secretary, after public notice and comment, shall issue a regulation that establishes a quality level for the contaminant in bottled water or make a finding that a regulation is not necessary to protect the public health because the contaminant is contained in water in the public water systems (as defined under section 1401(4) of such Act (42 U.S.C. 300f(4)) and not in water used for bottled drinking water.

"(2) The regulation shall include any monitoring requirements that the Secretary determines appropriate for bottled water.

"(3) The regulation—

"(A) shall require that the quality level for the contaminant in bottled water be as stringent as the maximum contaminant level for the contaminant published by the Administrator of the Environmental Protection Agency; and

"(B) may require that the quality level be more stringent than the maximum contaminant level if necessary to provide ample public health protection under this Act.

"(4)(A) If the Secretary fails to establish a regulation within the 180-day period described in paragraph (1), the regulation with respect to the final maximum contaminant level published by the Administrator of the Environmental Protection Agency (as described in such paragraph) shall be considered, as of the date on which the Secretary is required to establish a regulation under paragraph (1), as the final regulation for the establishment of the quality level for a contaminant required under paragraph (1) for the purpose of establishing or amending a bottled water quality level standard with respect to the contaminant.

"(B) Not later than 30 days after the end of the 180-day period described in paragraph (1), the Secretary shall, with respect to a maximum contaminant level that is considered as a quality level under subparagraph (A), publish a notice in the Federal Register that sets forth the quality level and appropriate monitoring requirements required under paragraphs (1) and (2) and that provides that the quality level standard and requirements shall take effect on the date on which the final regulation of the maximum contaminant level takes effect.".

SEC. 17. RESEARCH PLAN FOR HARMFUL SUBSTANCES IN DRINKING WATER.

Section 1412 (42 U.S.C. 300g-1) is amended by adding at the end the following new subsection:

"(f) RESEARCH PLAN FOR HARMFUL SUBSTANCES IN DRINKING WATER.—

"(1) DEVELOPMENT OF PLAN.—The Administrator shall—

"(A) not later than September 30, 1994, develop a research plan to support the development and implementation of the most current version of the—

"(i) enhanced surface water treatment rule (announced at 59 Fed. Reg. 6332 (February 10, 1994));

"(ii) disinfectant and disinfection byproducts rule (Stage 2) (announced at 59 Fed. Reg. 6332 (February 10, 1994)); and

"(iii) ground water disinfection rule (availability of draft summary announced at 57 Fed. Reg. 33960 (July 31, 1992)); and

"(B) carry out the research plan.

"(2) CONTENTS OF PLAN.—

"(A) IN GENERAL.—The research plan shall include, at a minimum—

"(i) an identification and characterization of new disinfection byproducts associated with the use of different disinfectants;

"(ii) toxicological and epidemiological studies to determine what levels of exposure from disinfectants and disinfection byproducts, if any, may be associated with developmental and birth defects and other potential toxic end points;

"(iii) toxicological and epidemiological studies to quantify the carcinogenic potential from exposure to disinfection byproducts resulting from different disinfectants;

"(iv) the development of practical analytical methods for enumerating microbial contaminants, including giardia, cryptosporidium, and viruses;

"(v) the development of dose-response curves for pathogens, including cryptosporidium and the Norwalk virus;

"(vi) the development of indicators that define treatment effectiveness for pathogens and disinfection byproducts; and

"(vii) bench, pilot, and full-scale studies and demonstration projects to evaluate optimized conventional treatment, ozone, granular activated carbon, and membrane technology for controlling pathogens (including cryptosporidium) and disinfection byproducts.

"(B) RISK DEFINITION STRATEGY.—The research plan shall include a strategy for determining the risks and estimated extent of disease resulting from pathogens, disinfectants, and disinfection byproducts in drinking water, and how the risks can most effectively be controlled, taking into consideration the costs of various control methods and the sizes of various systems.

"(3) IMPLEMENTATION OF PLAN.—In carrying out the research plan, the Administrator shall use the most cost-effective mechanisms available, including coordination of research with, and use of matching funds from institutions and utilities.

"(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $12,500,000 for each of fiscal years 1995 through 1998.".

SEC. 18. RISK ASSESSMENT AND COST-BENEFIT ANALYSIS.

(a) REQUIREMENT.—Except as provided in subsection (b), in promulgating any proposed or final major regulation relating to human health or the environment, the Administrator of the Environmental Protection Agency shall publish in the Federal Register along with the regulation a clear and concise statement that—

(1) describes and, to the extent practicable, quantifies the risks to human health or the environment to be addressed by the regulation (including, where applicable and practicable, the human health risks to significant subpopulations who are disproportionately exposed or particularly sensitive);

(2) compares the human health or environmental risks to be addressed by the regulation to other risks chosen by the Administrator, including—

(A) at least three other risks regulated by the Environmental Protection Agency or another Federal agency; and

(B) at least three other risks that are not directly regulated by the Federal Government;

(3) estimates—

(A) the costs to the United States Government, State and local governments, and the private sector of implementing and complying with the regulation; and

(B) the benefits of the regulation;

including both quantifiable measures of costs and benefits, to the fullest extent that they can be estimated, and qualitative measures that are difficult to quantify; and

(4) contains a certification by the Administrator that—

(A) the analyses performed under subsection (a)(1) through (a)(3) are based on the best reasonably obtainable scientific information;

(B) the regulation is likely to significantly reduce the human health or environmental risks to be addressed;

(C) there is no regulatory alternative that is allowed by the statute under which the regulation is promulgated and that would achieve an equivalent reduction in risk in a more cost-effective manner, along with a brief explanation of why other such regulatory alternatives that were considered by the Administrator were found to be less cost-effective; and

(D) the regulation is likely to produce benefits to human health or the environment that will justify the costs to the United States Government, State and local governments, and the private sector of implementing and complying with the regulation.

(b) SUBSTANTIALLY SIMILAR FINAL REGULATIONS.—If the Administrator determines that a final major regulation is substantially similar to the proposed version of the regulation with respect to each of the matters referred to in subsection (a), the Administrator may publish in the Federal Register a reference to the statement published under subsection (a) for the proposed regulation in lieu of publishing a new statement for the final regulation.

(c) REPORTING.—If the Administrator cannot certify with respect to one or more of the matters addressed in subsection (a)(4), the Administrator shall identify those matters for which certification cannot be made, and shall include a statement of the reasons therefor in the Federal Register along with the regulation. Not later than March 1 of each year, the Administrator shall submit a report to Congress identifying those major regulations promulgated during the previous calendar year for which complete certification was not made, and summarizing the reasons therefor.

(d) OTHER REQUIREMENTS.—Nothing in this section affects any other provision of Federal law, or changes the factors that the Administrator is authorized to consider in promulgating a regulation pursuant to any statute, or shall delay any action required to meet a deadline imposed by statute or a court.

(e) JUDICIAL REVIEW.—Nothing in this section creates any right to judicial or administrative review, nor creates any right or benefit, substantive or procedural, enforceable at law of equity by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person. If a major regulation is subject to judicial or administrative review under any other provision of law, the adequacy of the certification prepared pursuant to this section, and any alleged failure to comply with this section, may not be used as grounds for affecting or invalidating such major regulation, although the statements and information prepared pursuant to this section, including statements contained in the certification, may be considered as part of the record for judicial or administrative review conducted under such other provision of law.

(f) DEFINITION OF MAJOR REGULATION.—For purposes of this section, "major regulation" means a regulation that the Administrator determines may have an effect on the economy of $100,000,000 or more in any one year.

(g) EFFECTIVE DATE.—This section shall take effect 180 days after the date of enactment of this Act.

SEC. 19. PRIVATE PROPERTY RIGHTS.

(a) SHORT TITLE.—This section may be cited as the "Private Property Rights Act of 1994".

(b) FINDINGS.—The Congress finds that—

(1) the protection of private property from a taking by the Government without just compensation is an integral protection for private citizens incorporated into the Constitution by the Fifth Amendment and made applicable to the States by the Fourteenth Amendment; and

(2) Federal agencies should take into consideration the impact of Governmental actions on the use and ownership of private property.

(c) PURPOSE.—The Congress, recognizing the important role that the use and ownership of private property plays in ensuring the economic and social well-being of the Nation, declares that the Federal Government should protect the health, safety, and welfare of the public and, in doing so, to the extent practicable, avoid takings of private property.

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

(1) the term "agency" means an Executive agency as defined under section 105 of title 5, United States Code, and—

(A) includes the United States Postal Service; and

(B) does not include the General Accounting Office; and

(2) the term "taking of private property" means any action whereby private property is taken in such a way as to require compensation under the Fifth Amendment to the United States Constitution.

(e) PRIVATE PROPERTY TAKING IMPACT ANALYSIS.—

(1) IN GENERAL.—The Congress authorizes and directs that, to the fullest extent possible—

(A) the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies under this section; and

(B) all agencies of the Federal Government shall complete a private property taking impact analysis before issuing or promulgating any policy, regulation, proposed legislation, or related agency action which is likely to result in a taking of private property, except that—

(i) this subparagraph shall not apply to—

(I) an action in which the power of eminent domain is formally exercised;

(II) an action taken—

(aa) with respect to property held in trust by the United States; or

(bb) in preparation for, or in connection with, treaty negotiations with foreign nations;

(III) a law enforcement action, including seizure, for a violation of law, of property for forfeiture or as evidence in a criminal proceeding;

(IV) a study or similar effort or planning activity;

(V) a communication between an agency and a State or local land-use planning agency concerning a planned or proposed State or local activity that regulates private property, regardless of whether the communication is initiated by an agency or is undertaken in response to an invitation by the State or local authority;

(VI) the placement of a military facility or a military activity involving the use of solely Federal property; and

(VII) any military or foreign affairs function (including a procurement function under a military or foreign affairs function), but not including the civil works program of the Army Corps of Engineers; and

(ii) in a case in which there is an immediate threat to health or safety that constitutes an emergency requiring immediate response or the issuance of a regulation pursuant to section 553(b)(B) of title 5, United States Code, the taking impact analysis may be completed after the emergency action is carried out or the regulation is published.

(2) CONTENT OF ANALYSIS.—A private property taking impact analysis shall be a written statement that includes—

(A) the specific purpose of the policy, regulation, proposal, recommendation, or related agency action;

(B) an assessment of the likelihood that a taking of private property will occur under such policy, regulation, proposal, recommendation, or related agency action;

(C) an evaluation of whether such policy, regulation, proposal, recommendation, or related agency action is likely to require compensation to private property owners;

(D) alternatives to the policy, regulation, proposal, recommendation, or related agency action that would achieve the intended purposes of the agency action and lessen the likelihood that a taking of private property will occur; and

(E) an estimate of the potential liability of the Federal Government if the Government is required to compensate a private property owner.

(3) SUBMISSION TO OMB.—Each agency shall provide an analysis required by this section as part of any submission otherwise required to be made to the Office of Management and Budget in conjunction with the proposed regulation.

(f) GUIDANCE AND REPORTING REQUIREMENTS.—

(1) GUIDANCE.—The Attorney General shall provide legal guidance in a timely manner, in response to a request by an agency, to assist the agency in complying with this section.

(2) REPORTING.—Not later than 1 year after the date of enactment of this Act and at the end of each 1-year period thereafter, each agency shall provide a report to the Director of the Office of Management and Budget and the Attorney General identifying each agency action that has resulted in the preparation of a taking impact analysis, the filing of a taking claim, or an award of compensation pursuant to the Just Compensation Clause of the Fifth Amendment to the Constitution. The Director of the Office of Management and Budget and the Attorney General shall publish in the Federal Register, on an annual basis, a compilation of the reports of all agencies made pursuant to this paragraph.

(g) RULES OF CONSTRUCTION.—Nothing in this section shall be construed to—

(1) limit any right or remedy, or bar any claim of any person relating to such person's property under any other law, including claims made under section 1346 or 1402 of title 28, United States Code, or chapter 91 of title 28, United States Code; or

(2) constitute a conclusive determination of the value of any property for purposes of an appraisal for the acquisition of property, or for the determination of damages.

(h) STATUTE OF LIMITATIONS.—No action may be filed in a court of the United States to enforce the provisions of this section on or after the date occurring 6 years after the date of the submission of the certification of the applicable private property taking impact analysis with the Attorney General.

SEC. 20. OTHER AMENDMENTS.

(a) DEFINITION OF PUBLIC WATER SYSTEM.—

(1) The first sentence of section 1401(4) (42 U.S.C. 300f(4)) is amended by striking "piped water for human consumption" and inserting "water for human consumption through pipes or other constructed conveyances".

(2) Such section is further amended by adding at the end thereof the following: "A connection for residential use (drinking, bathing, cooking or other similar uses) or to a facility for similar uses to a water system that conveys water by means other than a pipe principally for purposes other than residential use (other purposes, including irrigation, stock watering, industrial use, or municipal source water prior to treatment) shall not be considered a connection for determining whether the system is a public water system under this title, if—

"(A) the Administrator or the State in which the residential use or facility is located has identified any treatment or conditioning necessary to protect human health if the water is used for human consumption and the residential user or owner of the facility is employing such treatment or conditioning at the point of entry; or

"(B) the system certifies to the Administrator or the State that an alternative source of water for drinking and cooking is being provided to the residential users or using the facility.

An irrigation district in existence prior to May 18, 1994 that provides primarily agricultural service through a piped system with only incidental residential use shall not be considered a public water system, if the system and its residential users comply with subparagraphs (A) and (B).".

(3) The provisions of this subsection shall take effect 1 year after the date of enactment.

(b) STATE PRIMARY ENFORCEMENT RESPONSIBILITY.—Section 1413(a) (42 U.S.C. 300g-2(a)) is amended by striking paragraph (1) and inserting the following new paragraph:

"(1) has adopted drinking water regulations that are no less stringent than the national primary drinking water regulations promulgated by the Administrator under section 1412 not later than 2 years after the date on which the regulations are promulgated by the Administrator;".

(c) JUDICIAL REVIEW.—Section 1448(a) (42 U.S.C. 300j-7(a)) is amended—

(1) in paragraph (2) of the first sentence, by inserting "final" after "any other"; and

(2) in the second sentence, by striking "or issuance of the order" and inserting "or any other final Agency action".

(d) ANNUAL REPORT.—Section 1450 (42 U.S.C. 300j-9) is amended by striking subsection (h).

(e) REPORT TO CONGRESS ON PRIVATE DRINKING WATER.—Section 1450 (42 U.S.C. 300j-9) (as amended by subsection (d)) is further amended by inserting after subsection (g) the following new subsection:

"(h) REPORT TO CONGRESS ON PRIVATE DRINKING WATER.—The Administrator shall conduct a study to determine the extent and seriousness of contamination of private sources of drinking water that are not regulated under this title. Not later than 3 years after the date of enactment of the Safe Drinking Water Act Amendments of 1994, the Administrator shall submit to Congress a report that includes the findings of the study and recommendations by the Administrator concerning responses to any problems identified under the study. In designing and conducting the study, including consideration of research design, methodology, and conclusions and recommendations, the Administrator shall consult with experts outside the Agency, including scientists, hydrogeologists, well contractors and suppliers, and other individuals knowledgeable in ground water protection and remediation.".

(f) CAPITAL IMPROVEMENTS FOR THE WASHINGTON AQUEDUCT.—

(1) IN GENERAL.—Subject to paragraphs (2), (3), and (4), and notwithstanding any other provision of law, at the request of the public water supply customers of the Washington Aqueduct—

(A) the Secretary of the Army, acting through the Chief of Engineers of the Army Corps of Engineers, shall borrow from the Federal Financing Bank such funds as the Secretary of the Army determines are required to finance capital improvements for the Washington Aqueduct; and

(B) the Board of Directors of the Federal Financing Bank shall loan the funds to the Secretary of the Army on such terms as may be established by the Secretary of the Army and the Board of Directors.

(2) INTEREST.—The rate of interest to be charged in connection with a loan made under paragraph (1) shall be not less than a rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities.

(3) CONTRACT.—The Secretary of the Army shall borrow funds under paragraph (1) after the public water supply customers enter into a written contract with the Secretary of the Army to repay the funds and to pay the costs associated with borrowing the funds.

(4) NET PRESENT VALUE OF LOAN.—The Secretary of the Army may borrow funds under paragraph (1) if amounts sufficient to pay for the cost, as defined in section 502(5) of the Congressional Budget Act of 1974 (2 U.S.C. 661a(5)), of the loan involved are provided in advance in appropriation Acts.

(5) DEFINITION.—As used in this subsection, the term "public water supply customers" means the District of Columbia, the county of Arlington, Virginia, and the city of Falls Church, Virginia.

(g) CERTIFICATION OF RESIDENTIAL WATER TREATMENT DEVICES.—Part F (42 U.S.C. 300j-21 et seq.) is amended by adding at the end the following new section:

"RESIDENTIAL WATER TREATMENT DEVICES

"SEC. 1466. (a) CERTIFICATION.—For the purpose of certifying residential water treatment devices for material safety and effectiveness in reducing the concentration of drinking water contaminants of health concern, the Administrator shall—

"(1) not later than 1 year after the date of enactment of this section, develop, by rule, criteria to identify qualified independent certifiers; and

"(2) identify certifiers meeting the criteria developed pursuant to paragraph (1).

The Administrator shall provide technical assistance and information to independent certifiers for the purposes of this section. Any person may submit to the Administrator an application to be identified as a qualified independent certifier. The Administrator shall promptly approve the application if the person meets the criteria developed by the Administrator.

"(b) LIST OF CERTIFIED DEVICES.—Not later than 2 years after the date of enactment of this section and annually thereafter, the Administrator shall publish a list of residential water treatment devices that are certified by qualified independent certifiers. A list published under this subsection shall identify, for each listed device, consumer information on the effectiveness of the device for removing drinking water contaminants of health concern, the period of effectiveness, and recommended operational procedures.

"(c) PRODUCT CLAIMS.—No person shall claim or imply product certification under this section for a water treatment device unless the device has been certified by a qualified independent certifier and the claim is consistent with the certification.

"(d) PROHIBITION.—It shall be a violation of this title to distribute, sell, or promote the sale of any residential water treatment device on the basis of false or misleading claims concerning the effectiveness of the device in removing drinking water contaminants, the protection of health, or the safety of product materials.".

(h) DRINKING WATER ADVISORY COUNCIL.—The second sentence of section 1446(a) (42 U.S.C. 300j-6(a)) is amended by inserting before the period at the end the following: ", of which two such members shall be associated with small, rural public water systems".

(i) HARDSHIP COMMUNITY DEMONSTRATION PROGRAM.—Section 1444 (42 U.S.C. 300j-3) is amended by adding at the end the following new subsection:

"(e) HARDSHIP COMMUNITY DEMONSTRATION PROGRAM.—

"(1) IN GENERAL.—The State agency administering a loan fund pursuant to part G in the State of Virginia (referred to in this subsection as the 'State agency') may conduct a program in accordance with this subsection to demonstrate alternative approaches to intergovernmental coordination in the financing of drinking water projects in rural communities in southwestern Virginia that are experiencing severe economic hardship.

"(2) REGIONAL ASSISTANCE FUND.—

"(A) ESTABLISHMENT.—The State agency may establish a regional endowment fund (referred to in this subsection as the 'regional fund') to assist in financing projects that are eligible under this subsection.

"(B) USE OF REGIONAL FUND.—The State agency shall invest amounts in the regional fund and shall use interest earned on amounts in the regional fund to pay a portion of the non-Federal share of a Federal grant to assist a project that is eligible under this subsection. Interest earned on amounts in the regional fund shall not be considered to be Federal funds.

"(C) DEPOSITS TO REGIONAL FUND.—

"(i) IN GENERAL.—Notwithstanding any other provision of this title, the State agency may deposit into the regional fund $2,000,000 from funds made available pursuant to section 1472 for each of fiscal years 1994 through 1997, if there are commitments to deposit into the regional fund a total of not less than 25 percent of that amount from non-Federal sources.

"(ii) LESSER AMOUNT.—Notwithstanding clause (i), the State agency may deposit into the regional fund an amount less than $2,000,000 from funds made available pursuant to section 1472, if the amount deposited is equal to 3 times the amount committed to be deposited into the regional fund from non-Federal sources.

"(3) ELIGIBLE PROJECTS.—

"(A) IN GENERAL.—Assistance provided under this subsection shall meet the requirements of subsections (a), (b), and (c) of section 1473.

"(B) ELIGIBLE RECIPIENTS.—Assistance under this subsection shall be available only—

"(i) for a project that serves a disadvantaged community (as defined in section 1473(e)(1)); and

"(ii) to a public water system located, in whole or in part, in Lee County, Wise County, Scott County, Dickenson County, Russell County, Buchanan County, Tazewell County, and the city of Norton, Virginia.

"(4) ADVISORY GROUP.—The State agency shall establish an advisory group, including

representatives of jurisdictions identified in paragraph (3)(B)(ii) and other appropriate parties, to assist the State agency in setting priorities for the use of funds under this subsection. The advisory group shall include a representative of Mountain Empire Community College, Wise County, Virginia.".

(j) SHORT TITLE.—

(1) IN GENERAL.—The title (42 U.S.C. 1401 et seq.) is amended by inserting after the title heading the following new section:

"SHORT TITLE

"SEC. 1400. This title may be cited as the 'Safe Drinking Water Act'.".

(2) CONFORMING AMENDMENT.—Section 1 of Public Law 93-523 (88 Stat. 1660) is amended by inserting "of 1974" after "Water Act".

(k) TECHNICAL AMENDMENTS TO SECTION HEADINGS.—

(1) The section heading and subsection designation of subsection (a) of section 1417 (42 U.S.C. 300g-6) are amended to read as follows:

"PROHIBITION ON USE OF LEAD PIPES, SOLDER, AND FLUX, AND ON CERTAIN RETURN FLOWS

"SEC. 1417. (a)".

(2) The section heading and subsection designation of subsection (a) of section 1426 (42 U.S.C. 300h-5) are amended to read as follows:

"REGULATION OF STATE PROGRAMS

"SEC. 1426. (a)".

(3) The section heading and subsection designation of subsection (a) of section 1427 (42 U.S.C. 300h-6) are amended to read as follows:

"SOLE SOURCE AQUIFER DEMONSTRATION PROGRAM

"SEC. 1427. (a)".

(4) The section heading and subsection designation of subsection (a) of section 1428 (42 U.S.C. 300h-7) are amended to read as follows:

"STATE PROGRAMS TO ESTABLISH WELLHEAD PROTECTION AREAS

"SEC. 1428. (a)".

(5) The section heading and subsection designation of subsection (a) of section 1432 (42 U.S.C. 300i-1) are amended to read as follows:

"TAMPERING WITH PUBLIC WATER SYSTEMS

"SEC. 1432. (a)".

(6) The section heading and subsection designation of subsection (a) of section 1451 (42 U.S.C. 300j-11) are amended to read as follows:

"INDIAN TRIBES

"SEC. 1451. (a)".

(7) The section heading and first word of section 1461 (42 U.S.C. 300j-21) are amended to read as follows:

"DEFINITIONS

"SEC. 1461. As".

(8) The section heading and first word of section 1462 (42 U.S.C. 300j-22) are amended to read as follows:

"RECALL OF DRINKING WATER COOLERS WITH LEAD-LINED TANKS

"SEC. 1462. For".

(9) The section heading and subsection designation of subsection (a) of section 1463 (42 U.S.C. 300j-23) are amended to read as follows:

"DRINKING WATER COOLERS CONTAINING LEAD

"SEC. 1463. (a)".

(10) The section heading and subsection designation of subsection (a) of section 1464 (42 U.S.C. 300j-24) are amended to read as follows:

"LEAD CONTAMINATION IN SCHOOL DRINKING WATER

"SEC. 1464. (a)".

(11) The section heading and subsection designation of subsection (a) of section 1465 (42 U.S.C. 300j-25) are amended to read as follows:

"FEDERAL ASSISTANCE FOR STATE PROGRAMS REGARDING LEAD CONTAMINATION IN SCHOOL DRINKING WATER

"SEC. 1465. (a)".

(l) ESTROGENIC SUBSTANCES SCREENING PROGRAM.—Section 1442 (42 U.S.C. 300j-1) (as amended by section 11(a)(10)) is further amended by adding at the end the following new subsection:

"(j) SCREENING PROGRAM.—

"(1) DEVELOPMENT.—Not later than 1 year after the date of enactment of this subsection, the Administrator shall develop a screening program, using appropriate validated test systems, to determine whether certain substances may have an effect in humans that is similar to an effect produced by a naturally occurring estrogen, or such other endocrine effect as the Administrator may designate.

"(2) IMPLEMENTATION.—Not later than 2 years after the date of enactment of this subsection, after obtaining review of the screening program described in paragraph (1) by the scientific advisory panel established under section 25(d) of the Act of June 25, 1947 (chapter 125), and the Science Advisory Board established by section 8 of the Environmental Research, Development, and Demonstration Act of 1978 (42 U.S.C. 4365), the Administrator shall implement the program.

"(3) SUBSTANCES.—In carrying out the screening program described in paragraph (1), the Administrator shall provide for the testing of all active and inert ingredients used in products described in section 103(e) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9603(e)), and may provide for the testing of any other substance if the Administrator determines that a widespread population may be exposed to the substance.

"(4) EXEMPTION.—Notwithstanding paragraph (3), the Administrator may, by regulation, exempt from the requirements of this subsection a biologic substance or other substance if the Administrator determines that the substance does not have any effect in humans similar to an effect produced by a naturally occurring estrogen.

"(5) COLLECTION OF INFORMATION.—

"(A) IN GENERAL.—The Administrator shall issue an order to a person that manufactures a substance for which testing is required under this subsection to conduct testing in accordance with the screening program described in paragraph (1), and submit information obtained from the testing to the Administrator, within a time period that the Administrator determines is sufficient for the generation of the information.

"(B) FAILURE TO SUBMIT INFORMATION.—

"(i) SUSPENSION.—If a person referred to in subparagraph (A) fails to submit the information required under such subparagraph within the time period established by the order, the Administrator shall issue a notice of intent to suspend the sale or distribution of the substance by the person. Any suspension proposed under this subparagraph shall become final at the end of the 30-day period beginning on the date that the person receives the notice of intent to suspend, unless during that period a person adversely affected by the notice requests a hearing or the Administrator determines that the person referred to in subparagraph (A) has complied fully with this paragraph.

"(ii) HEARING.—If a person requests a hearing under clause (i), the hearing shall be conducted in accordance with section 554 of title 5, United States Code. The only matter for resolution at the hearing shall be whether the person has failed to submit information required under this paragraph. A decision by the Administrator after completion of a hearing shall be considered to be a final agency action.

"(iii) TERMINATION OF SUSPENSIONS.—The Administrator shall terminate a suspension under this subparagraph issued with respect to a person if the Administrator determines that the person has complied fully with this paragraph.

"(6) AGENCY ACTION.—In the case of any substance that is found to have a potential adverse effect on humans as a result of testing and evaluation under this subsection, the Administrator shall take such action, including appropriate regulatory action by rule or by order under statutory authority available to the Administrator, as is necessary to ensure the protection of public health.

"(7) REPORT TO CONGRESS.—Not later than 4 years after the date of enactment of this subsection, the Administrator shall prepare and submit to Congress a report containing—

"(A) the findings of the Administrator resulting from the screening program described in paragraph (1);

"(B) recommendations for further testing and research needed to evaluate the impact on human health of the substances tested under the screening program; and

"(C) recommendations for any further actions (including any action described in paragraph (6)) that the Administrator determines are appropriate based on the findings.".

(m) PREVENTION AND CONTROL OF ZEBRA MUSSEL INFESTATION OF LAKE CHAMPLAIN.—

(1) FINDINGS.—Section 1002(a) of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4701(a)) is amended—

(A) by striking "and" at the end of paragraph (3);

(B) by striking the period at the end of paragraph (4) and inserting "; and"; and

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

"(5) the zebra mussel was discovered on Lake Champlain during 1993 and the opportunity exists to act quickly to establish zebra mussel controls before Lake Champlain is further infested and management costs escalate.".

(2) EX OFFICIO MEMBERS OF AQUATIC NUISANCE SPECIES TASK FORCE.—Section 1201(c) of such Act (16 U.S.C. 4721(c)) is amended by inserting ", the Lake Champlain Basin Program," after "Great Lakes Commission".

(3) AQUATIC NUISANCE SPECIES PROGRAM.—Subsections (b)(6) and (i)(1) of section 1202 of such Act (16 U.S.C. 4722) is amended by inserting ", Lake Champlain," after "Great Lakes" each place it appears.

(4) AUTHORIZATION OF APPROPRIATIONS.—Section 1301(b) of such Act (16 U.S.C. 4741(b)) is amended—

(A) in paragraph (3), by inserting ", and the Lake Champlain Research Consortium," after "Laboratory"; and

(B) in paragraph (4)(A)—

(i) by inserting after "(33 U.S.C. 1121 et seq.)" the following: "and grants to colleges for the benefit of agriculture and the mechanic arts referred to in the first section of the Act of August 30, 1890 (26 Stat. 417, chapter 841; 7 U.S.C. 322)"; and

(ii) by inserting "and the Lake Champlain basin" after "Great Lakes region".

TITLE I—DEPARTMENT OF ENVIRONMENTAL PROTECTION

SEC. 100. SHORT TITLE.

This title may be cited as the "Department of Environmental Protection Act of 1994".

Subtitle A—Elevation of the Environmental Protection Agency To Cabinet Level

SEC. 101. SHORT TITLE.

This subtitle may be cited as the "Department of Environmental Protection Act".

SEC. 102. FINDINGS.

The Congress finds that—

(1) recent concern with Federal environmental policy has highlighted the necessity of assigning to protection of the domestic and international environment a priority which is at least equal to that assigned to other functions of the Federal Government;

(2) protection of the environment increasingly involves cooperation with foreign states, including the most highly industrialized states all of whose top environmental officials have ministerial status;

(3) the size of the budget and the number of Federal civil servants devoted to tasks associated with environmental protection at the Environmental Protection Agency is commensurate with departmental status; and

(4) a cabinet-level Department of Environmental Protection should be established.

SEC. 103. ESTABLISHMENT OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION.

(a) REDESIGNATION.—The Environmental Protection Agency is hereby redesignated as the Department of Environmental Protection (hereafter referred to as the "Department") and shall be an executive department in the executive branch of the Government. The official acronym of the Department shall be the "U.S.D.E.P.".

(b) SECRETARY OF ENVIRONMENTAL PROTECTION.—(1) There shall be at the head of the Department a Secretary of Environmental Protection who shall be appointed by the President, by and with the advice and consent of the Senate. The Department shall be administered under the supervision and direction of the Secretary.

(2) The Secretary may not assign duties for or delegate authority for the supervision of the Assistant Secretaries, the General Counsel, the Director of Environmental Statistics, or the Inspector General of the Department to any officer of the Department other than the Deputy Secretary.

(3) Except as described under paragraph (2) of this section and section 104(b)(2), and notwithstanding any other provision of law, the Secretary may delegate any functions including the making of regulations to such officers and employees of the Department as the Secretary may designate, and may authorize such successive redelegations of such functions within the Department as determined to be necessary or appropriate.

(c) DEPUTY SECRETARY.—There shall be in the Department a Deputy Secretary of Environmental Protection, who shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Secretary shall perform such responsibilities as the Secretary shall prescribe and shall act as the Secretary during the absence or disability of the Secretary or in the event of a vacancy in the position of Secretary.

(d) OFFICE OF THE SECRETARY.—The Office of the Secretary shall consist of a Secretary and a Deputy Secretary and may include an Executive Secretary and such other executive officers as the Secretary may determine necessary.

(e) REGIONAL OFFICES.—The Secretary is authorized to establish, alter, discontinue, or maintain such regional or other field offices as he may determine necessary to carry out the functions vested in him or other officials of the Department.

(f) INTERNATIONAL RESPONSIBILITIES OF THE SECRETARY.—(1) In addition to exercising other international responsibilities under existing provisions of law, the Secretary is—

(A) encouraged to assist the Secretary of State to carry out his primary responsibilities for coordinating, negotiating, implementing and participating in international agreements, including participation in international organizations, relevant to environmental protection; and

(B) authorized and encouraged to—

(i) conduct research on and apply existing research capabilities to the nature and impacts of international environmental problems and develop responses to such problems; and

(ii) provide technical and other assistance to foreign countries and international bodies to improve the quality of the environment.

(2) The Secretary of State shall consult with the Secretary of Environmental Protection and such other persons as he determines appropriate on such negotiations, implementations, and participations described under paragraph (1)(A).

(g) AUTHORITY OF THE SECRETARY WITHIN THE DEPARTMENT.—Except as provided under section 112, nothing in the provisions of this title—

(1) authorizes the Secretary of Environmental Protection to require any action by any officer of any executive department or agency other than officers of the Department of Environmental Protection, except that this paragraph shall not affect any authority provided for by any other provision of law authorizing the Secretary of Environmental Protection to require any such actions;

(2) modifies any Federal law that is administered by any executive department or agency; or

(3) transfers to the Department of Environmental Protection any authority exercised by any other Federal executive department or agency prior to the date of the enactment of this Act, except the authority exercised by the Environmental Protection Agency.

(h) APPLICATION TO THE DEPARTMENT OF ENVIRONMENTAL PROTECTION.—The provisions of this title apply only to activities of the Department of Environmental Protection, except where expressly provided otherwise.

(i) ISSUANCE OF PERMITS.—

(1) GUIDES.—At the time a person or small business concern (as defined in section 3 of the Small Business Act), including family farms, contacts an officer or employee of the Department to obtain a permit to engage in an activity under the jurisdiction of the Department, the Secretary shall make available, on request of the person, an employee of the Department to—

(A) act as a guide for the applicant in obtaining all necessary permits for the activity in the least quantity of time practicable; and

(B) facilitate the gathering and dissemination of information with respect to the Federal agencies and departments and agencies of States and political subdivisions of States that have a regulatory interest in the activity to reduce the period required to obtain all such necessary permits.

(2) DUTIES OF SECRETARY.—In issuing a permit to an applicant to carry out an activity under the jurisdiction of the Department, the Secretary shall—

(A) provide assistance and guidance to, and otherwise facilitate the processing of the application for, the applicant; and

(B) set reasonable deadlines for action to be taken on an application for the permit.

(3) USE OF GUIDES.—An applicant that chooses to use the services of a guide referred to in paragraph (1) may subsequently choose not to use the services at any time after requesting the guide.

SEC. 104. ASSISTANT SECRETARIES.

(a) ESTABLISHMENT OF POSITIONS.—There shall be in the Department such number of Assistant Secretaries, not to exceed 12, as the Secretary shall determine, each of whom shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES OF ASSISTANT SECRETARIES.—(1) The Secretary shall assign to Assistant Secretaries such responsibilities as the Secretary considers appropriate, including, but not limited to—

(A) enforcement;

(B) compliance monitoring;

(C) research and development;

(D) air;

(E) radiation;

(F) water;

(G) pesticides;

(H) toxic substances;

(I) solid waste;

(J) hazardous waste;

(K) hazardous waste cleanup;

(L) emergency response;

(M) international affairs;

(N) policy, planning, and evaluation;

(O) pollution prevention;

(P) congressional affairs;

(Q) intergovernmental affairs;

(R) public affairs;

(S) administration and resources management, information resources management, procurement and assistance management, and personnel and labor relations; and

(T) regional operations and State and local capacity.

(2) The Secretary may assign and modify any responsibilities at his discretion under paragraph (1), except that the Secretary may not modify the responsibilities of any Assistant Secretary without prior written notification with explanation of such modification to the appropriate committees of the Senate and the House of Representatives.

(3) One of the Assistant Secretaries referred to under paragraph (1) shall be an Assistant Secretary for Indian Lands and shall be responsible for policies relating to the environment of Indian lands and affecting Native Americans.

(c) DESIGNATION OF RESPONSIBILITIES PRIOR TO CONFIRMATION.—Whenever the President submits the name of an individual to the Senate for confirmation as Assistant Secretary under this section, the President shall state the particular responsibilities of the Department such individual shall exercise upon taking office.

(d) CONTINUING PERFORMANCE OF FUNCTIONS.—On the effective date of this Act, the Administrator and Deputy Administrator of the Environmental Protection Agency shall be redesignated as the Secretary and Deputy Secretary of the Department of Environmental Protection, Assistant Administrators of the Agency shall be redesignated as Assistant Secretaries of the Department, the General Counsel and the Inspector General of the Agency shall be redesignated as the General Counsel and the Inspector General of the Department, and the Chief Financial Officer of the Agency shall be redesignated as the Chief Financial Officer of the Department, without renomination or reconfirmation.

(e) CHIEF INFORMATION RESOURCES OFFICER.—(1) The Secretary shall designate the Assistant Secretary whose responsibilities

include information resource management functions as required by section 3506 of title 44, United States Code, as the Chief Information Resources Officer of the Department.

(2) The Chief Information Resources Officer shall—

(A) advise the Secretary on information resource management activities of the Department as required by section 3506 of title 44, United States Code;

(B) develop and maintain an information resources management system for the Department which provides for—

(i) the conduct of and accountability for any acquisitions made pursuant to a delegation of authority under section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759);

(ii) the implementation of all applicable government-wide and Department information policies, principles, standards, and guidelines with respect to information collection, paperwork reduction, privacy and security of records, sharing and dissemination of information, acquisition and use of information technology, and other information resource management functions;

(iii) the periodic evaluation of and, as needed, the planning and implementation of improvements in the accuracy, completeness, and reliability of data and records contained with Department information systems; and

(iv) the development and annual revision of a 5-year plan for meeting the Department's information technology needs; and

(C) report to the Secretary as required under section 3506 of title 44, United States Code.

SEC. 105. DEPUTY ASSISTANT SECRETARIES.

(a) ESTABLISHMENT OF POSITIONS.—There shall be in the Department such number of Deputy Assistant Secretaries as the Secretary may determine.

(b) APPOINTMENTS.—Each Deputy Assistant Secretary—

(1) shall be appointed by the Secretary; and

(2) shall perform such functions as the Secretary shall prescribe.

(c) FUNCTIONS.—Functions assigned to an Assistant Secretary under section 104(b) may be performed by one or more Deputy Assistant Secretaries appointed to assist such Assistant Secretary.

SEC. 106. OFFICE OF THE GENERAL COUNSEL.

There shall be in the Department the Office of the General Counsel. There shall be at the head of such office a General Counsel who shall be appointed by the President, by and with the advice and consent of the Senate. The General Counsel shall be the chief legal officer of the Department and shall provide legal assistance to the Secretary concerning the programs and policies of the Department.

SEC. 107. OFFICE OF THE INSPECTOR GENERAL.

The Office of Inspector General of the Environmental Protection Agency, established in accordance with the Inspector General Act of 1978, is hereby redesignated as the Office of Inspector General of the Department of Environmental Protection.

SEC. 108. SMALL BUSINESS COMPLIANCE ASSISTANCE.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary of Environmental Protection shall establish within the Department a Small Business Ombudsman Office (hereafter in this section referred to as the "Office"). The Office shall be headed by a Director designated by the Secretary.

(2) DUTIES.—

(A) IN GENERAL.—The Director shall report directly to the Secretary. The Secretary, acting through the Director, shall develop and carry out programs of environmental compliance and technical assistance for small business concerns (as defined in section 3 of the Small Business Act), including family farms.

(B) SPECIFIC DUTIES.—The duties of the Office shall include—

(i) providing to small business concerns—

(I) confidential compliance assistance;

(II) explanations of environmental regulatory requirements; and

(III) available environmental reports and documents;

(ii) assembling and disseminating to small business concerns information on approaches to achieving compliance with environmental laws and improving environmental performance and product yield, including new environmental technologies and techniques for preventing pollution;

(iii) carrying out the functions assigned to the Small Business Ombudsman under section 507 of the Clean Air Act Amendments of 1990;

(iv) serving as the Department's liaison to and advocate for the small business community;

(v) ensuring, as appropriate, consideration of the concerns of small business in the regulatory development process, including ensuring that reporting requirements are consistent and avoid unnecessary redundancy across regulatory programs, to the extent possible, and ensuring effective implementation of the Regulatory Flexibility Act;

(vi) coordinating the Department's small business compliance and technical assistance programs with other Federal and State agencies having responsibilities for carrying out and enforcing environmental laws; and

(vii) providing assistance in permitting, where appropriate.

(b) COORDINATION WITH NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.—Not later than 180 days after the date of enactment of this Act, the Secretary of Environmental Protection and the Secretary of Commerce shall enter into such agreements as may be necessary to permit the Department to provide technical assistance and support to the Manufacturing Technology Centers administered by the National Institute of Standards and Technology of the Department of Commerce. Such assistance shall include—

(1) preparing environmental assistance packages for small business concerns generally, and where appropriate, for specific small business sectors, including information on—

(A) environmental compliance requirements and methods for achieving compliance;

(B) new environmental technologies;

(C) alternatives for preventing pollution that are generally applicable to the small business sector; and

(D) guidance for identifying and applying opportunities for preventing pollution at individual facilities;

(2) providing technical assistance to small business concerns seeking to act on the information provided under paragraph (1);

(3) coordinating with the National Institute of Standards and Technology to identify those small business sectors that need improvement in environmental compliance or in developing methods to prevent pollution; and

(4) developing and implementing an action plan for providing assistance to improve environmental performance of small business sectors in need of such improvement.

(c) COORDINATION WITH OTHER FEDERALLY SUPPORTED EXTENSION PROGRAMS.—The Secretary of Environmental Protection may coordinate with other small business and agricultural extension programs and centers, as appropriate, to provide environmental assistance to small businesses.

SEC. 109. SMALL GOVERNMENTAL JURISDICTION COMPLIANCE ASSISTANCE.

(a) IN GENERAL.—The Secretary of Environmental Protection shall develop and carry out programs of environmental compliance and technical assistance for small governmental jurisdictions as defined in section 601(5) of title 5, United States Code.

(b) SPECIFIC DUTIES.—The duties of the Secretary of Environmental Protection shall include—

(1) providing to small governmental jurisdictions—

(A) compliance assistance;

(B) explanations of environmental regulatory requirements; and

(C) available environmental reports and documents;

(2) assembling and disseminating to small governmental jurisdictions information on approaches to achieving compliance with environmental laws and improving environmental performance, including new environmental technologies and techniques for preventing pollution;

(3) designating liaisons to serve as advocates for small governmental jurisdictions, as appropriate;

(4) ensuring, as appropriate, consideration of the concerns of small governmental jurisdictions in the regulatory development process, including ensuring that reporting requirements are consistent and avoid unnecessary redundancy across regulatory programs, to the extent possible, and ensuring effective implementation of the Regulatory Flexibility Act; and

(5) coordinating the Department of Environmental Protection's small governmental jurisdiction environmental compliance and technical assistance programs with other Federal and State agencies having responsibilities for carrying out and enforcing environmental laws; and

(6) providing assistance in permitting, where appropriate.

SEC. 110. BUREAU OF ENVIRONMENTAL STATISTICS.

(a) ESTABLISHMENT.—(1) There is established within the Department a Bureau of Environmental Statistics (hereafter referred to as the "Bureau"). The Bureau shall be responsible for—

(A) compiling, analyzing, and publishing a comprehensive set of environmental quality statistics which should provide timely summary in the form of industrywide aggregates, multiyear averages, or totals or some similar form and include information on—

(i) the nature, source, and amount of pollutants in the environment; and

(ii) the effects on the public and the environment of those pollutants;

(B) promulgating guidelines for the collection of information by the Department required for the statistics under this paragraph to assure that the information is accurate, reliable, relevant, and in a form that permits systematic analysis;

(C) coordinating the collection of information by the Department for developing such statistics with related information-gathering activities conducted by other Federal agencies;

(D) making readily accessible the statistics published under this paragraph; and

(E) identifying missing information of the kind described under subparagraph (A) (i) and (ii), reviewing these information needs

at least annually with the Science Advisory Board, and making recommendations to the appropriate Department of Environmental Protection officials concerning extramural and intramural research programs to provide such information.

(2) Nothing in the provisions of paragraph (1) shall authorize the Bureau to require the collection of any data by any other Department, State or local government, or to establish observation or monitoring programs. The Bureau shall not duplicate the information collection functions of other Federal agencies.

(3) Information compiled by the Bureau of Environmental Statistics, which has been submitted for purposes of statistical reporting requirements of this law, shall not be disclosed publicly in a manner that would reveal the identity of the submitter, including submissions by Federal, State, or local governments, or reveal the identity of any individual consistent with the provisions of section 552a of title 5, United States Code (the Privacy Act of 1974). This paragraph shall not affect the availability of data provided to the Department under any other provision of law administered by the Department. The confidentiality provisions of other statutes authorizing the collection of environmental statistics shall also apply, including but not limited to, section 14 of the Toxic Substances Control Act (15 U.S.C. 2613), section 2(h) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136h), section 114(c) of the Clean Air Act (42 U.S.C. 741(c)), and section 1905 of title 18, United States Code.

(b) DIRECTOR OF ENVIRONMENTAL STATISTICS.—The Bureau shall be under the direction of a Director of Environmental Statistics (hereafter referred to as the "Director") who shall be appointed by the President, by and with the advice and consent of the Senate. The term of the Director shall be 4 years. The Director shall be a qualified individual with experience in the compilation and analysis of environmental statistics. The Director shall report directly to the Secretary. The Director shall be compensated at the rate provided for at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(c) ENVIRONMENTAL STATISTICS ANNUAL REPORT.—On July 1, 1995, and each July 1 thereafter, the Director shall submit to the President an Environmental Statistics Annual Report (hereafter referred to as the "Report"). The Report shall include, but not be limited to—

(1) statistics on environmental quality including—

(A) The environmental quality of the Nation with respect to all aspects of the environment, including, but not limited to, the air, aquatic ecosystems, including marine, estuarine, and fresh water, and the terrestrial ecosystems, including, but not limited to, the forest, dry-land, wetland, range, urban, suburban, and rural environment; and

(B) changes in the natural environment, including the plant and animal systems, and other information for a continuing analysis of these changes or trends and an interpretation of their underlying causes;

(2) statistics on the effects of changes in environmental quality on human health and nonhuman species and ecosystems;

(3) documentation of the method used to obtain and assure the quality of the statistics presented in the Report;

(4) economic information on the current and projected costs and benefits of environmental protection; and

(5) recommendations on improving environmental statistical information.

(d) CONTINUING PERFORMANCE OF THE FUNCTIONS OF THE DIRECTOR PENDING CONFIRMATION.—An individual who, on the effective date of this Act, is performing any of the functions required by this section to be performed by the Director may continue to perform such functions until such functions are assigned to an individual appointed as the Director under this title.

(e) ADVISORY COUNCIL ON ENVIRONMENTAL STATISTICS.—The Director shall appoint an Advisory Council on Environmental Statistics, comprised of no more than 6 private citizens who have expertise in environmental statistics and analysis (except that at least one of such appointees should have expertise in economics) to advise the Director on environmental statistics and analyses, including whether the statistics and analyses disseminated by the Bureau are of high quality and are based upon the best available objective information. The Council shall be subject to the provisions of the Federal Advisory Committee Act.

(f) REVIEW OF REGULATIONS.—For each proposed new regulation and each proposed change to existing regulations the Director shall publish in the Federal Register as part of the notice of the proposed rulemaking, a comprehensive assessment of specific costs and benefits resulting from implementation of the proposed new regulation or the proposed regulatory change including an assessment of the total number of direct and indirect jobs to be gained or lost as a result of implementation of the proposed new regulation or the proposed regulatory change. Such assessment shall be required to the extent that the Department of Environmental Protection is not in compliance with any applicable Executive Order requiring an analysis of costs and benefits for proposed regulations submitted to the Office of Management and Budget for review. The assessment required by this subsection shall not be construed to amend, modify, or alter any statute and shall not be subject to judicial review. Nothing in this section shall be construed to grant a cause of action to any person.

SEC. 111. GRANT AND CONTRACT AUTHORITY FOR CERTAIN ACTIVITIES.

The Secretary may make grants to and enter into contracts with State and local governments, Indian tribes, universities, and other organizations to assist them in meeting the costs of collecting specific data and other short term activities that are related to the responsibilities and functions under section 108(a)(1) (A), (B), (C), and (D).

SEC. 112. STUDY OF DATA NEEDS.

(a) STUDY OF DATA NEEDS.—(1) No later than 1 year after the start of Bureau operations, the Secretary of the Department of Environmental Protection, in consultation with the Director of the Bureau and the Assistant Secretary designated as Chief Information Resources Officer, shall enter into an agreement with the National Academy of Sciences for a study, evaluation, and report on the adequacy of the data collection procedures and capabilities of the Department. No later than 18 months following an agreement, the National Academy of Sciences shall report its findings to the Secretary and the Congress. The report shall include an evaluation of the Department's data collection resources, needs, and requirements, and shall include an assessment and evaluation of the following systems, capabilities, and procedures established by the Department to meet those needs and requirements:

(A) data collection procedures and capabilities;

(B) data analysis procedures and capabilities;

(C) the ability to integrate data bases;

(D) computer hardware and software capabilities;

(E) management information systems, including the ability to integrate management information systems;

(F) Department personnel; and

(G) the Department's budgetary needs and resources for data collection, including an assessment of the adequacy of the budgetary resources provided to the Department and budgetary resources used by the Department for data collection needs and purposes.

(2) The report shall include recommendations for improving the Department's data collection systems, capabilities, procedures, data collection, and analytical hardware and software, and for improving its management information systems.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as necessary to carry out the provisions of this section.

SEC. 113. MISCELLANEOUS EMPLOYMENT RESTRICTIONS.

(a) PROHIBITED EMPLOYMENT AND ADVANCEMENT CONSIDERATIONS.—Except as otherwise provided in this title, political affiliation or political qualification may not be taken into account in connection with the appointment of any person to any position in the career civil service or in the assignment or advancement of any career civil servant in the Department.

(b) REPORTS ON IMPLEMENTATION.—One year after the date of the enactment of this title and again 3 years after the date of the enactment of this title, the Secretary shall report to the Senate Committees on Appropriations, Governmental Affairs, and Environment and Public Works and to the House of Representatives on the estimated additional cost of implementing this title over the cost as if this title had not been implemented, including a justification of increased staffing not required in the execution of this title.

SEC. 114. TERMINATION OF THE COUNCIL ON ENVIRONMENTAL QUALITY AND TRANSFER OF FUNCTIONS.

(a) TRANSFER OF FUNCTIONS OF THE COUNCIL ON ENVIRONMENTAL QUALITY.—(1) Except as provided under paragraph (2), all functions of the Council on Environmental Quality under titles I and II of the National Environmental Policy Act (42 U.S.C. 4321 et seq.) and under any other law, are transferred to the Secretary. The Secretary is authorized to take all necessary action, including the promulgation of regulations, to carry out these functions.

(2) Referrals of interagency disagreements concerning proposed major Federal actions significantly affecting the quality of the human environment under section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 102(2)(C)) and concerning matters under section 309(b) of the Clean Air Act (42 U.S.C. 7609(b)) shall be made to the President for resolution.

(b) TERMINATION OF THE COUNCIL ON ENVIRONMENTAL QUALITY.—(1) Section 204 of the National Environmental Policy Act (42 U.S.C. 4344) is amended by striking out "Council" and inserting in lieu thereof "Secretary of Environmental Protection".

(2) Sections 202, 203, 205, 206, 207, and 208 of the National Environmental Policy Act (42 U.S.C. 4342, 4343, 4345, 4346, 4346a, and 4346b) are repealed.

(3) The Environmental Quality Improvement Act of 1970 (42 U.S.C. 4371 through 4375) is repealed.

(4) Section 204 of the National Environmental Policy Act (42 U.S.C. 4344) (as amended by paragraph (1) of this subsection) is redesignated as section 202 of such Act.

(5) The heading for title II of the National Environmental Policy Act is amended to read as follows:

"TITLE II

"ENVIRONMENTAL QUALITY REPORT".

(c) REFERENCES IN FEDERAL LAW.—Reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or relating to the Council on Environmental Quality—

(1) with regard to functions transferred under subsection (a)(1), shall be deemed to refer to the Secretary; and

(2) with regard to disagreements and matters described under subsection (a)(2), shall be deemed to refer to the President.

(d) AVAILABILITY OF FUNDS.—Unobligated funds available to the Council on Environmental Quality shall remain available to the Department until expended for the gradual and orderly termination of the Council and transfer of Council functions as provided in this title.

(e) SAVINGS PROVISIONS.—(1) All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

(A) which have been issued, made, granted, or allowed to become effective by the President, by the Council on Environmental Quality, or by a court of competent jurisdiction, in the performance of functions of the Council on Environmental Quality, and

(B) which are in effect at the time this title takes effect, or were final before the effective date of this Act and are to become effective on or after the effective date of this Act,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary of Environmental Protection, or other authorized official, a court of competent jurisdiction, or by operation of law.

(2) The provisions of this title shall not affect any proceedings or any application for any license, permit, certificate, or financial assistance pending before the Council on Environmental Quality at the time this title takes effect, but such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this title had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this paragraph shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this title had not been enacted.

(3) The provisions of this section shall not affect suits commenced before the date this Act takes effect, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this title had not been enacted.

(4) No suit, action, or other proceeding commenced by or against the Council on Environmental Quality, or by or against any individual in the official capacity of such individual as an officer of the Council on Environmental Quality, shall abate by reason of the enactment of this Act.

(5) Any administrative action relating to the preparation or promulgation of a regulation by the Council on Environmental Quality may be continued by the Department or the President with the same effect as if this title had not been enacted.

(6) The contracts, liabilities, records, property, and other assets and interests of the Council on Environmental Quality shall, after the effective date of this Act, be considered to be the contracts, liabilities, records, property, and other assets and interests of the Department.

SEC. 115. ADMINISTRATIVE PROVISIONS.

(a) ACCEPTANCE OF MONEY AND PROPERTY.—(1) The Secretary may accept and retain money, uncompensated services, and other real and personal property or rights (whether by gift, bequest, devise, or otherwise) for the purpose of carrying out the Department's programs and activities, except that the Secretary shall not endorse any company, product, organization, or service. Gifts, bequests, and devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be credited in a separate fund in the Treasury of the United States and shall be available for disbursement upon the order of the Secretary.

(2) The Secretary shall prescribe regulations and guidelines setting forth the criteria the Department shall use in determining whether to accept a gift, bequest, or devise. Such criteria shall take into consideration whether the acceptance of the property would reflect unfavorably upon the Department's or any employee's ability to carry out its responsibilities or official duties in a fair and objective manner, or would compromise the integrity of or the appearance of the integrity of a Government program or any official involved in that program.

(b) SEAL OF THE DEPARTMENT.—(1) On the effective date of this Act, the seal of the Environmental Protection Agency with appropriate changes shall be the seal of the Department of Environmental Protection, until such time as the Secretary may cause a seal of office to be made for the Department of Environmental Protection of such design as the Secretary shall approve.

(2)(A) Chapter 33 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 716. Department of Environmental Protection Seal

"(a) Whoever knowingly displays any printed or other likeness of the official seal of the Department of Environmental Protection, or any facsimile thereof, in, or in connection with, any advertisement, poster, circular, book, pamphlet, or other publication, public meeting, play, motion picture, telecast, or other production, or on any building, monument, or stationery, for the purpose of conveying, or in a manner reasonably calculated to convey, a false impression of sponsorship or approval by the Government of the United States or by any department, agency, or instrumentality thereof, shall be fined not more than $250 or imprisoned not more than 6 months, or both.

"(b) Whoever, except as authorized under regulations promulgated by the Secretary of Environmental Protection and published in the Federal Register, knowingly manufactures, reproduces, sells, or purchases for resale, either separately or appended to any article manufactured or sold, any likeness of the official seal of the Department of Environmental Protection, or any substantial part thereof, except for manufacture or sale of the article for the official use of the Government of the United States, shall be fined not more than $250 or imprisoned not more than 6 months, or both.

"(c) A violation of subsection (a) or (b) may be enjoined at the suit of the Attorney General of the United States upon complaint by any authorized representative of the Secretary of the Department of Environmental Protection.".

(B) The table of sections for chapter 33 of title 18, United States Code, is amended by adding at the end thereof:

"716. Department of Environmental Protection Seal.".

(c) ACQUISITION OF COPYRIGHTS AND PATENTS.—The Secretary is authorized to acquire any of the following described rights if the property acquired thereby is for use by or for, or useful to, the Department:

(1) copyrights, patents, and applications for patents, designs, processes, and manufacturing data;

(2) licenses under copyrights, patents, and applications for patents; and

(3) releases, before suit is brought, for past infringement of patents or copyrights.

(d) ADVISORY COMMITTEE COMPENSATION.—The Secretary is authorized to pay members of advisory committees and others who perform services as authorized under section 3109 of title 5, United States Code, at rates for individuals not to exceed the per diem rate equivalent to the rate for level V of the Executive Schedule under section 5316 of title 5, United States Code.

SEC. 116. INHERENTLY GOVERNMENTAL FUNCTIONS.

(a) GOVERNMENT OFFICERS AND EMPLOYEES.—(1) Inherently governmental functions of the Department shall be performed only by officers and employees of the United States. For purposes of this section, the term "inherently governmental function" means any activity which is so intimately related to the public interest as to mandate performance by Government officers and employees. Inherently governmental functions include those activities which require either the exercise of discretion in applying Government authority or the use of value judgment in making decisions for the Government. The Secretary shall promulgate regulations or internal guidance to implement this section. This section is not intended, and may not be construed, to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, the Department, its officers, or any person.

(b) CONFLICTS OF INTEREST.—(1) The Secretary shall by regulation require any person proposing to enter into a contract, grant, or cooperative agreement whether by sealed bid or negotiation, for the conduct of research, development, evaluation activities, or for consulting services, to provide the Secretary, prior to entering into any such contract, agreement, or arrangement, with all relevant information, as determined by the Secretary, bearing on whether that person has a possible conflict of interest with respect to—

(A) being able to render impartial, technically sound, or objective assistance or advice in light of other activities or relationships with other persons; or

(B) being given an unfair competitive advantage.

(2) Such person shall ensure, in accordance with regulations prescribed by the Secretary, compliance with this section by subcontractors of such person who are engaged to perform similar services.

(3) For purposes of this subsection, the term "consulting services" includes—

(A) management and professional support services;

(B) studies, analyses, and evaluations;

(C) engineering and technical services, excluding routine engineering services such as automated data processing and architect and engineering contracts; and

(D) research and development.

(c) REQUIRE AFFIRMATIVE FINDING; CONFLICTS OF INTEREST WHICH CANNOT BE AVOIDED; MITIGATION OF CONFLICTS.—(1) Subject to the provisions of paragraph (2), the Secretary may not enter into any such contract, agreement, or arrangement, unless he affirmatively finds, after evaluating all such information and any other relevant information otherwise available to him, either that—

(A) there is little or no likelihood that a conflict of interest would exist; or

(B) that such conflict has been avoided after appropriate conditions have been included in such contract, agreement, or arrangement.

(2) If the Secretary determines that such conflict of interest exists and that such conflict of interest cannot be avoided by including appropriate conditions therein, the Secretary may enter into such contract, agreement, or arrangement, if the Secretary—

(A) determines that it is in the best interests of the United States to do so; and

(B) includes appropriate conditions in such contract, agreement, or arrangement to mitigate such conflict.

(d) PUBLIC NOTICE REGARDING CONFLICTS OF INTEREST.—The Secretary shall promulgate regulations which require public notice to be given whenever the Secretary determines that the award of a contract, agreement, or arrangement may result in a conflict of interest which cannot be avoided by including appropriate conditions therein.

(e) DISCLAIMER.—Nothing in this section shall preclude the Department from promulgating regulations to monitor potential conflicts after the contract award.

(f) CENTRAL FILE.—The Department shall maintain a central file regarding all cases when a public notice is issued. Other information required under this section shall also be compiled. Access to this information shall be controlled to safeguard any proprietary information.

(g) REGULATIONS.—No later than 120 days after the effective date of this Act, the Secretary shall promulgate regulations for the implementation of this section.

SEC. 117. REFERENCES.

Reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining—

(1) to the Administrator of the Environmental Protection Agency shall be deemed to refer to the Secretary of Environmental Protection;

(2) to the Environmental Protection Agency shall be deemed to refer to the Department of Environmental Protection;

(3) to the Deputy Administrator of the Environmental Protection Agency shall be deemed to refer to the Deputy Secretary of Environmental Protection; or

(4) to any Assistant Administrator of the Environmental Protection Agency shall be deemed to refer to an Assistant Secretary of the Department of Environmental Protection.

SEC. 118. SAVINGS PROVISIONS.

(a) CONTINUING EFFECT OF LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

(1) which have been issued, made, granted, or allowed to become effective by the President, by the Administrator of the Environmental Protection Agency, or by a court of competent jurisdiction, in the performance of functions of the Administrator or the Environmental Protection Agency, and

(2) which are in effect at the time this title takes effect, or were final before the effective date of this Act and are to become effective on or after the effective date of this Act,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary of Environmental Protection, or other authorized official, a court of competent jurisdiction, or by operation of law.

(b) PROCEEDINGS NOT AFFECTED.—The provisions of this title shall not affect any proceedings or any application for any license, permit, certificate, or financial assistance pending before the Environmental Protection Agency at the time this title takes effect, but such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this title had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this title had not been enacted.

(c) SUITS NOT AFFECTED.—The provisions of this title shall not affect suits commenced before the date this title takes effect, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this title had not been enacted.

(d) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Environmental Protection Agency, or by or against any individual in the official capacity of such individual as an officer of the Environmental Protection Agency, shall abate by reason of the enactment of this Act.

(e) ADMINISTRATIVE ACTIONS RELATING TO PROMULGATION OF REGULATIONS.—Any administrative action relating to the preparation or promulgation of a regulation by the Environmental Protection Agency may be continued by the Department with the same effect as if this title had not been enacted.

(f) PROPERTY AND RESOURCES.—The contracts, liabilities, records, property, and other assets and interests of the Environmental Protection Agency shall, after the effective date of this Act, be considered to be the contracts, liabilities, records, property, and other assets and interests of the Department.

(g) SAVINGS.—The Department of Environmental Protection and its officers, employees, and agents shall have all the powers and authorities of the Environmental Protection Agency.

SEC. 119. CONFORMING AMENDMENTS.

(a) PRESIDENTIAL SUCCESSION.—Section 19(d)(1) of title 3, United States Code, is amended by inserting before the period at the end thereof the following: ", Secretary of Environmental Protection".

(b) DEFINITION OF DEPARTMENT, CIVIL SERVICE LAWS.—Section 101 of title 5, United States Code, is amended by adding at the end thereof the following: "The Department of Environmental Protection".

(c) COMPENSATION, LEVEL I.—Section 5312 of title 5, United States Code, is amended by adding at the end thereof the following: "Secretary of Environmental Protection".

(d) COMPENSATION, LEVEL II.—Section 5313 of title 5, United States Code, is amended by striking out "Administrator of Environmental Protection Agency" and inserting in lieu thereof "Deputy Secretary of Environmental Protection".

(e) COMPENSATION, LEVEL IV.—Section 5315 of title 5, United States Code, is amended—

(1) by striking out "Inspector General, Environmental Protection Agency" and inserting in lieu thereof "Inspector General, Department of Environmental Protection"; and

(2) by striking each reference to an Assistant Administrator of the Environmental Protection Agency and by adding at the end thereof the following:

"Assistant Secretaries, Department of Environmental Protection (12).

"General Counsel, Department of Environmental Protection."; and

(3) by striking out "Chief Financial Officer, Environmental Protection Agency" and inserting in lieu thereof "Chief Financial Officer, Department of Environmental Protection".

(f) COMPENSATION, LEVEL V.—Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following:

"Director of the Bureau of Environmental Statistics, Department of Environmental Protection.

"Executive Director of the Commission on Improving Environmental Protection.".

(g) INSPECTOR GENERAL ACT.—The Inspector General Act of 1978 is amended—

(1) in section 11(1), by inserting "Environmental Protection," after "Energy,"; and

(2) in section 11(2), by inserting "Environmental Protection," after "Energy,".

SEC. 120. ADDITIONAL CONFORMING AMENDMENTS.

After consultation with the Committee on Governmental Affairs and the Committee on Environment and Public Works and other appropriate committees of the United States Senate and the appropriate committees of the House of Representatives, the Secretary of Environmental Protection shall prepare and submit to the Congress legislation which the Secretary determines is necessary and appropriate containing technical and conforming amendments to the United States Code, and to other provisions of law, to reflect the changes made by this title.

SEC. 121. SENSE OF THE SENATE.

It is the sense of the Senate that building the capacity of State and local governments to more efficiently and effectively implement and manage environmental regulations should be a primary mission of the Department of Environmental Protection.

SEC. 122. OFFICE OF ENVIRONMENTAL JUSTICE.

There is established within the Department the Office of Environmental Justice. The Office of Environmental Justice shall—

(1) develop a strategic plan to ensure equality in environmental protection;

(2) evaluate whether environmental policy is helping individuals who suffer the highest exposure to pollution, and identify opportunities for preventing or reducing such exposure;

(3) compile an annual report on progress in achieving environmental equity;

(4) require the collection of data on environmental health effects so that impacts on different individuals or groups can be understood;

(5) identify environmental high impact areas which are subject to the highest loadings of toxic chemicals, through all media; and

(6) assess the health effects that may be caused by emissions in the environmental high impact areas of highest impact.

SEC. 123. WETLAND DETERMINATIONS BY A SINGLE AGENCY.

In consultation with the Secretary of Agriculture, the Secretary of Environmental Protection, the Secretary of the Army, and the Secretary of the Interior, the President shall, within 90 days of the date of enactment of this Act, make recommendations and report to the Congress on measures to—

(1) provide that a single Federal agency be responsible for making technical determinations, including identification of wetlands, on agricultural lands with respect to wetland or converted wetland in order to reduce confusion among agricultural producers; and

(2) provide that the Soil Conservation Service be the Federal agency responsible for all such technical determinations concerning wetlands on agricultural lands.

Subtitle B—Establishment of the Commission on Improving Environmental Protection

SEC. 201. ESTABLISHMENT; MEMBERSHIP.

(a) ESTABLISHMENT.—There is established the Commission on Improving Environmental Protection (hereafter referred to as "the Commission") whose 13 members including the Chairman shall be composed of experts in governmental organization (with emphasis on environmental organization), management of organizations and environmental regulation and improved environmental governmental service delivery, consisting of—

(1) 7 members to be appointed by the President;

(2) 2 members to be appointed by the Speaker of the House of Representatives;

(3) 1 member to be appointed by the Minority Leader of the House of Representatives;

(4) 2 members to be appointed by the Senate Majority Leader; and

(5) 1 member to be appointed by the Senate Minority Leader.

(b) CHAIRMAN.—The Chairman of the Commission shall be appointed by the President.

(c) POLITICAL PARTY AFFILIATION.—Notwithstanding any other provision of this section, no more than 7 members of the Commission may be from the same political party.

SEC. 202. COMMISSION RESPONSIBILITIES.

(a) RESPONSIBILITIES.—The Commission shall be responsible for examining and making recommendations on the management and implementation of the environmental laws and programs within the jurisdiction of the Department of Environmental Protection in order to enhance the ability of the Department to preserve and protect human health and the environment. The Commission shall make recommendations and otherwise advise the President and the Congress on the need to—

(1) enhance and strengthen the management and implementation of existing programs within the Department;

(2) enhance the organization of the Department to eliminate duplication and overlap between different programs;

(3) enhance the coordination between different programs and offices within the Department;

(4) enhance the consistency of policies throughout the Department;

(5) establish new and enhanced small business and small governmental jurisdictions compliance assistance programs, and to strengthen organizational mechanisms in the Department for providing better compliance and technical assistance to small businesses and small governmental jurisdictions; and

(6) enhance the capacity of State and local governments to manage, finance, and implement environmental laws (including regulations).

(b) RECOMMENDATIONS.—The Commission shall provide specific steps and proposals for implementing the Commission's recommendations including an estimate of the costs of implementing such recommendations, except that the Commission shall not suggest substantive changes in the policy expressed by existing laws.

(c) CONFLICT OF INTERESTS.—For purposes of the provisions of chapter 11 of part I of title 18, United States Code, a member of the Commission (to whom such provisions would not otherwise apply except for this subsection) shall be a special Government employee.

SEC. 203. REPORT TO THE PRESIDENT AND CONGRESS.

The Commission shall report to the President and the Congress on its investigation, findings, and recommendations in an interim report no later than 12 months after the effective date of this subtitle, and in a final report no later than 24 months after the effective date of this subtitle. The interim report shall be made available for public review and comment, and the comments taken into account in finalizing the report.

SEC. 204. COMMISSION STAFF.

The Commission shall appoint an Executive Director who shall be compensated at a rate not to exceed the rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code. With the approval of the Commission the Executive Director may appoint and fix the compensation of staff sufficient to enable the Commission to carry out its duties.

SEC. 205. ADVISORY GROUPS.

The Chairman shall convene at least one advisory group to assist the Commission in developing its recommendations. One advisory group shall be composed of past staff of the Department of Environmental Protection and its predecessor Environmental Protection Agency, other Federal and State officials experienced in administering environmental protection programs, members of the regulated community and members of public interest groups organized to further the goals of environmental protection. The Executive Director is authorized to pay members of advisory committees and others who perform services as authorized under section 3109 of title 5, United States Code, at rates for individuals not to exceed the per diem rate equivalent to the rate for level V of the Executive Schedule under section 5316 of title 5, United States Code. The advisory group shall be subject to the provisions of the Federal Advisory Committee Act.

SEC. 206. TERMINATION OF COMMISSION.

No later than 90 days after the date on which the Commission submits its final report, the Commission shall terminate unless otherwise directed by the President.

SEC. 207. FUNDING; AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $2,000,000 in fiscal year 1993 and $2,000,000 in fiscal year 1994 to carry out the provisions of this subtitle.

Subtitle C—Effective Date

SEC. 301. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect on such date during the 6-month period beginning on the date of enactment, as the President may direct in an Executive order. If the President fails to issue an Executive order for the purpose of this section, this title and such amendments shall take effect 6 months after the date of the enactment of this Act.

Mr. SIMON. Mr. President, I ask unanimous consent to address the Senate for 4 minutes as in morning business.

The PRESIDING OFFICER (Mr. AKAKA). Is there objection?

Without objection, it is so ordered.

The Senator is recognized.

CHINA AND MFN

Mr. SIMON. Mr. President, I have not been here. I understand the question of China and MFN has been under consideration. I have been in the committee where we are marking up health care reform.

Yesterday, I sent a letter to President Clinton. I think we are right to stick to our traditions of human rights. We also do not want to discourage trade with other countries, and I have sent a letter which, basically, says we ought to reaffirm the terms of the Executive order of last year; we should consider imposing a tariff of up to 50 percent on goods from the People's Republic of China; we ought to make clear to the Chinese that if, when Hong Kong comes in, there is a fundamental change in the freedom for the people of Hong Kong, that is going to alter appreciably the economic relationship with the United States; and that we move away from this totally inconsistent policy of giving a cold shoulder to Taiwan while we seem to quake at whatever the Government of the People's Republic of China has to say.

The reality is the Government of Taiwan has a multiparty system today. They have as free a press as exists anywhere in Asia. They have moved in the directions that we say we ought to move. They are our sixth largest trading partner. We export twice as much to Taiwan as we do to the People's Republic of China. Yet, when the President of Taiwan has to land in Hawaii to refuel, we say, no, you cannot have anyone go out and greet him. The base commander where he landed was not permitted to greet the President of Taiwan.

Here we are cozying up to a dictatorship, and we have a free multiparty system in Taiwan to which we are giving the cold shoulder. I think that does not make sense.

I hope that, as the President and the administration consider what they are doing, we keep in mind our human

rights policy. We are inconsistent as we utilize that human rights policy vis-a-vis the People's Republic of China and Taiwan.

Mr. President, I ask unanimous consent to print my letter to President Clinton in the RECORD.

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

U.S. SENATE,
Washington, DC, May 18, 1994.

Hon. WILLIAM J. CLINTON,
The White House, Washington, DC.

DEAR MR. PRESIDENT: You are approaching decisions on China's MFN status that, if not properly handled, could sacrifice America's values without serving our own interests. "De-linking" human rights from trade only accents our vulnerabilities while missing the reality that only accents our vulnerabilities while missing the reality that China's trade surplus with the U.S. is now roughly $25 billion.

Your extending China's MFN status without counter measures can only mean that we believe China's record on human rights, nonproliferation, trade practices, Tibet, and other issues has shown significant improvement. But the sad fact is that China's record remains deplorable, with the leadership in Beijing doing no more than occasionally dribbling out dissidents from their vast prison network by the ones and twos in these days leading up to MFN renewal.

It is particularly troubling that our democratic friends in Taiwan, who have an exemplary human rights record and who stand ready to work with us on a host of issues, are shown disrespect and are not treated as the sovereign power they clearly are.

An implicit acknowledgment from you that the United States, when push comes to shove, does not mean what it says, will further erode our standing in the world and our self-respect at home.

The Executive Order you signed a year ago represented sound and responsible policy. China has done next to nothing to justify its being removed from the agenda. You are left with a difficult political and diplomatic choice. China's intransigence and divisions in the administration point you toward embracing a policy of doing less—not more—than your predecessors in regard to human rights in China.

While justified by the facts and consistent with your stated policy, denying MFN benefits is not your only alternative. I suggest instead that you impose meaningful sanctions while extending MFN trade status for the People's Republic. Such measures should include:

Reaffirming the terms and purposes of your 1993 Executive Order;

Imposing a tariff increase of perhaps 50 percent on all products from the People's Republic;

Making clear to the Chinese, following consultations with the British, that fundamental changes in Hong Kong's political and economic arrangements following the transfer of power will have serious consequences for U.S. economic relations with China;

Taking steps to bring our relationship with Taiwan into harmony with our interests and our ideals. Taiwan is now democratic and prosperous, their human rights situation is excellent, and the Taiwanese are our sixth largest trading partner. U.S. exports to Taiwan are twice the value of our exports to the People's Republic.

The inconsistency of our position was well illustrated by the cold shoulder we gave President Lee of Taiwan when his plane landed in Hawaii to refuel. Not only did we not give him any of the usual courtesies, we even made sure the base commander did not greet him. We shake at the possibility of disapproval of the dictatorship of China, while we turn a cold shoulder to the freely elected president of a democracy.

At a minimum, we should institute Cabinet-level exchanges with Taiwan and support its bid to re-enter the United Nations with the understanding that its officials represent the island and not the mainland. We should no longer conduct policy toward Taiwan within the narrow limits of Beijing's tolerance. Taiwan's open economy and democratic system represents a model for the People's Republic.

Mr. President, there are uncertainties in any course of action. But one thing remains clear: we will not hasten the end of repressive communism in China by rewarding Beijing. And we will not enhance our standing in the world community if we fail to follow through with strong action this year, and fail to live up to our ideals.

Cordially,

PAUL SIMON,
U.S. Senator.

RENEWAL OF MFN STATUS FOR CHINA

Mr. MATHEWS. Mr. President, as I join in support of the most-favored-nation status for the People's Republic of China, I do so with a request that we do this on an unconditional basis.

For a number of years now, we have faced this question. Each year in June, we face a crisis point, we reach a decision, and then we start the countdown until the next June. I think it is time that we put that behind us.

I support unconditional renewal of MFN because it is the most direct and intelligent way to promote American interests and global interests in social reform, military stability, and economic growth.

Mr. President, I start with the premise that we have exhausted the effectiveness of MFN status as a tool for advancing human rights in the People's Republic. I am sure that risk of losing MFN status has had some influence on China's decisions. Yet the annual fracas over MFN has not brought the degree of change we seek, nor has it been lasting. In fact, some groups contend that human rights have deteriorated in parts of China since 1989, when we began using trade status as a lever in this issue. My visit to China earlier this year convinced me that the annual threat of withholding MFN not has lost its leverage with the Chinese, it also places Americans in China in the position of being regarded as Yankee bullies.

The State Department publishes an annual report on human rights conditions in all of the world's countries. Some of these countries are major trading partners, and the State Department report about them makes for very grim reading. Yet despite their poor record of human rights conditions, we do not subject them to annual review of MFN status. It is time for us to decouple human rights from trade with China and to address China's human rights record in a more suitable forum.

The effective way to address human rights is through bilateral and multilateral dialogs that summon the influence of regional alliances. This is the approach advocated by Australia and other allies in the region, and it is much more sensible than clubbing China with threats about MFN status. Cooperation always achieves more than isolation and confrontation.

What is more, the United States has no exclusive claim to confront China's policies about a range of issues, including human rights. China's neighbors have a great stake in democratic ideals, security, and trade practices. We should join with them instead of acting like the lone sheriff facing down desperados at high noon.

I submit that programs in human rights will accelerate as China trade grows because political change normally follows economic change. The surest way to build dissatisfaction with repression is contact with people who do not live under it. U.S. investment and people-to-people exchanges of technological and government agencies will expand that contact. They will expose the Chinese to American work conditions, standards of treatment, and human regard that United States policy seeks and that the American influence brings. It is absolutely incongruous to think that restricting China's access to our influence will liberalize China's behavior. When the Chinese people see what they have been denied, the repercussions will be far more permanent than those we try to impose externally.

Economic enrichment is far from reaching the majority of China's 1.2 billion people. Pressures toward massive social upheaval are real and increasing. The United States shares a stake in China's economic and social stability, and sustained trade is one way to promote our shared interest. We see the beginnings of improved human rights as we compare social conditions in southern China, where economic progress is advancing, to those of northern China, where people live under a more rigid regime.

We have to evaluate each decision about China in the context of overall long-term goals in Asia. President Clinton has spoken of his vision for a unified Pacific community on many occasions. Adopting a maybe-but attitude toward the fastest-growing, most populous country in Asia pokes a stick in the eye of his vision. A unified Pacific community cannot and will not become fact without a working association with China. By definition, no extensive

Asian-American bond is possible without China's active presence.

What is more, China can be influential in reducing regional tensions. It is in China's interest and the world's interest to decrease the chance of North Korean hostility toward South Korea, where thousands of United States troops are now stationed. It is also in China's interest and everyone's to curtail North Korea's development of nuclear arms. The military menace in Asia is a threat to world peace. The Chinese have contacts and lines of communication to help defuse that threat.

Finally, we must consider what will happen to trade itself if we do not renew MFN. China already is our seventh largest trading partner. The United States and China know the benefits of fostering a greater trade relationship. We also know our relationship has been rocky, and progress has been jagged in reducing Chinese barriers and making China's trade regime more transparent. Much remains to be done if we are to resolve these matters. But we have agencies to monitor trade activities, and we have recourse other than withholding MFN in reacting to them. No progress and no resolution will come if we limit our dialog with China and our choice of responses.

Withdrawing China's MFN would raise tariffs on Chinese imports and prices for American consumers. It would provoke retaliation from China, including further trade barriers, limits on United States investment, and exclusion of United States firms from bidding on public works projects. Denying MFN now would rescind what progress our trade negotiators have made.

We also must look at the inconsistencies we are spreading over United States policies by recycling this China-MFN issue every year. When we are negotiating NAFTA and GATT, we are constantly calling for a level playing field. Yet when we talk with China and other nations in the region, we teeter-totter all over the place, compounding the level of uncertainty.

That's a frustration echoed by the American businessmen, including those in my native Tennessee. Tennessee's economy is a testament to the possibilities of foreign trade and foreign investment, especially with Asia. In 1992, Tennessee exports to China exceeded $106 million, and exports to other Asian nations were tens of millions more. My constituents contact me nearly every day about opening and expanding Asian trade relationships. They cannot make investment plans on a teeter-totter, and they should not have to.

China is part of the next generation of Asian trade for the United States. It also presents one of our greatest occasions to advance liberties and standards of living for the huge portion of the Earth's people. Those two opportunities are synonymous. To be part of both, the United States must accept that we and China are almost totally different nations. We have to proceed with recognition of and respect for those differences instead of insisting that our view is the only view. But the key word is proceed. Different as we are, we can find a way to cooperate when we face issues of mutual interest, and we can find a way to advance those interests.

I began my remarks by saying that China has made progress in addressing the issues before us, and I want to close on that note. We should remember that 20 years ago the People's Republic was steeped in its vicious and bloody cultural revolution. The China of today—Tiananman Square notwithstanding—is different from the China of 20 years ago. It is different socially and economically—just as the United States today differs from who we were before civil rights legislation scarcely more than 20 years ago.

China can be and should be more open and progressive. However, all nations young and old constantly remake themselves as the world transforms. We and China should continue our dialog with confidence in the inevitably of change.

The crucial point, Mr. President, is that our relationship with China must be based on the multitude of interests that involve us. I repeat: We cannot center our relationship with China on any single interest. At a minimum, our interests, include global economic growth, nuclear nonproliferation, regional stability, and environmental cooperation as well as human rights. We must consider the advancement of all those interests.

China speaks often of having opened itself to the world, and we speak often of opening China to a multitude of influences. Battering only on the door of human rights will not open any other doors, and it certainly does not to expand American growth through world trade.

Legitimate disagreements with China remain, and about a host of issues. But we gain nothing by adding to the acrimony. Let us match criticism with recognition of progress, and let us pursue the opportunity of further progress on all fronts before us.

I thank the Chair. I yield the floor.

Mr. HELMS. Mr. President, it is indeed appropriate that we pay our respects to President Lee of the Republic of China on the fourth anniversary of his presidency. It is also appropriate that we commend the splendid citizens on Taiwan for the democratic and economic success they have worked so hard to achieve, and I happily join Senators MURKOWSKI and SIMON in doing so.

Under President Lee's leadership, Taiwan's economy has skyrocketed; Taiwan is today an outstanding model of democratic and free market economic success and is one of the United States leading trading partners.

All Americans can take pride in having been a partner in Taiwan's success. On the occasion of President Lee's fourth anniversary, I assure the people of Taiwan that the U.S. Senate surely will always stand behind their efforts to fend off the insidious influence of communism from across the straits.

Most importantly on this occasion, it is proper that the record reflect the positive actions taken by the Senate Foreign Relations Committee and by the U.S. Congress just a few weeks ago when the Foreign Relations Authorization Act was passed.

Once again, the U.S. Congress exhibited its never-failing support for President Lee and Free China by including three strong provisions specific to Taiwan and Taiwan alone. Unfortunately, but not surprisingly, the U.S. State Department and President Clinton appear eager to ignore congressional intent in their efforts to appease the Communist dictatorship on the mainland. That issue, however, will best be addressed in another venue.

Mr. President, Taiwan has always been a responsible member of the international community, willing to take on multilateral political and financial burdens to the relief of the American taxpayer and to the benefit of world peace and prosperity. I strongly and proudly support Taiwan's admission to the United Nations, the GATT, and other international organizations and urge the administration to increase its support for Taiwan's admission into the arena of international organizations.

Mr. President, in this rapidly changing world, it is encouraging to know that the United States continues to have a core group of solid, special friends. Without question, the Republic of China is a leader of this group.

DOD ACCOUNTABILITY

Mr. GRASSLEY. Mr. President, yesterday, I spoke briefly about financial mismanagement at the Department of Defense [DOD] and the need for accountability.

I focused on the recon file at the Defense Finance and Accounting or DFAS center in Denver, CO.

The recon file is being used to hide at least $11 billion of unmatched disbursements.

Comptroller of DOD, Mr. Hamre has ordered DFAS to reduce unmatched disbursements by 50 percent next month, because they leave DOD accounts vulnerable to theft and abuse.

Well, that goal may be met.

But DFAS will follow a twisting and devious path to get there.

DFAS will do it by burying unmatched disbursements in subterranean vaults, like the recon file.

I am bothered by Mr. Nabil's recon file for another reason.

It is a new disguise for another problem DFAS was directed to fix.

Mr. Nabil's recon file is nothing more than a roll-up of discrepancies between the accounting records maintained at the base level and those maintained at the departmental level.

In 1991, DFAS got caught with its hands in the same cookie jar.

DFAS and the Air Force got caught taking $649.1 million from the M accounts to force Denver's books into balance—to plug a gaping hole.

After that was exposed, we were led to believe DFAS had fixed the problem.

When I raised the issue last year, my friend Senator Inouye assured me: "The Air Force has acted to address the errors in its bookkeeping system."

The late Donald J. Atwood, who was the Deputy Secretary of Defense at the time, said exactly the same thing.

This is what Mr. Atwood had to say in a document dated April 14, 1992, and I quote:

> On February 18, 1992, the DOD Comptroller directed DFAS to correct the Air Force departmental-level accounting records so that they agree with supporting records at the installation level as well as any related Treasury records. * * * DFAS [is] expected to eliminate systemic problems such as those that led to the $649 million error experienced by the Air Force.

Mr President, this looks like one more directive that DFAS failed to honor.

DFAS has an unblemished record of noncompliance.

The IG has completed the review of remaining M account balances requested by Senator INOUYE.

Of the $574 million in obligations examined, the IG found that $440 million or 76.5 percent were invalid; that is, not supported by documentation.

The $469.1 million was used as a DFAS/Air Force plug figure to conceal the disappearance of a lot of money.

That money remains unaccounted for to this day.

Even worse, the IG discovered that DFAS Denver is still using mathematical equations to generate phony, artificial ledger entries.

This kind of simulated accounting work means the books are out of whack again—big time.

Accounting practices at DFAS Denver are a disgrace.

Comptroller General Bowsher has repeatedly stated: "Such accounting practices are inexcusable and must not be tolerated."

Senator GLENN says: "Someone has to be held accountable on this."

Comptroller General Bowsher agrees. Deputy DOD IG Vander Schaaf agrees. We have a consensus: senior officials in accounting and finance are responsible.

I think the Director of DFAS, Mr. John P. Springett, and the Director of the DFAS center at Denver, Mr. John S. Nabil, need to be held accountable.

If others should be held accountable in their place, we need to identify who they are. And I don't mean GS-5 accounting clerks. I mean people further up the line—way up the line.

If not them, then who is it.

A quick review of Springett's and Nabil's job descriptions and DOD Directive 5118.5 governing DGAS tells me that both officials are responsible for the deepenig DOD financial crisis.

I quote from those documents:

Mr. Springett is the "principal DOD executive for finance and accounting." He "exercises command and control over the six operating centers."

Mr. Nabil is "the principal advisor and assistant" to Mr. Springett and top manager at the Denver center.

Mr. Springett and Mr. Nabil are in charge. They make the decisions. They run the show. They are accountable.

And they get paid exceptionally well for shouldering so much responsibility.

Together, they receive combined annual salaries including bonuses, totaling over a quarter of a million dollars—$252,765 to be exact.

Obligations come with the high pay: Honor the DFAS mandate; balance the books; clean up the mess; and above all, guard the people's money.

That money is entrusted to their care and must be treated with total respect.

Mr. Springett and Mr. Nabil collect the big pay checks, but they do not honor their commitments and obligations.

That is the lesson learned from a slew of recent IG reports, Mr. President. And the obvious next step is to hold them accountable.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa yields the floor.

Who seeks recognition?

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Mexico [Mr. DOMENICI].

Mr. DOMENICI. Mr. President, I know Senators are waiting. I have been waiting, also. Let me just ask, is it imperative that the Senator proceed immediately? If not, I ask for 8 minutes as in morning business.

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

THE FEDERAL RESERVE BOARD

Mr. DOMENICI. Mr. President, during the past few days, there has been an ongoing debate and actually a national concern about the Federal Reserve Board and its adjustment of the discount and Federal fund rates.

During that time, I have had an opportunity to meet with some rather renowned economists, and today I would like to share with the Senate four or five lessons that I think I have learned in an effort to get the best possible idea as to what is going on, whether it is positive or negative, and a little bit of the history.

The first lesson that I have learned is that Federal Reserve policy acts with a lag, and it has worked to take us to the expansion side of the business cycle. Responding to weakening demand in the economy, beginning in mid-1990, long before the last election, the Federal Reserve shifted to a policy of increasing accommodation to growth. More credit was made available to support economic growth. The Federal fund rate—the overnight rate commercial banks charge each other for loans—was pushed down by the Federal Reserve from 8.3 percent in 1990 to 3 percent by the end of 1992—the lowest level since the 1960's.

So, obviously, during that period of very slow growth, the Federal Reserve Board set about to stimulate growth by lowering the discount rate from 8.3 to 3 percent by the end of 1992.

The lower interest rates have had a very salutary effect. They helped by reducing the excessive debt burdens of households, businesses, and financial institutions that had accumulated, as asset values weakened leading up to the 1990 recession. This process took time, however, and in the face of these "headwinds" to economic growth—to borrow a word from Chairman Greenspan—the Federal Reserve maintained an accommodating policy of historically low-interest rates through all of 1993.

The interest rate reductions were eminently successful. Household debt service as a percent of disposable income—the interest cost of maintaining debt, and for most Americans it would be interest on their house, perhaps interest on some fixed appliances, perhaps the interest on an automobile—declined from a high of 19 percent in 1989 to nearly 16 percent by 1993. That is what we mean when we say refinancing your house lowers your payment from $982 to $726, for example. Obviously, that household has reduced the monthly cost of accommodating and accumulating those assets.

Payment delinquencies on consumer loans fell sharply in 1992 and 1993, the lowest levels in 6 years. Lower interest rates helped to strengthen ailing financial institutions and stabilized the values of excess real estate. Most noticeably, beginning in the second half of 1992, the interest rate-sensitive sectors of this economy were responding rather well: Business equipment, home sales, autos, and the like.

The Federal Reserve's policies helped but with a lag. I repeat, the Fed went from 8.3 to 3 percent between mid-1990 and 1993, and the accommodating interest rates stimulated the American economy in a very dramatic way. But it took a while.

For those who are wondering why we have current growth in the American economy, I believe it is fair to say the

answer is that the Federal Reserve Board decided in mid-1990 to accommodate by dramatically lowering interest rates. For some, this new growth in the American economy has come because of other reasons. I will today and in a later series of comments show factually that the growth in the American economy is attributable primarily to Federal Reserve policy, plus a dramatic increase in the productivity of American business, including manufacturing, both industrial and service oriented.

Lesson No. 2: The low inflation competitive environment of the 1980's is paying dividends. For a period of time now, some have been wondering whether the 1980's did anything for the American economy. Some speak of it as a period we would like to not think about. The truth of the matter is that a unique productivity recovery has been adding growth and competitiveness by holding down the cost of production. And it is paying off now. During 1992, nonfarm business productivity—the best measure of economywide worker productivity—rose 3.6 percent, the biggest 1-year increase since the early 1960's.

Productivity gains have accounted for 90 percent of gross domestic product growth in this recovery, now 12 quarters old. This far outstrips previous contributions by productivity gains, which on average were 50 percent during previous recoveries. So if the economy grew 4 percent—GDP grew 4 percent—2 percent, in the past, was from productivity gains. In this recovery, starting over 3 years ago, 90 percent of that growth is because of productivity increases. That means a working hour is producing more goods and/or services than ever before and thus contributing to the gross domestic product increase.

Competitiveness through productivity gains has been what has driven this recovery along with low interest rates that the Federal Reserve initiated way back in mid-1990. And competitiveness has been helped particularly by the low inflation fostered over the last 10 years by the Federal Reserve and Republican administrations. It has allowed businesses to focus on cost cutting instead of having to constantly negotiate favorable price increases which is the primary focus in a high-inflation environment. America's response to stiff international competition during the 1980's has been to cut costs through increased productivity and raise the quality of products and our low inflation has allowed businesses to do that, making us once again the world's largest exporter.

Lesson No. 3: The goals of the Federal Reserve are compatible with extending economic growth. Some have criticized the Federal Reserve in the past for accommodating growth too long before attacking rising inflation. As a result, interest rates rise too high and hurt economic growth. This time the Federal Reserve Board is attempting to head that off in advance of a substantial acceleration in inflation, earlier than usual. This is something that has not been part of the history of our money supply and Federal Reserve Board. But, by acting in an early manner it is taking preventive steps now that will forestall the need for harsher, more disruptive action later.

The Federal Reserve Board indicates that they believe Tuesday's large half-percentage-point increase moves monetary policy from accommodative back to a neutral position. This position returns interest rates back to a more historically typical inflation-adjusted level of interest rates from the roughly zero inflation-adjusted interest rates that existed as recently as last winter.

The risks are that the economy has more momentum than perceived and will require a further move from neutral to monetary restraint, forcing more dampening. I am optimistic that this will not be necessary, but there are risks.

Lesson No. 4: The Federal Reserve action should lead to lower, not higher long-term interest rates. For those who complained immediately after the Federal Reserve acted, long-term interest rates have come down in the United States. They did not go up. I am hopeful they will continue down. They have been inordinately high as compared to the short-term interest rates, but that was attributable, in my opinion, to what I have described here: a more than accommodating interest-rate policy by the Federal Reserve Board which was extremely stimulative and brought on concerns from those who analyze these matters that the economy might overheat.

The Federal Reserve wanting to move toward neutrality—that is where their interest rate policies are neutral, not overly stimulative or restrictive—is an excellent policy. Whether they get it right or not, it is hard to say. More to the point, whether the world responds to it or not is hard to say.

It would seem that the first results in America of this change, which they say will be their last for the time being, is for long-term interest rates to come down. But it would also seem that foreign investors around the world are responding not less well because the American dollar has gone down a little bit more vis-a-vis the yen and other major currencies, which perhaps means that their analysis is that we still do not have a neutral monetary policy. Rather we still have one that is too stimulative and it will shorten this business cycle and return us to no growth.

There are other things that we can learn from what has occurred. I believe we shouldn't be indicating to the Federal Reserve that we politicians know more than they and that they are trying to do something to hurt the economy when they are, in fact, trying to do the opposite. Rather, I believe we would be much better off if we would help foster the kind of business climate that coupled with low inflation can keep the American economy growing over the long term. I will speak to that in more detail in later days. I thank the chairman for permitting me by consent to speak, and I yield the floor.

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

The PRESIDING OFFICER. The Senator from Delaware suggests the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

PRIVILEGE OF THE FLOOR—H.R. 3355

Mr. BIDEN. Mr. President, I ask unanimous consent that Andrew Plepler, a Department of Justice employee detailed to the Senate Judiciary Committee staff, be allowed the privileges of the floor during the appointment of conferees and consideration of the conference report on H.R. 3355, the Violent Crime Control and Law Enforcement Act of 1994.

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

VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994—MESSAGE FROM THE HOUSE

Mr. BIDEN. Mr. President, I ask unanimous consent that the Senate proceed to the message from the House on H.R. 3355, the Violent Crime Control and Law Enforcement Act of 1994; that the Senate disagree to the House amendments and agree to the request of the House for a conference on the disagreeing votes of the two Houses.

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

Mr. BIDEN. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives 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.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 3355) entitled "An Act to amend the Omnibus

Crime Control and Safe Streets Act of 1968 to allow grants to increase police presence, to expand and improve cooperative efforts between law enforcement agencies and members of the community to address crime and disorder problems, and otherwise to enhance public safety", with the following amendments:

In lieu of the matter inserted by said amendment, insert:

SECTION 1. SHORT TITLE.

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

SEC. 2. TABLE OF TITLES.

The following is the table of titles for this Act:

TITLE I—VICTIMS OF CRIME
TITLE II—APPLICABILITY OF MANDATORY MINIMUM PENALTIES IN CERTAIN CASES
TITLE III—ASSAULTS AGAINST CHILDREN
TITLE IV—CONSUMER PROTECTION
TITLE V—MANDATORY LIFE IMPRISONMENT FOR PERSONS CONVICTED OF CERTAIN FELONIES
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TITLE I—VICTIMS OF CRIME

Subtitle A—Victims of Crime

SEC. 101. VICTIM'S RIGHT OF ALLOCUTION IN SENTENCING.

Rule 32 of the Federal Rules of Criminal Procedure is amended by—

(1) striking "and" following the semicolon in subdivision (a)(1)(B);

(2) striking the period at the end of subdivision (a)(1)(C) and inserting in lieu thereof "; and";

(3) inserting after subdivision (a)(1)(C) the following:

"(D) if sentence is to be imposed for a crime of violence or sexual abuse, address the victim personally if the victim is present at the sentencing hearing and determine if the victim wishes to make a statement and to present any information in relation to the sentence.";

(4) in the second to last sentence of subdivision (a)(1), striking "equivalent opportunity" and inserting in lieu thereof "opportunity equivalent to that of the defendant's counsel";

(5) in the last sentence of subdivision (a)(1) inserting "the victim," before "or the attorney for the Government."; and

(6) adding at the end the following:

"(f) DEFINITIONS.—For purposes of this rule—

"(1) 'victim' means any individual against whom an offense for which a sentence is to be imposed has been committed, but the right of allocution under subdivision (a)(1)(D) may be exercised instead by—

"(A) a parent or legal guardian in case the victim is below the age of eighteen years or incompetent; or

"(B) one or more family members or relatives designated by the court in case the victim is deceased or incapacitated;

if such person or persons are present at the sentencing hearing, regardless of whether the victim is present; and

"(2) '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.".

Subtitle B—Crime Victims' Fund

SEC. 111. 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 percent shall be available for grants under section 1403;

"(B) 48 percent shall be available for grants under section 1404(a); and

"(C) 4 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)".

(c) AMOUNTS AWARDED AND UNSPENT.—Section 1402(e) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(e)) is amended to read as follows:

"(e) AMOUNTS AWARDED AND UNSPENT.—Any sums awarded as part of a grant under this chapter that remain unspent at the end of a fiscal year in which such grant is made may be expended for the purposes for which such grant is made at any time during the next succeeding 2 fiscal years, at the end of which year any remaining unobligated funds shall be returned to the Fund.".

SEC. 112. 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:

"(e) Notwithstanding any other provision of 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, then—

"(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. 113. 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. 114. 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. 115. 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. 116. 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. 117. 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".

Subtitle C—Report on Battered Women's Syndrome

SEC. 121. 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 medi-

cal and psychological basis of "battered women's syndrome" and on the extent to which evidence of the syndrome has been considered in a criminal trial.

(b) COMPONENTS OF THE REPORT.—The report described in subsection (a) shall include—

(1) medical and psychological testimony on the validity of battered women's syndrome as a psychological condition;

(2) a compilation of State and Federal court cases in which evidence of battered women's syndrome was offered in criminal trials; and

(3) an assessment by State and Federal judges, prosecutors, and defense attorneys of the effects that evidence of battered women's syndrome may have in criminal trials.

TITLE II—APPLICABILITY OF MANDATORY MINIMUM PENALTIES IN CERTAIN CASES

SEC. 201. 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:

"(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 or section 1010 or 1013 of the Controlled Substances Import and Export Act, the court shall impose a sentence pursuant to guidelines established by the United States Sentencing Commission, without regard to any statutory minimum sentence, if the court finds at sentencing that—

"(1) the defendant does not have more than 1 criminal history point under the United States Sentencing Commission Guidelines Manual;

"(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 (as determined under the United States Sentencing Commission Guidelines Manual) in the offense; and

"(5) no later than the time of the sentencing hearing, the defendant has provided to the Government all information the defendant has concerning the offense or offenses that were part of the same course of conduct or of a common scheme or plan. The fact that the defendant has no relevant or useful other information to provide shall not preclude or require a determination by the court that the defendant has complied with this requirement.".

(b) SENTENCING COMMISSION AUTHORITY.—

(1) IN GENERAL.—The United States Sentencing Commission (hereinafter in this section referred to as the "Commission") may—

(A) make such amendments as the Commission deems necessary to harmonize the sentencing guidelines and policy statements with this section and the amendment made by this section; and

(B) promulgate policy statements to assist in the application of this section and that amendment.

(2) PROCEDURES.—If the Commission determines 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 the enactment of this Act.

SEC. 202. DIRECTION TO SENTENCING COMMISSION.

The United States Sentencing Commission shall promulgate sentencing guidelines or amend existing sentencing guidelines with respect to cases where statutory minimum sentences would apply but for section 3553(f) of title 18, United States Code, to carry out the purposes of such section, so that the lowest sentence in the guideline range is not less than 2 years in those cases where a 5-year minimum would otherwise apply.

SEC. 203. SPECIAL RULE.

For the purpose of section 3582(c)(2) of title 18, United States Code, with respect to a prisoner the court determines has demonstrated good behavior while in prison, the changes in sentencing made as a result of this Act shall be deemed to be changes in the sentencing ranges by the Sentencing Commission pursuant to section 994(o) of title 28, United States Code.

TITLE III—ASSAULTS AGAINST CHILDREN

SEC. 301. ASSAULTS AGAINST CHILDREN.

(a) SIMPLE ASSAULT.—Section 113(e) of title 18, United States Code, is amended by striking "by fine" and all that follows through the period and inserting "—

"(A) if the victim of the assault is an individual who has not attained the age of 16 years, by a fine under this title or imprisonment for not more than one year, or both; and

"(B) by a fine under this title or imprisonment for not more than three months, or both, in any other case.".

(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 a 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".

TITLE IV—CONSUMER PROTECTION

SEC. 401. 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 thereof 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 sol-

vency 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. 402. 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.".

TITLE V—MANDATORY LIFE IMPRISONMENT FOR PERSONS CONVICTED OF CERTAIN FELONIES

SEC. 501. 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 CRIMINALS.—

"(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 or a serious drug offense shall be sentenced to life imprisonment if—

"(A) the person has been convicted (and those convictions have become final) on 2 or more prior occasions, in a court of the United States or of a State, of serious violent felonies or serious drug offenses, or any combination of such felonies and 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 conduct by which a person intentionally places another person in fear of aggravated sexual abuse or sexual abuse (as described in sections 2241 and 2242 of this title);

"(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) of this title, 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 of this title); manslaughter other than involuntary manslaughter (as described in section 1112 of this title); assault with intent to commit murder (as described in section 113(a) of this title); assault with intent to commit rape; aggravated sexual abuse and sexual abuse (as described in sections 2241 and 2242 of this title); abusive sexual contact (as described in sections 2244 (a)(1) and (a)(2) of this title); kidnapping; aircraft piracy (as described in section 902(i)(2) or

902(n)(2) of the Federal Aviation Act of 1958); robbery (as described in section 2111, 2113, or 2118 of this title); carjacking (as described in section 2119 of this title); extortion; arson; firearms use; or attempt, conspiracy, or solicitation to commit any of the above offenses; or

"(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, or any commonwealth, territory, or possession of the United States; and

"(H) the term 'serious drug offense' means—

"(i) an offense subject to a penalty provided for in section 401(b)(1)(A) or 408 of the Controlled Substances Act or section 1010(b)(1)(A) of the Controlled Substances Import and Export Act; or

"(ii) an offense under State law that, had the offense been prosecuted in a court of the United States, would have been subject to a penalty provided for in section 401(b)(1)(A) or 408 of the Controlled Substances Act or section 1010(b)(1)(A) of the Controlled Substances Import and Export Act.

"(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 of this title 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 which 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. 502. 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) of this title, 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) of this title;".

TITLE VI—VIOLENT OFFENDER INCARCERATION

SEC. 601. 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 develop, expand, modify, or improve correctional facilities and programs to ensure that prison cell space is available for the confinement of violent offenders.

(b) ELIGIBILITY.—To be eligible to receive a grant under this title, 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 ofenders, 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 develop, expand, modify, or improve correctional facilities and programs 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 diversional programs, particularly drug diversion programs, community corrections programs, a prisoner screening and security classification system, 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, 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 development, expansion, modification, or improvement of correctional facilities and programs designed to ensure the incarceration of violent offenders;

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

(7) documentation of the multi-State compact agreement that specifies the development, expansion, modification, or improvement of correctional facilities and programs.

(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.

(d) MATCHING REQUIREMENT.—The Federal share of a grant received under this title may not exceed 75 percent of the costs of a proposal described in an application approved under this title.

SEC. 602. RULES AND REGULATIONS.

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

SEC. 603. 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 title to achieve the purposes of this title.

SEC. 604. 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 title.

SEC. 605. DEFINITION.

For purposes of this title, the term "State or States" means any State, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

SEC. 606. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $600,000,000 for each of the fiscal years 1995 through 1999 to carry out the purposes of this title.

TITLE VII—DEATH PENALTY

SEC. 701. CONSTITUTIONAL PROCEDURES FOR THE IMPOSITION OF THE SENTENCE OF DEATH.

Part II of title 18 of the United States Code is amended by adding the following new chapter after chapter 227:

"CHAPTER 228—DEATH SENTENCE

"Sec.
"3591. Sentence of death.
"3592. Mitigating and aggravating factors to be considered in determining whether a sentence of death is justified.
"3593. Special hearing to determine whether a sentence of death is justified.
"3594. Imposition of a sentence of death.
"3595. Review of a sentence of death.
"3596. Implementation of a sentence of death.
"3597. Use of State facilities.
"3598. Special provisions for Indian country.

"§3591. Sentence of death

"A defendant who has been found guilty of—

"(1) an offense described in section 794 or section 2381 of this title;

"(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;

"(3) an offense referred to in section 408(c)(1) of the Controlled Substances Act (21 U.S.C. 848(c)(1)), committed as part of a continuing criminal enterprise offense under the conditions described in subsection (b) of that section which involved not less than twice the quantity of controlled substance described in subsection (b)(2)(A) of that section or twice the gross receipts described in subsection (b)(2)(B) of that section; or

"(4) an offense referred to in section 408(c)(1) of the Controlled Substances Act (21 U.S.C. 848(c)(1)), committed as part of a continuing criminal enterprise offense under that section, where the defendant is a principal administrator, organizer, or leader of such an enterprise, and the defendant, in order to obstruct the investigation or prosecution of the enterprise or an offense involved in the enterprise, attempts to kill or knowingly directs, advises, authorizes, or assists another to attempt to kill any public officer, juror, witness, or members of the family or household of such a person;

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 (as defined in section 2 of title 18 of the United States Code) in the offense, which was committed by another, but the defendant's participation was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

"(4) EQUALLY CULPABLE DEFENDANTS.—Another defendant or defendants, equally culpable in the crime, will not be punished by death.

"(5) NO PRIOR CRIMINAL RECORD.—The defendant did not have a significant prior history of other criminal conduct.

"(6) DISTURBANCE.—The defendant committed the offense under severe mental or emotional disturbance.

"(7) VICTIM'S CONSENT.—The victim consented to the criminal conduct that resulted in the victim's death.

"(8) OTHER FACTORS.—Other factors in the defendant's background, record, or character or any other circumstance of the offense that mitigate against imposition of the death sentence.

"(b) AGGRAVATING FACTORS FOR ESPIONAGE AND TREASON.—In determining whether a sentence of death is justified for an offense described in section 3591(1), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors for which notice has been given and determine which, if any, exist:

"(1) PRIOR ESPIONAGE OR TREASON OFFENSE.—The defendant has previously been convicted of another offense involving espionage or treason for which a sentence of either life imprisonment or death was authorized by law.

"(2) GRAVE RISK TO NATIONAL SECURITY.—In the commission of the offense the defendant knowingly created a grave risk of substantial danger to the national security.

"(3) GRAVE RISK OF DEATH.—In the commission of the offense the defendant knowingly created a grave risk of death to another person.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor for which notice has been given exists.

"(c) AGGRAVATING FACTORS FOR HOMICIDE.—In determining whether a sentence of death is justified for an offense described in section 3591(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 (kidnapping), section 844(i) (destruction of property affecting interstate commerce by explosives), section 1116 (killing or attempted killing of diplomats), section 1203 (hostage taking), section 1992 (wrecking trains), section 2280 (maritime violence), section 2281 (maritime platform violence), section 2332 (terrorist acts abroad against United States nationals), section 2339 (use of weapons of mass destruction), or section 2381 (treason) of this title, or section 902 (i) or (n) of the Federal Aviation Act of 1958 (49 U.S.C. 1472 (i) or (n)) (aircraft piracy).

"(2) 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) of this title, as amended by this Act, the defendant has previously been convicted of a Federal or State offense punishable by a term of imprisonment of more than one year, involving the use or attempted or threatened use of a firearm, as defined in section 921 of this title, 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 two or more Federal or State offenses, punishable by a term of imprisonment of more than one 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 one 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 two 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 title 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 and that violation involved the distribution of drugs to persons under the age of 21 in violation of section 418 of such Act.

"(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) of this title, 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 de-

fendant has previously been convicted of a crime of sexual assault or crime of child molestation.

"(d) AGGRAVATING FACTORS FOR DRUG OFFENSE DEATH PENALTY.—In determining whether to recommend a sentence of death for an offense described in paragraph (3), (4), or (5) of section 3591, the jury, or if there is no jury, the court, shall consider any aggravating factor for which notice has been provided under section 3593 of this title, including the following factors:

"(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, as defined in section 921 of this title, to threaten, intimidate, assault, or injure a person.

"(5) DISTRIBUTION TO PERSONS UNDER TWENTY-ONE.—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 which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(6) DISTRIBUTION NEAR SCHOOLS.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 419 of the Controlled Substances Act which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(7) USING MINORS IN TRAFFICKING.—The offense or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 420 of the Controlled Substances Act which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(8) LETHAL ADULTERANT.—The offense involved the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) mixed with a potentially lethal adulterant, and the defendant was aware of the presence of the adulterant.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor 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 also 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.

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. 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). 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, an aggravating factor required to be considered under section 3592 is found to exist, the jury, or if there is no jury, the court, shall then consider whether the aggravating factor or factors found to exist outweigh any mitigating factors. The jury, or if there is no jury, the court shall recommend a sentence of death if it unanimously finds at least one aggravating factor and no mitigating factor or if it finds one or more aggravating factors which outweigh any mitigating factors. In any other case, it shall not recommend a sentence of death. The jury shall be instructed that it must avoid any influence of sympathy, sentiment, passion, prejudice, or other arbitrary factors in its decision, and should make such a recommendation as the information warrants. The jury shall be instructed that its recommendation concerning a sentence of death is to be based on the aggravating factor or factors and any mitigating factors which have been found, but that the final decision concerning the balance of aggravating and mitigating factors is a matter for the jury's judgment.

"(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, the court shall sentence the defendant accordingly. Otherwise, the court shall impose any lesser sentence that is authorized by law. Notwithstanding any other provision of law, if the maximum term of imprisonment for the of-

fense 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.

"(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.

"(4) The sentence shall be affirmed if the court finds that a remaining aggravating factor found to exist is one allowed under section 3592 of this title and that the remaining aggravating factor or factors found to exist sufficiently outweigh any mitigating factors found to exist.

"§3596. Implementation of a sentence of death

"(a) IN GENERAL.—A person who has been sentenced to death pursuant to the provisions of this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does 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. For purposes of this subsection, the term 'participation' 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 such 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) AMENDMENT OF CHAPTER ANALYSIS.—The chapter analysis of part II of title 18, United States Code, is amended by adding the following new item after the item relating to chapter 227:

"228. Death sentence ..... 3591".

SEC. 702. CONFORMING CHANGES TO SPECIFIC OFFENSES FOR WHICH DEATH PENALTY IS AUTHORIZED.

(a) CONFORMING CHANGES IN TITLE 18.—Title 18, United States Code, is amended as follows:

(1) ESPIONAGE.—Section 794(a) of title 18, United States Code, is amended by striking the period at the end of the subsection 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.".

(2) 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;".

(3) KILLING OF FOREIGN OFFICIALS OR INTERNATIONALLY PROTECTED PERSONS.—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".

(4) 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".

(5) 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.

(6) 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" and inserting a period and striking the remainder of the section.

(7) 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".

(8) 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".

(9) 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, by a sentence of death or life imprisonment as provided under section 1111 of this title, or, in the case of manslaughter, a sentence as provided under section 1112 of this title,".

(b) CONFORMING AMENDMENT TO FEDERAL AVIATION ACT OF 1954.—Section 903 of the Federal Aviation Act of 1958 (49 U.S.C. 1473) is amended by striking subsection (c) and by striking the item relating to subsection (c) in the table of contents at the beginning of such Act.

(c) AIRCRAFT AND MOTOR VEHICLES.—Section 34 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 section.

SEC. 703. AUTHORIZATION OF DEATH PENALTY FOR EXISTING OFFENSES.

(a) 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".

(b) MURDER FOR HIRE.—Section 1958(a) of title 18, United States Code, is amended by striking "and if death results, shall be subject to imprisonment for any term of years or for life, or shall be fined not more than $50,000, or both" and inserting "and if death results, shall be punished by death or life imprisonment, or shall be fined under this title, or both".

(c) 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 under this title, or both; and for kidnapping, by imprisonment for any term of years or for life, or a fine under this title, or both;".

(d) GENOCIDE.—Section 1091(b)(1) of title 18, United States Code, is amended by striking ", a fine of not more than $1,000,000 and imprisonment for life;" and inserting ", where death results, by death or imprisonment for life and a fine under this title, or both;".

(e) CARJACKING.—Section 2119(3) of title 18, United States Code, is amended to read as follows:

"(3) if death results, be punished by death or imprisoned for any term of years or for life, fined under this title, or both."

(f) DEATH PENALTY FOR RAPE AND CHILD MOLESTATION MURDERS.—

(1) OFFENSE.—Chapter 109A of title 18, United States Code, is amended by redesignating section 2245 as section 2246, and by inserting after section 2244 the following:

"§2245. Sexual abuse resulting in death

"Whoever, in the course of an offense under this chapter, engages in conduct that results in the death of a person, shall be punished by death or imprisoned for any term of years or for life.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 109A of title 18, United States Code, is amended by striking the item for section 2245 and adding the following:

"2245. Sexual abuse resulting in death.
"2246. Definitions for chapter.".

(g) 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.".

(h) HOMICIDES AND ATTEMPTED HOMICIDES INVOLVING FIREARMS IN FEDERAL FACILITIES.—Section 930 of title 18, United States Code, is amended—

(1) by redesignating subsections (c), (d), (e), (f), and (g) as subsections (d), (e), (f), (g), and (h), respectively;

(2) in subsection (a), by striking "(c)" and inserting "(d)";

(3) inserting after subsection (b) the following:

"(c) Whoever kills or attempts to kill any person in the course of a violation of subsection (a) or (b), or in the course of an attack on a Federal facility involving the use of a firearm or other dangerous weapon, shall be punished as provided in sections 1111, 1112, and 1113 of this title.";

(4) in subsection (e)(2) (as so redesignated), by striking "(c)" and inserting "(d)"; and

(5) in subsection (h) (as so redesignated)—

(A) by striking "and (b)" and inserting ", (b), and (c)"; and

(B) by striking "(d)" each place it appears and inserting "(e)".

(i) 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 of this title, the death penalty or imprisonment for life, and in the case of any other killing, the punishment provided in section 1112 of this title; and".

(j) PROTECTION OF COURT OFFICERS AND JURORS.—Section 1503 of title 18, United States Code, is amended—

(1) by designating the current text as subsection (a);

(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:

"(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 of this title;

"(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 twenty years, a fine under this title, or both; and

"(3) in any other case, imprisonment for not more than ten years, a fine under this title, or both."; and

(4) in subsection (a), as so designated by this section, by striking "commissioner" each place it appears and inserting "magistrate judge".

(k) FOREIGN MURDER OF UNITED STATES NATIONALS.—

(1) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§1118. Foreign murder of United States nationals

"(a) Whoever, 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 of this title.

"(b) 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.

"(c) 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 subsection is not subject to judicial review.

"(d) As used in this section, the term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

(2) CONFORMING AMENDMENT.—Section 1117 of title 18, United States Code, is amended by striking "or 1116" and inserting "1116, or 1118".

(3) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 51 of title 18, United States Code, is amended by adding at the end the following new item:

"1118. Foreign murder of United States nationals.".

(l) DEATH PENALTY FOR CIVIL RIGHTS MURDERS.—

(1) 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.".

(2) 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.".

(3) 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".

(4) 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. 704. 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:

"§1119. Murder by a Federal prisoner

"(a) OFFENSE.—Whoever, 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.—For the purposes of this section—

"(1) the term 'Federal correctional institution' means any Federal prison, Federal correctional facility, Federal community program center, or Federal halfway house;

"(2) the term '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; and

"(3) the term 'murder' means a first degree or second degree murder as defined by section 1111 of this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following:

"1119. Murder by a Federal prisoner.".

SEC. 705. MURDER BY ESCAPED PRISONERS.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end the following:

"§1120. Murder by escaped prisoners

"(a) IN GENERAL.—Whoever, having escaped from a Federal prison where such person was confined under a sentence for a term of life imprisonment, kills another shall be punished as provided in sections 1111 and 1112 of this title.

"(b) DEFINITION.—As used in this section, the terms 'Federal prison' and 'term of life imprisonment' have the meanings given those terms in section 1119 of this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 51 of title 18, United States Code, is amended by adding at the end the following:

"1120. Murder by escaped prisoners.".

SEC. 706. DRIVE-BY SHOOTINGS.

(a) IN GENERAL.—Section 922 of title 18, United States, Code, is amended by adding at the end the following:

"(v) It shall be unlawful for any person knowingly to—

"(1) discharge a firearm from within a motor vehicle; and

"(2) thereby create a grave risk to human life.".

(b) PENALTY.—Section 924(a) of such title is amended by adding at the end the following:

"(6) Whoever knowingly violates section 922(v) shall be fined under this title or imprisoned not more than 25 years, or both, and if death results, shall be punished by death or imprisonment for life or any term of years.".

SEC. 707. 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:

"(j) Whoever, in the course of a violation of subsection (c) of this section, 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 of this title, 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 of this title, be punished as provided in that section.".

SEC. 708. 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 is amended by adding at the end the following:

"§ 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 of this title, 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) of this subsection 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) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 51 of title 18, United States Code, is amended by adding at the end the following:

"1121. Killing persons aiding Federal investigations or State correctional officers.".

SEC. 709. 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 a new subsection (a) as follows:

"(a)(1) Whoever kills or attempts to kill another person with intent to retaliate against any person for—

"(A) the attendance of a witness or party at an official proceeding, or any testimony given or any record, document, or other object produced by a witness in an official proceeding; or

"(B) any information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, parole or release pending judicial proceedings given by a person to a law enforcement officer;

shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under this subsection is—

"(A) in the case of a killing, the punishment provided in sections 1111 and 1112 of this title; and

"(B) in the case of an attempt, imprisonment for not more than twenty years, a fine under this title, or both.".

SEC. 710. 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) Whoever uses, or attempts or conspires to use, a weapon of mass destruction—

"(1) against a national of the United States while such national is outside of the United States;

"(2) against any person within the United States; or

"(3) against any property that is owned, leased or used by the United States or by any department or agency of the United States, whether the property is within or outside 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) 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) CLERICAL AMENDMENT.—The table of sections at the beginning of 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. 711. VIOLENCE AT AIRPORTS SERVING INTERNATIONAL CIVIL AVIATION.

(a) OFFENSE.—Chapter 2 of title 18, United States Code, is amended by adding at the end the following:

"§36. Violence at international airports

"(a) Whoever unlawfully and intentionally, using any device, substance or weapon—

"(1) performs an act of violence against a person at an airport serving international civil aviation which causes or is likely to cause serious 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 or imprisoned not more than twenty years, or both; and if the death of any person results from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) There is jurisdiction over the prohibited activity in subsection (a) if—

"(1) the prohibited activity takes place in the United States; or

"(2) the prohibited activity takes place outside of the United States and the offender is later found in the United States.

"(c) It is a bar to Federal prosecution under subsection (a) for conduct that occurred within the United States that the conduct involved—

"(1) a domestic dispute solely affecting and between members of the same family or household or between social acquaintances; or

"(2) was during or in relation to a labor dispute, and such conduct was 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 (29 U.S.C. 113(c)).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 2 of title 18, United States Code, is amended by adding at the end the following:

"36. Violence at international airports.".

(c) EFFECTIVE DATE.—This section shall take effect on the later of—

(1) the date of the enactment of this Act; or

(2) the date 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. 712. OFFENSES OF VIOLENCE AGAINST MARITIME NAVIGATION OR FIXED PLATFORMS.

(a) OFFENSES.—Chapter 111 of title 18, United States Code, is amended by adding at the end the following:

"§2280. Violence against maritime navigation

"(a) Whoever unlawfully and intentionally—

"(1) seizes or exercises control over a ship by force or threat thereof or any other form of intimidation;

"(2) performs an act of violence against a person on board a ship if that act is likely to endanger the safe navigation of that ship;

"(3) destroys a ship or causes damage to a ship or to its cargo which is likely to endanger the safe navigation of that ship;

"(4) places or causes to be placed on a ship, by any means whatsoever, a device or substance which is likely to destroy that ship, or cause damage to that ship or its cargo which endangers or is likely to endanger the safe navigation of that ship;

"(5) destroys or seriously damages maritime navigational facilities or seriously interferes with their operation, if such act is likely to endanger the safe navigation of a ship;

"(6) communicates information, knowing the information to be false and under circumstances in which such information may reasonably be believed, thereby endangering the safe navigation of a ship;

"(7) injures or kills any person in connection with the commission or the attempted commission of any of the offenses set forth in paragraphs (1) through (6); or

"(8) attempts to do any act prohibited under paragraphs (1) through (7);

shall be fined under this title or imprisoned not more than twenty 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) Whoever threatens to do any act prohibited under paragraph (2), (3) or (5) of subsection (a), 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 or imprisoned not more than five years, or both.

"(c) There is jurisdiction over the prohibited activity in subsections (a) and (b)—

"(1) in the case of a covered ship, if—

"(A) such activity is committed—

"(i) against or on board a ship flying the flag of the United States at the time the prohibited activity is committed;

"(ii) in the United States 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.

"(d) It is a bar to Federal prosecution under subsection (a) for conduct that occurred within the United States that the conduct involved—

"(1) a domestic dispute solely affecting and between members of the same family or household or between social acquaintances; or

"(2) was during or in relation to a labor dispute, and such conduct was 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 (29 U.S.C. 113(c)).

"(e) 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.

"(f) As used in this section—

"(1) the term '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 such term 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;

"(2) the term 'covered ship' means a ship that is navigating or is scheduled to navigate into, through or from waters beyond the outer limit of the territorial sea of a single country or a lateral limit of that country's territorial sea with an adjacent country;

"(3) the term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

"(4) the term 'territorial sea of the United States' means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law; and

"(5) the term '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) Whoever unlawfully and intentionally—

"(1) seizes or exercises control over a fixed platform by force or threat thereof or any other form of intimidation;

"(2) performs an act of violence against a person on board a fixed platform if that act is likely to endanger its safety;

"(3) destroys a fixed platform or causes damage to it which is likely to endanger its safety;

"(4) places or causes to be placed on a fixed platform, by any means whatsoever, a device or substance which is likely to destroy that fixed platform or likely to endanger its safety;

"(5) injures or kills any person in connection with the commission or the attempted commission of any of the offenses set forth in paragraphs (1) through (4); or

"(6) attempts to do anything prohibited under paragraphs (1) through (5);

shall be fined under this title or imprisoned not more than twenty years, or both; and if death results to any person from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) Whoever threatens to do anything prohibited under paragraph (2) or (3) of subsection (a), with apparent determination and will to carry the threat into execution, if the threatened act is likely to endanger the safety of the fixed platform, shall be fined under this title or imprisoned not more than five years, or both.

"(c) There is jurisdiction over the prohibited activity in subsections (a) and (b) if—

"(1) such activity is committed against or on board a fixed platform—

"(A) that is located on the continental shelf of the United States;

"(B) that is located on the continental shelf of another country, by a national of the United States or by a stateless person whose habitual residence is in the United States; or

"(C) in an attempt to compel the United States to do or abstain from doing any act;

"(2) during the commission of such activity against or on board a fixed platform located on a continental shelf, a national of the United States is seized, threatened, injured or killed; or

"(3) such activity is committed against or on board a fixed platform located outside the United States and beyond the continental shelf of the United States and the offender is later found in the United States.

"(d) It is a bar to Federal prosecution under subsection (a) for conduct that occurred within the United States that the conduct involved—

"(1) a domestic dispute solely affecting and between members of the same family or household or between social acquaintances; or

"(2) was during or in relation to a labor dispute, and such conduct was 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 (29 U.S.C. 113(c)).

"(e) As used in this section, the term—

"(1) '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;

"(2) '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;

"(3) 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

"(4) 'territorial sea of the United States' means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law; and

"(5) 'United States', when used in a geographical sense, includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands and all territories and possessions of the United States.".

(b) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 111 of title 18, United States Code, is amended by adding at the end thereof the following:

"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. 713. TORTURE.

(a) IN GENERAL.—Part I of title 18, United States Code, is amended by inserting after chapter 113A the following new chapter:

"CHAPTER 113B—TORTURE

"Sec.

2340. Definitions.

2340A. Torture.

2340B. Exclusive remedies.

"§2340. Definitions

"As used in this chapter—

"(1) the term 'torture' means an act committed by a person acting under the color of law specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control;

"(2) the term 'severe mental pain or suffering' means the prolonged mental harm caused by or resulting from (A) the intentional infliction or threatened infliction of severe physical pain or suffering; (B) the administration or application, or threatened administration or application, of mind altering substances or other procedures calculated to disrupt profoundly the senses or the personality; (C) the threat of imminent death; or (D) the threat that another person will imminently be subjected to death, severe physical pain or suffering, or the administration or application of mind altering substances or other procedures calculated to disrupt profoundly the senses or personality;

"(3) the term 'United States' includes all areas under the furisdiction of the United States including any of the places within the provisions of sections 5 and 7 of this title and section 101(38) of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1301(38)).

"§2340A. Torture

"(a) Whoever, outside the United States and in a circumstance described in subsection (b) of this section, commits or attempts to commit torture—

"(1) shall be fined under this title or imprisoned not more than twenty years, or both; and

"(2) if death results to any person from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) The circumstance referred to in subsection (a) of this section is if—

"(1) the alleged offender is a national of the United States; or

"(2) the alleged offender is present in the United States, irrespective of the nationality of the victim or the alleged offender.

"§2340B. Exclusive remedies

"Nothing in this chapter shall be construed as precluding the application of State or local laws

on the same subject, nor shall anything in this chapter be construed as creating any substantive or procedural right enforceable by law by any party in any civil proceeding.".

(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item for chapter 113A the following new item:

"113B. Torture ..... 2340".

(c) EFFECTIVE DATE.—This section shall take effect on the later of—

(1) the date of enactment of this section; or

(2) the date the United States has become a party to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

SEC. 714. APPLICABILITY TO UNIFORM CODE OF MILITARY JUSTICE.

The provisions of 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. 715. 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. 716. KIDNAPPING.

Section 1201(g)(1) of title 18, United States Code, is amended by inserting "to the penalty of death if the death of the victim results and, in any other case," after "shall be subject".

TITLE VIII—TRUTH IN SENTENCING

SEC. 801. GRANTS.

The Attorney General is authorized to provide grants to States to build, expand, or operate space in correctional facilities in order to increase the prison bed capacity in such facilities in order to reach the goals set forth in section.

SEC. 802. FEDERAL FUNDS.

(a) DISTRIBUTION OF FUNDS IN FISCAL YEAR 1995.—Of the total amount of funds appropriated under this title in fiscal year 1995, there shall be allocated to each State an amount which bears the same ratio to the amount of funds appropriated pursuant to this title as the number of part I violent crimes reported by the States to the Federal Bureau of Investigation for 1993 bears to the number of part I violent crimes reported by all States to the Federal Bureau of Investigation for 1993.

(b) DISTRIBUTION OF FUNDS IN FISCAL YEARS 1996 THROUGH 1999.—75 percent of the total amount of funds appropriated under this title in fiscal years 1996, 1997, 1998, and 1999 shall be allocated to each State according to the formula established in subsection (a) adjusted to reflect in each year the most recent data from the Federal Bureau of Investigation reporting part I violent crimes.

(c) GOOD FAITH EFFORT.—In order to be eligible for funding under subsections (a) and (b), a State shall submit an application and give the Attorney General assurances that it will make a good faith and cost effective effort to become eligible for a grant under subsection (d).

(d) TRUTH IN SENTENCING INCENTIVE FUND.—25 percent of the total amount of funds appropriated under this title in each of the fiscal years 1996, 1997, 1998, and 1999 shall be allocated to each eligible State according to the same ratios established in subsection (b) multiplied by the percentage change in the States' percentage of time to be served by the persons convicted of violent crimes divided by the average of all States' percentage change in percentage of time to be served by the persons convicted of violent crimes. States which have achieved a Truth in Sentencing standard of violent criminals serving 85 percent of prison time assessed shall receive the incentive funds based on the average of such percentage change ratios of all States multiplied by the States percentage of total Part I violent crime reported.

(e) ELIGIBILITY FOR TRUTH IN SENTENCING INCENTIVE FUND.—In order to be eligible for grants under subsection (d), a State must demonstrate that it has, since 1993—

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

(2) increased the average prison time actually to be served in prison by convicted violent offenders sentenced to prison; and

(3) increased the percentage of sentence to be actually served in prison by violent offenders sentenced to prison.

(f) LAW CHANGES.—As evidence of such good faith effort to meet the goals contained in subsection (e), a State may make changes to its laws and regulations which may include—

(1) truth in sentencing laws which will require persons convicted of violent crimes to serve not less than 85 percent of the sentence imposed;

(2) mandatory prison sentences for persons convicted of the most serious violent crimes;

(3) pretrial detention for persons whose release it can be shown would pose a danger to any other person or the community;

(4) sentencing authority to allow the defendant's victims or the family of victims the opportunity to be heard regarding the issue of sentencing and provide that the victim or the victim's family will be notified whenever such defendant is to be released; or

(5) that a person who is convicted of a serious violent crime shall be sentenced to life imprisonment if—

(A) The person has been convicted on 2 or more prior occasions in a court of the United States or of a State of a serious violent crime, or of 1 or more serious violent crimes and 1 or more serious drug offenses; and

(B) each serious violent crime or serious drug offense used as a basis for sentencing under this subsection, other than the fist, was committed after the defendant's conviction of the preceding serious violent crime or serious drug offense.

SEC. 803. DEFINITIONS.

For purposes of this title—

(1) the term "violent crime" means—

(A) a felony offense that has as an element the use, attempted use, or threatened use of physical force against the person of another, or

(B) any other offense that is a felony and that, by its nature, involves substantial risk that physical force against the person of another may be used in the course of committing the offense;

(2) the term "serious drug offender" has the same meaning as that is used in section 924(e)(2)(A) of title 18, United States Code;

(3) the term "State" means any of the United States and the District of Columbia;

(4) the term "convicted" means convicted and sentenced to a term in a State corrections institution or a period of formal probation; and

(5) the term "Part I violent crimes" means murder, rape, robbery, and aggravated assault as those offenses are reported to the Federal Bureau of Investigation for purposes of the Uniform Crime Reports.

SEC. 804. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—For purposes of this title, there are authorized to be appropriated—

(1) $2,500,000,000 for fiscal year 1995;

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

(3) $2,000,000,000 for fiscal year 1997;

(4) $2,000,000,000 for fiscal year 1998; and

(5) $2,000,000,000 for fiscal year 1999.

(b) LIMITATIONS ON FUNDS.—

(1) NONSUPPLANTING REQUIREMENT.—Funds made available under this section shall not be used to supplant State funds, but shall be used to increase the amount of funds that would, in the absence of Federal funds, be made available from State sources.

(2) ADMINISTRATIVE COSTS.—Not more than 3 percent of the funds available under this section may be used for administrative costs.

(3) MATCHING FUNDS.—The portion of the costs of a program provided by a grant under this section may not exceed 90 percent of the total costs of the program as described in the application.

(4) CARRY OVER OF APPROPRIATIONS.—Any funds appropriated but not expended as provided by this section during any fiscal year shall be carried over and will be made available until expended.

TITLE IX—RACIALLY DISCRIMINATORY CAPITAL SENTENCING

SEC. 901. AMENDMENT TO TITLE 28.

(a) PROCEDURE.—Part VI of title 28, United States Code, is amended by inserting after chapter 176 the following new chapter:

"CHAPTER 177—RACIALLY DISCRIMINATORY CAPITAL SENTENCING

"Sec.
"3501. Prohibition against the execution of a sentence of death imposed on the basis of race.
"3502. Access to data on death eligible cases.
"3503. Enforcement of the chapter.
"3504. Construction of chapter.

"§3501. Prohibition against the execution of a sentence of death imposed on the basis of race

"(a) IN GENERAL.—No person shall be put to death under color of State or Federal law in the execution of a sentence that was imposed based on race.

"(b) INFERENCE OF RACE AS THE BASIS OF DEATH SENTENCE.—An inference that race was the basis of a death sentence is established if valid evidence is presented demonstrating that, at the time the death sentence was imposed, race was a statistically significant factor in decisions to seek or to impose the sentence of death in the jurisdiction in question.

"(c) RELEVANT EVIDENCE.—Evidence relevant to establish an inference that race was the basis of a death sentence may include evidence that death sentences were, at the time pertinent under subsection (b), being imposed significantly more frequently in the jurisdiction in question—

"(1) upon persons of one race than upon persons of another race; or

"(2) as punishment for capital offenses against persons of one race than as punishment for capital offenses against persons of another race.

"(d) VALIDITY OF EVIDENCE PRESENTED TO ESTABLISH AN INFERENCE.—If statistical evidence is presented to establish an inference that race was the basis of a sentence of death, the court shall determine the validity of the evidence and if it provides a basis for the inference. Such evidence must take into account, to the extent it is compiled and publicly made available, evidence of the statutory aggravating factors of the crimes involved, and shall include comparisons of similar cases involving persons of different races.

"(e) REBUTTAL.—If an inference that race was the basis of a death sentence is established under subsection (b), the death sentence may not be carried out unless the government rebuts the inference by a preponderance of the evidence. Unless it can show that the death penalty was sought in all cases fitting the statutory criteria for imposition of the death penalty, the government cannot rely on mere assertions that it did not intend to discriminate or that the cases in which death was imposed fit the statutory criteria for imposition of the death penalty.

"§3502. Access to data on death eligible cases

"Data collected by public officials concerning factors relevant to the imposition of the death sentence shall be made publicly available.

"§3503. Enforcement of the chapter

"In any proceeding brought under section 2254, the evidence supporting a claim under this chapter may be presented in an evidentiary hearing and need not be set forth in the petition. Notwithstanding section 2254, no determination on the merits of a factual issue made by a State court pertinent to any claim under section 3501 shall be presumed to be correct unless—

"(1) the State is in compliance with section 3502;

"(2) the determination was made in a proceeding in a State court in which the person asserting the claim was afforded rights to the appointment of counsel and to the furnishing of investigative, expert and other services necessary for the adequate development of the claim; and

"(3) the determination is one which is otherwise entitled to be presumed to be correct under the criteria specified in section 2254.

"§3504. Construction of chapter

"Nothing contained in this chapter shall be construed to affect in one way or the other the lawfulness of any sentence of death that does not violate section 3501.".

(b) AMENDMENT TO TABLE OF CHAPTERS.—The table of chapters of part VI of title 28, United States Code, is amended by adding at the end thereof the following new item:

"177. Racially Discriminatory Capital Sentencing ..... 3501.".

SEC. 902. ACTIONS BEFORE ENACTMENT.

No person shall be barred from raising any claim under section 3501 of title 28, United States Code, as added by this Act, on the ground of having failed to raise or to prosecute the same or a similar claim before the enactment of the Act, nor by reason of any adjudication rendered before that enactment.

TITLE X—CRIME PREVENTION AND COMMUNITY JUSTICE

Subtitle A—Model Intensive Grant Programs

SEC. 1001. GRANT AUTHORIZATION.

(a) ESTABLISHMENT.—The Attorney General, who may consult with the Secretary of Health and Human Services and the Secretary of Housing and Urban Development, is authorized to award grants to not more than 15 chronic high intensive crime areas to develop comprehensive model crime prevention programs that—

(1) 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;

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

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

(b) PRIORITY.—In awarding grants described in 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. 1002. 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.

SEC. 1003. 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. 1004. 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. 1005. 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. 1006. DEFINITIONS.

For purposes of this subtitle:

(1) CHRONIC HIGH INTENSITY CRIME AREA.—The term "chronic high intensity crime area" is an area that meets criteria defined under regulations issued by the Attorney General. The criteria adopted by the Attorney General shall, 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.

(2) CHIEF LOCAL ELECTED OFFICIAL.—The term "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.

SEC. 1007. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle $300,000,000 for each of the fiscal years 1995, 1996, 1997, 1998, and 1999.

Subtitle B—Ounce of Prevention Grant Programs

PART I—OUNCE OF PREVENTION GRANT PROGRAMS

SEC. 1010. OUNCE OF PREVENTION COUNCIL.

(a) IN GENERAL.—(1) The Secretary of Health and Human Services shall convene an interagency Task Force to be known as the Ounce of Prevention Council, which shall be chaired by the Attorney General, the Secretary of Education, and the Secretary of Health and Human Services, and which also shall include the Secretary of Housing and Urban Development, the Secretary of Labor, the Secretary of Agriculture, the Secretary of the Interior, and the Director of the Office of National Drug Control Policy.

(2) The Council may obtain the necessary staff to carry out its functions through the detail or assignment of employees from the departments or offices which are represented by the Council.

(3) The Council may delegate any of its functions or powers to a member or members of the Council.

(b) ADMINISTRATIVE RESPONSIBILITIES AND POWERS.—The Council shall advise and counsel the Secretary regarding administration of the programs established by this title. In consultation with the Council, the Secretary may issue regulations and guidelines to carry out this title, including specifications concerning application requirements, selection criteria, duration and renewal of grants, evaluation requirements, limitation of administrative expenses, submission of reports by grantees, recordkeeping by grantees, and access to books, records, and documents maintained by grantees or other persons for purposes of audit or examination.

(c) TARGETING OF ASSISTANCE FOR DISTRESSED COMMUNITIES AND INDIVIDUALS WITH PARTICULAR NEEDS.—In consultation with the Council, the Secretary shall adopt regulations or guidelines to ensure that funding provided under this title shall be used primarily for—

(1) assistance in communities that are distressed as indicated by such factors as high incidences of crime, juvenile delinquency, gang involvement, substance abuse, unemployment, school dropouts, or pregnancy among adolescents; and

(2) assistance for individuals in any area who are particularly in need of the assistance for such reasons as involvement in juvenile delinquency, gangs, or substance abuse, unemployability, dropping out of school, or pregnancy during adolescence, or being at risk of such conditions.

SEC. 1011. OUNCE OF PREVENTION GRANT PROGRAM.

(a) IN GENERAL.—The Secretary, after consultation with the Council, may make grants to States, local governments, educational institutions, coalitions, local educational agencies, State educational agencies, and other public and private entities, 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;

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

(4) substance abuse treatment and prevention, including outreach programs for at-risk families.

(b) PRIORITY.—In making such grants, the Secretary 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.

(c) DEFINITIONS.—For purposes of this section the term "Secretary" means the Secretary of Health and Human Services.

PART II—FAMILY AND COMMUNITY ENDEAVOR SCHOOLS GRANT PROGRAM

SEC. 1015. PROGRAM AUTHORITY.

(a) IN GENERAL.—

(1) ALLOCATIONS FOR STATES.—For a fiscal year in which the sums reserved by the Secretary from the amounts appropriated for this subtitle to carry out this section equal or exceed $20,000,000, the Secretary shall allocate 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.

(2) GRANTS TO COMMUNITY-BASED ORGANIZATIONS FROM ALLOCATIONS.—For such a fiscal year, the Secretary may award grants from the appropriate State allocation determined under paragraph (1) 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) REALLOCATION.—If, at the end of such a fiscal year, the Secretary determines that funds allocated for community-based organizations in a State remain unobligated, the Council may use such funds to award grants to eligible community-based organizations in another State to pay for such Federal share. Amounts made available through such grants shall remain available until expended.

(b) OTHER FISCAL YEARS.—For any fiscal year in which the sums reserved by the Secretary from amounts appropriated for this subtitle 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.

SEC. 1016. PROGRAM REQUIREMENTS.

(a) 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—

(1) where appropriate, in the facilities of a public school; or

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

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

(B) in compliance with all applicable local ordinances.

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

(1) shall use funds made available through the grant to provide, to children in the eligible community, services and activities that shall include supervised sports programs, and extracurricular and academic programs, that are offered—

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

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

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

(3) may use such funds—

(A) for the renovation of facilities that are in existence prior to the operation of the program for which the organization receives the grant; and

(B) to develop or expand school programs (including programs that provide a variety of additional services to help meet the comprehensive needs of students, such as homework assistance and after-school programs (including educational, social, and athletic activities), nutrition services, family counseling, and parental training programs) that are designed to improve academic and social development of at-risk children 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 in the daily academic curriculum at public schools in the eligible community; and

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

SEC. 1017. ELIGIBLE COMMUNITY IDENTIFICATION.

(a) 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.

(b) 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.

SEC. 1018. APPLICATIONS.

(a) 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.

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

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

(2) 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;

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

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

(A) will—

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

(ii) make a local facility described in section 1016(a)(2) such a focal point; and

(B) 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;

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

(A) community leaders;

(B) businesses;

(C) local educational agencies;

(D) local officials;

(E) State officials; and

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

(6) 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 section 1016(b);

(7) 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—

(A) extracurricular and academic programs, such as programs described in section 1016(b)(2); and

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

(8) 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;

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

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

(11) 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;

(12) contain an assurance that the program will maintain a staff-to-participant ratio that is appropriate to the activity or service provided by the program;

(13) contain an assurance that the community-based organization will comply with any evaluation under section 1023, any research effort authorized under Federal law, and any investigation by the Secretary;

(14) 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;

(15) contain an assurance that the program for which the grant is sought will, to the maximum extent possible, incorporate services that are—

(A) provided by program volunteers, parents, adult mentors, social workers, drug and alcohol abuse counselors, teachers, or other persons providing tutoring and college or vocational preparation; and

(B) provided solely through non-Federal private and nonprofit sources; and

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

(c) 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.

SEC. 1019. ELIGIBILITY OF PARTICIPANTS.

(a) 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.

(b) EXCLUSION.—

(1) 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.

(2) PARENTAL APPROVAL.—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 that agrees to the terms and conditions of participation in the program. All information and application forms shall be in a format and language accessible to and understandable to the parent or guardian of the child.

SEC. 1020. PEER REVIEW PANEL.

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

(b) COMPOSITION.—Such panel shall include at least 1 representative from each of the following:

(1) A community-based organization.

(2) A local government.

(3) A local educational agency.

(4) The private sector.

(5) A charitable organization.

(c) FUNCTIONS.—Such panel shall conduct the initial review of all grant applications received by the Secretary under section 1018, make recommendations to the Secretary regarding—

(1) grant funding under this section; and

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

SEC. 1021. INVESTIGATIONS AND INSPECTIONS.

The Secretary may conduct such investigations and inspections as may be necessary to ensure compliance with the provisions of this subtitle.

SEC. 1022. FEDERAL SHARE.

(a) 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 section 1018 the Federal share of the costs of developing and carrying out programs referred to in section 1015.

(2) FEDERAL SHARE.—The Federal share of such costs shall be 70 percent for each of the fiscal years 1995, 1996, 1997, and 1998.

(b) NON-FEDERAL SHARE.—

(1) 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 section 1018(b)(16)).

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

SEC. 1023. EVALUATION.

The Secretary shall conduct a thorough evaluation of the programs assisted under this subtitle, 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. 1024. DEFINITIONS.

In this part the following definitions apply:

(1) CHILD.—The term "child" means an individual who is not younger than 5 and not older than 18.

(2) COMMUNITY-BASED ORGANIZATION.—The term "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 and organizations of learning (such as local education agencies).

(iv) Student organizations.

(v) Law enforcement agencies.

(vi) Public housing agencies.

(vii) State government.

(viii) Other public agencies.

(ix) Other interested parties.

(3) ELIGIBLE COMMUNITY.—The term "eligible community" means an area identified pursuant to section 1024.

(4) LOCAL EDUCATIONAL AGENCY.—The term "local educational agency" has the same meaning given such term in section 1471(12) of the Elementary and Secondary Education Act of 1965.

(5) POVERTY LINE.—The term "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.

(6) PUBLIC SCHOOL.—The term "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 such Act.

(7) SECRETARY.—The term "Secretary" means the Secretary of Education.

(8) STATE.—The term "State" means each of the several States of the United States, 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.

PART III—ADMINISTRATION

SEC. 1025. TECHNICAL ASSISTANCE; TRAINING AND EVALUATION.

(a) TECHNICAL ASSISTANCE AND TRAINING.—The Secretary may provide technical assistance, training, and evaluations to further the purposes of this subtitle through grants, contracts, or other cooperative agreements with other entities.

(b) EVALUATIONS.—In addition to any evaluation requirements that may be required for grantees, the Secretary may conduct or support evaluations of programs that receive support under this subtitle, including assessments of the effectiveness of the programs in reducing delinquency, gang involvement, substance abuse, school dropout rates, and adolescent pregnancy, and in increasing employability and employment.

SEC. 1026. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATIONS FOR PART I.—There are authorized to be appropriated to carry out the purposes of part I, $25,000,000 for each of the fiscal years 1995 through 1999.

(b) AUTHORIZATIONS FOR PART II.—There are authorized to be appropriated to carry out the purposes of part II, $230,000,000 for each of the fiscal years 1995 through 1999.

Subtitle C—Police Partnerships for Children

SEC. 1030. DEFINITION.

As used in this subtitle, "partnership" means a cooperative arrangement or association involving one or more law enforcement agencies, and one or more public or private agencies that provide child or family services.

SEC. 1031. GRANT AUTHORITY.

(a) PARTNERSHIP GRANTS.—The Attorney General, in consultation with the Secretary of Health and Human Services, may make grants to partnerships for—

(1) teams or units involving participants from both the law enforcement and child or family services components of the partnership that respond to or deal with violent ihcidents in which a child is involved as a perpetrator, witness, or victim, such as teams or units that provide a 24-hour crisis response or consultation service in relation to such incidents;

(2) training for law enforcement officers regarding behavior, psychology, family systems, and community culture and attitudes that is relevant to dealing with children who are involved in violent incidents or at risk of involvement in such incidents, or with families of such children; and

(3) programs for children and families that are designed jointly by the law enforcement and child or family services components of the partnership, including programs providing 24-hour response to crisis situations affecting children and such other programs as programs that provide training in nonviolent conflict resolution, after-school activity and neighborhood recreation programs, parent support groups that are led jointly by child or family services and law enforcement personnel, and mentoring programs.

(b) GRANTS FOR POLICE RESIDENCE IN HIGH CRIME AREAS.—The Secretary of Housing and Urban Development, in consultation with the Attorney General, may make grants to units of State or local government, public housing authorities, owners of federally assisted housing, and owners of housing in high crime areas in order to provide 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.

SEC. 1032. ADMINISTRATION.

(a) USE OF COMPONENTS.—The Attorney General may utilize any component or components of the Department of Justice in carrying out this subtitle.

(b) REGULATORY AUTHORITY.—The Attorney General, for the purposes of section 1031(a), and the Secretary of Housing and Urban Development, for purposes of section 1031(b), may issue regulations and guidelines to carry out this subtitle, including specifications concerning application requirements, selection criteria, duration and renewal of grants, evaluation requirements, matching funds, limitation of administrative expenses, submission of reports by grantees, recordkeeping by grantees, and access to books, records, and documents maintained by grantees or other persons for purposes of audit or examination.

(c) APPLICATIONS.—In addition to any other requirements that may be specified by the Attorney General—

(1) an application for a grant under section 1030(a) of this subtitle shall—

(A) certify that the applicant is a partnership as defined in section 1030, or a law enforcement agency or public or private child or family services agency that is participating in a partnership and seeking support on behalf of the partnership;

(B) include a long-term strategy and detailed implementation plan;

(C) certify that the Federal support provided under this subtitle will be used to supplement, and not supplant, State and local sources of funding that would otherwise be available;

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

(E) specify plans for obtaining necessary support and continuing the proposed program following the conclusion of Federal support;

(2) in addition to any other requirements that may be specified by the Secretary of Housing and Urban Development, an application for a grant under section 1031(b) shall—

(A) certify that there has been appropriate consultation with the employing agency of any law enforcement officer who is to be provided with a dwelling unit;

(B) identify any related governmental or community initiatives which complement or will be coordinated with the proposal;

(C) certify that the Federal support provided will be used to supplement, and not supplant, State and local sources of funding that would otherwise be available; and

(D) provide assurances that local police officers will not be required to reside in residences funded under this subtitle.

(d) MATCHING FUNDS.—The portion of the costs of a program provided by a grant under this subtitle may not exceed 75 percent, unless the Attorney General, for purposes of section

1031(a), or the Secretary of Housing and Urban Devlopment, for purposes of section 1031(b), waives, wholly or in part, the requirement under this subsection of a non-Federal contribution to the costs of a program.

(e) FUNDING PRIORITY.—In making grants under section 1031(a), the Attorney General shall give priority to applications by partnerships involving law enforcement agencies that engage in community-oriented policing for programs assisting distressed communities or populations with a high incidence of violence affecting children.

SEC. 1033. TECHNICAL ASSISTANCE, TRAINING, AND EVALUATION.

(a) TECHNICAL ASSISTANCE AND TRAINING.—The Attorney General may provide technical assistance and training to further the purposes of this subtitle.

(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 subtitle.

(c) ADMINISTRATION.—The technical assistance, training, and evaluations authorized by this section may be carried out directly by the Attorney General, or through grants, contracts, or other cooperative arrangements with other entities.

SEC. 1034. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated $20,000,000 in fiscal year 1995, and such sums as may be necessary in each of fiscal years 1996 through 1999 to carry out this subtitle.

(b) LIMITATION.—Not more than 50 percent of the funds made available in a fiscal year for this subtitle may be expended for grants under section 1031(b).

Subtitle D—Midnight Sports

SEC. 1038. GRANTS FOR MIDNIGHT SPORTS LEAGUE ANTICRIME PROGRAMS.

(a) AUTHORITY.—The Secretary of Housing and Urban Development, in consultation with the Attorney General of the United States, the Secretary of Labor, and the Secretary of Education, shall make grants, to the extent that amounts are approved in appropriations Acts under subsection (k), to eligible entities to assist such entities in carrying out midnight sports league programs meeting the requirements of subsection (d).

(b) ELIGIBLE ENTITIES.—

(1) IN GENERAL.—Grants under subsection (a) may be made only to the following eligible entities:

(A) Entities eligible under section 520(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 11903a(b)) for a grant under section 520(a) of such Act.

(B) Nonprofit organizations providing crime prevention, employment counseling, job training, or other educational services.

(C) Nonprofit organizations providing federally-assisted low-income housing.

(2) PROHIBITION ON SECOND GRANTS.—A grant under subsection (a) may not be made to an eligible entity if the entity previously received a grant under such subsection.

(c) USE OF GRANT AMOUNTS.—Any eligible entity that receives a grant under subsection (a) may use the grant only—

(1) to establish or carry out a midnight sports league program under subsection (d);

(2) for salaries for administrators and staff of the program;

(3) for other administrative costs of the program, except that not more than 5 percent of the grant may be used for such administrative costs; and

(4) for costs of training and assistance provided under subsection (d).

(d) PROGRAM REQUIREMENTS.—Each eligible entity receiving a grant under subsection (a) shall establish a midnight sports league program as follows:

(1) The program shall establish a sports league of not less than 8 teams having 10 players each.

(2) Not less than 50 percent of the players in the sports league shall be residents of federally assisted low-income housing.

(3) The program shall be designed to serve primarily youths and young adults from a neighborhood or community whose population has not less than 2 of the following characteristics (in comparison with national averages):

(A) A substantial problem regarding use or sale of illegal drugs.

(B) A high incidence of crimes committed by youths or young adults.

(C) A high incidence of persons infected with the human immunodeficiency virus or sexually transmitted diseases.

(D) A high incidence of pregnancy, or a high birth rate, among adolescents.

(E) A high unemployment rate for youths and young adults.

(F) A high rate of high school dropouts.

(4) The program 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.

(5) The program shall serve only youths and young adults who demonstrate a need for such counseling, training, and education provided by the program, in accordance with criteria for demonstrating need, which shall be established by the Secretary of Housing and Urban Development, in consultation with the Attorney General, the Secretary of Labor, the Secretary of Education, and with the Advisory Committee.

(6) The program shall obtain sponsors for each team in the sports league. Sponsors shall be private individuals or businesses in the neighborhood or community served by the program who make financial contributions to the program and participate in or supplement the employment, job training, and educational services provided to the players under the program with additional training or educational opportunities.

(7) The program shall comply with any criteria established by the Secretary of Housing and Urban Development, in consultation with the Attorney General, the Secretary of Labor, the Secretary of Education, and with the Advisory Committee.

(e) GRANT AMOUNT LIMITATIONS.—

(1) PRIVATE CONTRIBUTIONS.—The Secretary of Housing and Urban Development, in consultation with the Attorney General, the Secretary of Labor, and the Secretary of Education, may not make a grant under subsection (a) to an eligible entity that applies for a grant under subsection (f) unless the applicant entity certifies to the Secretary of Housing and Urban Development, or the Attorney General, that the entity will supplement the grant amounts with amounts of funds from non-Federal sources, as follows:

(A) In each of the first 2 years that amounts from the grant are disbursed (under paragraph (5)), an amount sufficient to provide not less than 35 percent of the cost of carrying out the midnight sports league program.

(B) In each of the last 3 years that amounts from the grant are disbursed, an amount sufficient to provide not less than 50 percent of the cost of carrying out the midnight sports league program.

(2) NON-FEDERAL FUNDS.—For purposes of this subsection, the term "funds from non-Federal sources" includes amounts from nonprofit organizations, public housing agencies, States, units of general local government, and Indian housing authorities, private contributions, any salary paid to staff (other than from grant amounts under subsection (a)) to carry out the program of the eligible entity, in-kind contributions to carry out the program (as determined by the Secretary of Housing and Urban Development, in consultation with the Attorney General, the Secretary of Labor, the Secretary of Education, and with the Advisory Committee), the value of any donated material, equipment, or building, the value of any lease on a building, the value of any utilities provided, and the value of any time and services contributed by volunteers to carry out the program of the eligible entity.

(3) PROHIBITION ON SUBSTITUTION OF FUNDS.—Grants made under subsection (a), and amounts provided by States and units of general local government to supplement the grants, may not be used to replace other public funds previously used, or designated for use, under this section.

(4) MAXIMUM AND MINIMUM GRANT AMOUNTS.—The Secretary of Housing and Urban Development, in consultation with the Attorney General, the Secretary of Labor, and the Secretary of Education, may not make a grant under subsection (a) to any single eligible entity in an amount less than $50,000 or exceeding $125,000.

(5) DISBURSEMENT.—Each grant made under subsection (a)(1) shall be disbursed to the eligible entity receiving the grant over the 5-year period beginning on the date that the entity is selected to receive the grant, as follows:

(A) In each of the first 2 years of such 5-year period, 23 percent of the total grant amount shall be disbursed to the entity.

(B) In each of the last 3 years of such 5-year period, 18 percent of the total grant amount shall be disbursed to the entity.

(f) APPLICATIONS.—To be eligible to receive a grant under subsection (a), an eligible entity shall submit to the Secretary of Housing and Urban Development an application in the form and manner required by the Secretary of Housing and Urban Development, in consultation with the Attorney General, the Secretary of Labor, the Secretary of Education, and with the Advisory Committee, which shall include—

(1) a description of the midnight sports league program to be carried out by the entity, including a description of the employment counseling, job training, and other educational services to be provided;

(2) letters of agreement from service providers to provide training and counseling services required under subsection (d) and a description of such service providers;

(3) letters of agreement providing for facilities for sports games and counseling, training, and educational services required under subsection (d) and a description of the facilities;

(4) a list of persons and businesses from the community served by the program who have expressed interest in sponsoring, or have made commitments to sponsor, a team in the midnight sports league; and

(5) evidence that the neighborhood or community served by the program meets the requirements of subsection (d)(3).

(g) SELECTION.—The Secretary of Housing and Urban Development, in consultation with the Attorney General, the Secretary of Labor, the Secretary of Education, and with the Advisory Committee, shall select eligible entities that submit applications under subsection (f) to receive grants under subsection (a). The Secretary of Housing and Urban Development, in consultation with the Attorney General, the Secretary of Labor, the Secretary of Education, and with the Advisory Committee, shall establish criteria for selection of applicants to receive such grants. The criteria shall include a preference for selection of eligible entities carrying out midnight sports league programs in suburban and rural areas.

(h) REPORTS.—The Secretary of Housing and Urban Development, in consultation with the Attorney General, the Secretary of Labor, and the Secretary of Education, shall require each eligible entity receiving a grant under subsection (a) to submit for each year in which grant amounts are received by the entity, a report describing the activities carried out with such amounts.

(i) STUDY.—To the extent amounts are provided under appropriation Acts pursuant to subsection (k)(2), the Secretary of Housing and Urban Development, in consultation with the Attorney General, the Secretary of Labor, and the Secretary of Education, shall make a grant to one entity qualified to carry out a study under this subsection. The entity shall use such grant to carry out a scientific study of the effectiveness of midnight sports league programs under subsection (d) of eligible entities receiving grants under subsection (a). The Secretary of Housing and Urban Development, in consultation with the Attorney General, the Secretary of Labor, and the Secretary of Education, shall require such entity to submit a report describing the study and any conclusions and recommendations resulting from the study to the Congress and the Secretary of Housing and Urban Development and the Attorney General not later than the expiration of the 2-year period beginning on the date that the grant under this subsection is made.

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

(1) the term "eligible entity" means an entity described under subsection (b)(1); and

(2) the term "federally assisted low-income housing" has the meaning given the term in section 5126 of the Public and Assisted Housing Drug Elimination Act of 1990.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

(1) for grants under subsection (a), $10,000,000 in each of fiscal years 1995, 1996, 1997, 1998, and 1999; and

(2) for a study grant under subsection (i), $250,000 in fiscal year 1995.

Subtitle E—Drug Courts

SEC. 1041. GRANT AUTHORITY.

The Attorney General may make grants to units of State and local government, and to other public and private entities, for programs that involve continuing judicial supervision over specified categories of persons with substance abuse problems, and that involve the integrated administration of other sanctions and services including—

(1) testing for the use of controlled substances or other addictive substances;

(2) substance abuse treatment;

(3) 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

(4) programmatic or health related aftercare services such as relapse prevention, education, vocational training, job placement, housing placement, and child care or other family support services.

SEC. 1042. 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 subtitle.

(b) USE OF COMPONENTS.—The Attorney General may utilize any component or components of the Department of Justice in carrying out this subtitle.

(c) REGULATORY AUTHORITY.—The Attorney General may issue regulations and guidelines to carry out this subtitle, including specifications concerning application requirements, selection criteria, duration and renewal of grants, evaluation requirements, matching funds, limitation of administrative expenses, submission of reports by grantees, recordkeeping by grantees, and access to books, records, and documents maintained by grantees or other persons for purposes of audit or examination.

(d) APPLICATIONS.—In addition to any other requirements that may be specified by the Attorney General, an application for a grant under this subtitle shall—

(1) include a long-term strategy and detailed implementation plan;

(2) explain the applicant's inability to fund the program adequately without Federal assistance;

(3) certify that the Federal support provided will be used to supplement, and not supplant, State and local sources of funding that would otherwise be available;

(4) identify related governmental 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) specify plans for obtaining necessary support and continuing the proposed program following the conclusion of Federal support; and

(7) describe the methodology that will be utilized in evaluating the program.

SEC. 1043. 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 subtitle.

(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 subtitle.

(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.

SEC. 1044. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $280,000,000 in each of fiscal years 1995, 1996, 1997, 1998, and 1999 to carry out this subtitle.

Subtitle F—Assistance for Delinquent and At-Risk Youth

SEC. 1051. GRANT AUTHORITY.

(a) IN GENERAL.—(1) 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) 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) 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) Such application 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 or local educational agency, which meets or exceeds State 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.

SEC. 1052. AUTHORIZATION OF APPROPRIATIONS.

For grants under section 1051, there are authorized to be appropriated $10,000,000 for each of the fiscal years 1995 through 1999.

Subtitle G—Police Recruitment

SEC. 1061. GRANT AUTHORITY.

(a) 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.

(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 non-profit 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 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. 1062. AUTHORIZATION OF APPROPRIATIONS.

For grants under section 1061 there are authorized to be appropriated $6,000,000 for each of the fiscal years 1995 through 1999.

Subtitle H—National Triad Program

SEC. 1065. FINDINGS.

The Congress finds that—

(1) older Americans are among the most rapidly growing segments of our society;

(2) 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;

(3) older Americans find themselves uniquely situated in the society, environmentally and physically;

(4) 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;

(5) 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;

(6) older Americans are too frequently the victims of abuse and neglect, violent crime, property crime, consumer fraud, medical quackery, and confidence games;

(7) studies have found that older Americans that are victims of violent crime are more likely to be injured and require medical attention than are younger victims;

(8) victimization data on crimes against older Americans are incomplete and out of date, and data sources are partial, scattered, and not easily obtained;

(9) 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;

(10) 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;

(11) many law enforcement agencies do not have model practices for responding to the criminal abuse of older Americans;

(12) law enforcement officers and social service providers come from different disciplines and frequently bring different perspectives to the problem of crimes against older Americans;

(13) the differences in approaches can inhibit a genuinely effective response;

(14) 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;

(15) 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;

(16) 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

(17) 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.

SEC. 1066. PURPOSES.

The purposes of this subtitle are—

(1) to support a coordinated effort among law enforcement, older Americans organizations, and social service agencies to stem the tide of violence against older Americans and support media and nonmedia strategies aimed at increasing both public understanding of the problem and the older Americans' skills in preventing crime against themselves and their property; and

(2) to address the problem of crime against older Americans in a systematic and effective manner by promoting and expanding collaborative crime prevention programs, such as the Triad model, that assist law enforcement agencies and older Americans in implementing specific strategies for crime prevention, victim assistance, citizen involvement, and public education.

SEC. 1067. NATIONAL ASSESSMENT AND DISSEMINATION.

(a) IN GENERAL.—The Director of the National Institute of Justice in consultation with the Assistant Secretary for Aging shall conduct a qualitative and quantitative national assessment of—

(1) the nature and extent of crimes committed against older Americans and the effect of such crimes on the victims;

(2) the numbers, extent, and impact of violent crimes and nonviolent crimes (such as frauds and "scams") against older Americans and the extent of unreported crimes;

(3) the collaborative needs of law enforcement, health, and social service organizations, focusing on prevention of crimes against older Americans, to identify, investigate, and provide assistance to victims of those crimes; and

(4) the development and growth of strategies to respond effectively to the matters described in paragraphs (1), (2), and (3).

(b) MATTERS TO BE ADDRESSED.—The national assessment made pursuant to subsection (a) shall address—

(1) the analysis and synthesis of data from a broad range of sources in order to develop accurate information on the nature and extent of crimes against older Americans, including identifying and conducting such surveys and other data collection efforts as are needed and designing a strategy to keep such information current over time;

(2) institutional and community responses to elderly victims of crime, focusing on the problems associated with fear of victimization, abuse of older Americans, and hard-to-reach older Americans who are in poor health, are living alone or without family nearby, or living in high crime areas;

(3) special services and responses required by elderly victims;

(4) whether the experience of older Americans with some service organizations differs markedly from that of younger populations;

(5) the kinds of programs that have proven useful in reducing victimization of older Americans through crime prevention activities and programs;

(6) the kinds of programs that contribute to successful coordination among public sector agencies and community organizations in reducing victimization of older Americans; and

(7) the research agenda needed to develop a comprehensive understanding of the problems of crimes against older Americans, including the changes that can be anticipated in the crimes themselves and appropriate responses as the society increasingly ages.

(c) AVOIDANCE OF DUPLICATION.—In conducting the assessment under subsection (a), the Director of the National Institute of Justice, in consultation with the Assistant Secretary of Aging, shall draw upon the findings of existing studies and avoid duplication of efforts that have previously been made.

(d) DISSEMINATION.—Based on the results of the national assessment and analysis of successful or promising strategies in dealing with the problems described in subsection (b) and other problems, including coalition efforts such as the Triad programs described in section 1066, the Director of the National Institute of Justice, in

consultation with the Assistant Secretary of Aging, shall disseminate the results through reports, publications, clearinghouse services, public service announcements, and programs of evaluation, demonstration, training, and technical assistance.

SEC. 1068. PILOT PROGRAMS.

(a) AWARDS.—The Director of the Bureau of Justice Assistance, in consultation with the Assistant Secretary of Aging, shall make grants to coalitions of local law enforcement agencies and older Americans to assist in the development of programs and execute field tests of particularly promising strategies for crime prevention services and related services based on the concepts of the Triad model, which can then be evaluated and serve as the basis for further demonstration and education programs.

(b) TRIAD COOPERATIVE MODEL.—(1) Subject to paragraph (2), a pilot program funded under this section shall consist of a cooperative model, which calls for the participation of the sheriff, at least 1 police chief, and a representative of at least 1 older Americans' organization within a county and may include participation by general service coalitions of law enforcement, victim service, and senior citizen advocate second service organizations. If there exists with the applicant county an area agency on aging as defined in section 102(17) of the Older Americans Act of 1965, the applicant county must include the agency as an organizational component in its program.

(2) If there is not both a sheriff and a police chief in a county or if the sheriff or a police chief do not participate, a pilot program funded under this section shall include in the place of the sheriff or police chief another key law enforcement official in the county such as a local prosecutor.

(c) APPLICATION.—A coalition that desires to establish a pilot program under this section shall submit to the Director of the Bureau of Justice Assistance an application that includes—

(1) a description of the community and its senior citizen population;

(2) assurances that Federal funds received under this title shall be used to provide additional and appropriate education and services to the community's older Americans;

(3) a description of the extent of involvement of each organizational component (chief, sheriff (or other law enforcement official), and senior organization representative) and focus of the program;

(4) a comprehensive plan including—

(A) a description of the crime problems facing older Americans and need for expanded law enforcement and victim assistance services;

(B) a description of the types of projects to be developed or expanded;

(C) a plan for an evaluation of the results of the program;

(D) a description of the resources (including matching funds, in-kind services, and other resources) available in the community to implement the program's development or expansion;

(E) a description of the gaps that cannot be filled with existing resources;

(F) an explanation of how the requested grant will be used to fill those gaps; and

(G) a description of the means and methods the applicant will use to reduce criminal victimization of older persons; and

(5) funding requirements for implementing a comprehensive plan.

(d) DISTRIBUTION OF GRANT AWARDS.—The Director of the Bureau of Justice Assistance, in consultation with the Assistant Secretary for Aging, shall attempt, to the extent practicable, to achieve an equitable geographic distribution of grant awards for pilot programs authorized under this subtitle.

(e) POST-GRANT PERIOD REPORT.—A grant recipient under this section shall, not later than 6 months after the conclusion of the grant period, submit to the Director of the Bureau of Justice Assistance a report that—

(1) describes the composition of organizations that participated in the pilot program;

(2) identifies problem areas encountered during the course of the pilot program;

(3) provides data comparing the types and frequency of criminal activity before and after the grant period and the effect of such criminal activity on older Americans in the community; and

(4) describes the grant recipient's plans and goals for continuance of the program after the grant period.

SEC. 1069. TRAINING ASSISTANCE, EVALUATION, AND DISSEMINATION AWARDS.

In conjunction with the national assessment under section 1067—

(1) the Director of the Bureau of Justice Assistance, in consultation with the Assistant Secretary for Aging, shall make awards to organizations with demonstrated ability to provide training and technical assistance in establishing crime prevention programs based on the Triad model, for purposes of aiding in the establishment and expansion of pilot programs under this section;

(2) the Director of the National Institute of Justice, in consultation with the Assistant Secretary for Aging, shall make awards to research organizations, for the purposes of—

(A) evaluating the effectiveness of selected pilot programs; and

(B) conducting the research and development identified through the national assessment as being critical; and

(3) the Director of the Bureau of Justice Assistance, in consultation with the Assistant Secretary for Aging, shall make awards to public service advertising coalitions, for the purposes of mounting a program of public service advertisements to increase public awareness and understanding of the issues surrounding crimes against older Americans and promoting ideas or programs to prevent them.

SEC. 1070. REPORT.

The Director of the Bureau of Justice Assistance, in consultation with the Assistant Secretary for Aging, and the Director of the National Institute of Justice shall submit to Congress an annual report (which may be included with the report submitted under section 102(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3712(b))) describing the results of the pilot programs conducted under section 1068.

SEC. 1071. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated—

(1) $2,000,000 to the Bureau of Justice Assistance for the purpose of making pilot program awards in that amount under section 1068;

(2) $1,000,000 to the Bureau of Justice Assistance for the purpose of funding the national training and technical assistance effort under sections 1067 and 1068;

(3) $1,000,000 to the Bureau of Justice Assistance and $1,000,000 to the Administration on Aging, for the purpose of developing public service announcements under sections 1067 and 1069;

(4) $2,000,000 to the National Institute of Justice for the purposes of conducting the national assessment, evaluating pilot programs, and carrying out the research agenda under sections 1067 and 1069; and

(5) to the extent that funds are not otherwise available for the purpose, such sums as are necessary to pay the administrative costs of carrying out this subtitle.

Subtitle I—Local Partnership Act

SEC. 1075. ESTABLISHMENT OF PAYMENT PROGRAM.

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

"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. Audits, investigations, and reviews.
"6719. Reports.
"6720. Definitions and application.

"§6701. Payments to local governments

"(a) PAYMENT AND USE.—

"(1) PAYMENT.—The Secretary of the Treasury 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;

"(C) coordination of crime prevention programs funded under this title with other existing Federal programs to meet the overall needs of communities that benefit from funds received under this section; or

"(D) job programs to prevent crime.

"(b) TIMING OF PAYMENTS.—They shall pay each amount allocated under this chapter to a unit of general local government for a payment period by the later of 60 days after the date the amount is available or the first day of the payment period.

"(c) ADJUSTMENTS.—(1) 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) 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 0.5 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 November 15, 1995, any amount that is—

"(A) paid to the unit from amounts appropriated for fiscal year 1995 under the authority of this section; and

"(B) not expended by the unit by October 31, 1995.

"(2) DEPOSIT OF AMOUNTS REPAID.—Amounts received by the Secretary as repayments under this subsection shall be deposited in the general fund of the Treasury as miscellaneous receipts.

"(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) 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) 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.

"(3) The Secretary shall issue regulations to implement this subsection.

"§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 $2,000,000,000 for fiscal years 1995 and 1996.

"§6703. Qualification for payment

"(a) IN GENERAL.—Under regulations issued by the Secretary, 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 specified in the regulations issued by the Secretary;

"(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) if at least 25 percent of the costs of a construction project are paid out of the trust fund, laborers and mechanics employed by contractors or subcontractors on the project will receive pay at least equal to the prevailing rate of pay for similar construction in the locality as determined by the Secretary of Labor under the Act of March 3, 1931 (46 Stat. 1494 et seq.; popularly known as the Davis-Bacon Act), and the Secretary of Labor shall act on labor standards under this paragraph in a manner that is in accordance with Reorganization Plan No. 14 of 1950 (64 Stat. 1267) and section 2 of the Act of June 13, 1934 (48 Stat. 948);

"(6) 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;

"(7) 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); and

"(8) the government will make reports the Secretary reasonably requires, in addition to the annual reports required under section 6719(b).

"(b) 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 (a).

"(c) SANCTIONS FOR NONCOMPLIANCE.—(1) If the Secretary decides that a unit of general local government has not complied substantially with subsection (a) or regulations prescribed under subsection (a), 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 (a) and regulations prescribed under subsection (a).

"(2) 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 a proceeding.

"(3) 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 (a) and regulations prescribed under subsection (a).

"§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) 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) 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 years used by the Secretary of Commerce in the most recent Bureau of the Census general determination of State and local taxes made before the beginning of the payment period; divided by

"(B) the total income of individuals, as determined by the Secretary of Commerce for national income accounts purposes, attributed to the State for the same years.

"(3) 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) 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 (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 (as determined by the Secretary of Labor for general statistical purposes).

"(c) ALTERNATIVE FORMULA.—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 (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 (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 by the Secretary of Commerce for general statistical purposes.

"(d) INCOME TAX AMOUNT AND TAX EFFORT AMOUNT.—(1) 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 on the same basis as the Secretary of the Treasury determines that liability for general statistical purposes.

"(2) 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 years used by the Secretary of Commerce in the most recent Bureau of the Census general determination of State and local taxes made before the beginning of the payment period; by

"(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)(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) 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) 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 (b).

"(b) OTHER LOCAL GOVERNMENT ALLOCATIONS.—(1) 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) 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)(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, 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 Secretary of Commerce for general statistical purposes and adjusted (under regulations of the Secretary) to exclude amounts properly allocated to education expenses.

"(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)(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.

"(c) 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);

"(2) apply uniformly in the State; and

"(3) apply only to payment periods beginning before October 1, 1995.

"(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.—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).

"§6709. Information used in allocation formulas

"(a) USE OF MOST RECENT INFORMATION.—Except as provided in this section, the Secretary shall use the most recent available information provided by the Secretary of Commerce and the Secretary of Labor before the beginning of the payment period to determine an allocation under this chapter. If the Secretary decides that the information is not current or complete enough to provide for a fair allocation, the Secretary may use additional information (including information based on estimates) as provided under regulations of the Secretary.

"(b) POPULATION DATA.—(1) The Secretary shall determine population on the same basis that the Secretary of Commerce determines resident population for general statistical purposes.

"(2) The Secretary shall request the Secretary of Commerce to adjust the population information provided to the Secretary as soon as practicable to include a reasonable estimate of the number of resident individuals not counted in the 1990 census or revisions of the census. The Secretary shall use the estimates in determining allocations for the payment period beginning after the Secretary receives the estimates. The Secretary shall adjust population information to reflect adjustments made under section 118 of the Act of October 1, 1980 (Public Law 96–369, 94 Stat. 1357).

"(c) ADDITIONAL DATA LIMITATIONS.—The Secretary may not—

"(1) in determining an allocation for a payment period, use information on tax collections for years more recent than the years used by the Secretary of Commerce in the most recent Bureau of the Census general determination of State and local taxes made before the beginning of that period; or

"(2) consider a change in information used to determine an allocation for a period of 60 months if the change—

"(A) results from a major disaster declared by the President under section 401 of The Robert T. Stafford Disaster Relief and Emergency Assistance Act; and

"(B) reduces the amount of an allocation.

"§6710. Public participation

"(a) HEARINGS.—(1) 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) 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) 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) 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.—Under regulations of the Secretary, 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.

"(e) APPLICATION TO GOVERNMENTS WITHOUT BUDGETS.—The Secretary shall prescribe regulations for applying this section to units of general local government that do not adopt budgets.

"§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 discrimina-

tion 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) 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) 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) 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) 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) 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(c), 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. Audits, investigations, and reviews

"(a) INDEPENDENT AUDIT.—(1) Except as provided in this section, a unit of general local government that receives a payment under this chapter shall have an independent audit made of the financial statements of the government at least as often as is required by paragraph (2) to determine compliance with this chapter. The audit shall be carried out under generally accepted government auditing standards issued by the Comptroller General of the United States.

"(2) Paragraph (1) does not apply to a unit of general local government for a fiscal year in which the government receives less than $25,000 under this chapter. A unit of general local government which receives at least $25,000 but not more than $100,000 under this chapter for a fiscal year shall have an audit made in accordance with paragraph (1) at least once every 3 years. A government which receives more than $100,000 under this chapter for a fiscal year shall have an audit made in accordance with paragraph (1) for such fiscal year, except that, if the government operates on a biennial fiscal period, such audit may be made biennially but shall cover the financial statement or statements for, and compliance with the requirements of the chapter during, both years within such period.

"(3) An audit of financial statements of a unit of general local government carried out under another law of the United States for a fiscal year is deemed to be in compliance with paragraph (1) for that year if the audit substantially complies with the requirements of paragraph (1).

"(b) WAIVER BY LOCAL GOVERNMENT.—A unit of general local government may waive application of subsection (a)(1) if—

"(1) the financial statements of the government are audited by independent auditors under State or local law at least as often as would be required by subsection (a)(2);

"(2) the government certifies that the audit is carried out under generally accepted auditing standards issued by the Comptroller General of the United States;

"(3) the auditing provisions of the State or local law are applicable to the payment period to which the waiver applies; and

"(4) the government submits to the Secretary a brief description of the auditing standards used under the relevant State or local law and specification of the payment period to which the waiver applies.

"(c) WAIVER BY SECRETARY.—Under regulations of the Secretary, the Secretary may waive any requirement under subsection (a)(1) or (b) for a unit of general local government for a fiscal year if the Secretary decides that the financial statements of the government for the year—

"(1) cannot be audited, and the government shows substantial progress in making the statements auditable; or

"(2) have been audited by a State agency that does not follow generally accepted auditing standards issued by the Comptroller General of the United States or that is not independent, and the State agency shows progress in meeting those auditing standards or in becoming independent.

"(d) SERIES OF AUDITS.—A series of audits carried out over a period of not more than 3 years covering the total amount in the financial accounts of a unit of general local government is deemed to be a single audit under subsections (a)(1) and (b) of this section.

"(e) AUDIT OPINION.—An opinion of an audit carried out under this section shall be provided to the Secretary in the form and at times required by the Secretary. No later than 30 days following the completion of the audit, the unit of general local government shall make the audit report available for public inspection.

"(f) INVESTIGATIONS BY SECRETARY.—(1) The Secretary shall maintain regulations providing reasonable and specific time limits for the Secretary to—

"(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) The maximum time limit under paragraph (1)(A) is 90 days.

"(g) 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.

"§6719. Reports

"(a) REPORTS BY SECRETARY OF TREASURY TO CONGRESS.—Before June 2 of each year, 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 sections 6702 and 6718 (a), (b), and (d), including a description of the kind and extent of noncompliance and actions taken to ensure the independence of audits conducted under subsections (a), (b), and (d) of section 6718;

"(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 OF TREASURY.—(1) 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) 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.

"(c) REGULATIONS.—The Secretary shall prescribe regulations for applying this section to units of general local government that do not adopt budgets.

"§6720. Definitions and application

"(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 1994 and 1995;

"(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;

"(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 the Treasury.

"(b) 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.

"(c) 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) 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. 1076. CLERICAL 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 J—Youth Employment and Skills Crime Prevention

SEC. 1081. STATEMENT OF PURPOSE.

(a) PURPOSE.—The purpose of this subtitle is to reduce crime in neighborhoods with high incidences of crime and poverty through intensive programs that provide employment opportunities for young adults in those neighborhoods.

(b) DEFINITION.—As used in this subtitle, "high crime area" means an area with severe crime problems, including a high incidence of violent crime or drug trafficking.

SEC. 1082. PROGRAM AUTHORIZED.

The Secretary of Labor in conjunction with the Attorney General and the Secretary of Housing and Urban Development, and in consultation with appropriate other Federal officials, may make grants to local governments to fund targeted youth employment and skills development projects to help reduce crime in target areas as defined in section 1083.

SEC. 1083. PROGRAM TARGET AREA.

The target area or areas of each grant shall be neighborhoods which are high crime areas with high unemployment among young adults and other serious economic and social problems.

SEC. 1084. PARTICIPANTS.

(a) ELIGIBLE POPULATION.—Young adults residing or attending school in the target area shall be eligible to participate in programs funded under this subtitle if they are between 16 and 25 years of age. In certain circumstances, as determined by the Attorney General and the Secretaries of Labor and Housing and Urban Development (referred to in this subtitle as the "Secretaries"), young adults up to age 30 and youths of age 14 or 15 may also be eligible to participate.

(b) RESPONSIBLE BEHAVIOR BY PARTICIPANTS.—Continued participation in a program under this subtitle shall be conditioned, during participation in the program, on the following:

(1) Avoiding crime, including illegal drug use.

(2) Regular attendance and satisfactory performance at work.

(3) Paying child support when paternity has been established and the participant has an income.

(4) In-school young adults in high school remaining in school until graduation.

(5) Requiring young adults ages 16–17 who have dropped out of high school and who have not obtained a General Equivalency Diploma (GED) to return to school or an alternative education program.

SEC. 1085. ALLOWABLE ACTIVITIES.

(a) EXPENDITURE OF FUNDS.—Funds awarded under this subtitle shall be expended only for crime prevention related activities undertaken to carry out an approved application, such as—

(1) apprenticeship programs linking work and learning;

(2) on-the-job training in the private sector;

(3) youth conservation and service corps;

(4) programs emphasizing neighborhood infrastructure, such as YouthBuild and employment of public housing residents;

(5) work experience in private nonprofit organizations and public agencies;

(6) entrepreneurial and microenterprise development;

(7) crime prevention and security measures for profit and not-for-profit businesses employing substantial numbers of youth from high crime areas;

(8) transportation links to jobs in the labor market area;

(9) initiatives to increase the educational attainment, occupational skills, and career aspirations of target area young adults, including work-based learning; and

(10) job placement and related case management, followup, and other supportive services.

(b) WORK EXPERIENCE PROGRAMS.—Work experience programs funded under this subtitle shall—

(1) pay wages in accordance with the Fair Labor Standards Act and relevant State law;

(2) include adequate supervision, equipment, and materials and supplies to accomplish useful work projects;

(3) include a private sector job development component to facilitate the transition of participants to private sector jobs, which shall include developing portfolios of skill attainment, mentorship opportunities, and other efforts to increase job networks for participants; and

(4) include an extensive job placement component.

(c) 2-YEAR LIMITATION.—The combination of all subsidized employment for a participant shall not exceed 2 years.

SEC. 1086. APPLICATION FOR GRANTS.

(a) APPLICATION PLAN.—To be eligible to receive a grant under this subtitle, a chief local elected official, with the timely review and comment of the Governor, shall apply to the Secretary of Labor for a Youth Employment and Skills Crime Prevention grant by submitting an application that contains a plan for reducing crime by substantially increasing the employment levels of young adults in the target area. Such a plan shall—

(1) describe the measurable outcomes that will be used to evaluate the local success of the program, including reduced crime and substance abuse, increased private sector employment, reduced school dropout rates, and increased educational attainment;

(2) specify the organization that will administer the program;

(3) describe the specific employment programs that will be offered by the program;

(4) describe the public/private partnership that will promote collaboration between the State and local governments, private sector, public housing authorities, local residents, community-based organizations, and nonprofit organizations, including linkage with community policing, gang prevention activities, and juvenile justice or delinquency prevention initiatives;

(5) specify how the public and private sectors will work together to assist youths and young adults to make the transition from subsidized to unsubsidized jobs;

(6) describe how links to jobs throughout the labor market area will be provided;

(7) specify the manner in which the job network for youths and young adults will be expanded by mentors and other programs; and

(8) such other information as the Secretary of Labor in conjunction with the Attorney General and Secretary of Housing and Urban Development may require.

(b) COORDINATION WITH OTHER FEDERAL PROGRAMS.—The application must demonstrate that the proposed Youth Employment and Skills Crime Prevention program will build upon and be coordinated with other Federal initiatives relating to such matters as crime control and prevention, youth employment, education, economic development, community service, or social services.

(c) LEVERAGING AND LINKAGES.—As a condition of a grant award, local areas shall establish linkages with the local private sector, local employment and job training programs, and other appropriate entities to enhance the provision of services under this subtitle. Such activities may include leveraging by and linkages with—

(1) the local private sector to—

(A) develop a mentoring program to improve the job network for young adults in the target area;

(B) develop a specified number of career-track jobs for young adults graduating from high school and college in the target area;

(C) develop part-time jobs to support young adults while they are receiving job training, or secondary or post-secondary education; and

(D) develop apprenticeship programs with unions that provide matching funds to create training and employment opportunities;

(2) the local service delivery area under the Job Training Partnership Act to identify funds—

(A) for on-the-job training and work-based training programs, based on successful program models, for residents of the target area;

(B) to develop a summer jobs program for in-school young adults residing in the target area;

(C) for new youth initiatives in the target area; and

(D) for child care and supportive services;

(3) local programs to provide employment services and supportive services, such as transportation service to link target area residents to jobs in the labor market area; and

(4) the local educational agency to provide activities that will support the program and assist in achieving the goals specified in the application.

SEC. 1087. AWARD PRIORITIES.

In evaluating the applications submitted under this subtitle, the Secretaries and the Attorney General shall give priority to applications that—

(1) demonstrate extensive community support and linkages to crime prevention programs and employment-related programs;

(2) target areas that include public and assisted housing projects;

(3) demonstrate evidence of severe social and economic problems;

(4) demonstrate the highest quality program design, implementation plan, and goals to be achieved; and

(5) include other Federal and non-Federal funding, including State, local, or private resources.

SEC. 1088. GRANT DURATION AND NUMBER.

(a) DURATION OF GRANTS.—Grants shall be for 1 year, and renewable for each of the 4 succeeding years.

(b) NUMBER OF GRANTS.—There shall be no more than 10 grants awarded under this subtitle.

SEC. 1089. FEDERAL RESPONSIBILITIES.

(a) IN GENERAL.—The Secretary of Labor in conjunction with the Attorney General and the Secretary of Housing and Urban Development shall establish a system of performance measures for assessing programs established pursuant to this subtitle.

(b) EVALUATION.—The Secretary of Labor in conjunction with the Attorney General and the Secretary of Housing and Urban Development shall conduct a rigorous national evaluation of Youth Employment and Skills Crime Prevention programs funded under this subtitle that will track and assess the effectiveness of those programs, and include an evaluation of the extent to which such programs reduce crime and substance abuse, enhance the employment and earnings of participants, promote entrepreneurship, reduce dropout rates, and increase educational attainment. The evaluation may include cost-benefit analyses and shall utilize sound statistical methods and techniques.

(c) TECHNICAL ASSISTANCE.—The Secretary of Labor in conjunction with the Attorney General and the Secretary of Housing and Urban Development may provide appropriate technical assistance to carry out Youth Employment and Skills Crime Prevention programs under this subtitle.

(d) ADMINISTRATION.—The technical assistance and evaluations authorized by this section may be carried out directly by the Secretary of Labor or through grants, contracts, or other cooperative arrangements with the Attorney General, the Secretary of Housing and Urban Development, or other entities or agencies.

SEC. 1090. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—There are authorized to be appropriated to the Secretary of Labor $75,000,000 for fiscal year 1995, $100,000,000 for fiscal year 1996, $110,000,000 for fiscal year 1997, $115,000,000 for fiscal year 1998, and $125,000,000 for fiscal year 1999 to carry out this subtitle.

(b) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to this section are authorized to remain available for obligation until expended.

(c) EVALUATIONS AND TECHNICAL ASSISTANCE.—Of the amounts appropriated under subsection (a) for a fiscal year, the Secretary of Labor in conjunction with the Attorney General and the Secretary of Housing and Urban Development may reserve not more than 5 percent of such amounts for each fiscal year to carry out evaluations and technical assistance.

SEC. 1091. SANCTIONS.

The Secretary of Labor may terminate or suspend financial assistance, in whole or in part, to a recipient or refuse to extend a grant for a recipient, if the Secretary of Labor in conjunction with the Attorney General and the Secretary of Housing and Urban Development determines that the recipient has failed to meet the requirements of this subtitle, or any regulations or guidelines under this subtitle, or any approved application submitted pursuant to this subtitle.

SEC. 1092. LABOR STANDARDS.

Labor standards under the Job Training Partnership Act (29 U.S.C. 1553) shall apply to programs under this subtitle.

SEC. 1093. REGULATIONS OR GUIDELINES.

The Secretary of Labor in conjunction with the Attorney General and the Secretary of Housing and Urban Development shall issue such regulations or guidelines as may be necessary to carry out the purposes of this subtitle.

SEC. 1094. WAIVERS.

The Secretary of Labor in conjunction with the Attorney General and the Secretary of Housing and Urban Development may prescribe regulations or guidelines that establish criteria for waiver of application requirements of programs to the extent that they duplicate or conflict with the requirements specified in similar laws.

SEC. 1095. PROHIBITION ON PRIVATE RIGHTS OF ACTION.

Nothing in this subtitle shall be construed to establish a right for any person to bring an action to obtain services under this subtitle.

SEC. 1096. ACCEPTANCE OF GIFTS, AND OTHER MATTERS.

The Secretaries and Attorney General are authorized, in carrying out this subtitle, to accept, purchase, or lease in the name of the Department of Justice or the Department of Labor or the Department of Housing and Urban Development, and employ or dispose of in furtherance of the purposes of this subtitle, any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise, and to accept voluntary and uncompensated services notwithstanding the provisions of section 1342 of title 31, United States Code.

Subtitle K—Miscellaneous

SEC. 1098. 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".

SEC. 1098A. EXTENSION OF BYRNE GRANT FUNDING.

There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1995, 1996, 1997, 1998, and 1999, to carry out the programs under parts D and E of title I of the Omnibus Crime Control and Safe Streets Act of 1968.

SEC. 1098B. BENEFITS FOR CHAPLAINS.

(a) IN GENERAL.—Section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) by redesignating paragraphs (2) through (7) as (3) through (8), respectively;

(2) by inserting after paragraph (1) the following:

"(2) chaplain means any individual serving as an officially recognized or designated member of a legally organized volunteer fire department or legally organized police department, or an officially recognized public employee of a legally organized fire or police department who was responding to a fire, rescue, or police emergency."; and

(3) in paragraph (8), as redesignated by paragraph (1) of this Act, by striking "or rescue squad or ambulance crew" and inserting "rescue squad or ambulance crew, or chaplain".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of enactment of this Act and shall apply to injuries or deaths that occur in the line of duty on or after such date.

Subtitle L—Hope in Youth Program

SEC. 1099A. FINDINGS.

The Congress finds the following:

(1) Larger cities around the country, particularly those involved in empowerment zones, are attempting to empower low-income and ethnic minority communities.

(2) Programs that involve local government and local community leaders and which 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.

(3) 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.

(4) 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.

SEC. 1099B. PROGRAM AUTHORITY.

The Secretary of Health and Human Services (in this subtitle referred to as the "Secretary") may make grants to eligible may make grants to eligible service providers in one or more political subdivisions of a State containing an area designated as an empowerment zone, as authorized under the Omnibus Budget Reconciliation Act of 1993 (Public Law 103-66), that have submitted an approved plan to establish advisory organizations in low-income communities within the political subdivision containing an empowerment zone which will serve as umbrella agencies for strategic planning and evaluation of service programs serving the low-income communities in which the advisory organization operates.

SEC. 1099C. PROGRAM REQUIREMENTS.

Each advisory organization established as described in section 1099B shall—

(1) provide a permanent multi-issue forum for public policy discussion which will serve as part of a stable infrastructure of community outreach and support,

(2) develop a mechanism by which local support service providers may be evaluated and assessed in the level of service they provide to the community, and which establishes a method for advisory organization participants to review and participate in efforts to maintain or increase the quality of services provided by such providers,

(3) create an Family Outreach Team approach which provides 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. The Family Outreach Team assists such volunteers in outreach, development and coordination of service delivery from among the service providers in the area, including the schools,

(4) establish processes by which local public agencies can effectively involve the private sector in the provision of services that meet the needs of local communities,

(5) establish processes of coalition building in which diverse groups within low-income communities attempt to work cooperatively to meet the collective needs of low-income communities, and

(6) create a training program to foster community-based leadership in low-income communities.

SEC. 1099D. ELIGIBLE PROVIDERS.

Consortia of public and private nonprofit local social service organizations that have a proven ability to involve disparate populations of low-income citizens and competing service providers are eligible to receive grants under section 1099B.

SEC. 1099E. APPLICATIONS.

Applications may be submitted, for approval by the Secretary, by eligible service providers at such time and in such manner as the Secretary may reasonably require. Such applications shall contain—

(1) assurances that selection of participants, organizations, and citizens will not be on the basis of religious preference or affiliation,

(2) assurances that participating organizations and citizens will not offer services based on any religious preference or affiliation, and

(3) assurances that such service provides will, to the extent practicable, involve participation by citizens not traditionally involved in such activities, including homeless individuals, alcohol- and drug-addicted individuals, and gang involved or violent youth.

SEC. 1099F. EVALUATION.

The Secretary shall commence a program to evaluate the success and effectiveness of this program 2 years after the program has received an appropriation, and such evaluation shall be completed no later than 1 year after the second program year has been completed. A report thereon shall be submitted to the Congress within 60 days of the completion of the evaluation.

SEC. 1099G. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $20,000,000 for fiscal year 1995, and such sums as are necessary for each of fiscal years 1996, 1997, and 1998 to carry out this subtitle.

Subtitle M—Gang Prevention Services for Boys and Girls

SEC. 1099H. FINDINGS.

The Congress finds that—

(1) services provided through existing federally supported gang prevention programs do not adequately address the needs of boys and girls on communities with high levels of gang activity and other barriers to service (such as large concentrations of minority populations that have limited English speaking proficiency, geographically isolated populations, and communities in which social service providers are limited or nonexistent);

(2) children that 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 that are never exposed to such activity;

(3) gangs are increasingly targeting younger children for recruitment, especially children at middle schools and elementary schools;

(4) Federal studies indicate that violent crime has increased more significantly in the gang population compared to the adult population; and

(5) 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.

SEC. 1099I. PROGRAM AUTHORITY.

The Administrator of the Office of Juvenile Justice and Delinquency Prevention (hereafter referred to as the "Administrator"), in consultation with the Department of Education and the Department of Health and Human Resources, may make grants to eligible service providers to carry out programs that prevent young children from becoming gang involved. In making such grants, the Administrator shall give a priority to eligible service providers that have a proven track record of serving young children and have an overall budget of not more than $750,000 a fiscal year, prior to receiving a grant under this section.

SEC. 1099J. PROGRAM REQUIREMENTS.

The eligible service providers receiving a grant under section 1099I shall—

(1) provide a comprehensive array of support services to assist the participants to reach their full potential as a contributing law-abiding citizen (such support services may include, but not be limited to: education and health services; career development training; music/art/drama activities; physical fitness training; life skills training; mental health counseling; and job placement counseling);

(2) to the extent practical, involve the parents and other family members of participating children, and the members of local organizations that support the educational and law enforcement institutions of the community, as is appropriate, in the administration and operation of the gang prevention program;

(3) utilize community resources and related support services as needed in the operation of the program;

(4) accept referrals from public institutions, as is appropriate, such as law enforcement, mental health, local school systems, and other entities of local government; and

(5) utilize volunteer staff, including participants in programs funded under the National and Community Service Program, Public Law 103-62, to the maximum extent practicable in the operation of the program.

SEC. 1099K. ELIGIBLE PROVIDERS.

Community-based service providers, as defined in the Juvenile Justice and Delinquency Prevention Act of 1974, that have a proven track record of providing services to children ages 5 to 18 shall be eligible to apply for funds under this subtitle. A priority shall be given to those service providers that have a history of providing services uniquely designed to meet the needs of young children such as the Boys and Girls Clubs of America or service providers that display the potential for providing such targeted services.

SEC. 1099L. ELIGIBLE PARTICIPANTS.

Children that have the potential, because of community composition and other factors, to come into contact with gangs, or who have a family member that has come into contact with a gang, and are not more than 18 years old at the time of entry into the program, shall be eligible to receive services provided by programs receiving assistance under this subtitle.

SEC. 1099M. APPLICATIONS PROCESS.

Eligible service providers may submit to the Administrator, for approval, an application in such form at such time as the Administrator deems appropriate.

SEC. 1099N. EVALUATION.

The Administrator shall conduct an evaluation of the effectiveness of the program model grants authorized under this subtitle, and the extent to which it can be replicated by other local communities. The Administrator shall report to the Congress no later than January 1, 1999, on the details of such evalutions.

SEC. 1099O. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $20,000,000 for fiscal year 1995, and such sums as may be necessary for fiscal years 1996, 1997, and 1998 to carry out this subtitle.

Subtitle N—Anticrime Youth Councils

SEC. 1099P. PURPOSE.

The purpose of this subtitle is to provide for the establishment of 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. The purpose of such councils is to empower local youth and ensure that their recommendations for preventing youth involvement in crime and violence will be heard and possibly incorporated into community anticrime strategies.

SEC. 1099Q. AUTHORITY TO MAKE GRANTS.

The Administrator of the Office of Juvenile Justice and Delinquency Prevention (in this subtitle referred to as the "Administrator") may make grants to public and nonprofit community-based organizations to establish regional anticrime youth councils each of which is composed of intermediate and secondary school students who represent all the schools in a separate congressional district.

SEC. 1099R. APPLICATIONS FOR GRANTS.

To request a grant under section 1099Q, a public and nonprofit community-based organizations shall submit to the Administrator an application in such form and containing such information as the Administrator may require by rule, including assurances that—

(1) the anticrime youth council with respect to which such grant is requested will be—

(A) selected by a teacher or administrator of an intermediate or secondary school in the congressional district involved, in consultation with teachers and administrators of other intermediate and secondary schools in such district,

(B) composed of not more than 5 students from each of the intermediate and secondary schools in such district, selected as described in paragraph (1) from among individuals who have first-hand knowledge of issues and problems relating to students who attend schools in such district,

(C) supervised by an individual who—

(i) is familiar with issues regarding youth violence,

(ii) has strong ties to the communities in such district and to the organizations with which such council will interact, and

(iii) will be responsible for coordinating the dissemination of information to such council, supervising council meetings, and acting as a liaison between such council and communities in such district, and

(D) meet not less frequently than monthly—

(i) to discuss issues of concern, including youth crime, school violence, job creation, and recreation, and

(ii) to develop creative solutions for assisting community organizations, law enforcement officials, school officials, government officials, and others to address such issues, and

(2) the applicant will submit to the Administrator a report, not later than 180 days after the first year for which such applicant receives a grant under section 1099Q, that—

(A) specifies the number of students and schools involved and represented on such council,

(B) specifies the number of organizations and individuals that council and its subcommittees met with,

(C) specifies the number of grants, policies, and programs submitted to the youth council for review and recommendation,

(D) contains evidence that—

(i) the community has consulted such council and adopted its recommendations, and

(ii) a grant review process has been established within a school system or police department that includes an evaluation by the youth council,

(E) describes the effect that participation on such council has had on the student representatives, (such as improved school attendance and academic performance, and decreased criminal involvement),

(F) describes the effect that participation on such council has had on the participating schools (such as decrease in incidence of school violence),

(G) describes the extent to which other students attended council and subcommittee meetings, and participated as members of the audience in such council's activities,

(H) describes the extent to which family service, youth service, and the education, police, health, and judicial departments within such district coordinate anticrime efforts as a result of the recommendations and programs of such council, and

(I) describes the extent to which such council raises public awareness and knowledge, via the media, about youth violence and such council's efforts to help prevent it.

SEC. 1099S. SELECTION OF GRANT RECIPIENTS.

For the purpose of selecting eligible applicants to receive grants under section 1099Q, the Administrator shall take into consideration—

(1) the extent to which all schools in a congressional district are represented on the proposed youth anticrime council,

(2) the extent to which youth crime and violence are an issue of concern in such district,

(3) the extent to which the community is committed to coordinating and meeting with the youth councils, and

(4) the extent to which the students selected to serve on such council are representative of the geographical area and knowledgeable about the issues that such council will consider.

SEC. 1099T. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $5,000,000 for fiscal year 1995, and such sums as may be necessary for fiscal years 1996, 1997, and 1998, to carry out this subtitle.

Subtitle O—Urban Recreation and At-Risk Youth

SEC. 1099U. FINDINGS.

Section 1002 of the Urban Park and Recreation Recovery Act of 1978 is amended by striking "and" at the end of subsection (d), by striking the period at the end of subsection (e) and inserting "; and" and by adding the following at the end thereof:

"(f) the quality of life in urban areas has suffered because of decline in the availability of park and recreation systems, including land, facilities, and services;

"(g) the deterioration of urban park and recreation facilities is due in part to the underfunding of Federal grant programs intended to assist in the revitalization of urban recreation facilities and allow us to take back our parks from crime, vandalism, and dilapidation;

"(h) the urban neighborhoods eligible for assistance under this title have deteriorated, in part, due to the rapid increase in violent crime among youth;

"(i) accessible, well-maintained recreational facilities and services have been shown to significantly decrease the incidence of violent crime among youth and can be an effective tool in efforts to prevent crime, increase public safety and improve the quality of life of urban residents; and

"(j) urban sport and recreation programs teach important values and life skills including teamwork, individual responsibility, respect, leadership, and self-esteem which help prevent young people from engaging in criminal behavior.".

SEC. 1099V. PURPOSE OF ASSISTANCE.

Section 1003 of the Urban Park and Recreation Recovery Act of 1978 is amended by adding the following at the end thereof: "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. 1099W. 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. 1099X. 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 thereof:

"(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. 1099Y. 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 thereof: "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. 1099Z. 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 thereof:

"(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'".

Subtitle P—Boys and Girls Clubs in Public Housing

SEC. 1099AA. ESTABLISHMENT.

The Secretary for Housing and Urban Development, in consultation with the Attorney General, shall enter into contracts with the Boys and Girls Clubs of America, a national nonprofit youth organization to establish Boys and Girls Clubs in public housing.

SEC. 1099BB. REPORT.

By May 1 of each fiscal year for which funds for this section are provided, the Secretary of Housing and Urban Development shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives that details the progress of establishing boys and girls clubs in public housing and the effectiveness of the programs in reducing drug abuse and gang violence.

SEC. 1099CC. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated the following sums to carry out this subtitle—

(1) $12,000,000 for fiscal year 1995;

(2) $12,000,000 for fiscal year 1996; and

(3) $12,000,000 for fiscal year 1997.

Subtitle Q—Community-Based Justice Grants for Local Prosecutors

SEC. 1099DD. GRANT AUTHORIZATION.

The Attorney General may make grants to local prosecutors for the purpose of supporting the creation or expansion of community-based justice programs.

SEC. 1099EE. 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; and

(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.

SEC. 1099FF. APPLICATIONS.

(a) ELIGIBILITY.—In order to be eligible to receive a grant under this part for any fiscal year, a local prosecutor, in conjunction with the mayor from 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 1099EE;

(2) a description of the communities to be served by the grant, including the nature of the youth crime and violence 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 violent crime problem;

(2) an action plan outlining how the applicant will achieve the purposes as described in section 1;

(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. 1099GG. 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 2.

SEC. 1099HH. 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 1099FF.

(2) The Attorney General shall attempt, to the extent practicable, to achieve an equitable geographic distribution of grant awards.

SEC. 1099II. REPORTS.

(a) REPORT TO ATTORNEY GENERAL.—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 2(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. 1099JJ. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $20,000,000 for each of the fiscal years 1995 through 1999 to carry out the purposes of this subtitle.

SEC. 1099KK. DEFINITIONS.

The term "young violent offender" means individuals, ages 7–22, who have committed crimes of violence, weapons offenses, drug distribution, hate crimes and civil rights violations, and offenses against personal property of another.

TITLE XI—YOUTH VIOLENCE

SEC. 1101. PROSECUTION AS ADULTS OF CERTAIN JUVENILES FOR CRIMES OF VIOLENCE.

(a) PROSECUTION AS ADULTS.—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) of this title, 'thirteen' shall be substituted for 'fifteen' and 'thirteenth' shall be substituted for 'fifteenth'. Notwithstanding sections 1152 and 1153 of this title, 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 of this title, 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".

(b) FEDERAL PRIORITY IN DEALING WITH CERTAIN CRIMES.—The first undesignated paragraph of section 5032 of title 18, United States Code, is amended by inserting " or an offense that is a crime of violence 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) of this title" after "not exceed six months".

SEC. 1102. 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. 1103. 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.

TITLE XII—CHILD SEXUAL ABUSE PREVENTION ACT OF 1994

SEC. 1201. 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:

"§2259. 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 table of sections at the beginning of chapter 110 of title 18, United States Code, is amended by adding at the end the following new item:

"2259. 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(1) of title 18, United States Code, is amended by striking "2251–2252" and inserting "2251, 2252, and 2259".

(g) TRANSPORTATION OF MINORS.—Chapter 117 of title 18, United States Code, is amended—

(1) by adding at the end the following new section:

"§2425. Travel with intent to engage in a 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."; and

(2) in the table of sections at the beginning, by adding at the end the following new item:

"2425. Travel with intent to engage in a sexual act with a juvenile.".

SEC. 1202. 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.

TITLE XIII—JACOB WETTERLING CRIMES AGAINST CHILDREN REGISTRATION ACT

SEC. 1301. ESTABLISHMENT OF PROGRAM.

(a) IN GENERAL.—

(1) STATE GUIDELINES.—The Attorney General shall establish guidelines for State programs requiring any person who is convicted of a criminal offense against a victim who is a minor to register a current address with a designated State law enforcement agency for 10 years after release from prison, or being placed on parole, supervised release, or probation.

(2) DEFINITION.—For purposes of this subsection, the term "criminal offense against a victim who is a minor" means any criminal offense that consists of—

(A) kidnapping of a minor, except by a parent;

(B) false imprisonment of a minor, except by a parent;

(C) criminal sexual conduct toward a minor;

(D) solicitation of a minor to engage in sexual conduct;

(E) use of a minor in a sexual performance;

(F) solicitation of a minor to practice prostitution;

(G) any conduct that by its nature is a sexual offense against a minor; or

(H) an attempt to commit an offense described in any of subparagraphs (A) through (G) of this paragraph, 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.

(b) REGISTRATION REQUIREMENT UPON RELEASE, PAROLE, SUPERVISED RELEASE, OR PROBATION.—An approved State registration program established under this section shall contain the following requirements:

(1) DUTY OF STATE PRISON OFFICIAL OR COURT.—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—

(A) inform the person of the duty to register and obtain the information required for such registration;

(B) inform the person that if the person changes residence address, the person shall give the new address to a designated State law enforcement agency in writing within 10 days;

(C) 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;

(D) obtain fingerprints and a photograph of the person if these have not already been obtained in connection with the offense that triggers registration; and

(E) require the person to read and sign a form stating that the duty of the person to register under this section has been explained.

(2) TRANSFER OF INFORMATION TO STATE AND THE F.B.I.—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) ANNUAL VERIFICATION.—On each anniversary of a person's initial registration date during the period in which the person is required to register under this section, the designated State law enforcement agency shall mail a nonforwardable verification form to the last reported address of the person. The person shall mail the verification form to the designated State law enforcement agency within 10 days after receipt of the form. The verification form shall be signed by the person, and state that the person still resides at the address last reported to the designated State law enforcement agency. If the person fails to mail the verification form to the designated State law enforcement agency within 10 days after receipt of the form, the person shall be in violation of this section unless the person proves that the person has not changed his or her residence address.

(4) NOTIFICATION OF LOCAL LAW ENFORCEMENT AGENCIES OF CHANGES IN ADDRESS.—Any change of address by a person required to register under this section reported to the designated State law enforcement agency shall immediately be reported to the appropriate law enforcement agency having jurisdiction where the person is residing. The designated law enforcement agency shall, if the person changes residence to another State, notify the person of the law enforcement agency with which the person must register in the new State, if the new State has a registration requirement.

(5) PRIVACY OF DATA.—The information collected under a State registration program shall be treated as private data on individuals and may be disclosed only to law enforcement agencies for investigative purposes or to government agencies conducting confidential background checks with fingerprints on applicants for child care positions or other positions involving contact with children.

(c) REGISTRATION FOR CHANGE OF ADDRESS TO ANOTHER STATE.—A person who has been convicted of an offense which triggered registration in a State 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.

(d) REGISTRATION FOR 10 YEARS.—A person required to register under this section shall continue to comply with this section until 10 years have elapsed since the person was released from prison, or placed on parole, supervised release, or probation.

(e) 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.

(f) COMPLIANCE.—

(1) COMPLIANCE DATE.—Each State shall have 3 years from the date of the enactment of this Act in which to implement this section.

(2) INELIGIBILITY FOR FUNDS.—The allocation of funds under section 506 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756) received by a State not complying with the guidelines issued under this section 3 years after the date of enactment of this Act may be reduced by 10 percent and the unallocated funds shall be reallocated to the States in compliance with this section.

TITLE XIV—COMMUNITY POLICING

SEC. 1401. 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 by inserting after part W (as added by section 2301(a)) the following new part:

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

"SEC. 2401. AUTHORITY TO MAKE PUBLIC SAFETY AND COMMUNITY POLICING GRANTS.

"(a) GRANT AUTHORIZATION.—The Attorney General is authorized to make grants to States and units of local government, and to other public and private entities, 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 AND HIRING GRANT PROJECTS.—Grants made under the authority of subsection (a) of this section may be used for programs, projects, and other activities to—

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

"(2) hire and train new, additional career law enforcement officers (including cadets and trainees) for deployment in community-oriented policing across the Nation.

"(c) ADDITIONAL GRANT PROJECTS.—Grants made under the authority of subsection (a) of this section also 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;

"(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; and

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

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

"(e) TECHNICAL ASSISTANCE.—(1) The Attorney General may provide technical assistance to States and units of local government, and to other public and private entities, in furtherance of the purposes of this part.

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

"(3) 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, and supervisors concerning community or problem-oriented policing and improvements in police-community interaction and cooperation that further the purposes of this part.

"(f) UTILIZATION OF DEPARTMENT OF JUSTICE OFFICES AND SERVICES.—The Attorney General may utilize any office or service of the Department of Justice in carrying out this part.

"(g) MINIMUM AMOUNT.—Each qualifying State, together with grantees within the State, shall receive in each fiscal year pursuant to subsection (a) of this section not less than 0.25 percent of the total amount appropriated in the fiscal year for grants pursuant to such subsection. As used 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.

"(h) MATCHING FUNDS.—The portion of the costs of a program, project, or activity provided by a grant under subsection (a) of this section 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 one year for hiring or re-hiring career law enforcement officers, the Federal share shall decrease from year to year, looking towards 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 2402(c)(8) of this part.

"(i) ALLOCATION OF FUNDS.—The funds available under this part shall be allocated as provided in section 1001(a)(19)(B) of this title.

"(j) 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 six 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. 2402. 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) FORM AND CONTENT OF 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) COMPLIANCE WITH REGULATIONS OR GUIDELINES.—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) of this part;

"(2) demonstrate a specific public safety need;

"(3) explain the locality'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; and

"(8) if the application is for a grant for hiring or rehiring additional career law enforcement officers—

"(A) specify plans for the assumption by the grantee of a progressively larger share of the cost in the course of time, looking towards the continuation of the increased hiring level using State or local sources of funding following the conclusion of Federal support;

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

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

"(D) ensure that, to the extent practicable, grantees seek and recruit members of racial, ethnic, and gender minority groups whose representation in the law enforcement agency for which funds are sought is less than in the general population qualified for such employment in such jurisdiction.

"SEC. 2403. REVIEW OF APPLICATIONS BY STATE OFFICE.

"(a) IN GENERAL.—Except as provided in subsection (c) or (d), an applicant for a grant under this part shall submit an application to the State office designated under section 507 of this title in the State in which the applicant is located for initial review.

"(b) INITIAL REVIEW OF APPLICATION.—The State office referred to in subsection (a) of this section shall review applications for grants under this part submitted to it, based upon criteria specified by the Attorney General by regulation or guidelines, and rank such applications based upon the criteria specified by the Attorney General. The State office referred to in subsection (a) of this section shall submit the list along with all grant applications and supporting materials received to the Attorney General.

"(c) DIRECT APPLICATION TO THE ATTORNEY GENERAL BY CERTAIN MUNICIPALITIES.—Notwithstanding subsection (a) of this section, municipalities whose population exceeds 100,000 may submit an application for a grant under this part directly to the Attorney General. For purposes of this subsection, 'municipalities whose population exceeds 100,000' means units of local government or law enforcement agencies having jurisdiction over areas with populations exceeding 100,000, and consortia or associations that include one or more such units of local government or law enforcement agencies.

"(d) DIRECT APPLICATION TO THE ATTORNEY GENERAL BY OTHER APPLICANTS.—Notwithstanding subsection (a) of this section, if a State chooses not to carry out the functions described in subsection (b) of this section, an applicant in the State may submit an application for a grant under this part directly to the Attorney General.

"SEC. 2404. 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 two 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 five years, subject to the requirements of subsection (a) of this section, but notwithstanding the limitation in that subsection concerning the number of years for which grants may be renewed.

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

"SEC. 2405. LIMITATION ON USE OF FUNDS.

"(a) NON-SUPPLANTING REQUIREMENT.—Funds made available under this part to States or 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 Federal funds, be made available from State or local sources.

"(b) ADMINISTRATIVE COSTS.—No more than 5 percent of the funds available under this part may be used for the costs of States in carrying out the functions described in section 2403(b) or other administrative costs.

"(c) NON-FEDERAL COSTS.—States and units of local government may use assets received through the assets forfeiture equitable sharing program to cover the non-Federal portion of programs, projects, and activities funded under this part.

"(d) 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. 2406. PERFORMANCE EVALUATION.

"(a) EVALUATION COMPONENTS.—

"(1) Each program, project, or activity funded under this part shall contain an evaluation component, developed pursuant to guidelines established by the Attorney General.

"(2) The evaluations required by paragraph (1) shall include outcome measures that can be used to determine the effectiveness of the funded programs, projects, activities and a description of the geographic dispersion, and racial, ethnic, and gender diversity of rehired and new employees. Outcome measures may include crime and victimization indicators, quality of life measures, community perceptions, and police perceptions of their own work.

"(b) PERIODIC REVIEW AND REPORTS.—The Attorney General shall review the performance of each grant recipient under this part. The Attorney General may require a grant recipient to submit to the Attorney General the results of the evaluations required under subsection (a) and such other data and information as the Attorney General deems reasonably necessary to carry out the responsibilities under this subsection.

"SEC. 2407. REVOCATION OR SUSPENSION OF FUNDING.

"If the Attorney General determines, as a result of the reviews required by section 2406 of this part, 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 2402 of this part, the Attorney General may revoke or suspend funding of that grant, in whole or in part.

"SEC. 2408. 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, as well as the pertinent books, documents, papers, or records of States and units of local government, 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.—The provisions of subsection (a) of this section shall also 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. 2409. GENERAL REGULATORY AUTHORITY.

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

"SEC. 2410. DEFINITION.

"For the purposes of this part, the term '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.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711, et seq.) is amended by inserting after the matter relating to part W (as added by section 2301(b)) the following:

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

"Sec. 2401. Authority to make public safety and community policing grants.
"Sec. 2402. Applications.
"Sec. 2403. Review of applications by State office.
"Sec. 2404. Renewal of grants.
"Sec. 2405. Limitation on use of funds.
"Sec. 2406. Performance evaluation.
"Sec. 2407. Revocation or suspension of funding.
"Sec. 2408. Access to documents.
"Sec. 2409. General regulatory authority.
"Sec. 2410. Definition.".

SEC. 1402. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—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, Q, R, S, T, U, V, W, and X."; and

(2) by adding after paragraph (18) (as added by section 2302) the following:

"(19)(A) There are authorized to be appropriated to carry out part X, to remain available until expended, $200,000,000 for fiscal year 1994 and $650,000,000 for each of the fiscal years 1995, 1996, 1997, 1998, and 1999.

"(B) Of funds available under part X in any fiscal year, up to 5 percent may be used for technical assistance under section 2401(e) or for evaluations or studies carried out or commissioned by the Attorney General in furtherance of the purposes of part X, and up to 5 percent may be used for the costs of States in carrying out the functions described in section 2403(b) or other administrative costs. Of the remaining funds, 50 percent shall be allocated for grants pursuant to applications submitted as provided in section 2403 (a) or (d), and 50 percent shall be allocated for grants pursuant to applications submitted as provided in section 2403(c). Of the funds available in relation to grants pursuant to applications submitted as provided in section 2403 (a) or (d), at least 85 percent shall be applied to grants for the purposes specified in section 2401(b), and no more than 15 percent may be applied to other grants in furtherance of the purposes of part X. Of the funds available in relation to grants pursuant to applications submitted as provided in section 2403(c), at least 85 percent shall be applied to grants for the purposes specified in section 2401(b), and no more than 15 percent may be applied to other grants in furtherance of the purposes of part X.

"(C) Notwithstanding the provisions of section 2403, no funds allocated for grants pursuant to applications submitted as provided under subsections (a) or (d) of section 2403 shall be allocated for grants to a municipality (as defined in section 2403(c)).".

TITLE XV—DNA IDENTIFICATION

SEC. 1501. SHORT TITLE.

This title may be cited at the "DNA Identification Act of 1994".

SEC. 1502. 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)) is amended—

(1) in paragraph (20) by striking "and" at the end,

(2) in paragraph (21) by striking the period at the end and inserting a semicolon, and

(3) by adding at the end the following:

"(22) developing or improving in a forensic laboratory a capability to analyze deoxyribonucleic acid (hereinafter in this title referred to as 'DNA') for identification purposes; and".

(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 thereof the following new paragraph:

"(12) If any part of a grant made under this part is to be used to develop or improve a DNA analysis capability in a forensic laboratory, a certification that—

"(A) DNA analyses performed at 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 3 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) 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

"(iii) 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 3 of the DNA Identification Act of 1994.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)) is amended by adding at the end the following:

"(11) There are authorized to be appropriated for each of the fiscal years 1994 through 1998 $10,000,000 for grants to the States for DNA analysis.".

SEC. 1503. QUALITY ASSURANCE AND PROFICIENCY TESTING STANDARDS.

(a) PUBLICATION OF QUALITY ASSURANCE AND PROFICIENCY TESTING STANDARDS.—(1) Not later than 180 days after the date of the enactment of this Act, the Director of the Federal Bureau of Investigation shall appoint an advisory board on DNA quality assurance methods. The Director shall appoint members of the board from among nominations proposed by the head of the National Academy of Sciences and professional societies of crime laboratory officials. The advisory board shall include as members scientists from State and local forensic laboratories, molecular geneticists and population geneticists not affiliated with a forensic laboratory, and a representative from the National Institute of Standards and Technology. The advisory board shall develop, and if appropriate, periodically revise, recommended standards for quality assurance, including standards for testing the proficiency of forensic laboratories, and forensic analysts, in conducting analyses of DNA.

(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.—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. Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the advisory board appointed under subsection (a). The board shall cease to exist on the date 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.

SEC. 1504. INDEX TO FACILITATE LAW ENFORCEMENT EXCHANGE OF DNA IDENTIFICATION INFORMATION.

(a) IN GENERAL.—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) CONTENT OF INDEX.—Such index may include only information on DNA identification records and DNA analyses that are—

(1) based on analyses performed in accordance with publicly available standards that satisfy or exceed the guidelines for a quality assurance program for DNA analysis, issued by the Director of the Federal Bureau of Investigation under section 3 of the DNA Identification Act of 1994;

(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 3 of the DNA Identification Act of 1994; 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) 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

(C) if personally identifiable information is removed, for a population statistics database, for identification research and protocol development purposes, or for quality control purposes.

(c) EXCHANGE SUBJECT TO CANCELLATION.—The exchange of records authorized by this section is subject to cancellation if the quality control and privacy requirements described in subsection (b) of this section are not met.

SEC. 1505. FEDERAL BUREAU OF INVESTIGATION.

(a) PROFICIENCY TESTING REQUIREMENTS.—

(1) GENERALLY.—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 3(a). Within one year of the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall arrange for periodic blind external tests to determine the proficiency of DNA analysis performed at the Federal Bureau of Investigation laboratory. As used in this paragraph, the term "blind external test" means a test that is presented to the laboratory through a second agency and appears to the analysts to involve routine evidence.

(2) REPORT.—For five 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 referred to 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; or

(B) 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) Whoever—

(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) willfully discloses such information in any manner to any person or agency not entitled to receive it;

shall be fined not more than $100,000.

(2) Whoever, without authorization, willfully obtains DNA samples or individually identifiable DNA information indexed in a database created or maintained by any Federal law enforcement agency shall be fined not more than $100,000.

SEC. 1506. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Federal Bureau of Investigation $4,500,000 for each of fiscal years 1994 through 1998 to carry out sections 1503, 1504, and 1505 of this Act.

TITLE XVI—VIOLENCE AGAINST WOMEN

SEC. 1600. SHORT TITLE.

This title may be cited as the "Violence Against Women Act of 1994".

Subtitle A—Safe Streets for Women

SEC. 1601. SHORT TITLE.

This subtitle may be cited as the "Safe Streets for Women Act of 1994".

SEC. 1602. 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.) is amended by—

(1) redesignating part Q as part R;

(2) redesignating section 1701 as section 1801; and

(3) adding after part P the following new part:

"PART Q—GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN

"SEC. 1701. PURPOSE OF THE PROGRAM AND GRANTS.

"(a) GENERAL PROGRAM PURPOSE.—The purpose of this part is to assist States, Indian tribes, and other eligible entities to develop effective law enforcement and prosecution strategies to combat violent crimes against women.

"(b) PURPOSES FOR WHICH GRANTS MAY BE USED.—Grants under this part shall provide funds for personnel, training, technical assistance, data collection and other equipment for the more widespread apprehension, prosecution, and adjudication of persons committing violent crimes against women to reduce the rate of violent crime against women and specifically, for the purposes of—

"(1) training law enforcement officers and prosecutors to identify and respond more effectively to violent crimes against women, including crimes of sexual assault and domestic violence;

"(2) developing, training, or expanding units of law enforcement officers and prosecutors that specifically target 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, or services specifically devoted to the prevention of, identification of, and response to violent crimes against women, including the crimes of sexual assault and domestic violence;

"(4) developing, installing, or expanding data collection systems, including computerized systems, linking police, prosecutors, and courts or identifying and tracking arrests, protection orders, prosecutions, and convictions for 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 protective 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; and

"(6) aiding Indian tribe grantees, exclusively, in financing the Violence Against Women Act of 1994.

"SEC. 1702. STATE GRANTS.

"(a) GENERAL GRANTS.—The Director of the Bureau of Justice Assistance (hereinafter in this part referred to as the 'Director') is authorized to make grants to States, Indian tribes, units of local government, tribal organizations, and nonprofit nongovernmental victim services programs in the States or Indian country.

"(b) APPLICATION REQUIREMENTS.—Applications shall include—

"(1) documentation from prosecution, law enforcement, and victim services programs to be assisted that demonstrates—

"(A) the need for grant funds;

"(B) the intended use of grant funds; and

"(C) the expected results;

"(2) proof of compliance with the requirements for the payment of forensic medical exams provided pursuant to section 1603 of the Violence Against Women Act of 1994, except that Indian tribes are exempt from such requirement; and

"(3) proof of compliance with the requirements for paying filing and service fees for domestic violence cases pursuant to section 1604 of the Violence Against Women Act of 1994.

"(c) QUALIFICATION.—Upon satisfying the terms of subsection (b), an eligible entity shall be eligible for funds provided under this part by—

"(1) certifying that funds received under this part shall be used for the purposes outlined in section 1701(b);

"(2) certifying that grantees shall develop a plan, implement such plan, and otherwise consult and coordinate with nonprofit nongovernmental domestic violence and sexual assault victim services programs, law enforcement officials, victim advocates, prosecutors, and defense attorneys;

"(3) providing documentation from the individuals and groups listed under paragraph (2) regarding their participation in development of a plan and involvement in the application process, as well as how such individuals and groups will be involved in implementation of the plan;

"(4) providing assurances that the plan developed under paragraph (2) shall meet the needs of racial, cultural, ethnic, and language minority populations;

"(5) providing assurances that prosecution, law enforcement, and nonprofit nongovernmental victim services programs in the community to be served by such plan each receive an equitable percentage of any funds allocated under this part; and

"(6) providing assurances that 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 part.

"(d) DISBURSEMENT OF FUNDS.—

"(1) IN GENERAL.—Not later than 60 days after the receipt of an application under this part, the Director shall either disburse the appropriate sums provided for under this part or shall inform the applicant regarding why the application does not conform to the requirements of this section.

"(2) RESPONSIBILITY OF DIRECTOR.—In disbursing funds under this part, the Director shall issue regulations—

"(A) to distribute funds equitably on a geographic basis, including nonurban and rural areas of varying geographic size; and

"(B) 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.

"(e) GRANTEE REPORTING.—(1) Not later than March 31 of each year during which funds are received under this part, the grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of such activities in achieving the purposes of this part.

"(2) The grantee shall arrange for assessments of the grantee's program from all organizations and government entities that were involved in the design of the grant plan.

"(3) Such assessments must be sent directly to the Director by the assessing entity.

"(f) SUSPENSION OF FUNDING.—The Director shall suspend funding for an approved application if—

"(1) an applicant fails to submit an annual performance report;

"(2) funds provided under this part are expended for purposes other than those set forth under this part; or

"(3) grant reports or accompanying assessments demonstrate to the Director that the program is ineffective or financially unsound.

"SEC. 1703. GENERAL DEFINITIONS.

"For purposes of this part—

"(1) the term 'domestic violence' means crimes of violence committed against a victim by a current or former spouse of the victim, an individual with whom the victim shares a child in common, an individual who is cohabiting with or has cohabited with the victim as a spouse, an individual similarly situated to a spouse, or any other individual who is protected under domestic or family violence laws of the jurisdiction that receives a grant under this part;

"(2) the term 'eligible entity' means a State, unit of local government, Indian tribe, and a

nonprofit, nongovernmental victims services program;

"(3) the term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601, et seq.)), which is recognized as eligible for the special services provided by the United States to Indians because of their status as Indians;

"(4) the term 'Indian country' has the meaning given to such term by section 1151 of title 18, United States Code;

"(5) 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; and

"(6) the term 'victim services program' means a nongovernmental nonprofit program that assists domestic violence or sexual assault victims, including nongovernmental nonprofit organizations such as rape crisis centers, battered women's shelters, and other sexual assault and domestic violence programs, including nonprofit nongovernmental organizations assisting domestic violence and sexual assault victims through the legal process.

"SEC. 1704. GENERAL TERMS AND CONDITIONS.

"(a) NONMONETARY ASSISTANCE.—In addition to the assistance provided under section 1702, the Attorney General may request any Federal agency, with or without reimbursement, to use its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) to support State, tribal, and local assistance efforts under this part.

"(b) BUREAU REPORTING.—Not later than 180 days after the end of each fiscal year for which grants are made under this part, the Director shall submit to the Congress a report that includes, for each State and Indian tribe—

"(1) the amount of grants made under this part;

"(2) a summary of the purposes for which grants were provided and an evaluation of progress; and

"(3) an evaluation of the effectiveness of programs established with funds under this part.".

(b) 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 by adding at the end the following:

"(12) There are authorized to be appropriated for each of the fiscal years 1994 and 1995, $200,000,000 to carry out the purposes of part Q, with not less than 8 percent of such appropriation allotted specifically for Indian tribes.".

(c) ADMINISTRATIVE PROVISIONS.—(1) Section 801(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking "and O" and inserting "O, Q,".

(2) Section 802(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking "or O" and inserting "O, Q,".

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

"PART Q—GRANT TO COMBAT VIOLENT CRIMES AGAINST WOMEN

"Sec. 1701. Purpose of the program and grants.
"Sec. 1702. State grants.
"Sec. 1703. General definitions.
"Sec. 1704. General terms and conditions.

"PART R—TRANSITION; EFFECTIVE DATE; REPEALER

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

SEC. 1603. RAPE EXAM PAYMENTS.

(a) RESTRICTION OF FUNDS.—No State is entitled to funds under this title unless the State incurs the full out of pocket cost of forensic medical exams described in subsection (b) for victims of sexual assault.

(b) MEDICAL COSTS.—A State shall be deemed to incur the full out of pocket cost of forensic medical exams for victims of sexual assault if such State—

(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 State permits victims to apply to the State for reimbursement for not less than one year from the date of the exam;

(C) the State provides reimbursement not later than 90 days after written notification of the victim's expense; and

(D) the State 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. 1604. FILING COSTS FOR CRIMINAL CHARGES.

No State is entitled to funds under this title unless the State certifies that their 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 that the abused bear the costs associated with the issuance or service of a warrant, protection order, or witness subpoena.

SEC. 1605. EQUITABLE TREATMENT OF RAPE CASES.

No State is entitled to funds under this title unless the State can certify that its laws and policies treat sex offenses committed by offenders who are known to, cohabitants of, social companions of, or related by blood or marriage to, the victim no less severely than sex offenses committed by offenders who are strangers to the victim.

SEC. 1606. EDUCATION AND PREVENTION GRANTS TO REDUCE SEXUAL ASSAULTS 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 1602, is further amended by—

(1) redesignating part R as part S;

(2) redesignating section 1801 as section 1901; and

(3) adding after part Q the following new part:

"PART R—RAPE PREVENTION PROGRAMS

"SEC. 1801. GRANT AUTHORIZATION.

"The Director of the Bureau of Justice Assistance (referred to in this part as the 'Director') is authorized to make grants—

"(1) to provide educational seminars, particularly developed with emphasis on seminars for elementary and secondary school age children, designed to develop an awareness of what acts meet the legal definition of rape;

"(2) to provide programs for elementary and secondary school age children that teach nonviolent conflict resolution, self defense, or other relevant skills;

"(3) to operate telephone hotlines for callers with questions regarding sexual assault and rape;

"(4) to design and disseminate training programs for professionals, including the development and dissemination of protocols for the routine identification, treatment, and appropriate referral of victims of sexual assault by hospital emergency personnel and other professionals;

"(5) to develop treatment programs for convicted sex offenders and make such programs available to the local community and to Federal and State prisons;

"(6) to prepare and disseminate informational materials designed to educate the community regarding sexual assault and prevention; and

"(7) to develop other projects to increase awareness and prevention of sexual assault, including efforts to increase awareness of sexual assault prevention among racial, ethnic, cultural and language minorities.

"SEC. 1802. APPLICATIONS.

"(a) IN GENERAL.—To be eligible to receive a grant under this part, a duly authorized representative of an eligible entity shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(b) ASSURANCES.—Each application must contain an assurance that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

"(c) REQUIRED PLAN.—Each application shall include a plan that contains—

"(1) a description of the projects to be developed;

"(2) a description of how funds would be spent;

"(3) a statement of staff qualifications and demonstrated expertise in the field of rape prevention and education; and

"(4) a statement regarding the ability to serve community needs and language minority populations in providing ethnically and culturally and linguistically appropriate programs where necessary.

"SEC. 1803. REPORTS.

"(a) GRANTEE REPORTING.—Upon completion of the grant period under this subpart, each grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of such activities in achieving the purposes of this subpart. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"(b) BUREAU REPORTING.—Not later than 180 days after the end of each fiscal year for which grants are made under this subpart, the Director shall submit to the Congress a report that includes, for each grantee—

"(1) the amount of grants made under this subpart;

"(2) a summary of the purposes for which grants were provided and an evaluation of progress; and

"(3) an evaluation of the effectiveness of programs established with funds under this part.

"SEC. 1804. DEFINITIONS.

"For purposes of this part—

"(1) the term 'eligible entity' means a nonprofit, nongovernmental organization that directly serves or provides advocacy on behalf of victims of rape or sexual assault; and

"(2) the term 'sexual assault prevention and education' means education and prevention efforts directed at reducing the number of sexual assaults.".

(b) AUTHORIZATION OF APPROPRIATION.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793), is amended by adding at the end the following:

"(13) There are authorized to be appropriated to carry out the purposes of part R, $60,000,000 for fiscal year 1994, $75,000,000 for fiscal year 1995, and $100,000,000 for fiscal year 1996.".

(c) ADMINISTRATIVE PROVISIONS.—(1) Section 801(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by section 1602 of this Act, is amended by striking "O, and Q" and inserting "O, Q, and R".

(2) Section 802(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by section 1602 of this Act, is amended by striking "O, or Q" and inserting "O, Q, or R".

(d) CONFORMING 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 1602, is amended by striking the matter relating to part R and inserting the following:

"PART R—RAPE PREVENTION PROGRAMS

"Sec. 1801. Grant authorization.
"Sec. 1802. Applications.
"Sec. 1803. Reports.
"Sec. 1804. Definitions.

"PART S—TRANSITION; EFFECTIVE DATE; REPEALER

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

SEC. 1607. NATIONAL INSTITUTE OF JUSTICE TRAINING PROGRAMS.

(a) IN GENERAL.—The National Institute of Justice, 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 Director of the National Institute of Justice shall attempt, to the extent practicable, to make training programs developed under subsection (a) available in geographically diverse locations throughout the country.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $1,000,000 for each of the fiscal years 1994 and 1995 to carry out the provisions of this section.

SEC. 1608. 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 of the United States Code or for the commission of a similar offense, including halfway houses and psychiatric institutions.

SEC. 1609. VICTIM COMPENSATION.

(a) IN GENERAL.—Chapter 109A of title 18, United States Code, is amended by adding at the end the following new section:

"§2247. Mandatory restitution for sex offenses

"(a) IN GENERAL.—Notwithstanding section 3663 of this title, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—

"(1) IN GENERAL.—The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim the full amount of the victim's losses as determined by the court, pursuant to paragraph (3) of this subsection; and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) DEFINITIONS.—As used in this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation;

"(C) lost income;

"(D) attorneys' fees, plus any costs incurred in obtaining a civil protection order;

"(E) temporary housing;

"(F) transportation;

"(G) necessary child care;

"(H) language translation services; and

"(I) any other losses suffered by the victim as a proximate result of the offense.

"(3) MANDATORY NATURE OF ORDER.—(A) Restitution orders under this section are mandatory. 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.

"(B) Subparagraph (A) of this paragraph 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 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.

"(4) CONSIDERATION OF ECONOMIC CIRCUMSTANCES.—

"(A) IN GENERAL.—Notwithstanding paragraph (3) of this subsection, the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid, including—

"(i) the financial resources and other assets of the defendant;

"(ii) projected earnings, earning capacity, and other income of the defendant; and

"(iii) any financial obligations of the defendant, including obligations to dependents.

"(B) LUMP-SUM OR PARTIAL PAYMENT.—An order under this section may direct the defendant to make a single lump-sum payment or partial payments at specified intervals. The order shall also provide that the defendant's restitutionary obligation takes priority over any criminal fine ordered.

"(5) 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.

"(c) PROOF OF CLAIM.—

"(1) IN GENERAL.—Within 60 days after conviction and, in any event, no later than 10 days prior to sentencing, the United States Attorney (or 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 delegate) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or delegate) shall advise the victim that the victim may file a separate affidavit.

"(2) OBJECTIONS.—If, after notifying the defendant of the affidavit, no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to paragraph (1) of this subsection 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 such Attorney's delegate) 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.

"(4) FINAL DETERMINATION OF LOSSES.—In the event that the victim's losses are not ascertainable 10 days prior to sentencing as provided in subsection (c)(1) of this section, the United States Attorney (or 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 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.".

(b) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 109A of title 18, United States Code, is amended by adding at the end the following:

"2247. Mandatory restitution for sex offenses.".

SEC. 1610. CAMPUS SEXUAL ASSAULT STUDY.

(a) STUDY.—The Attorney General shall provide for a national baseline study to examine the scope of the problem of campus sexual assaults and the effectiveness of institutional and legal policies in addressing such crimes and protecting victims. The Attorney General may utilize the Bureau of Justice Statistics, the National Institute of Justice, and the Office for Victims of Crime in carrying out this section.

(b) REPORT.—Based on the study required by subsection (a), the Attorney General shall prepare a report including an analysis of—

(1) the number of reported allegations and estimated number of unreported allegations of campus sexual assaults, and to whom the allegations are reported (including authorities of the educational institution, sexual assault victim service entities, and local criminal authorities);

(2) the number of campus sexual assault allegations reported to authorities of educational institutions which are reported to criminal authorities;

(3) the number of campus sexual assault allegations that result in criminal prosecution in comparison with the number of noncampus 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;

(6) an assessment of the policies and practices of educational institutions that are most effective 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 Committees on Education and Labor and the Judiciary of the House of Representatives and the Committees on Labor and Human Resources and the Judiciary of the Senate not later than September 1, 1995.

(d) DEFINITION.—For purposes of this subtitle, "campus sexual assaults" means sexual assaults committed against or by students or employees of institutions of postsecondary education and occurring at such institutions or during activities connected with such institutions.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $200,000 to carry out the study required by this section.

Subtitle B—Safe Homes for Women

SEC. 1621. SHORT TITLE.

This subtitle may be cited as the "Safe Homes for Women Act".

SEC. 1622. INTERSTATE ENFORCEMENT.

(a) IN GENERAL.—Part I 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. 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 for chapter.

"§2261. Interstate domestic violence

"(a) Whoever travels across a State line or enters or leaves Indian country with the intent to contact that person's spouse or intimate partner, and in the course of that contact 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) of this section.

"(b) The punishment for a violation of subsection (a) of this section is a fine under this title, or imprisonment—

"(1) for life or any term of years, if the offender murders the victim;

"(2) for not more than 20 years, if the offender causes serious bodily injury to the victim;

"(3) for not more than 10 years, if the offender uses a dangerous weapon during the offense;

"(4) as provided for the applicable conduct under chapter 109A, if the offense constitutes sexual abuse, as described 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 such fine and imprisonment.

"§2262. Violation of protection order

"(a) Whoever travels across a State line or enters or leaves Indian country with the intent to engage in conduct that—

"(1)(A) violates a protection order, any portion of which involves protection against credible threats of violence, repeated harassment, or bodily injury, to the person or persons for whom the protection order was issued, and—

"(B) violates that portion of such protection order; or

"(2) would violate paragraph (1) of this subsection if the conduct occurred in the jurisdiction in which such order was issued;

and does engage in such conduct shall be punished as provided in subsection (b) of this section.

"(b) The punishment for a violation of subsection (a) of this section is a fine under this title, or imprisonment—

"(1) for life or any term of years, if the offender murders the victim;

"(2) for not more than 20 years, if the offender causes serious bodily injury to the victim;

"(3) for not more than 10 years, if the offender uses a dangerous weapon during the offense;

"(4) as provided for the applicable conduct under chapter 109A, if the offense constitutes sexual abuse, as described 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 such fine and imprisonment.

"§2263. Pretrial release of defendant

"In any proceeding pursuant to section 3142 of this title for the purpose of determining whether a defendant charged under this 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.—In addition to any fine or term of imprisonment provided under this chapter, and notwithstanding the terms of section 3663 of this title, the court shall order restitution to the victim of an offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—

"(1) IN GENERAL.—The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim the full amount of the victim's losses as determined by the court, pursuant to paragraph (3) of this subsection; and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) DEFINITION.—As used in this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation;

"(C) lost income;

"(D) attorneys' fees, plus any costs incurred in obtaining a civil protection order;

"(E) temporary housing;

"(F) transportation;

"(G) necessary child care;

"(H) language translation services; and

"(I) any other losses suffered by the victim as a proximate result of the offense.

"(3) MANDATORY NATURE OF ORDER.—(A) Restitution orders under this section are mandatory. 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.

"(B) Subparagraph (A) of this paragraph 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 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.

"(4) CONSIDERATION OF ECONOMIC CIRCUMSTANCES.—

"(A) IN GENERAL.—Notwithstanding paragraph (3) of this subsection, the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid, including—

"(i) the financial resources and other assets of the defendant;

"(ii) projected earnings, earning capacity, and other income of the defendant; and

"(iii) any financial obligations of the offender, including obligations to dependents.

"(B) LUMP-SUM OR PARTIAL PAYMENT.—An order under this section may direct the defendant to make a single lump-sum payment, or partial payments at specified intervals. The order shall provide that the defendant's restitutionary obligation takes priority over any criminal fine ordered.

"(5) SETOFF.—Any amount paid to a victim under this section shall be setoff against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(c) PROOF OF CLAIM.—

"(1) IN GENERAL.—Within 60 days after conviction and, in any event, no 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 that affidavit.

"(2) OBJECTIONS.—If, after notifying the defendant of the affidavit, no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to paragraph (1) of this subsection 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 such Attorney's delegate) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) ADDITIONAL DOCUMENTATION OR 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.

"(4) FINAL DETERMINATION OF LOSSES.—In the event that the victim's losses are not ascertainable 10 days before sentencing as provided in paragraph (1) of this subsection, the United States Attorney (or such 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.

"(d) RESTITUTION AND CRIMINAL PENALTIES.—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 for chapter

"As used in this chapter—

"(1) the term 'spouse or intimate partner' includes—

"(A) a spouse, a former spouse, a person who shares a child in common with the abuser, a person who cohabits or has cohabited with the abuser as a spouse, and any other person similarly situated to a spouse; and

"(B) any other person, other than a minor child, who is protected by the domestic or family violence laws of the State in which the injury occurred or where the victim resides;

"(2) the term 'protection order' includes any injunction or other order issued for the purpose of preventing violent or threatening acts by one spouse against his or her spouse, former spouse, or intimate partner, 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 an abused spouse or intimate partner;

"(3) the term 'State' includes a State of the United States, the District of Columbia, a commonwealth, territory, or possession of the United States;

"(4) the term '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;

"(5) the term 'bodily harm' means any act, except one done in self-defense, that results in physical injury or sexual abuse; and

"(6) the term 'Indian country' has the meaning given to such term by section 1151 of this title.".

(b) TABLE OF CHAPTERS.—The table of chapters at the beginning of 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.".

SEC. 1623. 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 1606, is further amended by—

(1) redesignating part S as part T;

(2) redesignating section 1901 as section 2001; and

(3) adding after part R the following new part:

"PART S—GRANTS TO ENCOURAGE ARREST POLICIES

"SEC. 1901. ARREST POLICIES.

"(a) GENERAL PROGRAM PURPOSE.—The purpose of this part is to encourage States, Indian tribes, and units of local government to treat domestic violence as a serious violation of criminal law. The Director of the Bureau of Justice Assistance may make grants to eligible States, Indian tribes, or units of local government for the following:

"(1) To implement mandatory arrest or proarrest programs, including mandatory arrest programs for protective 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 strengthen legal advocacy service programs for victims of domestic violence.

"(5) To educate judges in criminal and other courts about domestic violence and to improve judicial handling of such cases.

"(b) ELIGIBILITY.—Eligible grantees are States, Indian tribes, or units of local government that—

"(1) certify that their laws or official policies—

"(A)(i) encourage or mandate arrest of domestic violence offenders based on probable cause that violence has been committed; or

"(ii) certify that all their law enforcement personnel have received domestic violence training conducted by a State Domestic Violence Coalition as defined in section 10410(b) of title 42, United States Code; and

"(B) 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 training programs discourage dual arrests of offender and victim;

"(3) certify that their laws, policies, and practices prohibit issuance of mutual restraining orders of protection except in cases where both spouses file a claim and the court makes detailed finding of fact indicating that both spouses acted primarily as aggressors and that neither spouse acted primarily in self-defense;

"(4) certify that their 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 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; and

"(5) certify that their laws and policies treat sex offenses committed by offenders who are known to, cohabitants of, or social companions of or related by blood or marriage to, the victim no less severely than sex offenses committed by offenders who are strangers to the victim.

"SEC. 1902. APPLICATIONS.

"(a) APPLICATION.—An eligible grantee shall submit an application to the Director that shall—

"(1) describe plans to implement policies described in subsection (b);

"(2) identify the agency or office or groups of agencies or offices responsible for carrying out the program; and

"(3) include 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 Director shall give priority to an applicant that—

"(1) does not currently provide for centralized handling of cases involving domestic violence by policy, prosecutors, and courts; and

"(2) demonstrates a commitment to strong enforcement of laws, and prosecution of cases, involving domestic violence.

"SEC. 1903. REPORTS.

"Each grantee receiving funds under this part shall submit a report to the Director evaluating the effectiveness of projects developed with funds provided under this part and containing such additional information as the Director may prescribe.

"SEC. 1904. DEFINITIONS.

"For purposes of this part—

"(1) the term 'domestic violence' means a crime of violence against a victim committed by a current or former spouse of the victim, an individual with whom the victim shares a child in common, an individual who cohabits with or has cohabited with the victim as a spouse, or any other individual similarly situated to a spouse, or any other person who is protected under the domestic or family violence laws of the eligible State, Indian tribe, municipality, or local government entity; 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 and criminal courts (other than support or child custody provisions) whether obtained by filing an independent action or as a pendente lite order in another proceeding.".

(b) 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 by adding at the end the following:

"(14) There are authorized to be appropriated $25,000,000 for each of the fiscal years 1994, 1995, and 1996 to carry out the purposes of part S.".

(c) ADMINISTRATIVE PROVISIONS.—(1) Section 801(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by section 1606 of this Act, is amended by striking "O, Q, and R" and inserting "O, Q, R, and S".

(2) Section 802(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as

amended by section 1606 of this Act, is amended by striking "O, Q, or R" and inserting "O, Q, R, or S".

(d) EFFECTIVE DATE.—The eligibility requirements provided in this section shall take effect 1 year after the date of enactment of this subtitle.

(e) CONFORMING 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 1606, is further amended by striking the matter relating to part S and inserting the following:

"PART S—GRANTS TO ENCOURAGE ARREST POLICIES

"Sec. 1901. Arrest policies.
"Sec. 1902. Applications.
"Sec. 1903. Reports.
"Sec. 1904. Definitions.

"PART T—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 2001. Continuation of rules, authorities, and proceedings.".

Subtitle C—Domestic Violence

SEC. 1624. FINDINGS.

The Congress finds that—

(1) domestic violence is the leading cause of injury to women in the United States between the ages of 15 and 44;

(2) firearms are used by the abuser in 7 percent of domestic violence incidents and produces an adverse effect on interstate commerce; and

(3) individuals with a history of domestic abuse should not have easy access to firearms.

SEC. 1625. 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, is amended by inserting at the end the following:

"(30) 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 such title 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:

"(8) is subject to a court order that restrains such person from harassing, stalking, or threatening an intimate partner of such person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury, 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) includes a finding that such person represents a credible threat to the physical safety of such intimate partner.".

(c) PROHIBITION AGAINST RECEIPT OF FIREARMS.—Section 922(g) of such title 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 or constructive 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 engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury; and

"(C) includes a finding that such person represents a credible threat to the physical safety of such intimate partner;".

(d) STORAGE OF FIREARMS.—Section 926(a) of such title 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 such title 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".

SEC. 1626. ALIEN SPOUSE 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 clause:

"(iii) An alien who is the spouse of a citizen of the United States, 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 children of the alien) 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, or

"(II) the alien is residing in the United States with the alien's spouse, the alien has been married to and residing with the spouse for a period of not less than 3 years, and the alien's spouse has failed to file a petition under clause (i) on behalf of the alien."; and

(2) in subparagraph (B)—

(A) by inserting "(i)" after "(B)", and

(B) by adding at the end the following new clause:

"(ii) An alien who is the spouse of an alien lawfully admitted for permanent residence, 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 children of the alien) under such section if the alien demonstrates to the Attorney General that the conditions described in subclause (I) or (II) of subparagraph (A)(iii) are met with respect to the alien.".

(b) CONFORMING AMENDMENTS.—(1) Section 204(a)(2) of such 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 such 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 basis for revocation under section 205 of a petition filed under subsection (a)(1)(A)(iii)(I) 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, 1994.

SEC. 1627. 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 submitted in support of the application (whether or not the evidence is supported by an evaluation of a licensed mental health professional). 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 the enactment of this Act and shall apply to applications made before, on, or after such date.

SEC. 1628. SUSPENSION OF DEPORTATION.

Section 244(a) of the Immigration and Nationality Act (8 U.S.C. 1254(a)) is amended—

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

(2) at the end of paragraph (2) by striking the period 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); is physically present in the United States; 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; 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.".

Subtitle D—Miscellaneous Provisions

SEC. 1641. 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. 1642. REPORT ON RECORDKEEPING RELATING TO DOMESTIC VIOLENCE.

Not later than 1 year after the date of enactment of this Act, the Attorney General shall

complete a study of, and shall submit to Congress a report and recommendations on, problems of recordkeeping of criminal complaints involving domestic violence. The study and report shall examine—

(1) the efforts that have been made by the Department of Justice, including the Federal Bureau of Investigation, to collect statistics on domestic violence; and

(2) the feasibility of requiring that the relationship between an offender and victim be reported in Federal records of crimes of aggravated assault, rape, and other violent crimes.

SEC. 1643. ESTABLISHMENT OF TASK FORCE.

Not later than 30 days after the date of enactment of this Act, the Attorney General shall establish a task force to be known as the Attorney General's Task Force on Violence Against Women (referred to in this subtitle as the "Task Force").

SEC. 1644. GENERAL PURPOSES OF TASK FORCE.

(a) GENERAL PURPOSE OF THE TASK FORCE.—The Task Force shall review Federal, State, and local strategies for preventing and punishing violent crimes against women, including the enhancement and protection of the rights of the victims of such crimes, and make recommendations to improve the response to such crimes.

(b) FUNCTIONS.—The Task Force shall perform such functions as the Attorney General deems appropriate to carry out the purposes of the Task Force, including—

(1) evaluating the adequacy of, and making recommendations regarding, current law enforcement efforts at the Federal and State levels to reduce the rate of violent crimes against women;

(2) evaluating the adequacy of, and making recommendations regarding, the responsiveness of State prosecutors and State courts to violent crimes against women;

(3) evaluating the adequacy of State and Federal rules of evidence, practice, and procedure to ensure the effective prosecution and conviction of violent offenders against women and to protect victims from abuse in legal proceedings, making recommendations, where necessary, to improve those rules;

(4) evaluating the adequacy of pretrial release, sentencing, incarceration, and post-conviction release for crimes that predominantly affect women, such as rape and domestic violence;

(5) evaluating the adequacy of, and making recommendations regarding, the adequacy of State and Federal laws on sexual assault and the need for a more uniform statutory response to sex offenses, including sexual assaults and other sex offenses committed by offenders who are known or related by blood or marriage to the victim;

(6) evaluating the adequacy of, and making recommendations regarding, the adequacy of State and Federal laws on domestic violence and the need for a more uniform statutory response to domestic violence;

(7) evaluating the adequacy of, and making recommendations regarding, the adequacy of current education, prevention, and protection services for women victims of violent crimes;

(8) assessing the issuance, formulation, and enforcement of protective orders, whether or not related to a criminal proceeding, and making recommendations for their more effective use in domestic violence and stalking cases;

(9) assessing the problem of stalking and persistent menacing and recommending an effective Federal response to the problem;

(10) evaluating the adequacy of, and making recommendations regarding, the national public awareness and the public dissemination of information essential to the prevention of violent crimes against women;

(11) evaluating the treatment of women as victims of violent crime in the State and Federal criminal justice system, and making recommendations to improve such treatment; and

(12) assessing the problem of sexual exploitation of women and youths through prostitution and in the production of pornography, and recommending effective means of response to the problem.

SEC. 1645. MEMBERSHIP.

(a) CHAIR; NUMBER AND APPOINTMENT.—The Task Force shall be chaired by the Attorney General (or designee). Not later than 60 days after the date of the enactment of this Act, after consultation with the Secretary of Health and Human Services, the Secretary of Education, and the Secretary of Housing and Urban Development, the Attorney General shall select up to 14 other members to serve on the Task Force.

(b) PARTICIPATION.—The Attorney General (or designee) shall select, without regard to political affiliation, members who are specially qualified to serve on the Task Force based on their involvement in efforts to combat violence against women, assistance or service to victims of such violence, or other pertinent experience or expertise. The Attorney General shall ensure that the Task Force includes a broad base of participation by including members with backgrounds in such areas as law enforcement, victim services and advocacy, legal defense and prosecution, judicial administration, medical services, and counseling.

(c) VACANCIES.—The Attorney General may fill any vacancy that occurs on the Task Force.

SEC. 1646. TASK FORCE OPERATIONS.

(a) MEETINGS.—The Task Force shall hold its first meeting on a date specified by the Attorney General (or designee), but shall not be later than 60 days after the date of the enactment of this Act. After the initial meeting, the Task Force shall meet at the call of the Attorney General (or designee), but shall meet at least 6 times.

(b) PAY.—Members of the Task Force who are officers or employees or elected officials of a government entity shall receive no additional compensation by reason of their service on the Task Force.

(c) PER DIEM.—Except as provided in subsection (b), members of the Task Force shall be allowed travel and other expenses including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

SEC. 1647. REPORTS.

(a) IN GENERAL.—Not later than 1 year after the date on which the Task Force is fully constituted under section 1645, the Task Force shall prepare and submit a final report to the President and to congressional committees that have jurisdiction over legislation addressing violent crimes against women, including the crimes of domestic and sexual assault.

(b) CONTENTS.—The final report submitted under paragraph (1) shall contain a detailed statement of the activities of the Task Force and of the findings and conclusions of the Task Force, including such recommendations for legislation and administrative action as the Task Force considers appropriate.

SEC. 1648. EXECUTIVE DIRECTOR AND STAFF.

(a) EXECUTIVE DIRECTOR.—

(1) APPOINTMENT.—The Task Force shall have an Executive Director who shall be appointed by the Attorney General (or designee), with the approval of the Task Force.

(2) COMPENSATION.—The Executive Director shall be compensated at a rate not to exceed the maximum rate of the basic pay payable for a position above GS-15 of the General Schedule contained in title 5, United States Code.

(b) STAFF.—With the approval of the Task Force, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Task Force.

(c) APPLICABILITY OF CIVIL SERVICE LAWS.—The Executive Director and the additional personnel of the Task Force appointed under subsection (b) may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) CONSULTANTS.—Subject to such rules as may be prescribed by the Task Force, the Executive Director may procure temporary or intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed $200 per day.

SEC. 1649. POWERS OF TASK FORCE.

(a) HEARINGS.—For the purposes of carrying out this subtitle, the Task Force may conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Task Force considers appropriate. The Task Force may administer oaths for testimony before the Task Force.

(b) DELEGATION.—Any member or employee of the Task Force may, if authorized by the Task Force, take any action that the Task Force is authorized to take under this subtitle.

(c) ACCESS TO INFORMATION.—The Task Force may request directly from any executive department or agency such information as may be necessary to enable the Task Force to carry out this subtitle, on the request of the Attorney General (or designee).

(d) MAILS.—The Task Force may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

SEC. 1650. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this subtitle $500,000 for fiscal year 1994.

SEC. 1651. TERMINATION.

The Task Force shall cease to exist 30 days after the date on which its final report is submitted under section 1647.

SEC. 1652. PAYMENT OF COST OF STD TESTING FOR VICTIMS IN SEX OFFENSE CASES.

Section 503(c)(7) of the Victims' Rights and Restitution Act of 1990 (42 U.S.C. 10607(c)(7)) is amended by adding at the end the following: "The Attorney General shall authorize the Director of the Office of Victims of Crime to provide for the payment of the cost of up to two tests of the victim for sexually transmitted diseases, including, but not limited to gonorrhea, herpes, chlamydia, syphilis, and HIV, 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.".

SEC. 1653. NATIONAL DOMESTIC VIOLENCE HOTLINE GRANT.

(a) FINDINGS.—Congress finds 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 handled more than 65,000 crisis calls annually no longer exists.

(b) IN GENERAL.—The Attorney General, through the Bureau of Justice Assistance, shall provide a grant to a nonprofit private organiza-

tion to establish and operate a national, toll-free telephone hotline to provide information and assistance to victims of domestic violence. A grant provided under this subsection may extend over a period of not more than 3 fiscal years and the provision of payments under such grant shall be subject to annual approval by the Attorney General and subject to the availability of appropriations for the fiscal year involved to make the payments.

(c) APPLICATION.—

(1) IN GENERAL.—The Attorney General may not provide a grant under subsection (b) unless an application that meets the requirements of paragraph (2) has been approved by the Attorney General.

(2) REQUIREMENTS.—An application meets the requirements of this paragraph if the application—

(A) contains such agreements, assurances, and information, and is in such form and submitted in such manner as the Attorney General shall prescribe through notice in the Federal Register;

(B) demonstrates 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 support from advocacy groups, particularly State coalitions and recognized national domestic violence groups;

(C) demonstrates that the applicant has a commitment to diversity, including the hiring of and provision of services to ethnic, racial, cultural, and non-English-speaking minorities, in addition to older individuals and individuals with disabilities;

(D) demonstrates that the applicant has the ability to integrate the hotline into existing services provided by the applicant to victims of domestic violence;

(E) includes a complete description of the applicant's plan for the establishment and operation of the hotline, including a description of—

(i) the hiring criteria and training program for hotline personnel;

(ii) the methods for the creation, maintenance, and updating of a resource database for the hotline;

(iii) a plan for providing service on a 24-hour-a-day basis to non-English-speaking callers, including hotline personnel who speak Spanish;

(iv) a plan for access to the hotline by individuals with hearing impairments; and

(v) a plan for publicizing the availability of the hotline; and

(F) contains such other information as the Attorney General may require.

(d) SELECTION.—The Attorney General shall select a nonprofit private organization to receive a grant under subsection (b) which has been in existence for at least 5 years from the date of submission of the application by the organization.

(e) USES.—A grant made under subsection (b) 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 nonprofit private organization 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) establish, maintain, and update a database of information relating to services for victims of domestic violence, including information on the availability of shelters that serve battered women; and

(4) publicize the hotline to potential users throughout the United States.

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $1,000,000 for each of the fiscal years 1994 through 1996.

(2) AVAILABILITY.—Funds authorized to be appropriated under paragraph (1) shall remain available until expended.

SEC. 1654. GRANTS FOR COMMUNITY PROGRAMS ON DOMESTIC VIOLENCE.

(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 1623 of this Act, is amended by—

(1) redesignating part T as part U;

(2) redesignating section 2001 as section 2101; and

(3) adding after part S the following new part:

"PART T—GRANTS FOR COMMUNITY PROGRAMS ON DOMESTIC VIOLENCE

"SEC. 2001. GRANT AUTHORITY.

"The Director shall provide grants to establish projects in local communities involving many sectors of each community to coordinate intervention and prevention of domestic violence.

"SEC. 2002. APPLICATIONS.

"(a) IN GENERAL.—An organization that desires to receive a grant under this section shall submit to the Director an application, in such form and in such manner as the Director may reasonably require 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 Director may require.

"(b) ELIGIBILITY.—To be eligible for a grant under this section, such application shall include—

"(1) an assurance that the applicant is a nonprofit private organization organized for the purpose of coordinating community projects for the intervention in and prevention of domestic violence; and

"(2) an assurance that such nonprofit organization includes representation from pertinent sectors of the local community, including—

"(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; and

"(G) business and civic leaders.

"SEC. 2003. AWARD OF GRANTS.

"(a) TERM.—A grant provided under this section may extend over a period of not more than 3 fiscal years.

"(b) CONDITIONS ON PAYMENT.—Payments under a grant under this section shall be subject to—

"(1) annual approval by the Director; and

"(2) availability of appropriations.

"(c) GEOGRAPHICAL DISPERSION.—The Director shall award grants under this section to organizations in communities geographically dispersed throughout the country.

"SEC. 2004. USES OF FUNDS.

"(a) 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.

"(b) REQUIREMENTS.—In establishing and operating a project, a nonprofit private organization shall—

"(1) establish protocols to improve and expand domestic violence intervention and prevention strategies among all affected sectors;

"(2) develop action plans to direct responses within each community sector that are in conjunction with development in all other sectors; and

"(3) provide for periodic evaluation of the project with a written report and analysis to assist application of this concept in other communities.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 1001 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding at the end the following:

"(15) There are authorized to be appropriated to carry out part T $20,000,000 for fiscal year 1994 and such sums as are necessary for each of the fiscal years 1995, 1996, and 1997, to remain available until expended.".

(c) ADMINISTRATIVE PROVISIONS.—(1) Section 801(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by section 1623 of this Act, is amended by striking "O, Q, R, and S" and inserting "O, Q, R, S, and T".

(2) Section 802(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by section 1623 of this Act, is amended by striking "O, Q, R, or S" and inserting "O, Q, R, S, or T".

(d) CONFORMING 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 1623 of this Act, is amended by striking the matter relating to part T and inserting the following:

"PART T—GRANTS FOR COMMUNITY PROGRAMS ON DOMESTIC VIOLENCE

"Sec. 2001. Grant authority.
"Sec. 2002. Applications.
"Sec. 2003. Award of grants.
"Sec. 2004. Uses of funds.".

Subtitle E—Equal Justice for Women in the Courts

SEC. 1661. GRANTS AUTHORIZED.

The State Justice Institute is authorized to award grants for the purpose of developing, testing, presenting, and disseminating model programs to be used by States in training judges and court personnel in the laws of the States on rape, sexual assault, domestic violence, and other crimes of violence motivated by gender.

SEC. 1662. 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, domestic violence, 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 negative 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 and should not be held in contempt;

(18) the need for orders of protection, and the negative 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. 1663. COOPERATION IN DEVELOPING PROGRAMS.

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. 1664. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1994, $600,000 to carry out the purposes of sections 1661 through 1664. Of amounts appropriated under this section, the State Justice Institute shall expend no less than 40 percent on model programs regarding domestic violence and no less than 40 percent on model programs regarding rape and sexual assault.

SEC. 1665. AUTHORIZATIONS OF CIRCUIT STUDIES; EDUCATION AND TRAINING GRANTS.

(a) STUDY.—In order to gain a better understanding of the nature and the extent of gender bias in the Federal courts, the circuit judicial councils are encouraged to conduct studies of the instances of gender bias in their respective circuits. The studies may include an examination of the effects of gender on—

(1) the treatment of litigants, witnesses, attorneys, jurors, and judges in the courts, including before magistrate and bankruptcy judges;

(2) the interpretation and application of the law, both civil and criminal;

(3) treatment of defendants in criminal cases;

(4) treatment of victims of violent crimes;

(5) sentencing;

(6) sentencing alternatives, facilities for incarceration, and the nature of supervision of probation, parole, and supervised release;

(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 past sexual history in civil and criminal cases; and

(12) the aspects of the topics listed in section 1662 that pertain to issues within the jurisdiction of the Federal courts.

(b) CLEARINGHOUSE.—The Judicial Conference of the United States shall designate an entity within the Judicial Branch to act as a clearinghouse to disseminate any reports and materials issued by the gender bias task forces under subsection (a) and to respond to requests for such reports and materials. The gender bias task forces shall provide this entity with their reports and related material.

(c) MODEL PROGRAMS.—The Federal Judicial Center, in carrying out section 620(b)(3) of title 28, United States Code, shall—

(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. 1666. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated—

(1) $600,000 to the Salaries and Expenses Account of the Courts of Appeals, District Courts, and other Judicial Services, to carry out section 1665(a), to be available until expended through fiscal year 1996;

(2) $100,000 to the Federal Judicial Center to carry out section 1665(c) and any activities designated by the Judicial Conference under section 1665(b); and

(3) such sums as are necessary to the Administrative Office of the United States Courts to carry out any activities designated by the Judicial Conference under section 1665(b).

(b) THE JUDICIAL CONFERENCE OF THE UNITED STATES.—(1) The Judicial Conference of the United States Courts shall allocate funds to Federal circuit courts under this subtitle that—

(A) undertake studies in their own circuits; or

(B) implement reforms recommended as a result of such studies in their own or other circuits, including education and training.

(2) Funds shall be allocated to Federal circuits under this subtitle on a first come first serve basis in an amount not to exceed $100,000 on the first application. If within 6 months after the date on which funds authorized under this Act become available, funds are still available, circuits that have received funds may reapply for additional funds, with not more than $200,000 going to any one circuit.

SEC. 1667. EXPERT TESTIMONY OF DOMESTIC VIOLENCE.

(a) FINDINGS.—The Congress finds that—

(1) State criminal courts often fail to admit expert testimony offered by a defendant concerning the nature and effect of physical, sexual, and mental abuse to assist the trier of fact in assessing the behavior, beliefs, or perceptions of such defendant in a domestic relationship in which abuse has occurred;

(2) the average juror often has little understanding of the nature and effect of domestic violence on such a defendant's behavior, beliefs, or perceptions, and the lack of understanding can result in the juror blaming the woman for her victimization;

(3) the average juror is often unaware that victims of domestic violence are frequently in greater danger of violence after they terminate or attempt to terminate domestic relationships with their abuser;

(4) myths, misconceptions, and victim-blaming attitudes are often held not only by the average lay person but also by many in the criminal justice system, insofar as the criminal justice system traditionally has failed to protect women from violence at the hands of men;

(5) specialized knowledge of the nature and effect of domestic violence is sufficiently established to have gained the general acceptance which is required for the admissibility of expert testimony;

(6) although both men and women can be victims of physical, sexual, and mental abuse by their partners in domestic relationships, the most frequent victims are women; and

(7) a woman is more likely to be assaulted and injured, raped, or killed by her current or former male partner than by any other type of assailant, and over one-half of all women murdered are killed by their current or former male partners.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the executive branch, working through the State Justice Institute, should examine programs which would allow the States to consider—

(1) that expert testimony concerning the nature and effect of domestic violence, including descriptions of the experiences of battered women, be admissible when offered in a State court by a defendant in a criminal case to assist the trier of fact in understanding the behavior, beliefs, or perceptions of such defendant in a domestic relationship in which abuse has occurred;

(2) that a witness be qualified to testify as an expert witness based upon her or his knowledge, skill, experience, training, or education, and be permitted to testify in the form of an opinion or otherwise; and

(3) that expert testimony about a domestic relationship be admissible to include testimony of relationships between spouses, former spouses, cohabitants, former cohabitants, partners or former partners, and between persons who are in, or have been in, a dating, courtship, or intimate relationship.

TITLE XVII—HATE CRIMES SENTENCING ENHANCEMENT

SEC. 1701. DIRECTION TO COMMISSION.

(a) IN GENERAL.—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 assure reasonable consistency with other guidelines, avoid duplicative punishments for substantially the same offense, and take into account any mitigating circumstances which might justify exceptions.

(b) DEFINITION.—As used in this section, the term "hate crime" is a crime in which the defendant intentionally selects a victim, or in the case of a property crime, the property which is the object of the crime, because of the actual or perceived race, color, religion, national origin, ethnicity, gender, or sexual orientation of any person.

TITLE XVIII—USE OF FORMULA GRANTS TO PROSECUTE PERSONS DRIVING WHILE INTOXICATED

SEC. 1801. GRANT PROGRAM DESCRIPTION.

Section 501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding at the end the following:

"(23) programs for the prosecution of driving while intoxicated and the enforcement of other laws relating to alcohol use and the operation of motor vehicles.".

TITLE XIX—YOUTH HANDGUN SAFETY

SEC. 1901. FINDINGS AND DECLARATIONS.

The Congress finds and declares that—

(1) Crime, particularly crime involving drugs and guns, is a pervasive, nationwide problem.

(2) Problems with crime at the local level are exacerbated by the interstate movement of drugs, funds, and criminal gangs.

(3) Firearms and ammunition, and handguns in particular, move easily in interstate commerce, as documented in numerous hearings in both the Judiciary Committee of the House of Representatives and Judiciary Committee of the Senate.

(4) In fact, even before the sale of a handgun, the gun, its component parts, ammunition, and the raw materials from which they are made have considerably moved in interstate commerce.

(5) While criminals freely move from State to State, ordinary citizens may fear to travel to or through certain parts of the country due to the concern that violent crime is not under control, and foreigners may decline to travel in the United States for the same reason.

(6) Just as the hardened drug kingpins begin their life in the illicit drug culture by exposure to drugs at a young age, violent criminals often start their criminal careers on streets where the ready availability of guns to young people results in the acceptability of their random use.

(7) Violent crime and the use of illicit drugs go hand-in-hand, and attempts to control one without controlling the other may be fruitless.

(8) Individual States and localities find it impossible to handle the problem by themselves; even States and localities that have made a strong effort to prevent, detect, and punish crime find their effort unavailing due in part to the failure or inability of other States and localities to take strong measures.

(9) Inasmuch as illicit drug activity and related violent crime overflow State lines and national boundaries, the Congress has power, under the interstate commerce clause and other provisions of the Constitution, to enact measures to combat these problems.

(10) The Congress finds that it is necessary and appropriate to assist the States in controlling crime by stopping the commerce in handguns with juveniles nationwide, and allowing the possession of handguns by juveniles only when handguns are possessed and used for legitimate purposes under appropriate conditions.

SEC. 1902. 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 706(a) of this Act, is amended by adding at the end the following:

"(w)(1) It shall be unlawful for a person to sell, deliver, or otherwise transfer to a juvenile, or to a person who the transferor knows or has reasonable cause to believe is a juvenile—

"(A) a handgun; or

"(B) ammunition that is suitable for use only in a handgun.

"(2) 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—

"(A) to 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;

"(iii) with 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) 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 subparagraph (A)(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;

"(C) to 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;

"(D) to a transfer by inheritance of title (but not possession) of a handgun or ammunition to a juvenile; or

"(E) to 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, as amended by section 706(b) of this Act, is amended by adding at the end the following:

"(7)(A)(i) A juvenile who violates section 922(w) 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(w)(2); and

"(II) the juvenile has not been convicted in any court of an offense (including an offense under section 922(w) 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(w)—

"(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.".

(d) 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 person of section 922(w)" 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 (w)" after "922(p)"; and

(B) in the fourth undesignated paragraph by inserting "or section 922(w) of this title," before "criminal prosecution on the basis".

(e) 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(w) of title 18, United States Code, or a similar State law)".

(f) 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, 1994, findings and recommendations concerning the need or appropriateness of further action by the Federal Government.

TITLE XX—SUBSTANCE ABUSE TREATMENT IN FEDERAL PRISONS

SEC. 2001. 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 provide substance abuse treatment—

"(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 for such time (as limited by subparagraph (B) of this paragraph) and 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 the prisoner remains in custody after successfully completing a treatment program shall not exceed the prison term the law would otherwise require such prisoner to serve, but may not be less than such term minus one year.

"(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 in each fiscal year such sums as may be necessary to carry out this subsection.

"(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 forth 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; and

"(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.".

TITLE XXI—ALTERNATIVE PUNISHMENTS FOR YOUNG OFFENDERS

SEC. 2101. CERTAINTY OF 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 1654 of this Act is amended—

(1) by redesignating part U as part Y;

(2) by redesignating section 2101 as section 2501; and

(3) by inserting after part T the following:

"PART U—ALTERNATIVE PUNISHMENTS FOR YOUNG OFFENDERS

"SEC. 2101. GRANT AUTHORIZATION.

"(a) IN GENERAL.—The Director of the Bureau of Justice Assistance (referred to in this part as the 'Director') may make grants under this part to States, for the use by States and units of local government in the States, for the purpose of developing alternative methods of punishment for young offenders to traditional forms of incarceration and probation.

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

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

"(2) boot camp prison programs that include education and job training activities such as programs 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.);

"(3) technical training and support for the implementation and maintenance of State and local restitution programs for young offenders;

"(4) 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.);

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

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

"(7) demonstration restitution projects that are evaluated for effectiveness;

"(8) innovative methods that address the problems of young offenders convicted of serious substance abuse (including alcohol abuse, and gang-related offenses), including technical assistance and training to counsel and treat such offenders; and

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

"SEC. 2102. STATE APPLICATIONS.

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

"(2) Such application shall include assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

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

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

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

"SEC. 2103. REVIEW OF STATE APPLICATIONS.

"(a) IN GENERAL.—The Director, in consultation with the Director of the National Institute of Corrections, shall make a grant under section 2101(a) to carry out the projects described in the application submitted by such applicant under section 2102 upon determining that—

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

"(2) before the approval of the application, the Director 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 2102 shall be considered approved, in whole or in part, by the Director not later than 45 days after first received unless the Director 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 2101(b).

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

"SEC. 2104. LOCAL APPLICATIONS.

"(a) IN GENERAL.—(1) To request funds under this part from a State, the chief executive of a unit of local government shall submit an application to the office designated under section 2102(b).

"(2) Such application shall be considered approved, in whole or in part, by the State not later than 45 days after such application is first received unless the State informs the applicant in writing of specific reasons for disapproval.

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

"(4) If such application is approved, the unit of local government is eligible to receive such funds.

"(b) DISTRIBUTION TO UNITS OF LOCAL GOVERNMENT.—A State that receives funds under section 2101 in a fiscal year shall make such funds available to units of local government with an application that has been submitted and approved by the State within 45 days after the Director has approved the application submitted by the State and has made funds available to the State. The Director shall have the authority to waive the 45-day requirement in this section upon a finding that the State is unable to satisfy such requirement under State statutes.

"SEC. 2105. 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 al-

located 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) 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 2101 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) 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 2101.

"(3) If the Director determines, on the basis of information available during any fiscal year, that a portion of the funds allocated to a State for such fiscal year will not be used by such State or that a State is not eligible to receive funds under section 2101, the Director shall award such funds to units of local government in such State giving priority to the units of local government that the Director considers to have the greatest need.

"(c) GENERAL REQUIREMENT.—Notwithstanding the provisions of subsections (a) and (b), not less than two-thirds of 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 Director of the Bureau of Justice Assistance.

"(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 2102(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 Director shall consider as an important factor whether a State has in effect throughout such State a law or policy which—

"(1) 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—

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

"(B) lose driving license privileges for a reasonable period of time; and

"(2) bans firearms and other weapons in a 100-yard radius of school property, but the State may allow exceptions for school-sponsored activities, as well as other reasonable exceptions.

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

"SEC. 2106. EVALUATION.

"(a) IN GENERAL.—(1) Each State and local unit of government that receives a grant under this part shall submit to the Director an evaluation not later than March 1 of each year in accordance with guidelines issued by the Director and in consultation with the National Institute of Justice.

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

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

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

(b) CONFORMING AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), is amended by inserting after the matter relating to part T (as added by section 1654) the following:

"PART U—ALTERNATIVE PUNISHMENTS FOR YOUNG OFFENDERS

"Sec. 2101. Grant authorization.
"Sec. 2102. State applications.
"Sec. 2103. Review of State applications.
"Sec. 2104. Local applications.
"Sec. 2105. Allocation and distribution of funds.
"Sec. 2106. Evaluation.

"PART Y—TRANSITION—EFFECTIVE DATE—REPEALER

"Sec. 2501. 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 by adding after paragraph (23) the following:

"(24) the term 'young offender' means an individual, convicted of a crime, 22 years of age or younger—

"(A) who has not been convicted of—

"(i) a crime of sexual assault; or

"(ii) a crime involving the use of a firearm in the commission of the crime; and

"(B) who has no prior convictions for a crime of violence (as defined by section 16 of title 18, United States Code) punishable by a period of 1 or more years of imprisonment; and".

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

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

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

(3) in paragraph (23) by striking the period at the end and inserting a semicolon.

SEC. 2102. AUTHORIZATION OF APPROPRIATION.

Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793) is amended by adding at the end the following:

"(16) There are authorized to be appropriated $200,000,000 for each of the fiscal years 1994, 1995, and 1996 to carry out the projects under part U.".

SEC. 2103. SENSE OF THE CONGRESS.

It is the sense of the Congress that States should impose mandatory sentences for crimes involving the use of a firearm or other weapon on school property or within a 100-yard radius of school property.

TITLE XXII—JUVENILE DRUG TRAFFICKING AND GANG PREVENTION GRANTS

SEC. 2201. JUVENILE DRUG TRAFFICKING AND GANG PREVENTION GRANTS.

(a) The Omnibus Crime Control and Safe Streets Act of 1968, is amended by inserting after part U (as added by section 2101(a)) the following new part:

"PART V—JUVENILE DRUG TRAFFICKING AND GANG PREVENTION GRANTS

"SEC. 2201. GRANT AUTHORIZATION.

"(a) IN GENERAL.—The Director is authorized to make grants to States and units of local government or combinations thereof to assist them in planning, establishing, operating, coordinating, and evaluating projects directly or through grants and contracts with public and private agencies for the development of more effective programs, including education, prevention, treatment and enforcement programs to reduce—

"(1) the formation or continuation of juvenile gangs; and

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

"(b) USES OF FUNDS.—The grants made under this section may be used for any of the following specific purposes:

"(1) To reduce the participation of juveniles in drug related crimes (including drug trafficking and drug use), particularly in and around elementary and secondary schools.

"(2) To reduce juvenile involvement in organized crime, drug and gang-related activity, particularly activities that involve the distribution of drugs by or to juveniles.

"(3) To develop new and innovative means to address the problems of juveniles convicted of serious, drug-related and gang-related offenses;

"(4) To reduce juvenile drug and gang-related activity in public housing projects.

"(5) To provide technical assistance and training to personnel and agencies responsible for the adjudicatory and corrections components of the juvenile justice system to identify drug-dependent or gang-involved juvenile offenders and to provide appropriate counseling and treatment to such offenders.

"(6) To promote the involvement of all juveniles in lawful activities, including—

"(A) school programs that teach that drug and gang involvement are wrong; and

"(B) programs such as youth sports and other activities, including girls and boys clubs, scout troops, and little leagues.

"(7) To facilitate Federal and State cooperation with local school officials to develop education, prevention and treatment programs for juveniles who are likely to participate in drug trafficking, drug use or gang-related activities.

"(8) To provide pre- and post-trial drug abuse treatment to juveniles in the juvenile justice system; with the highest possible priority to providing drug abuse treatment to drug-dependent pregnant juveniles and drug-dependent juvenile mothers.

"(9) To provide education and treatment programs for youth exposed to severe violence in their homes, schools, or neighborhoods.

"(10) To establish sports mentoring and coaching programs in which athletes serve as role models for youth to teach that athletics provide a positive alternative to drug and gang involvement.

"(11) To develop new programs that specifically address the unique crime, drug, and alcohol-related challenges faced by juveniles living at or near International Ports of Entry and in other international border communities, including rural localities.

"(12) To identify promising new juvenile drug demand reduction and enforcement programs, to replicate and demonstrate these programs to serve as national, regional or local models that could be used, in whole or in part, by other public and private juvenile justice programs, and to provide technical assistance and training to public or private organizations to implement similar programs.

"(13) To coordinate violence, gang, and juvenile drug prevention programs with other existing Federal programs that serve community youth to better address the comprehensive needs of such youth.

"(14) To reduce the incidence of graffiti and to promote graffiti removal, prevention, and education programs.

"(c) FEDERAL SHARE.—(1) The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the projects described in applications submitted under this section for the fiscal year for which the projects receive assistance under this part.

"(2) The Director may waive the 25 percent matching requirement under paragraph (1), upon making a determination that such waiver

is equitable due to the financial circumstances affecting the ability of the applicant to meet such requirements.

"SEC. 2202. APPLICATIONS.

"A State or unit of local government applying for grants under this part shall submit an application to the Director in such form and containing such information as the Director shall reasonably require.".

(b) CONFORMING AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), is amended by inserting after the matter relating to part U (as added by section 2101(b)) the following:

"PART V—JUVENILE DRUG TRAFFICKING AND GANG PREVENTION GRANTS

"Sec. 2201. Grant authorization.
"Sec. 2202. Applications.".

SEC. 2202. 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 by adding at the end the following:

"(17) There are authorized to be appropriated $100,000,000 for each of the fiscal years 1994 and 1995 to carry out the projects under part V.".

TITLE XXIII—RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR STATE PRISONERS

SEC. 2301. 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.), is amended by inserting after part V (as added by section 2201(a)) the following:

"PART W—RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR STATE PRISONERS

"SEC. 2301. GRANT AUTHORIZATION.

"The Director of the Bureau of Justice Assistance (referred to in this part as the 'Director') may make grants under this part to States, for the use by States 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 facilities in which inmates are incarcerated for a period of time sufficient to permit substance abuse treatment.

"SEC. 2302. STATE APPLICATIONS.

"(a) IN GENERAL.—(1) To request a grant under this part the chief executive of a State shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(2) Such application shall include assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

"(3) Such application shall coordinate the design and implementation of treatment programs between State correctional representatives and the State Alcohol and Drug Abuse agency (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 similar testing of individuals in correctional residential substance abuse treatment programs. Such testing shall include individuals released from residential substance abuse treatment programs who remain in the custody of the State.

"(c) ELIGIBILITY FOR PREFERENCE WITH AFTER CARE COMPONENT.—

"(1) To be eligible for a preference under this part, a State must ensure that individuals who participate in the 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) STATE OFFICE.—The Office designated under section 507 of this title—

"(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. 2303. REVIEW OF STATE APPLICATIONS.

"(a) IN GENERAL.—The Director shall make a grant under section 2301 to carry out the projects described in the application submitted under section 2302 upon determining that—

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

"(2) before the approval of the application the Director 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 2302 shall be considered approved, in whole or in part, by the Director not later than 45 days after first received unless the Director 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 Director shall not disapprove any application without first affording the applicant reasonable notice and an opportunity for reconsideration.

"SEC. 2304. 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 2302 for the fiscal year for which the projects receive assistance under this part.

"SEC. 2305. EVALUATION.

"Each State that receives a grant under this part shall submit to the Director an evaluation not later than March 1 of each year in such form and containing such information as the Director may reasonably require.".

(b) CONFORMING AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), is amended by inserting after the matter relating to part V (as added by section 2201(b)) the following:

"PART W—RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR PRISONERS

"Sec. 2301. Grant authorization.
"Sec. 2302. State applications.
"Sec. 2303. Review of State applications.
"Sec. 2304. Allocation and distribution of funds.
"Sec. 2305. Evaluation.".

(c) DEFINITIONS.—Section 901(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(a)) is amended by adding after paragraph (24) (as added by section 2101(c)) the following:

"(25) the term 'residential substance abuse treatment program' means a course of individual and group activities, lasting between 9 and 12 months, in residential treatment facilities set apart from the general prison population—

"(A) directed at the substance abuse problems of the prisoner; and

"(B) intended to develop the prisoner's cognitive, behavioral, social, vocational, and other skills so as to solve the prisoner's substance abuse and related problems.".

SEC. 2302. 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 by adding at the end the following:

"(18) There are authorized to be appropriated $100,000,000 for each of the fiscal years 1994, 1995, and 1996 to carry out the projects under part W.".

TITLE XXIV—IMMIGRATION RELATED PROVISIONS AND CRIMINAL ALIENS

Subtitle A—Criminal Aliens

SEC. 2401. CONGRESSIONAL FINDINGS.

The Congress makes the following findings:

(1) The Federal Government is responsible for controlling illegal immigration into the United States.

(2) Many States and localities are burdened with the financial costs of housing and processing aliens who are unlawfully within the United States and who are charged with violating criminal statutes.

(3) The Immigration and Naturalization Service is not permitted under current law to accept local and State assistance in its deportation responsibilities.

(4) Many communities with criminal alien populations would like to expedite the deportation of aliens who are charged with violating criminal statutes and who are either unlawfully within the United States or willing to submit to voluntary deportation under safeguard.

SEC. 2402. 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, is authorized to accept, hold, administer, and utilize gifts of property and services (which may not include cash assistance) for the purpose of assisting the Immigration and Naturalization Service in carrying out the deportation of aliens who are subject to charges 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 deportation under safeguard. 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 in law enforcement on the basis of race, color, or national origin.

SEC. 2403. 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:

"(j) INCARCERATION.—

"(1) If the chief official of the State (or, if appropriate, a political subdivision of the State) exercising authority with respect to the incarceration of an undocumented criminal alien (sentenced to a determinate term of imprisonment) 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 such undocumented criminal alien for such determinate sentence of imprisonment, or

"(B) take the undocumented criminal alien into the custody of the Federal Government and incarcerate such alien for such determinate sentence of imprisonment.

"(2) Compensation under paragraph (1)(A) shall be determined by the Attorney General and may not exceed the median cost of incarceration of a prisoner in all maximum security facilities in the United States as determined by the Bureau of Justice Statistics.

"(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.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect October 1, 1994.

(c) LIMITATION.—The authority created in section 242(j) of the Immigration and Nationality Act (as added by subsection (a)) shall be subject to appropriation until October 1, 1998.

Subtitle B—Immigration Provisions

SEC. 2411. EXPEDITED DEPORTATION FOR DENIED ASYLUM APPLICANTS.

(a) 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) There are authorized to be appropriated to carry out this section, such sums as are necessary for each of fiscal years 1994, 1995, 1996, 1997, and 1998.

SEC. 2412. IMPROVING BORDER CONTROLS.

(a) There are authorized to be appropriated such sums as are necessary to increase the Immigration and Naturalization Service's 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.

(b) The Attorney General shall report to the Congress every two years on the programs referred to in subsection (a).

SEC. 2413. EXPANDED SPECIAL DEPORTATION PROCEEDINGS.

(a) Subject to the availability of appropriations, the Attorney General may expand the program authorized by section 242A(d) of the Immigration and Nationality Act to ensure that such aliens are immediately deportable upon their release from incarceration.

(b) There are authorized to be appropriated such sums as necessary to carry out this section for each of fiscal years 1995 through 1998.

(c) The Attorney General shall report to the Congress every two years on the program referred to in subsection (a).

SEC. 2414. CONSTRUCTION OF INS SERVICE PROCESSING CENTERS TO DETAIN CRIMINAL ALIENS.

There are authorized to be appropriated such sums as are necessary in fiscal year 1996 to construct or contract for the construction of 2 Immigration and Naturalization Service Processing Centers to detain criminal aliens.

Subtitle C—Border Patrol Agents

SEC. 2421. BORDER PATROL AGENTS.

In addition to such amounts as are otherwise authorized to be appropriated, there is authorized to be appropriated for each of the fiscal years 1995, 1996, 1997, 1998, and 1999 for salaries and expenses of the Border Patrol such amounts as may be necessary to provide for an increase in the number of agents of the Border Patrol by 6,000 full-time equivalent agent positions (and necessary support personnel positions) beyond the number of such positions authorized for the Border Patrol as of October 1, 1993.

Subtitle D—Passport and Visa Offenses Penalties Improvements

SEC. 2431. 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 or 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 or 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 or 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 or imprisoned not more than 10 years"; and

(6) by adding at the end the following:

"§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) of this title) is 15 years; and

"(2) if committed to facilitate an act of international terrorism (as defined in section 2331 of this title) is 20 years.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of 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.".

TITLE XXV—RURAL CRIME

Subtitle A—Drug Trafficking in Rural Areas

SEC. 2501. AUTHORIZATIONS FOR RURAL LAW ENFORCEMENT AGENCIES.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a)(9) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended to read as follows:

"(9) There are authorized to be appropriated to carry out part O $50,000,000 for each of fiscal years 1994, 1995, 1996, 1997, and 1998.".

(b) AMENDMENT TO BASE ALLOCATION.—Section 1501(a)(2)(A) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking "$100,000" and inserting "$250,000".

SEC. 2502. RURAL CRIME AND DRUG ENFORCEMENT TASK FORCES.

(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this Act, the Attorney General, in consultation with the Governors, mayors, and chief executive officers of State and local law enforcement agencies, shall establish a Rural Crime and Drug Enforcement Task Force in each of the Federal judicial districts which encompass significant rural lands. Assets seized as a result of investigations initiated by a Rural Drug Enforcement Task Force shall be used primarily to enhance the operations of the task force and its participating State and local law enforcement agencies.

(b) TASK FORCE MEMBERSHIP.—The task forces established under subsection (a) shall be chaired by the United States Attorney for the respective Federal judicial district. The task forces shall include representatives from—

(1) State and local law enforcement agencies;

(2) the Drug Enforcement Administration;

(3) the Federal Bureau of Investigation;

(4) the Immigration and Naturalization Service;

(5) the Customs Service;

(6) the United States Marshals Service; and

(7) law enforcement officers from the United States Park Police, United States Forest Service and Bureau of Land Management, and such other Federal law enforcement agencies as the Attorney General may direct.

SEC. 2503. CROSS-DESIGNATION OF FEDERAL OFFICERS.

(a) IN GENERAL.—The Attorney General may cross-designate up to 100 law enforcement officers from each of the agencies specified under section 1502(b)(6) of the Omnibus Crime Control and Safe Streets Act of 1968 with jurisdiction to enforce the provisions of the Controlled Substances Act on non-Federal lands and title 18 of the United States Code to the extent necessary to effect the purposes of this Act.

(b) ADEQUATE STAFFING.—The Attorney General shall, subject to the availability of appropriations, ensure that each of the task forces established in accordance with this title are adequately staffed with investigators and that additional investigators are provided when requested by the task force.

SEC. 2504. RURAL DRUG ENFORCEMENT TRAINING.

(a) SPECIALIZED TRAINING FOR RURAL OFFICERS.—The Director of the Federal Law Enforcement Training Center shall develop a specialized course of instruction devoted to training law enforcement officers from rural agencies in the investigation of drug trafficking and related crimes.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out subsection (a) $1,000,000 for each of fiscal years 1994, 1995, 1996, 1997, and 1998.

SEC. 2505. MORE AGENTS FOR THE DRUG ENFORCEMENT ADMINISTRATION.

There are authorized to be appropriated for the hiring of additional Drug Enforcement Administration agents $20,000,000 for each of fiscal years 1994, 1995, 1996, 1997, and 1998.

Subtitle B—Drug Free Truck Stops and Safety Rest Areas

SEC. 2511. 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—

"(1) the term 'safety rest area' means a roadside facility with parking facilities for the rest or other needs of motorists; and

"(2) the term '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 under section 12019 of the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. 2716) 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—Rural Domestic Violence and Child Abuse Enforcement

SEC. 2521. RURAL DOMESTIC VIOLENCE AND CHILD ABUSE ENFORCEMENT ASSISTANCE.

(a) GRANTS.—The Attorney General may make grants to units of State 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) DEFINITION.—In this section, the term "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 is authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 1995, 1996, and 1997.

(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 1402 to accomplish the objectives of this section.

Subtitle D—Sense of Congress Regarding Funding for Rural Areas

SEC. 2531. FUNDING FOR RURAL AREAS.

It is the sense of Congress that—

(1) the Attorney General should ensure that funding for programs in this Act is distributed such 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 XXVI—COMMISSION ON CRIME AND VIOLENCE

SEC. 2601. FINDINGS.

The Congress finds that—

(1) there is no more important responsibility of government than the protection of the lives and property of its citizens;

(2) a violent crime occurs every 22 seconds in America;

(3) the Nation's law enforcement personnel and criminal justice system lack the resources they need to fully maintain law and order;

(4) the proliferation of drugs and guns in the last 3 decades has dramatically changed the nature of crime;

(5) it has been 27 years since the Brown Commission redefined the Federal Government's response to crime in America; and

(6) the Nation must commit itself to an energetic, innovative assault on the epidemic of crime in our society, including—

(A) alternative forms of sentencing to guarantee swift and sure punishment of criminals, including the Nation's growing number of youth offenders;

(B) initiatives by the public and private sectors designed to identify and alleviate the causes of criminal behavior; and

(C) an examination of current laws and law enforcement practices to determine where and how resources may be best utilized to fight crime, reduce burdens on courts and jails, and stop recidivism.

SEC. 2602. ESTABLISHMENT OF COMMISSION ON CRIME AND VIOLENCE.

(a) ESTABLISHMENT.—There is established a commission to be known as the "National Commission on Crime and Violence in America" (referred to as the "Commission").

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Commission shall be composed of 22 members, of whom—

(A) 6 shall be appointed by the President;

(B) 8 shall be appointed by the Speaker of the House of Representatives, of whom 2 shall be appointed on the recommendation of the minority leader; and

(C) 8 shall be appointed by the President pro tempore of the Senate, of whom 6 shall be appointed on the recommendation of the majority leader and 2 shall be appointed on the recommendation of the minority leader.

(2) GOALS IN MAKING APPOINTMENTS.—In appointing members of the Commission, the President, Speaker, President pro tempore, and the majority and minority leaders shall seek to ensure that—

(A) the membership of the Commission reflect the racial, ethnic, and gender diversity of the United States; and

(B) members are specially qualified to serve on the Commission by reason of their education, training, expertise, or experience in—

(i) sociology;

(ii) psychology;

(iii) law;

(iv) law enforcement;

(v) social work; and

(vi) ethnography and urban poverty, including health care, housing, education, and employment.

(3) DEADLINE.—Members of the Commission shall be appointed within 60 days after the date of enactment of this Act.

(4) TERM.—Members shall serve on the Commission through the date of its termination under section 8.

(5) MEETINGS.—The Commission—

(A) shall have its headquarters in the District of Columbia; and

(B) shall meet at least once each month for a business session.

(6) QUORUM.—Twelve members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(7) CHAIRPERSON AND VICE CHAIRPERSON.—Not later than 15 days after the members of the Commission are appointed, the members shall designate a Chairperson and Vice Chairperson of the Commission.

(8) VACANCIES.—A vacancy in the Commission shall be filled not later than 30 days after the Commission is informed of the vacancy in the manner in which the original appointment was made.

(9) COMPENSATION.—

(A) NO PAY, ALLOWANCE, OR BENEFIT.—Members of the Commission shall receive no pay, allowances, or benefits by reason of their service on the Commission.

(B) TRAVEL EXPENSES.—A member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with section 5702 and 5703 of title 5, United States Code.

SEC. 2603. DUTIES.

The Commission shall—

(1) review the effectiveness of traditional criminal justice approaches in preventing and controlling crime and violence;

(2) examine the impact that changes to Federal and State law have had in controlling crime and violence;

(3) examine 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 our Nation's youth;

(4) examine the problem of youth gangs and provide recommendations on how to reduce youth involvement in violent crime;

(5) examine the extent to which assault weapons and high power firearms have contributed to violence and murder in the United States;

(6) convene hearings in various parts of the country to receive testimony from a cross section of criminal justice professionals, business leaders, elected officials, medical doctors, and other citizens that wish to participate;

(7) review all segments of the criminal justice system, including the law enforcement, prosecution, defense, judicial, corrections components, in developing the crime control and antiviolence plan;

(8) develop a comprehensive and effective crime control and antiviolence plan that will serve as a blueprint for action in the 1990's;

(9) bring attention to successful models and programs in crime prevention, crime control, and antiviolence;

(10) reach out beyond the traditional criminal justice community for ideas when developing the comprehensive crime control and antiviolence plan;

(11) recommend improvements in the coordination of Federal, State, local, and international border crime control efforts;

(12) make a comprehensive study of the economic and social factors leading to or contributing to crime and violence and specific proposals for legislative and administrative actions to reduce crime and violence and the elements that contribute to crime and violence; and

(13) recommend means of allocating finite correctional facility space and resources to the most serious and violent offenders, with the goal of achieving the most cost-effective crime control and protection of the community and public safety, after—

(A) examining the issue of disproportionate incarceration rates among black males and any other minority group disproportionately represented in Federal and State correctional populations; and

(B) considering increased use of alternatives to incarceration that offer a reasonable prospect of equal or better crime control at equal or less cost than incarceration.

SEC. 2604. STAFF AND SUPPORT SERVICES.

(a) DIRECTOR.—

(a) APPOINTMENT.—After consultation with the members of the Commission, the Chairperson shall appoint a director of the Commission (referred to in this title as the "Director").

(2) COMPENSATION.—The Director shall be paid at a rate not to exceed the rate of basic pay for level V of the Executive Schedule.

(b) STAFF.—With the approval of the Commission, the Director may appoint such personnel as the Director considers to be appropriate.

(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 and shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates.

(d) EXPERTS AND CONSULTANTS.—With the approval of the Commission, the 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 Services 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. 2605. POWERS.

(a) HEARINGS.—The Commission may conduct public hearings or forums at its discretion, at any time and place it is able to secure facilities and witnesses, for the purpose of carrying out its duties.

(b) DELEGATION OF AUTHORITY.—Any member or agent of the Commission may, if authorized by the Commission, take any action that the Commission is authorized to take by this section.

(c) INFORMATION.—The Commission may secure from any Federal agency or entity in the executive or legislative branch such materials, resources, statistical data, and other information as is necessary to enable it to carry out this Act. Upon request of the Chairperson or Vice Chairperson of the Commission, the head of a Federal agency or entity shall furnish the information to the Commission to the extent permitted by law.

(d) GIFTS, BEQUESTS, AND DEVISES.—The Commission may accept, use, and dispose of gifts, bequests, or devises of services or property, both real and personal, for the purpose of aiding or facilitating the work of the Commission. Gifts, bequests, or devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be available for disbursement upon order of the Commission.

(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

SEC. 2606. REPORTS.

(a) MONTHLY REPORTS.—The Commission shall submit monthly activity reports to the President and the Congress.

(b) INTERIM REPORT.—Not later than 1 year before the date of its termination, the Commission shall submit an interim report to the President and the Congress containing—

(1) a detailed statement of the findings and conclusions of the Commission;

(2) recommendations for legislative and administrative action based on the Commission's activities to date;

(3) an estimation of the costs of implementing the recommendations made by the Commission; and

(4) a strategy for disseminating the report to Federal, State, and local authorities.

(c) FINAL REPORT.—Not later than the date of its termination, the Commission shall submit to the Congress and the President a final report with a detailed statement of final findings, conclusions, recommendations, and estimation of costs and an assessment of the extent to which recommendations included in the interim report under subsectin (b) have been implemented.

(d) PRINTING AND PUBLIC DISTRIBUTION.—Upon receipt of each report of the Commission under this section, the President shall—

(1) order the report to be printed; and

(2) make the report available to the public.

SEC. 2607. TERMINATION.

The Commission shall terminate on the date that is 2 years after the date on which members of the Commission have met and designated a Chairperson and Vice Chairperson.

TITLE XXVII—POLICE CORPS AND LAW ENFORCEMENT SCHOLARSHIP ACT

SEC. 2701. PURPOSES.

The purposes of this title 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. 2702. DEFINITIONS.

For purposes of this title—

(1) the term "academic year" means a traditional academic year beginning in August or September and ending in the following May or June;

(2) the term "dependent child" means a natural or adopted child or stepchild of a law enforcement officer who at the time of the offer's death—

(A) was no more than 21 years old; or

(B) if older than 21 years, was in fact dependent on the child's parents for at least one-half of the child's support (excluding educational expenses), as determined by the Director;

(3) the term "Director" means the Director of the Office of the Police Corps and Law Enforcement Education appointed under section 2711;

(4) the term "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;

(5) the term "institution of higher education" has the meaning stated in the first sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a));

(6) the term "participant" means a participant in the Police Corps program selected pursuant to section 2714;

(7) the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands; and

(8) the term "State Police Corps program" means a State police corps program that meets the requirements of section 2717.

Subtitle A—Police Corps

SEC. 2711. ESTABLISHMENT OF OFFICE OF THE POLICE CORPS AND LAW ENFORCEMENT EDUCATION.

(a) ESTABLISHMENT.—There is established in the Department of Justice, under the general authority of the Attorney General, an Office of the Police Corps and Law Enforcement Education.

(b) APPOINTMENT OF DIRECTOR.—The Office of the Police Corps and Law Enforcement Education shall be headed by a Director who shall be appointed by the President, by and with the advice and consent of the Senate.

(c) RESPONSIBILITIES OF DIRECTOR.—The Director shall be responsible for the administration of the Police Corps program established by this subtitle and shall have authority to promulgate regulations to implement this subtitle.

SEC. 2712. 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 2717.

SEC. 2713. 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 participant under this section shall not exceed $30,000.

(3) Participants who receive 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 under 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 2715, 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 2715; 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 participant who receives 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 the participant who has received a scholarship 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.—(1) A dependent child of an individual referred to in paragraph (2) 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.

(2) For purposes of paragraph (1), an individual is a law enforcement officer—

(A) who is a member of a State or local police force or is a Federal criminal investigator or uniformed police officer;

(B) who is not a participant in the Police Corps program, but who serves in a State for which the Director has approved a State Police Corps plan; and

(C) who is killed in the course of performing police duties.

(f) APPLICATION.—Each participation 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. 2714. 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 2717 (c)(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 a 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 title, up to 10 percent of the applicants accepted into a State 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 2716, and such a participant shall be subject to the same benefits and obligations under this subtitle as other participants, including those stated in subsection (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 2716, 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 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. 2715. POLICE CORPS TRAINING.

(a) IN GENERAL.—(1) The Director shall establish programs of training for State 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 State 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 2717 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 State 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. 2716. SERVICE OBLIGATION.

(a) SWEARING IN.—Upon satisfactory completion of the participant's course of education and training program established in section 2715 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 2713, 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 2713(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 2713, 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 2713(d)(1)(B)(iii) shall not apply.

SEC. 2717. 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 2714;

(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 State 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. 2718. ASSISTANCE TO STATES AND LOCALITIES EMPLOYING POLICE CORPS OFFICERS.

Each jurisdiction directly employing State Police Corps participants during the 4-year term of service prescribed by section 2716 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 State Police Corps participants assigned under section 2715, 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 State Police Corps participant for years of service after the completion of the term of service prescribed in section 2716.

SEC. 2719. AUTHORIZATION OF APPROPRIATIONS.

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

(1) $100,000,000 for fiscal year 1995 and $250,000,000 for fiscal year 1996; and

(2) such sums as are necessary for each of the fiscal years 1997, 1998, and 1999.

SEC. 2720. 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 State 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 State Police Corps program; and

(3) describe the progress of the State Police Corps program and make recommendations for changes in the program.

Subtitle B—Law Enforcement Scholarship Program

SEC. 2731. ALLOTMENT.

From amounts appropriated under section 2739, 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 per-

sonnel 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. 2732. ESTABLISHMENT OF PROGRAM.

(a) USE OF ALLOTMENT.—

(1) IN GENERAL.—A State that receives an allotment pursuant to section 2731 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.—The Secretary shall pay to each State that receives an allotment under section 2731 the Federal share of the cost of the activities described in the application submitted pursuant to section 2735.

(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 2731 may reserve not more than 8 percent of the allotment for administrative expenses.

(e) SPECIAL RULE.—A State that receives an allotment under section 2731 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. 2733. 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. 2734. 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. 2735. STATE APPLICATION.

(a) IN GENERAL.—Each State desiring an allotment under section 2731 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. 2736. 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. 2737. 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. 2738. DEFINITIONS.

For purposes of this subtitle—

(1) the term "Director" means the Director of the Bureau of Justice Assistance;

(2) the term "educational expenses" means expenses that are directly attributable to—

(A) a course of education leading to the award of an associate degree;

(B) a course of education leading to the award of baccalaureate degree; or

(C) a course of graduate study following award of a baccalaureate degree,

including the cost of tuition, fees, books, supplies, and related expenses;

(3) the term "institution of higher education" has the meaning stated in the first sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a));

(4) the term "law enforcement position" means employment as an officer in a State or local police force or correctional institution; and

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

SEC. 2739. AUTHORIZATION OF APPROPRIATIONS.

(a) GENERAL AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subtitle $30,000,000 for each of fiscal years 1995, 1996, 1997, 1998, and 1999.

(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 2732(a)(1)(A); and

(2) 20 percent shall be available to provide employment described in sections 2732(a)(1)(B) and 2732(a)(2).

TITLE XXVIII—NATIONAL STALKER AND DOMESTIC VIOLENCE REDUCTION

SEC. 2801. AUTHORIZING ACCESS TO FEDERAL CRIMINAL INFORMATION DATABASES.

(a) ACCESS.—The Attorney General shall amend existing regulations (published at 28 C.F.R. 20.33(a)) to authorize the dissemination of information from existing national crime information databases, including the National Crime Information Center and III ("Triple I"), to courts and court personnel, civil or criminal, for use in domestic violence or stalking cases. Nothing in this subsection shall be construed to permit any person or court access to criminal history record information for any other purpose or for any other civil case other than for use in a stalking or domestic violence case.

(b) ENTRY.—The Attorney General shall amend existing regulations to permit Federal and State criminal justice agencies, assigned to input information into national crime information databases, to include arrests, warrants, and orders for the protection of parties from stalking or domestic violence, whether issued by a criminal, civil, or family court. Such amendment shall include a definition of criminal history information that covers warrants, arrests, and orders for the protection of parties from stalking or domestic violence. Nothing in this subsection shall be construed to permit access to such information for any purpose which is different than the purposes described in subsection (a).

(c) PROCEDURES.—The regulations required by subsection (a) shall be proposed no later than 90 days after the date of enactment of this Act, after appropriate consultation with the Director of the Federal Bureau of Investigation, the officials charged with managing the National Crime Information Center, and the National Crime Information Center Advisory Policy Board. Final regulations shall be issued no later than 180 days after the date of the enactment of this Act.

SEC. 2802. NONSERIOUS OFFENSE BAR.

The Attorney General shall amend existing regulations to specify that the term "nonserious offenses", as used in 28 C.F.R. 20.32, does not include stalking or domestic violence offenses. Nothing in this section is intended to change current regulations requiring that juvenile offenses shall be excluded from national crime information databases unless the juvenile has been tried as an adult.

SEC. 2803. PERFORMANCE GRANT PROGRAM.

(a) IN GENERAL.—The Attorney General, through the Director of the Bureau of Justice Assistance, is authorized to provide performance grants to the States to improve processes for entering data about stalking and domestic violence into national crime information databases.

(b) ELIGIBILITY.—Eligible grantees under subsection (a) are States that provide, in their application, that all criminal justice agencies within their jurisdiction shall enter into the National Crime Information Center all records of (1) warrants for the arrest of persons violating civil protection orders intended to protect victims from stalking or domestic violence; (2) arrests of persons violating civil protection orders intended to protect victims from stalking or domestic violence; and (3) orders for the protection of persons from violence, including stalking and domestic violence.

(c) PERFORMANCE-BASED DISTRIBUTION.—Eligible grantees under subsection (a) shall be awarded 25 percent of their grant moneys upon application approval as "seed money" to cover start-up costs for the project funded by the grant. Upon successful completion of the performance audit provided in subsection (d), the grantees shall be awarded the remaining sums in the grant.

(d) PERFORMANCE AUDIT.—Within 6 months after the initial 25 percent of a grant is provided, the State shall report to the Federal Bureau of Investigation and the Bureau of Justice Assistance, the number of records included in national crime information databases as a result of the grant funding, including separate data for warrants, arrests, and protective orders. If the State can show a substantial increase in the number of records entered, then it shall be eligible for the entire amount. However, the Director shall suspend funding for an approved application if an applicant fails to submit a 6 month performance report or if funds are expended for purposes other than those set forth under this title. Federal funds may be used to supplement, not supplant, State funds.

(e) GRANT AMOUNT.—From amounts appropriated, the amount of grants under subsection (a) shall be—

(1) $75,000 to each State; and

(2) that portion of the then remaining available money to each State that results from a distribution among the States on the basis of each State's population in relation to the population of all States.

SEC. 2804. APPLICATION REQUIREMENTS.

The application requirements provided in section 513 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) shall apply to grants made under this title. In addition, applications shall include documentation showing—

(1) the need for grant funds and that State funding 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. 2805. DISBURSEMENT.

(a) GENERAL RULE.—No later than 30 days after the receipt of an application under this title, the Director shall either disburse the appropriate sums provided for under this title or shall inform the applicant why the application does not conform to the terms of section 513 of the Omnibus Crime Control and Safe Streets Act of 1968 or to the requirements of section 2804 of this title.

(b) REGULATIONS.—In disbursing moneys under this title, the Director of the Bureau of Justice Assistance shall issue regulations to ensure that grantees give priority to the areas with the greatest showing of need.

SEC. 2806. FEDERAL NONMONETARY ASSISTANCE.

In addition to the assistance provided under the performance grant program, the Attorney General may direct any Federal agency, with or without reimbursement, to use its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State and local law enforcement efforts to combat stalking and domestic violence.

SEC. 2807. AUTHORIZATION.

There are authorized to be appropriated for each of the fiscal years 1994, 1995, and 1996, $2,000,000 to carry out the purposes of the Performance Grant Program under this title.

SEC. 2808. TRAINING PROGRAMS FOR JUDGES.

The National Institute of Justice, in conjunction with a nationally recognized nonprofit organization expert in stalking and domestic violence cases, shall conduct training programs for judges to ensure that any judge issuing an order in stalking or domestic violence cases has all available criminal history and other information, whether from State or Federal sources.

SEC. 2809. RECOMMENDATIONS ON INTRASTATE COMMUNICATION.

The National Institute of Justice, after consulting a nationally recognized nonprofit associations expert in data sharing among criminal justice agencies and familiar with the issues raised in stalking and domestic violence cases, shall recommend proposals about how State courts may increase intrastate communication between family courts, juvenile courts, and criminal courts.

SEC. 2810. INCLUSION IN NATIONAL INCIDENT-BASED REPORTING SYSTEM.

Not later than 2 years after the date of enactment of this Act, the Attorney General, in coordination with the Federal Bureau of Investigation and the States, shall compile data regarding stalking civil protective orders and other forms of domestic violence as part of the National Incident-Based Reporting System (NIBRS).

SEC. 2811. 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 reports information on the incidence of stalking and other forms of domestic violence, and evaluates the effectiveness of State anti-stalking efforts and legislation.

SEC. 2812. DEFINITIONS.

As used in this title—

(1) the term "national crime information databases" refers to the National Crime Information Center and its incorporated criminal history databases, including III ("Triple I");

(2) the term "stalking" includes any conduct that would, if proven, justify the issuance of an order of protection under the stalking, or other, laws of the State in which it occurred; and

(3) the term "domestic violence" includes any conduct that would, if proven, justify the issuance of an order of protection under the domestic violence, or other, laws of the State in which it occurred.

TITLE XXIX—PROTECTING THE PRIVACY OF INFORMATION IN STATE MOTOR VEHICLE RECORDS

SEC. 2901. SHORT TITLE.

This title may be cited as the "Driver's Privacy Protection Act of 1994".

SEC. 2902. 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:

"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) of this section shall be disclosed for paragraphs (1) and (2) to carry out the purpose 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 for paragraphs (3) through (14), as follows:

"(1) For use by any Federal, State, or local 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 alteration, recall or advisory, and motor vehicle customer satisfaction.

"(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, including survey research, and for use in producing statistical reports, provided that the personal information is not published or redisclosed and provided that the personal information is not used to direct solicitations or marketing offers at the individuals whose personal information is disclosed under this paragraph.

"(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 the purpose of 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 purpose in response to requests for individual motor vehicle records if the motor vehicle department has provided in a clear and conspicuous manner to the individual to whom the information pertains an opportunity to prohibit such disclosures.

"(12) For bulk distribution for marketing or solicitations if the motor vehicle department has implemented methods and procedures to ensure—

"(A) that individuals are provided an opportunity, in a clear and conspicuous manner, to prohibit such disclosure; and

"(B) that the information will be used, rented, or sold solely for bulk distribution for marketing and solicitations, and that such solicitations will not be directed at those individuals who have requested in a timely fashion that they not be directed at them.

'Methods and procedures' includes the motor vehicle department's use of a mail preference list to remove from its records before bulk distribution the names and personal information of those individuals who have requested that solicitations not be directed at them.

"(13) For use by any requestor, if the requestor demonstrates it has obtained the written consent of the individual to whom the information pertains.

"(14) For any other purpose specifically authorized under the law of the State that holds the record, if such purpose is related to the operation of a motor vehicle or public safety.

"(c) RESALE OR REDISCLOSURE.—Any authorized recipient of personal information may resell or redisclose the information for any use permitted under subsection (b). Any authorized recipient (except a recipient under subsections (b)(11) or (12)) 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.

"(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 purpose 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. Criminal penalty

"Any person that knowingly violates this chapter shall be fined under this title.

"§2724. Civil action

"(a) CAUSE OF ACTION.—A person who knowingly obtains, discloses or uses personal information, derived 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

"As used in this chapter—

"(1) the term '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) the term '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 such term does not include information on vehicular accidents, driving violations, and driver's status; and

"(3) the term 'person' means an individual, organization or entity, but does not include a State or agency thereof.".

(b) CLERICAL AMENDMENT.—The table of chapters 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. 2903. EFFECTIVE DATE.

This title shall take effect 3 years after the date of enactment. In the interim, personal information covered by this title may be released consistent with State law or practice.

TITLE XXX—MISCELLANEOUS

Subtitle A—Display of Flags at Half-Staff

SEC. 3001. DISPLAY OF FLAGS AT HALF-STAFF.

(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 half-staff 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.".

Subtitle B—Sense of Congress With Respect to Violence Against Truckers

SEC. 3005. SENSE OF CONGRESS WITH RESPECT TO VIOLENCE AGAINST TRUCKERS.

(a) FINDINGS.—Congress finds that—

(1) 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 commerce by transporting all types of commodities that enter, leave, or move within this country;

(2) 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;

(3) 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;

(4) 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;

(5) 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; and

(6) 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.

(b) SENSE OF CONGRESS.—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.

Subtitle C—Financial Institution Fraud

SEC. 3011. 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".

Subtitle D—Authorization of Appropriations

SEC. 3016. AUTHORIZATION OF APPROPRIATIONS.

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, in addition to sums authorized elsewhere in this Act, not to exceed $210,000,000 for each of the fiscal years 1995, 1996, 1997, 1998, and 1999 to help meet the Department of the Treasury's increased law enforcement activities.

Subtitle E—Conversion of Closed Military Installations

SEC. 3021. CONVERSION OF THREE 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 the 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 three 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, the proximity of the installation to overcrowded Federal and State prison facilities, and such other factors as the Secretary and the Attorney General consider to be appropriate.

(c) TRANSFER TO ATTORNEY GENERAL.—Notwithstanding any other provision of law regarding disposal of military installations selected to be closed pursuant to a base closure law, the Secretary of Defense shall transfer, without reimbursement, jurisdiction over the three installations identified under subsection (a) to the Attorney General for conversion into Federal prison facilities. The Federal prison facilities established using these installations shall be designed to incarcerate persons convicted of a Federal violent felony. Upon a space available basis, the Attorney General may accept transfers from overcrowded State prisons if the persons to be transferred had previously been convicted of a Federal violent felony or are serving a sentence of more than 20 years.

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

(e) DEFINITIONS.—For purposes of this section:

(1) The term "base closure laws" means—

(A) 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); or

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

(2) The term "violent felony" has the meaning given that term in section 3581(c)(2) of title 18, United States Code.

SUBTITLE F—COMMISSION MEMBERSHIP AND APPOINTMENT

SEC. 3026. COMMISSION MEMBERSHIP AND APPOINTMENT.

(a) MEMBERSHIP.—Section 211(B)(f) of Public Law 101–515 (104 Stat. 2123) is amended to read as follows:

"(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 25 members as follows:

"(1) Seven individuals appointed from national law enforcement organizations representing law enforcement officers, of whom—

"(A) two shall be appointed by the Speaker of the House of Representatives;

"(B) two shall be appointed by the majority leader of the Senate;

"(C) one shall be appointed by the minority leader of the House of Representatives;

"(D) one shall be appointed by the minority leader of the Senate; and

"(E) one shall be appointed by the President.

"(2) Seven individuals appointed from national law enforcement organizations representing law enforcement management, of whom—

"(A) two shall be appointed by the Speaker of the House of Representatives;

"(B) two shall be appointed by the majority leader of the Senate;

"(C) one shall be appointed by the minority leader of the House of Representatives;

"(D) one shall be appointed by the minority leader of the Senate; and

"(E) one shall be appointed by the President.

"(3) Two individuals appointed with academic expertise regarding law enforcement issues, of whom—

"(A) one shall be appointed by the Speaker of the House of Representatives and the majority leader of the Senate; and

"(B) one shall be appointed by the minority leader of the Senate and the minority leader of the House of Representatives.

"(4) Two Members of the House of Representatives, appointed by the Speaker and the minority leader of the House of Representatives.

"(5) Two Members of the Senate, appointed by the majority leader and the minority leader of the Senate.

"(6) One individual involved in Federal law enforcement from the Department of the Treasury, appointed by the President.

"(7) One individual from the Department of Justice, appointed by the President.

"(8) One individual representing a State or local governmental entity, such as a Governor, mayor, or State attorney general, to be appointed by the majority leader of the Senate.

"(9) One individual representing a State or local governmental entity, such as a Governor, mayor, or State attorney general, to be appointed by the Speaker of the House of Representatives.

"(10) One individual representing a State or local governmental entity, such as a Governor, mayor, or State attorney general, to be appointed by the President.".

(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,".

SEC. 3027. CONFORMING AMENDMENT.

Section 3404(a) of Public Law 101–647 (42 U.S.C. 3721 note) is repealed.

Subtitle G—Explosives Crime Penalties

SEC. 3031. 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. 3032. THEFT OF EXPLOSIVES.

Section 844 of title 18, United States Code, is amended by adding at the end the following:

"(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. 3033. 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. 3034. THEFT OF EXPLOSIVES FROM LICENSEE.

Section 844 of title 18, United States Code, as amended by section 3032 of this Act, is amended by adding at the end the following:

"(l) A person who steals any explosive material from a licensed importer, licensed manufacturer, licensed dealer, or permittee shall be fined under this title, imprisoned not more than 10 years, or both.".

SEC. 3035. DISPOSING OF EXPLOSIVES TO PROHIBITED PERSONS.

Section 842(d) of title 18, United States Code, is amended by striking "licensee" and inserting "person".

Subtitle H—Traveler Protection

SEC. 3041. AUTHORITY TO INVESTIGATE VIOLENT CRIMES AGAINST TRAVELERS.

(a) Chapter 33 of title 28, United States Code, is amended by adding at the end the following:

"§540A. Investigation of violent crimes against travelers

"(a) Upon the request of an appropriate law enforcement official of a State or political subdivision, the Attorney General and 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. In a case in which the traveler is from a foreign nation, the Department of Justice and, where appropriate, the Department 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.

"(b) For purpose of this section—

"(1) the term '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;

"(2) and for purposes of section 540, the term 'State' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States; and

"(3) the term 'traveler' means a person who is not a resident of the State in which the crime of violence occurred.".

(b) The chapter analysis for chapter 33 of title 28, United States Code, is amended by adding at the end the following:

"540A. Investigation of violence crimes against travelers.".

Subtitle I—Study and Report by Attorney General

SEC. 3046. STUDY AND REPORT BY ATTORNEY GENERAL.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this section, the Attorney General shall make a study and submit a report of the results of that study to the Congress. Such study shall—

(1) address how to ease the overcrowding at traditional style prisons by allowing for the processing of new convicts and the housing of non-violent, elderly, and short-term Federal, State, and local inmates in prefabricated, temporary, or portable structures within a secure area; and

(2) determine what legal requirements may exist on the use of such structures for these purposes and suggest legislative measures or other appropriate actions to modify or eliminate those requirements.

(b) ACTION BY THE ATTORNEY GENERAL.—Not later than 2 years after the report referred to in

subsection (a) is submitted to the Congress, the Attorney General shall implement the actions recommended in the report.

Subtitle J—Edward Byrne Memorial Formula Grant Program

SEC. 3048. EDWARD BYRNE MEMORIAL FORMULA GRANT PROGRAM.

Nothing in this Act shall be construed to prohibit or exclude the expenditure of appropriations to grant recipients who 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.

Subtitle K—Penalties for Trafficking in Counterfeit Goods and Services

SEC. 3051. PENALTIES FOR TRAFFICKING IN COUNTERFEIT GOODS AND SERVICES.

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";

(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".

Subtitle L—Military Medals and Decorations

SEC. 3056. MILITARY MEDALS AND DECORATIONS.

Section 704 of title 18, United States Code, is amended—

(1) by inserting "(a)" before "Whoever";

(2) by striking "not more than $250" and inserting "under this title"; and

(3) by adding at the end the following:

"(b)(1) If the decoration or medal involved in an offense under subsection (a) of this section is a Congressional Medal of Honor, in lieu of the punishment provided in such subsection the offender shall be fined under this title or imprisoned not more than one year, or both.

"(2) As used in subsection (a) of this section with respect to a Congressional Medal of Honor, the term 'sells' includes trades, barters, or exchanges for anything of value.

"(3) As used in this subsection, the 'Congressional Medal of Honor' is a medal awarded under section 3741 of title 10.".

Subtitle M—Age Discrimination in Employment

SEC. 3061. REENACTMENT OF SUBSECTION WITH AN AMENDMENT.

(a) REENACTMENT.—Section 4(j) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623(j)) as in effect immediately before December 31, 1993, is hereby reenacted.

(b) AMENDMENT.—Section 4(j) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623(j)), as reenacted by subsection (a) of this section, is amended by striking "attained the age" and all that follows through "1983, and", and inserting the following:

"attained—

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

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

(c) RETROACTIVITY.—Subsections (a) and (b) shall take effect immediately after the operation of section 3(b) of the Age Discrimination in Employment Amendments of 1986 (Public Law 99–592; 29 U.S.C. 523 note).

SEC. 3062. STUDY AND GUIDELINES FOR PERFORMANCE TESTS.

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

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

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

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

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

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

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

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

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

(A) the United States Fire Administration,

(B) the Federal Emergency Management Agency,

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

(D) organizations that represent older individuals.

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

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

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

Subtitle N—Prison Security Enhancement

SEC. 3066. PRISON SECURITY.

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

"§4047. Strength-training of prisoners prohibited

"The Bureau of Prisons shall take care that—

"(1) prisoners under its jurisdiction do not engage in any activities designed to increase their physical strength or their fighting ability; and

"(2) that all equipment designed for this purpose be removed from Federal correctional facilities.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 303 of title 18, United States Code, is amended by adding at the end the following new item:

"4047. Strength-training of prisoners prohibited.".

Subtitle O—Civil Rights of Institutionalized Persons Act

SEC. 3070. EXHAUSTION REQUIREMENT.

Section 8 of the Civil Rights of Institutionalized Persons Act (42 U.S.C. 1997e) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking "in any action brought" and inserting "no action shall be brought";

(ii) by striking "the court shall" and all that follows through "require exhaustion of" and insert "until"; and

(iii) by inserting "are exhausted" after "available"; and

(B) in paragraph (2), by inserting "or are otherwise fair and effective" before the period at the end.

SEC. 3071. FRIVOLOUS ACTIONS.

Section 8(a) of the Civil Rights of Institutionalized Persons Act (42 U.S.C. 1997e(a)) is amended by adding at the end the following:

"(3) The court shall on its own motion or on motion of a party dismiss any action brought pursuant to section 1979 of the Revised Statutes of the United States by an adult convicted of a crime and confined in any jail, prison, or other correctional facility if the court is satisfied that the action fails to state a claim upon which relief can be granted or is frivolous or malicious.

SEC. 3072. MODIFICATION OF REQUIRED MINIMUM STANDARDS.

Section 8(b)(2) of the Civil Rights of Institutionalized Persons Act (42 U.S.C. 1997e(b)(2)) is amended by striking subparagraph (A) and redesignating subparagraphs (B) through (E) as subparagraphs (A) through (D), respectively.

SEC. 3073. REVIEW AND CERTIFICATION PROCEDURE CHANGES.

Section 8(c) of the Civil Rights of Institutionalized Persons Act (42 U.S.C. 1997e(c)) is amended—

(1) in paragraph (1), by inserting "or are otherwise fair and effective" before the period at the end; and

(2) in paragraph (2), by inserting "or is no longer fair and effective" before the period at the end.

SEC. 3074. PROCEEDINGS IN FORMA PAUPERIS.

(a) DISMISSAL.—Section 1915(d) of title 28, United States Code, is amended—

(1) by inserting "at any time" after "counsel and may"; and

(2) by striking "and may" and inserting "and shall";

(3) by inserting "fails to state a claim upon which relief may be granted or" after "that the action"; and

(4) by inserting "even if partial failing fees have been imposed by the court" before the period.

(b) PRISONER'S STATEMENT OF ASSETS.—Section 1915 of title 28, United States Code, is amended by adding at the end the following:

"(f) If a prisoner in a correctional institution files an affidavit in accordance with subsection (a) of this section, such prisoner shall include in that affidavit a statement of all assets such prisoner possesses. The court shall make inquiry of the correctional institution in which the prisoner is incarcerated for information available to that institution relating to the extent of the prisoner's assets. The court shall require full or partial payment of filing fees according to the prisoner's ability to pay.".

Subtitle P—Prison Overcrowding

SEC. 3080. APPROPRIATE REMEDIES FOR PRISON OVERCROWDING.

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

"§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) of this subsection shall not be construed to have any effect on Federal judicial power to issue equitable relief other than that described in paragraph (1) of this subsection, 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 subsection a, 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) CLERICAL AMENDMENT.—The table of sections at the beginning of 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.

Subtitle Q—Sense of Congress With Respect to Child Pornography

SEC. 3083. CHILD PORNOGRAPHY.

(a) FINDINGS.—Congress finds that—

(1) child pornography is the permanent record of the sexual abuse or exploitation of children;

(2) children who are victims of child pornography often suffer severe physical and emotional harm;

(3) child pornography is a serious national problem;

(4) the Congress of the United States has a compelling interest in the protection of children from sexual abuse and exploitation by pornography (see New York v. Ferber, 458 U.S. 747 (1982));

(5) the Congress of the United States, in pursuit of this compelling interest, has taken every opportunity to strengthen child pornography laws and has, in clear and unambiguous language, criminalized the production, interstate distribution, receipt and possession of child pornography;

(6) the United States Department of Justice in its brief to the United States Supreme Court in the case of Knox v. United States, 92-1183, has failed to support the conviction of a child pornographer won by the Department in the United States District Court for the Middle District of Pennsylvania and affirmed on appeal in the United States Court of Appeals for the Third Circuit;

(7) the Department of Justice has used its brief in the Knox case as a vehicle for reinterpretation of the Federal child pornography laws in contravention to legislative history and past prosecution practices of the Department of Justice;

(8) the Department of Justice by declaring in its brief in the Knox case that a pornographer who lasciviously exhibits the genitals of children is prosecutable within the Federal child pornography laws only if the depictions show a minor engaged in the conduct of lasciviously exhibiting his or her genitals or pubic area, creates a federally protected class of child pornography; for example, child pornography involving children who are not knowingly engaged in lasciviously exhibiting their genitals or pubic areas but whose genitals or pubic areas are nonetheless lasciviously depicted by others;

(9) the Department of Justice by declaring in its brief in the Knox case in contravention to legislative history, that a pornographer who lasciviously exhibits the genital or pubic area of children is prosecutable within the Federal child pornography laws only if the genitals are nude or visible creates a federally protected class of child pornography, e.g. depictions which focus on a minor child's clothed genital or pubic area with the obvious intent of eliciting a sexual response in pedophiles;

(10) the plan meaning and congressional intent of the language in section 2256 of title 18, United States Code, is that the term "lascivious exhibition" refers to whether the depiction is intended to elicit a sexual response from the viewer, and not to the actions of the child;

(11) the Department of Justice has employed this meaning of the term "lascivious exhibition" since it was included in the laws in 1984, and Congress has not changed the meaning of the term;

(12) Congress specifically repudiated a "nudity" requirement for child pornography statutes (see United States v. Knox, 977 F. 2d 815, at 820–823, (3rd Cir., 1992));

(13) the "harm Congress attempted to eradicate by enacting child pornography laws is present when a photographer unnaturally focuses on a minor child's clothed genital area with the obvious intent to produce an image sexually arousing to pedophiles." (see Knox at 822); and

(14) the Congress of the United States believes that the reinterpretation of the Federal child pornography laws by Department of Justice, unless reversed, will bring back commercial child pornography and lead to a substantial increase of sexual exploitation of children.

(b) SENSE OF CONGRESS.—It is the sense of the House of Representatives that the Department of Justice repudiate its reinterpretation of Federal child pornography laws, defend the conviction won in lower courts in the Knox case, and vigorously prosecute sexual exploitation of children.

Subtitle R—Labels on Products

SEC. 3086. PLACEMENT OF MADE IN AMERICA LABELS ON PRODUCTS.

(a) REQUIREMENTS FOR USE OF LABELS.—No product may bear a label which states or suggests that the product was made in America unless—

(1) the product has been registered with the Department of Commerce under subsection (b); and

(2) the Secretary of Commerce has determined that—

(A) 60 percent of the product was manufactured in the United States; and

(B) final assembly of the product took place in the United States.

(b) REGISTRY OF AMERICAN-MADE PRODUCTS.—Not later than 12 months after the Secretary has promulgated regulations regarding the registration of products with the Department of Commerce under this section, a person shall register with the Department of Commerce any product on which there is or will be affixed a label which states or suggests that the product was made in America.

(c) PENALTIES FOR FRAUDULENT USE OF LABELS.—

(1) CIVIL FINE.—Any person who, with an intent to defraud or mislead, places on a product a label which states or suggests that the product was "made in America" in violation of this section may be assessed a civil penalty by the Secretary of not more than $100,000. The Secretary may issue an order assessing such civil penalty only after notice and an opportunity for an agency hearing on the record. The validity of such order may not be reviewed in an action to collect such civil penalty.

(2) INJUNCTIVE RELIEF.—The Secretary may bring an action to enjoin the violation of, or to compel compliance with, this section, whenever the Secretary believes that such a violation has occurred or is about to occur.

(d) REGULATIONS.—Not later than 12 months after the date of the enactment of this Act, the Secretary shall promulgate regulations establishing procedures under which a person shall register a product under this section.

(e) DEFINITIONS.—For purposes of this section:

(1) LABEL.—The term "label" means any written, printed, or graphic matter on, or attached to, a product or any of its containers or wrappers.

(2) SECRETARY.—The term "Secretary" means the Secretary of Commerce.

Subtitle S—Awards of Pell Grants to Prisoners Prohibited

SEC. 3089. AWARDS OF PELL GRANTS TO PRISONERS PROHIBITED.

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.".

SEC. 3090. EFFECTIVE DATE.

The amendment made by this Act shall apply with respect to periods of enrollment beginning on or after the date of enactment of this Act.

Subtitle T—Cocaine Penalty Study

SEC. 3092. COCAINE PENALTY STUDY.

Not later than December 31, 1994, the United States Sentencing Commission shall submit a report to the Congress on issues relating to sentences applicable to offenses involving the possession or distribution of all forms of cocaine. The report shall address the different penalty levels which apply to different forms of cocaine, and include any recommendations the Commission may have for retention or modification of these differences in penalties.

Subtitle U—Inmate Rehabilitation

SEC. 3095. 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 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 necessary by the Director of the Federal Bureau of Prisons.".

Mr. BIDEN. Mr. President, it is my understanding for the benefit of the Members that several of our colleagues on the Republican side and possibly one or two on the Democratic side have motions to instruct the Senate conferees relative to the Senate-passed crime bill which we are going to take to conference.

We could, if we decided to do this, spend days debating all the motions I am told that have been at least talked about being offered. In fact, if we want to, we can spend weeks before we got to it.

I think we have gotten to the point now where we have pretty well narrowed down exactly what instructions are going to be offered as amendments to the appointment of conferees by our colleagues. And I want to just state at the outset, and I will speak to this a little more later, it is not my intention to spend a lot of time debating it. I will not move to table them, but I will make brief explanations as to why I disagree with some and agree with others. I would implore my colleagues who have these motions to present them in as succinct a fashion as they can. They are instructive. They are instructive, not dispositive.

I cannot guarantee nor can anyone else what a House-Senate conference will be guaranteed to produce in order to bring back a conference report, but obviously, as the chairman of the committee and as the Senate leader in the conference, I will listen and pursue the instructions of the Senate as given to me based upon what may be added as instructions.

I see two of my colleagues on the floor. I do not know if they have any amendments. But I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware yields the floor.

The Chair recognizes the Republican leader.

Mr. DOLE. Mr. President, I underscore what the Senator from Delaware has said. I do not think we want to redebate the whole crime bill again. I assume we will have an opportunity to do that even during the conference.

I think that there are hopefully not many but a few areas where people on either side of the aisle feel strongly and have some instruction to the conferees. I think the first will be the Senator from New Mexico.

We would like to proceed, as the Senator outlined, on a fairly orderly basis and complete the debate without hours and hours of debate, and if there are any votes requested I guess they have been set aside to some time later today—I understand at 6:30 p.m.—because of certain hearings.

Mr. BIDEN. Mr. President, I say to the Republican leader that is my understanding. The votes are to be stacked if there are votes.

I am prepared to accept some of these as well. My mutual experience is most colleagues will want to demonstrate to the folks that the majority of the Senate wants to agree with their position, and that is their right, and I expect it will happen.

Mr. DOLE. Just so we do not have too many.

Mr. BIDEN. I am with you.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Mexico [Mr. DOMENICI].

MOTION TO INSTRUCT CONFEREES

Mr. DOMENICI. Mr. President, I am going to send a motion to instruct to the desk, which we will debate for just a few moments. I will read it because it is very short.

I move that the conferees on behalf of the Senate on H.R. 3355 be instructed to insist on the Senate position with regard to section 213 of the Senate amendment authorizing the death penalty for gun murders during Federal crimes of violence and drug trafficking crimes.

I believe it is self-explanatory. There is much being said about the growing use of handguns in this country. Obviously, while some violent crime is coming down, violent crime that is being committed with the use of guns is going up and going up dramatically. And, obviously, teenagers, youngsters, using guns to commit murder and violent crime is going up even more dramatically.

I believe that we are going to change the law of the land nationally for national offenses to reimpose the death penalty for a number of those. I believe this one stands out as one that we clearly should include among those kinds of crimes that can produce the death penalty for the individual man or woman that commits such a crime.

Sixty percent of the murders committed in my State were committed by criminals using guns; 89 murders, 59 of them committed with a gun; 23 percent of aggravated assaults in my State were committed with a gun in 1992. Those who commit murder in the course of violations of Federal criminal law must face the penalty of death, and that is what this instruction is all about.

I understand the distinguished chairman, who is going to undertake this rather enormous job of bringing some common ground to the House bill and the Senate bill, is prepared to indicate that this provision which was put into the crime bill by the Senator from New York, also ought to be retained in conference and is willing to accept my motion to instruct.

Mr. BIDEN. If the Senator will yield, I am delighted to accept the motion to instruct for several reasons. I will not be able to say this on some of the other motions that are likely to come forward.

No. 1, this is one I can almost assure the Senator I can deliver on in that chaotic conference that is about to take place, because the House has in their bill, section 707, literally the same as the section in the Senate bill sponsored by the Senator from New Mexico. The only difference is, we say "a person who" and they say "whoever." So it is the same exact language. We will not have any disagreement on that score.

More important, I think the Senator is substantively correct here. He has refrained from doing something that a lot of my Republican and Democratic colleagues have not refrained from, and that is crossing over the line between Federal and State jurisdictions here. What this does is, it says if you are guilty of committing a crime that results in the death of an individual through the use of a gun, you are eligible for the death penalty, assuming it is a Federal crime.

So on all scores, substantively, procedurally, and practically, I can assure the Senator I will strongly—I now support his motion and in the conference I will insist upon it remaining in.

I do not know whether he has a real preference for "a person who," or "whoever," but giving me that leeway to deal with it I can almost assure him we will bring back a conference report with the substance of that provision in.

Mr. DOMENICI. We can perhaps even come up with another word that is neither of those and do the job. You can do that.

Mr. BIDEN. Mr. President, I do not think that is going to be the big problem. As a matter of fact, I hope there will be no problem here, and I compliment the Senator on his amendment. I do not know whether or not he will let me accept it, and accept it by voice vote, or whether he wants to have a vote and stack it until later. That is his preference. But I assure him not only am I for it, but I am likely to be able to deliver because it is in both bills.

Mr. DOMENICI. Let me just correct a bit of the RECORD. Senator D'AMATO and I introduced a number of amendments on guns. This one in its exact language is not one I did. I should correct that. I supported Senator HATCH in this amendment, as he supported us in ours.

Mr. BIDEN. Mr. President, I am not sure it is particularly relevant, but in the original bill I introduced, the so-called Biden bill, the exact language was in the bill. I know, though, the Senator from New Mexico has been the champion of this position and I do not claim credit for the idea. Many of the ideas in the original bill that I introduced are those of the Senator from New Mexico and others. My point is, the original bill I introduced contained this. I am for it. The administration has signed off on it. Everyone seems to be for it.

I understand the concern of the Senator. It would not be unlikely—getting

into conference, things everybody seems to be for do not come back in a conference report. But this one will come back in the conference report. It is totally up to the Senator from New Mexico. He has managed many—and many controversial bills on this floor, as I have. He understands the process as well or better than anyone in the place.

If he insists on a vote later, that is fine with me. But I would just as soon us accept it and assure him it will come back.

Mr. DOMENICI. Let us accept it.

The PRESIDING OFFICER. Is there further debate on the motion? The question occurs on the motion of the Senator from New Mexico [Mr. DOMENICI], to instruct conferees.

The motion was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, first I thank the distinguished chairman for his kind remarks. I want to take just a couple of minutes.

Early in the debate, as the distinguished chairman was talking a measure the President wants for more local law enforcement, called community policing, I walked onto the floor to talk about where are we going to get the money. I would like to say this morning it comes as no shock to this Senator that the front page story on the Washington Post is, Caps [CAPS] Begin To Pinch, wondering whether, even for the new domestic program for increased help for Head Start, there is going to be enough money for it.

I would like to talk a little bit about whether there is going to be enough money for all the provisions in the House bill which has kind of one-upped the Senate in terms of how much money they want to spend. In terms of prevention programs, clearly we had a number of them and some were very good. The House bill has raised the expectation that we can do two or three prevention programs, Mr. Chairman, some of which cost as much as $1.5 billion a year.

Mr. BIDEN. If the Senator will yield on that point, I concur with his concern. I do not mean to interrupt him. But they also upped the ante about $8 billion on prisons as well.

Mr. DOMENICI. You got it.

Mr. BIDEN. That is a gigantic chunk—excuse me, let me be precise, $7 billion; up the ante on that.

So he is correct, we are going to have our work cut out for us as to how we accommodate these major issues which, at the end of the day, I might say, when we finish all these instructions, I am going to have a single instruction relative to what I consider to be the main big chunks of this crime bill.

I apologize for interrupting but I just want to make the point I concur with the concern of the Senator.

Mr. DOMENICI. Let me complete the thought, because I happen to have either fortunately or unfortunately, the assignment this year, being the ranking Republican of the Commerce, State, Justice Appropriations Subcommittee along with Chairman Fritz HOLLINGS. That is the subcommittee that is going to pay for most of what the U.S. Government does in crime and most of the new programs, if we can afford any, that are contemplated by the very, very extensive debate at the national level, and maybe I should say extensive amount of rhetoric about the Federal Government's role in all the local crime that is occurring out there.

I want to put some numbers on the table and talk about the difficulty of funding programs. First of all, the House bill does not, nor do the allocations in the appropriations process, necessarily adopt the position that Senator BYRD took on the floor, with the help of Senator GRAMM of Texas, where a trust fund was set up. It was a unique process in the appropriations and budgeting process, where $22 billion was set aside in a trust fund. And it was the savings that were going to come from the full-time equivalent reduction in the President's reinventing Government program, that money was going to then be used only for—and I think the language is, I paraphrase—"for programs in the crime bill."

So we will all get our bearings straight, if that were to occur—and I understand it is not in the House bill—there will be an instruction down here by one of the Senators to ask that it be included. But let me give a couple of numbers.

In the year 1995, the year everybody thinks we are going to start down the path of paying for a whole lot of these new programs, that entire trust fund is $700 million in outlays for the whole year of 1995. You see we are talking about terms of $1.5 billion here, and $1 billion there and $700 million there and maybe a billion to pay for prisons. I am not even arguing with the chairman—maybe that is what is in there. I do not know how much there is on prevention now, it might be more than $8 billion. Anyway, we have $2.4 billion in program authority and $700 million in outlays for everything, for the entire year of 1995.

I really believe expectations are so high about what we are going to be able to afford, I thought it was time just once again to come to the floor, as I did that day, and say: Where is the money going to come from? Everybody understands the President's favorite program is to add more local policemen, local cops, community policemen. Frankly, that is a very big program. If it were funded to the tune of 100,000 policemen, my recollection is that alone would cost about $1.7 billion, just to put it in perspective.

Frankly, I do not think we are going to be able to do that. We are not going to be able to pay for it. But I want to add a couple of other caveats.

The American people are coming to a very, very rational conclusion and it is, just how much does the Federal Government have to do with crime in our neighborhoods? Just how much of this crime bill is going to stop the murders in the Northeast Heights of Albuquerque or in one of your main cities where perhaps you have gangs, I say to the chairman, like we do. They are beginning to say, "Well, we understand that most of that kind of crime is not even within the purview of what the Federal Government is doing in crime." They are more worried about how we are going to help the local district attorney and the local district courts and the penal system locally, which is overcrowded, and perhaps the local effort in the schools on gangs and the like.

So while we are concerned about new expenditures of money, let me say, there are three things the Federal Government does that we ought to support fully; and that is, for one, the Federal Bureau of Investigation. We ought to fund them fully. The President's budget cuts the FBI and, for the second year in a row, has no new FBI agents. Obviously, the committee and the Congress are probably going to fund the FBI, and that means some of this new money is going to go there.

Second, and I think the distinguished chairman is aware of this, one of the best programs around is the Byrne Grant Program—named after a law enforcement officer in New York, as I recall. The good thing about that program is that it helps local law enforcement. All of it goes into grants to the cities and States to help with local law enforcement.

I cannot understand how the President of the United States cut that more than in half in his budget. Clearly, it would be very, very hypocritical on our part to talk about new programs and not fund the Byrne Grant Program. The President has now, I think, asked that we put back $125 million of those cuts. It does not bring it all the way to where it ought to be. But the point I am making is, before we spend money on some new programs, the people have properly expected that we ought to do more to help local governments, local law enforcement, in their dilemma of the day, which is enormous.

I believe that means you have to keep the Byrne Grant Program, which helps them immensely—not cut it, and that has nothing to do with this bill; that has to do with the bill that came out of the Judiciary Committee years

ago, which I assume the distinguished chairman had something to do with, and it is a very, very good bill.

The other program or activity, the Drug Enforcement Administration, has become very modern. It has been built into a very good partner to the FBI. Instead of drugs going down, drug usage is going up. Instead of heroin leaving the scene, it is back on the scene; everybody knows it, and it is becoming the drug of choice for many. The President cuts the DEA in his basic budget. We are not going to be able to do that. We are going to have to spend some of this money that we have nationally for crime to just continue to do the things that we have been doing that are working well that need more, not less, resources.

Why did I bring that up? The President's budget for the Commerce, Justice, and State Subcommittee has $400 million in fees that we are supposed to spend for crime programs and the like. But the truth of the matter is, nobody is going to impose those fees. So there is $400 million that we do not have to spend as we attempt to put some reality into how much money we will have.

So I chose these few moments to say that we ought to put the trust fund in. But even if we do, clearly, that is not going to permit us to fund the programs that we have been talking about with such assurance in terms of how we are going to put these in and help the American people and help crime prevention at the local level.

I know the chairman is fully aware of this. This is in no way intended to discount or diminish the very good provisions, some of which are contentious—some Republicans want more than the Democrats and vice versa—but many of these things in the crime bill ought to become law.

Just to recap, to close up on what the President asked for in new money that could come from the trust fund, it is $2.4 billion in new budget authority. The President asked for $700 million in new outlays, $2.4 billion in budget authority, and those now are rather consistent with what the trust fund will produce if we get it. I think it is pretty obvious that is not going to pay for all the programs everybody has been talking about.

I yield the floor.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER (Mr. DORGAN). The Chair recognizes Senator BIDEN.

Mr. BIDEN. Mr. President, I want to thank the ranking member of the Budget Committee for his comments about the cost of these programs. That is one of the things I am going to have to be coming back to the floor with during the debate on some of the instructions, to remind my colleagues.

There are certain things that are obvious, it seems to me. One is that there will be a trust fund in this legislation. Not only have I received assurance personally from the Speaker of the House and the chairman of the Judiciary Committee that they will support the establishment of such a fund, but I ask unanimous consent that the House CONGRESSIONAL RECORD of March 23, 1994, page 6100, be printed in the RECORD.

The bottom line is, both Congressman BROOKS and the Speaker of the House say they will intend to support the adoption of a trust fund in conference and fully expect that such a fund will be included in the conference report accompanying the crime bill when it comes back to both Houses.

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

Mr. BROOKS. Mr. Speaker, I believe that a carefully crafted trust fund represents the most viable means of financing the thoughtful and innovative crime control and prevention initiative included in H.R. 4092. I therefore intend to support the adoption of a trust fund in conference and fully expect that such a fund will be included in the conference report on the crime bill when we go to conference.

Mr. BIDEN. Mr. President, again, without debating all of the detail or discussing all of the detail, because there is not much of a debate between the Senator from New Mexico and myself, the President is on target in terms of $2.43 billion in budget authority and $700 million in outlays for fiscal year 1995. But that should make it clear to everyone what I have been saying since last October; and that is that we are going to end up having to push out some of these programs.

First of all, some will not spend out very quickly. In the States of North Dakota, South Dakota, Iowa, Delaware, New Hampshire—wherever—when the police money comes for community policing, it is going to take time. We will authorize that each State will get x amount of dollars and compete for the rest, but it is going to take time for these folks to get trained, on the payroll, and for spendout to occur.

We are going to have to be in the situation where we are going to have to be thoughtful and precise about how we reconcile the total dollars we spend, the access of real dollars for the trust fund, and the spendout rate at which all of this occurs.

I predict we will come back with a conference report that contemplates a 6th year, although we cannot guarantee that we will have that language, it will be part of the thrust—we can only go for 5 years—there will be the use of somewhere—I am guessing—between $3 and $7 billion of the savings that will occur from the reduction in the number of bureaucrats that work for the Federal Government 6 years out. That savings will amount to $10 billion, roughly. Part of that will have to be taken to fund the crime bill we bring back to the Senate.

So the Senator is right to once again, as I have been doing all along here, sound the alarm that whatever we bring back here has to be real dollars.

I have been involved with this process, being the primary author of I think every major crime bill that has come out of this institution, on the Senate side at least, for the last decade, and one of the things my colleagues are probably tired of hearing me say, my greatest criticism of this place, the Congress, and Washington generally, is it overpromises, it overpromises. And then when the promises cannot be kept, and we know darned well they cannot be kept, what happens is the public is further disillusioned about their Government.

I wish to make a couple of broad points, especially while we are waiting for others to come in and introduce amendments. No. 1, this is the most significant crime bill, House or Senate version, or whatever we come back with from conference, ever to have been introduced, the most innovative, the most well rounded, and the most balanced, the toughest at all once. I do not think anyone denies that. But it will not stop crime in our time.

All these folks who stand up and talk about this war on crime; we are going to end crime; we are going to end this, we are going to end violence; this will not do it. The Lord Almighty could come down and sit in this seat, draft us a crime bill that He brought from Heaven, or She brought from Heaven—sit there, write it, and could not stop crime in our time except through divine intervention.

A crime bill will not do that. I have said from the outset, and I wish to reiterate to everyone, once we pass this bill, which will be a major achievement, when we all go back home and talk about this bill, it is one of at least four constituent parts of what is necessary to be done to deal with violence in America.

Mr. DOMENICI. Will the Chairman yield?

Mr. BIDEN. Surely.

Mr. DOMENICI. I just wanted to say, would the Senator not agree the Lord does not have to come down here; if we just kind of all decided to do what the Lord told us to do, we would not have any crime?

Mr. BIDEN. I think that is correct, Mr. President. The problem is the Lord speaks in many tongues, based on the verbal utterances I hear from my colleagues. Some I feel are less enlightened by the Lord than others based on what they say. And so I have great difficulty.

I have no doubt the Lord speaks to me and the Senator from New Mexico. I am not sure who the devil is speaking to some of these other folks in the Chamber.

Mr. DOMENICI. Did the Senator say the Devil?

Mr. BIDEN. I said I am not sure who in the devil is speaking. Let me be precise. I am not suggesting anyone in the Senate is spoken to by the Devil. I am just suggesting I do not know who is speaking to them. But based on their utterances, I doubt it is the Lord. I doubt the Lord comes down and says, "Keep those assault weapons; we need them." I do not think He or She says things like that. But who knows.

The point I wish to make here is important and serious. This crime bill, although I take great pride in actually authoring the bulk of this crime bill—the bill that was offered here I wrote in my own little hands with nobody's help—a lot of other people's ideas were put in this bill. It is the basic core of everything that passed both Houses. I am very proud of that. I have worked in this area for 14 years. I think I know a lot about it. I would be presumptuous to say I know as much about crime and violence, the judicial system, and the Constitution as anybody in this body, but I wish to hasten to add I also know that this crime bill will not stop crime. I also know this crime bill will not end violence in our time.

We have a fundamental structural problem in this Nation that has to do with everything from what my friend from Iowa spoke to earlier this morning, from illegitimacy rates to the lack of a sense of personal responsibility adopted by wealthy as well as poor, black as well as white, Latino as well as Asian-Americans.

We have a serious problem. One of the things that is not even addressed in this bill, as the Senator from New Mexico knows because he is the fellow across whose desk on the Budget Committee all of these macrobudget issues arrive—we are spending over $12 billion a year on the drug enforcement problem in America. Now, we are only talking about, in terms of budget authority, $2.4 billion for this gigantic crime bill in 1995.

Yet, at the same time, we are going to be spending, if we continue what we have been doing, over $12 billion on drugs. The President has a major new initiative as to how and which to deal with the drug problem in America. If we pass the crime bill, and we do not deal with the drug problem, we will make progress but not nearly the progress we will make if we have a more enlightened policy on our national drug program.

Third, if we do not deal—I say to my friend from New Mexico, I am getting worried; I am complimenting him so much I may hurt his reputation back home. But my friend from New Mexico has been one of the leaders in dealing with issues that relate to everything from welfare reform straight through to deprived children and at-risk children in terms of everything from early education, to nutrition, to just literally learning how to interact in a familiar relationship. If we do not deal with those issues as well, we can do everything right on the crime bill, everything right on a drug policy, and still not deal with the concerns of the people in this Chamber and all whom they love, and that is their physical safety when they walk out of their house, in their house.

For example, the domestic violence provision in this bill, of which I am proudest—I have never worked harder on anything in my life, and I must acknowledge I have never been more emotionally attached to something in which I have engaged. I take great pride in coming up with an approach that is unique to dealing with violence against women in America. It is brand new.

But I want to tell you something. Most of the women in America who are victimized are not victimized by people out on the street, are not victimized or beat up by some stranger who leaps out of an alley from behind a trash can and takes their purse or rapes them or beats them. They are beaten up by people who love them, supposedly, with whom they live. More than half the women who appear in emergency rooms this afternoon, tonight, and tomorrow morning will be there at the hand of a man with whom they live or have lived.

Now, you can pass all the crime bills in the world, but we must start to educate our children to tell them that no man has a right to touch a woman, or anyone for that matter, without their consent. We can pass all the crime bills in the world. Because one of the things we have found, you have to effect attitudes to affect outcomes.

So I wish to emphasize there will be plenty of time to deal with this. I plead with my colleagues, Democrat and Republican—and we have had overwhelming consensus here. You will not think that after we finish debate for the next 4 hours because the stuff we are going to debate is all things on the margins. This bill is over 900 pages long. We are going to debate today about 30 pages of that—the least important, I might add. But there is overwhelming consensus. Conservatives voted for the initiatives of Senators DOMENICI and DANFORTH and BIDEN and DODD and—I am leaving people out—BRADLEY and LEAHY on prevention money. The conservatives voted for that. I do not remember that occurring in the 22 years I have been here.

Conversely, the liberals voted for the provisions in my bill adding for 100,000 cops, the provisions emboldened by my Republican friends for more money for prisons, provisions in the bill calling for stiffer penalties. The liberals voted for them. That has not happened here before, I say to you, Mr. President.

So there is a real sea change that has taken place and a real fundamental understanding, to use an old expression, we can and must walk and chew gum at the same time. We must enhance penalties, increase enforcement, and simultaneously deal with prevention and intervention before a crime occurs.

But this bill, the Biden crime bill as introduced, and then later as amended, is not the horse to carry the whole sleigh, as my mother would say. You need at least three more horses. You need a national drug policy. You need a change in attitude where we intervene to save children. You heard the statistics. Over 30 percent of the children born in America last year were born out of wedlock. Never in all probability will they have a man darken their doorway to help raise them. That is a big problem.

So we have to change that. We cannot legislate that. We can help it.

But again, I see my friend from North Dakota is here and has an important instruction he wishes to convince the chairman to go along with. If he does not convince the chairman of the committee, that is me, then he is going to get the votes to go along with it. So I am probably going to be convinced.

So I will refrain from further discussion on this issue. I will come back at a later time to speak to two other issues raised by my friend from New Mexico; and, that is, how can the President justify certain cuts at the same time calling for increased spending? I think there is a consistency to that.

But I will also tell him on the BYRD grants that I can assure the Senator that as a member of the Appropriations Committee he is going to get a bill coming out of the Judiciary Committee with the BYRD grants saved. But that is a different issue.

I am delighted to yield the floor for my friend.

I yield the floor.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DOMENICI. Will the Senator let me correct the record?

Mr. CONRAD. I am pleased to do that.

Mr. DOMENICI. I thank the Senator very much.

Mr. President, when I was discussing the trust fund and the President's new initiatives, I did not quite put it in the right perspective. So let me just go through two things.

The trust fund that was set up on the floor of the Senate would take the savings from the reduction of, as the Senator put it, the bureaucracy. That trust fund had two numbers in it. One was $2.4 billion in new program authority and $2.3 billion in outlays.

The President used the 2.4 number in program authority and said, "Now, programs that I want to put in, how much will they cost?" It turned out that they will only cost $700 million in outlays. In other words, the program would be spread out more.

So obviously, we have a trust fund that is going to have $2.4 billion in budget authority and $2.3 billion in outlays. That seems to be somewhat of a mismatch in terms of program actual cost versus outlays.

The last observation: Everyone should know that in the House the moneys have already been allocated to the various committees in the 602(b) allocation. That is where the whole pot is divided up. I do not note that any of this trust fund money has been allocated. I do not know what that means. Does it mean it will not be, if we pass this law, or does it mean we will go back and redo it if we pass the law?

I am reminding everyone that if in fact we go back and reallocate and say, well, we have to put this aside and have it for just crime, then the rest of the Government has to be cut because they have to take it out of their allocations because the sum total of it all cannot exceed the amount for the year.

So that is another problem that will cause some concern and to some extent limit what we have to spend.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

MOTION TO INSTRUCT CONFEREES

Mr. CONRAD. Mr. President, I send a motion to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

Mr. Senator from North Dakota [Mr. CONRAD], for himself, Mr. MACK, Mr. GRAMM, and Mr. DOMENICI, moves that the conferees on the part of the Senate on the disagreeing votes of the two Houses on the crime bill, H.R. 3355, be instructed to insist that the committee of conference report a conference substitute that—

(1) includes a provision in the program providing Federal funds for State prisons that sets conditions on a State's eligibility to participate in the program in definite terms, comparable to those contained in section 1341(d) of H.R. 3355, as passed by the Senate, and in particular includes a condition that a State provide for truth in sentencing by requiring that violent felons serve at least 85 percent of the prison time imposed; and

(2) does not include indefinite conditions such as those contained in titles VI and VIII of H.R. 3355, as passed by the House of Representatives.

Mr. CONRAD. Mr. President, the motion that I have sent to the desk in behalf of Senator MACK and myself is a motion to instruct the conference committee on the crime bill. The motion very simply directs the conferees to report a bill that includes the Senate provision saying that States must require violent felons to serve at least 85 percent of their sentence if States want to qualify for the Federal assistance for prisons.

Mr. President, many of us believe this is just fundamental to starting a successful war on crime in this country. We know that violence is escalating in this country. It has reached epidemic proportions. It is holding people hostage in their own homes, and it is time to do something serious about it.

Mr. President, within blocks of where we are meeting today, we can see the results of the crime wave. Within blocks of where we are meeting today, we have seen violent crime after violent crime after violent crime just in this year. Just days ago we had a man five blocks from this Capitol at 11 o'clock at night at a convenience store attacked brutally. I do not know if he survived that attack or if he died. But it is one more example of lawlessness and violence that can no longer be tolerated.

Mr. President, in this year, we have had a 12-year-old girl raped at 7 o'clock in the morning within 6 blocks of this Capitol building. We have had within four blocks of this building a man found strangled in the basement. Within 1 year, of today, we have had a Senate aide murdered; we have had another young woman, who came to this town and had just been here several weeks, found brutally assaulted and killed, stuffed under a car. And two of my employees were witnesses to that attack.

Mr. President, enough is enough. It is time for the Congress of the United States to send a clear and compelling message. We will not tolerate any more violent acts in this society. And if people are going to engage in violent behavior, they are going to pay the price.

Mr. President, the motion to instruct that Senator MACK and myself offer here today is to say simply, "If you do the crime, you serve the time." And you serve at least 85 percent of the sentence; none of this getting out after serving one-third of the sentence which is what is happening across this country today.

Mr. President, according to the Bureau of Justice Statistics' analysis of release practices in 36 States and the District of Columbia, although violent offenders receive an average sentence of 7 years and 11 months, they serve an average of 2 years and 11 months in prison; 37 percent of their imposed sentence.

Mr. President, I just direct my colleagues' attention to this chart that shows prison sentence versus prison time served. This is what Senator MACK and I are attempting to respond to, because we believe all across this country people are fed up with a situation in which people are sentenced after committing a violent crime and then are allowed to walk after serving one-third of it. They are allowed to walk and go out and create more crime, more havoc, threaten more people.

The honest and decent people of this country have had it. They are fed up, and they want it stopped. They want to close the revolving door that allows the criminal to serve a third of his sentence, go out and commit more crime. They want it stopped. For murder in this country, the median sentence is 15 years. How long do they serve? 5½. That is not a misprint. It is hard to believe. Commit murder in this country, and you are going to serve 5½ years. Take somebody else's life, and you are going to serve 5½ years, on average. It is outrageous.

For rape, the average sentence is 8 years. But you are going to serve in this country, on average, 3 years. For robbery, 6 years is the average sentence; you are going to serve 2¼ years. For assault, 4 years is the average sentence; you are going to serve 1¼ years.

Mr. President, this is not a matter of just statistics. My own wife was attacked by a man who fits exactly into this category. Eight blocks from this Capitol, my wife, coming home at 10 o'clock at night, was assaulted by a man who had served one-third of his sentence for rape. Thank God, she had the presence of mind to tell that man that she had locked her keys in the car, because he had a .45 automatic at her head threatening to blow her head off. As he dragged her several blocks to a busy intersection, she had the presence of mind to resist and scream, and he shoved her into the street, and a Good Samaritan came by, and they gave chase to this fellow.

Mr. President, that man should never have been on a street in a position to attack anyone. He had a record as long as your arm of violent attack after violent attack. Brutal attacks on women was his MO, brutal, vicious attacks. He had served one-third of his sentence, and then they let him out to a halfway house in the District of Columbia. They say that is not their policy in the District of Columbia, but the fact is that is what they do. And he walked away from that halfway house, and nobody even bothered to get an arrest warrant.

I wish I could say it is the exception here, but we know because of an excellent report on 60 Minutes that it is not the exception. It happens over and over and over in this Nation's Capital that people are allowed to get out, and they are violent offenders, serving a third of their sentences. They put them in halfway houses. They walk away, and they do not even bother to get an arrest warrant for them. And we wonder why there is an epidemic of violent crime in this country.

Mr. President, enough is enough. This cannot be allowed to continue. When the Senate considered this matter, by a vote of 94–4 on the Byrd amendment, which included the concepts that were introduced by me in a truth-in-sentencing bill days before, this Senate said: We are going to insist that if States want to have the additional Federal assistance for Federal prisons, they are going to have to pass laws to require truth in sentencing. It

is currently a fraud to say to people in this country: "Well, we sentence people to 15 years." Nobody tells them that we only expect them to serve one-third of the sentence. Nobody is telling them that.

Mr. President, I have another chart that I want to bring to my colleagues' attention, because I think it tells another story that is very important. What happens to these folks once they get out, after they have served one-third of their sentence? I am talking now about violent offenders. That is what we are talking about here. Well, 88 percent of them go out and commit new crimes—88 percent; 33 percent of them go out and commit violent crimes.

We have a revolving door, Mr. President. We apprehend somebody, we go to court, we prove they are guilty of a violent crime, we incarcerate them, and then we have them serve one-third of their sentence, on average. We let them out, and they go out and commit more crime. Eighty-eight percent of them commit new crimes; 33 percent of them are violent crimes. It is time to call a halt, Mr. President, and time to say: No more. We are not going to have a system in which you serve one-third of your sentence, and then you go out and terrorize a community, holding everybody else hostage in their own homes.

Mr. President, that is why we are offering this motion to instruct.

Briefly, the House does not include the same version. They have a much weaker version of truth-in-sentencing. It is so much weaker that it does not really deserve to be called truth in sentencing. So this is our opportunity to send a signal to the House that we want our version. This is a way of strengthening the hand of our negotiators, Chairman BIDEN and the other conferees, to give them an additional leverage in the discussions with the House.

Mr. President, let me just say how pleased I am that Senator MACK of Florida has joined me in this amendment. He has been a leader on this issue for a long time here in the Senate. He worked very hard on his side of the aisle to persuade his colleagues that truth in sentencing ought to be included in the final legislation. So I am very pleased and very proud to have him join me in this effort. He feels deeply about it, as I do. I think we have an opportunity today to send a message that the Members of Congress have listened to the folks back home. We have not only listened, we have responded. And that is the chance that we have today.

I yield the floor.

Mr. MACK addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida [Mr. MACK] is recognized.

Mr. MACK. Mr. President, first, let me express my appreciation to my friend and colleague from the State of North Dakota. It is a privilege to work with him. I think the issue we have discussed today, and which has been debated on this floor before, is both significant and, I think, very meaningful to people all over the United States. It is one that has been brought to my attention by what I hear from the people back home.

First of all, I want to build on some of the comments made by Senator CONRAD, in a sense of kind of "where are we?"

The Senate established a concept of a regional prison system to be built by the Federal Government that would be available to States to transfer their violent criminals from the State penitentiaries to this regional Federal prison system, provided that the States had tough sentencing requirements in place. One of those tough requirements was that individuals convicted and sentenced to prison as a result of a violent crime should serve at least 85 percent of their time.

Some try to imply that maybe we are going too far or putting too much emphasis on punishment in our approach to solving the crime problem. I wish those people would look at this question maybe just one more time. What we are talking about here really is saying that in situations where individuals have been convicted of violent crimes, they should serve every single day of that sentence. No more. We are not demanding that the sentence be any longer, or that the sentence be changed from 15 years to 20 years, or that the sentence ought to be life in prison, or that death ought to be imposed. We are simply asking that they serve every single day of their sentence. That is a very reasonable approach.

Mr. President, I have several statistics that I want to highlight here regarding early release. But, after talking about them for a few minutes, I am going to move away from the numbers and talk about the human tragedy.

There was a study done that I think was probably sent to most offices. It came attached to a letter written by the American Legislative Exchange Council. The study was done by Dr. Michael K. Block, professor of economics and law at the University of Arizona. It found that every 90 seconds in America, a violent criminal is released from prison early, every 90 seconds. Fourteen times a day, throughout America, there is a murder committed by someone out on early release. Forty-eight times every single day, there is a rape committed by someone out on early release. Every single day in America, 578 robberies take place as a result of someone being out on early release.

The same study also concluded that if we were to pass a crime bill that provided the $13.5 billion to build new prisons proposed by the House, and thereby took violent criminals off the streets, we would reduce the loss in property by $100 billion over a 10-year period.

Frankly, I do not think these figures are the important thing to focus on. The important thing to focus on is what is happening to America. What is happening to our friends and neighbors? What is happening to our brothers and our sisters? What is happening to our mothers and our dads? What is happening to our neighbors? What is happening to our communities?

If you go to Florida, one of the things you will notice is that most new communities today are what they call "gated communities." Do you know why they are gated communities? It is their attempt to find security. Very few people have a sense of being safe on the streets, or in their neighborhoods, or in their communities. So we are seeing new communities being developed. and I am not talking about megacities; I am talking about a development, and are being built around the concept of gates and walls and security guards. When you go inside one of those communities, what do you find in each one of those homes? A security system. And think of what it has done to the mentality of this Nation when someone is shot while walking on someone's lawn simply because of the fear that the individual walking on that lawn was a criminal.

So, the price we are paying is much, much greater than the loss of property. We are paying a price in how we have changed as a society, how we respond from individual to individual, the effects it has had on communities and neighbors. It is time we stopped that. This revolving door has got to be stopped.

In the State of Florida, there is a young woman by the name of Kathleen Finnigan, who has said, yes, it has to stop. She started an organization called STOP, Stop Turning Out Prisoners, which is a true grassroots effort by victims around the State of Florida, to say, in essence, enough is enough.

We have worked together to put on the ballot in the State of Florida in November an amendment to the Constitution that takes this issue out of the hands of the politicians, because, in essence, they do not think politicians can be trusted anymore. They hear all of us voice concern over those who commit crimes. They are then rightfully asking the question: What about us? Does not anybody care about us anymore? What about my mother? What about my father? What about my brother? What about my sister? What about my wife? Does not anybody care about them anymore?

Our message today is clear: We care and we care deeply. I cannot speak for anyone else who might vote for this motion, but I can say for myself that I will not vote for a crime bill that does not have this provision in it. Because

to me, once again, if we do that we are fooling the people.

As Senator CONRAD said a few minutes ago, we talk about the fact that we sentenced someone to 15 years in prison for murder, but and they are out, on the average, in 5½ years—5½ years. When I was a young boy growing up, I really thought if you committed murder in this country you were at least put away for life or lost your life. Not any more. In America today, if you commit a murder, on average you are back out on the streets in 5½ years. It is no wonder that our society has no feeling of safety or security any more. So, again, I, for one, cannot support a crime bill that does not include these tough sentencing requirements.

I want to shift now, and talk for a moment about some of the statements that have been made to me because I find this to be frankly a very personal issue. I am fortunate that I do not have a story to tell like Senator CONRAD. I can just imagine the emotion, the feeling that must be inside him as we discuss this issue, the constant rethinking of the crime perpetrated against his wife, as a result of going through this kind of discussion.

But you know what, the same agony is happening to 14 American families every single day because someone is out on early release. Each day 14 new Kent CONRADs are created in America because of a system that fails to keep those who break our laws in prison, not for a longer period of time, not under a death penalty, just until they serve their time. It is almost to the point that I just absolutely reject out of hand any argument that someone tries to throw up against what we are trying to accomplish. To me, there is no excuse. There is no alternative to what we propose.

Again, as I said, I want to share with you a letter that I received from an individual in Florida and the comments that she made to me in my phone call to her after I received the letter. And the letter is addressed to: "Dear President and Mrs. Clinton; Dear Senator CONNIE MACK; and Dear Governor Lawton Chiles." Its reference is "Enough Is Enough—Early Prisoner Release."

Please take a moment of your time to listen to two concerned voting citizens.

Those two citizens are Roxann and John Grimstead. And Roxann writes:

On January 22, 1994 my only child, 17 year old Kristina, was beaten, strangled, and her head was crushed—beaten beyond recognition. I was never able to identify her, the police came to our house and took fingerprints from her room. We found out through a general description in the newspaper.

This is just the half of it! We are real people and we are in extreme pain! The man who did this was an early release from a previous conviction. He cut the woman's throat, and her hands. She lived. He was sentenced to 18 years. He served 6 years! Within 2 years he murdered my daughter! Less than 35% of his sentence was served! You politicians are saying that prisoners serve 42% of their sentence. Had he served 42% of his sentence, my daughter would be enjoying her 18th birthday on this March 24. He was previously arrested for various other things: from the age of 16 he had been charged as an adult.

Please explain to me why he was released???? And why I can not celebrate my child's birthday this month!!??

At the least, let Kristina's death open the doors of justice, and close the revolving doors of early release. . . .

I called her to talk to her about this situation. One of the comments that she made to me, and I wrote this down, about her effort to try to change things with respect to what is happening in America, was: "This is not a self-serving effort on my part. I have no more children to defend."

There is an argument that has been used over and over again that says "we cannot afford this," or says "where are you going to find the money to pay for this, as if the only cost in what we are considering is the cost of the construction of those new prison beds.

I want to read from an editorial that was in *the Florida Times-Union*, Jacksonville, FL, Tuesday, May 17, "Criminal Justice—Victims of Society."

A criminal court judge in Jacksonville sent a burglar off to his 16th term in prison the other day. The judge's displeasure was evident, and justified.

The man had been arrested 27 times and charged with 43 separate crimes. Of course, anyone is only guilty when convicted. This defendant had been convicted of committing a felony 17 different times, and had served 15 terms in prison.

In 1990, he was sentenced in Florida to three years each on five counts of dealing in stolen property and one year and one day for burglary. After six months in prison, he was released.

Seven months later, he went to Virginia and committed nine more felonies. Why not? There had been little to deter him to that point. He was caught and sentenced to 50 years in prison, to be suspended after five years in prison.

But in January 1993, Virginia asked Florida's Department of Corrections to accept him and supervise his probation.

The judge's comment: "The Florida Department of Corrections graciously accepted the defendant upon the obvious rationale that Florida had a scarcity of convicted felonies on probation and/or that a defendant with 15 felony convictions was a good probation risk and not a danger to the people of Florida."

The burglar then violated his parole and committed two more burglaries in Jacksonville.

The Jacksonville judge sentenced him to 12 years in prison and ruled that he would not be eligible for "gain time."

Now, I went through that editorial because I think it helps make the case to those who say, "Where are you going to get the money? This is too expensive."

I would make the claim there is already a tremendous price that is being paid in this country for our failure to keep people in prison. It is not just the emotional side that I referred to just a minute ago, and it is not just the loss of life that I referred to a minute ago.

But, in fact, it is the process of having to track down that criminal who should have been in prison, one more time. It is the cost of trying that individual. It is the cost of keeping that individual in detention during the time leading up to the trial. It is the police work. It is the time invested on the part of the jurors, and the time it takes to put that individual back in jail again.

My point, Mr. President, is that we are paying a tremendous price already for the failure of doing what is right.

So I am delighted to have the opportunity to participate with my colleague in offering this motion. I suggest that I could go through example, after example, after example, after example, just in my State, on the murders that have been committed by individuals out on early release.

I will just mention one more. Evelyn Gort, an off-duty police officer in Miami, was murdered by an individual out on early release. I met with her family.

I would say to anyone who wants to deny us this language in a conference report, they ought to sit down with families like Evelyn Gort's and listen to what they have to say. They are saying a lot more than "enough is enough," or that we have to stop this revolving door. They are saying that their primary concern is for the balance of their families, and all Americans.

If we do this, the right thing, we could make our streets, our neighborhoods, and our communities safer.

Thank you, Mr. President

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from North Dakota [Mr. CONRAD].

Mr. CONRAD. Mr. President, very recently we had a shocking case which I think illustrates very well the importance of the motion Senator MACK and I have offered today.

The father of Michael Jordan, the basketball star, was killed, murdered in a vicious crime in their home State. The county sheriff there, Hubert Stone, said, "Mr. Jordan would be alive now if the legal system worked the way it should."

Why did the sheriff say that?

Mr. President, both of the 18-year-olds that were involved in that murder had extensive criminal histories at the time of the Jordan killing. Daniel Green, one of the perpetrators, was on parole after serving 2 years of a 6-year sentence for attempting to kill a Robert Ellison by smashing him in the head with an ax and putting him in a coma for 3 months. Larry Demery was awaiting trial for bashing a Mrs. Wilma Dial, a 61-year-old convenience store clerk, in the head with a cinder block during a robbery, fracturing her skull and causing a brain hemorrhage.

Mr. President, how many more examples are we going to have to have before we take action? How many more examples are Senator MACK and I going to have to bring to this floor before we persuade our colleagues that it is time to end the revolving door on violent criminals that allows them to commit crime, violent crime, serve a third of their sentence, and go out to terrorize the communities in which they live some more?

Mr. President, enough is enough. I hope today, when we vote, we will send an overwhelmingly clear message to the conferees that the Senate provision ought to prevail.

Mr. President, I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. CONRAD. Mr. President, we are not able at this point to get an order for a vote because the manager had to be detained off the floor for a moment. So we will ask, at a later time, when the manager is present, for the yeas and nays, and I am confident we will secure a sufficient second at that time.

I thank the Chair.

Mr. MACK addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Florida.

Mr. MACK. Mr. President, I ask unanimous consent that Senator DOMENICI be added as a cosponsor on this motion.

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

CORRECTIONS IN THE ENGROSSMENT OF S. 2087

Mr. CONRAD. Mr. President, at the request of the majority leader, I ask unanimous consent that, in the engrossment of S. 2087, the nutrition labeling bill, passed on May 17, the following corrections be made:

Strike "Section 408(i)" each time it appears and insert "Section 403(i)."

This has been cleared on the Republican side.

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

Mr. CONRAD. I thank the Chair and I yield the floor.

Mr. MATHEWS. Mr. President, not noting any other Senator on the floor, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994

The Senate continued with the consideration of the bill.

MOTION TO INSTRUCT CONFEREES

Mr. GRAMM. Mr. President, I send a motion to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Chair would advise the Senator we have a motion pending. Unanimous consent is needed to set aside that motion.

Mr. GRAMM. Mr. President, I ask unanimous consent that the pending motion be set aside temporarily.

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

Mr. GRAMM. Mr. President, I send a motion to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the motion.

The assistant legislative clerk read as follows.

The Senator from Texas [Mr. GRAMM] moves that the conferees of the Senate to the "Violent Crime Control and Law Enforcement Act of 1993" be instructed to insist on:

FUNDING MECHANISM

(1) Subtitle E of Title XIII of the Senate amendment which establishes a "Violent Crime Reduction Trust Fund" without which H.R. 3355 would be a hollow anti-crime bill; provided, that the amount transferred in Fiscal Years 1995 through 1998 from the general fund to the Violent Crime Reduction Trust Fund shall be not less than $22,268,000,000 and

MANDATORY MINIMUM PRISON SENTENCES

(2) A. Section 2404 of the Senate amendment which allows suspension of a mandatory minimum sentence only in those cases where the individual is truly a first time, non-violent offender. The House provision would put thousands of criminals with a prior conviction back on the street;

B. Section 2407 of the Senate amendment which provides mandatory minimum terms of imprisonment for adults who sell illegal drugs to a minor or who use a minor in drug trafficking;

C. The mandatory minimum sentences in Section 2405 which provide in the case of a first conviction not less than 10 years imprisonment for individuals who possess a firearm during the commission of a crime of violence or drug trafficking crime; not less than 20 years imprisonment for discharge of the firearm; and life imprisonment or the penalty of death if the firearm causes the death of another person.

Mr. GRAMM. Mr. President, for 6 years we have been trying to adopt a crime bill, and during that period we have passed some excellent bills in the Senate. We have passed some pretty good bills in the House. But what has happened to us every year is that when we have gotten to conference, when a few very senior Members of both Houses of Congress have sat down to work out the differences between the House bill and the Senate bill, what has happened is that we have ended up dropping the get-tough, grab-them-by-the-throat provisions, and we have often ended up with bills that look nothing like either the Senate bill or the House bill.

I think probably the most stark example of this was the crime bill in the last Congress. In 1991 we passed a very strong crime bill in the Senate. They passed a fairly strong crime bill in the House. But, yet, when we went to conference to work out the difference between the two bills, systematically all of the tough provisions were dropped. For example, whereas we had changed the habeas corpus statute to make it easier to carry out the death penalty, that provision was dropped, and in its place 23 Supreme Court decisions which over the previous two decades had strengthened law enforcement, were overturned. And a bill was produced which the Association of State Attorneys General, an association made up of both Democrats and Republicans, called a "pro-criminal bill".

As a result, many Members of the Senate voted against the bill, many Members of the House voted against it, and, ultimately, it died.

We are now going back to conference with another crime bill. I do not support every provision of the Senate bill. There are some provisions of the Senate bill that I strongly oppose. But, overall, it is an excellent bill. The House has passed what I believe is a fairly good crime bill. They were not allowed to vote on many provisions of the Senate bill because of their restricted rules, and because the decision was made by the Democratic leadership to prevent those votes from occurring.

But, basically, we have two versions of the crime bill now going to conference. There are some things that were different in 1992. In 1992, there were still Members of Congress who were willing to stand up and say that they opposed mandatory minimum sentencing. There were still Members of Congress in 1992 who were willing to stand up and say that putting people in prisons for long periods of time was not effective.

What has happened since 1992 is that public opinion has coalesced, and as a result there are only a very few Members of Congress who are willing to stand up and say the things that they were willing to say 2 years ago when we considered the crime bill.

I am not convinced, however, Mr. President, that all of those people have changed their minds and hearts. I am very much concerned that when we go to conference with the House there will be real pressure and a real effort undertaken to gut the crime bill, to drop the funding mechanism so that we simply have a hollow authorization bill which makes a lot of promises, none of which we can fulfill. I am concerned that our minimum mandatory sentencing provisions will be dropped. As a result, I think it is important for Members to go on record now in instructing our conferees as to what we want to achieve in this conference.

Basically, what I have done for the sake of saving the time of the Senate is, I have combined several items into a motion to instruct the conferees.

Under the Senate rules, this motion to instruct can be divided. If any of my colleagues would like to see it divided, and see its elements voted on separately, I would be very happy to have the motion divided and to have them voted on separately. I would say to my colleagues that I have combined these provisions into one motion for the purpose of trying to save some time for some of our Senators, who I know are meeting with our Canadian colleagues in a very important meeting.

What I have done is, I have taken several provisions and included them in one. But I wanted to let our colleagues know that if any Member of the Senate wants to divide the instructions and force a separate vote on them, that not only do they have the right to do it, but that I do not object to it.

What have I tried to instruct the conferees to do? I have tried to focus on a series of issues. I am the cosponsor of other instructions that will be offered. The combination of all of these instructions produces a firm commitment to the Senate bill, to real funding based on a real procedure, to build prisons, to institute mandatory minimum sentencing, and basically is a commitment to get tough.

Our bleeding Nation demands that we have action on crime. If this year, after all this debate, after all the public input, after all the statements by the President, if we do not produce a strong crime bill I think it is going to be an indictment of the democratic process itself.

So I do not want that to happen. That is why I have offered this motion to instruct. But before going through this motion to instruct, I want to make several points clear.

First of all, if we produce a bad crime bill, a crime bill that funds all these new social programs but does not make a commitment to put violent criminals in prison, I am going to strongly oppose it.

Second, if we produce a mediocre crime bill that drops the get-tough provisions, it would be my intention to come right back and introduce those tough provisions again, and seek a vote in the Senate on the same day that we vote on the conference report.

If anybody thinks that this Congress is going to adjourn without adopting new mandatory minimum sentencing, and truth in sentencing, I want them to know that I strongly disagree, and I believe the majority of the Members of Congress are going to disagree.

So I am trying to make a simple statement, like the Fram oil filter ad: That one way or another, now or later, we are going to get this job done. I pray and hope that our conferees will get it done now.

Now what does this motion to instruct do?

First of all, it asks our conferees to stay with the funding mechanism that Senator BYRD offered. I was a cosponsor of it. It was a broadly supported, bipartisan effort that set in the law reductions in the size of the Federal bureaucracy and has an enforcement mechanism based on freezing the level of hiring in executive departments when we find that they are breaching the new limits on the total level of Federal employment. The net result is that by paring back the bureaucracy, we can save $22 billion that can go into our anti-crime trust fund.

So the first part of this motion is to instruct our conferees to stay with our funding mechanism. There is no such mechanism in the House bill. The House bill spends far more money than we do, but it provides no way to pay for one nickel of that spending. As a result, it is all hollow promises which have no impact on the street, where violent crime is occurring.

So the first thing I want our conferees to do is stay with our funding mechanism. It was endorsed earlier in the House and has been adopted three times in the Senate. Every time we have gotten down to the goal line, trying to make it the law of the land, it ended up being killed. I do not want it to die this time. Without it, there are no prisons, no additional police officers on the street, and no effective crime bill. We cannot put people in jails we do not have. I would like to stop building motels and calling them jails.

The point is: Without a commitment to pay for these programs, we are simply making empty promises.

The second part of the instruction has to do with minimum mandatory sentencing. There are three parts to it. I agreed, in the spirit of compromise, with the Clinton administration and with people representing their views here in the Senate, to grant a small amount of flexibility on mandatory minimum sentencing, but only in the cases where someone has no prior criminal record, where they were not carrying a gun, where they were not engaged in an act of violence, and where they were not financing drug sales. I am not for this provision, but in trying to work to come together on a crime bill that could be adopted on a bipartisan basis, I accepted this compromise. But it is very limited and it is very focused.

What the House has done is adopt the President's original position, which would have repeat offenders, by the thousands, put back on the streets. The Senate provision is as far as I am willing to go. It is a compromise that we worked out on a bipartisan basis. The House provision is retroactive, and it allows people that already have had a criminal conviction to be exempt from mandatory minimum sentencing, and I think it flies in the face of what the American people want done.

I am asking our conferees to stay with our provision with regard to exemptions for mandatory minimum sentencing.

The next provision of mandatory minimum sentences has to do with selling drugs to a minor. We have adopted in our bill this year—and every time we voted on a crime bill for the last 6 years—an amendment that requires 10 years in prison, without parole, for adults who sell drugs to a minor, or who use a minor in drug trafficking. Really, the second item is of equal importance, because what is happening is that drug distributors know that minors are not being put in jail, so they are using minors to deliver drugs. They are putting minors in great danger. They are doing great damage to these young people by getting them involved in the drug industry at such an early age.

I want these people to know that when we apprehend them—adults selling drugs to minors, or using minors in drug felonies—they are going to prison for 10 years, without parole, no matter how soft-hearted the Federal judge may be, or no matter how they think society has done them wrong, or no matter who their daddy is. And a repeat offense is life imprisonment.

The final provision in mandatory minimum sentencing that I have in this instruction to conferees is 10 years in prison, without parole, for individuals possessing a firearm during the commission of a drug felony or other crime; 20 years imprisonment for discharging the firearm; and life imprisonment, without parole, for killing somebody with a firearm during the commission of such a crime. Of course, we have the death penalty in aggravated cases.

As I said in the beginning, these are the items that I believe we need to instruct conferees on. This motion is divisible. If someone wants a separate vote on one part of it, I will be happy to have the separate vote, simply as a courtesy to my colleagues. None of these items are controversial, in my opinion. My guess is that we have 75 votes for any one of them, and rather than vote on them separately, I will be happy to vote on them together. But I have no objection whatsoever to having them separated out if someone wants a vote.

So this is a straightforward motion to instruct. I hope it will be supported. I think it is important. I want a strong anti-crime bill. I do not want all of our effort to be derailed. I hope my colleagues—especially those on the other side of the aisle—will know that my effort in this motion to instruct is to strengthen our conferees. I am worried that, with 62 conferees in the House from 11 different committees, we are in for a tough, prolonged conference.

I think it is very important to be clear up front that we in the Senate are not going to put up with a mediocre crime bill.

I yield the floor.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois [Mr. SIMON], is recognized.

Mr. SIMON. Mr. President, this is wrong for two reasons, and I hope the motion by my friend from Texas will be defeated.

It is wrong, first of all, because except for very rare instances, we should not instruct conferees. Conferees ought to be able to sit down and work out agreements, practical agreements. I have to say that my record is not pure on that. Occasionally, I have voted for instructing conferees, but rarely have I done it, because as a legislative procedure, it is wrong.

Second, this is wrong in substance. He said we have to have a commitment to get tough on crime. You bet. We also have to have a commitment to get smart on crime. If we followed the philosophy of my friend from Texas, we would have the most crime-free society in the world today.

In 1970, we had 134 people per 100,000 in our prisons, in jails. Now we have 510. What happened to the crime rate in that period? Every person in this gallery, every person in the Senate, every citizen of America knows what happened to the crime rate. It has escalated; 510 per 100,000. Do you know who is second? South Africa, with 311; Venezuela is third, with 157; Canada has 109; the Netherlands has 41. If putting people in prison stopped crime, we would be a crime-free society, indeed. But we had better recognize that is not solving our problems.

Who are the people going to prison? Well, 82 percent are high-school dropouts. What if, in the State of California—which is in the near future going to spend $10 billion on new prisons—they spent half that amount on prisons and spent half of it to improve the educational product? Would we be doing more to cut back on crime?

I believe we would. I believe any rational study suggests that. It just does not make sense.

Drugs and alcohol are involved in a huge amount of crime. And what do we do? Well, we have had a drug program that up until this administration came in was all for locking people up, and too often people learned how to use drugs in prisons, instead of spending money on treatment and education.

The majority of people in our prisons today were unemployed when they were arrested. You show me an area of high unemployment, and I will show you an area of high crime. Let us do something about getting jobs in rural poor areas and inner-city areas, and you are going to do something about crime.

I read the Los Angeles Times op-ed piece by a Catholic priest. I cannot remember his name just offhand. He looked at our crime bill. He is an assistant chaplain of the State prison in California. He asked a class of 40 people in that prison, experts on crime, if you will, what we ought to be doing to cut back on crime. They came up with hardly any of the answers that we have. Their No. 1 suggestion was get jobs for people. And one of their suggestions was reduce the amount of guns in our society. We are doing something about that.

But what if instead of $22 billion for more prisons, and things like that, we had a real jobs program for people? What if we really did something about education in our society where we have poor schools? Sweden, which does not have the income disparities that we have, spent 2 to 3 times as much in poor areas for those attending school as in the wealthier areas. We do just the opposite. Does it make sense? It does not make sense.

Then the second thing that is part of the Gramm proposal is mandatory minimums. Let me say this to the credit of my friend from Texas, and I have observed this in the Judiciary Committee, when the Republicans were in power he saw to it that the nominees that came from him were much above average, and I give him credit for that. I voted for his nominees even when they were controversial. I voted for his nominees. But I think he ought to be listening to a fellow named Plato who wrote a long time ago. He said: Make sure you appoint good judges, and then leave the sentencing to the judges.

My guess is, and I have not talked to any of those nominees of PHIL GRAMM, those judges would say that one of the worst things we have done is impose all these mandatory minimums. We cannot tell the kind of situations that you run into. Federal judges are just overwhelmingly opposed to mandatory minimums.

Our present policies just do not make sense. We are compounding the problems where there are a lot of good things in this crime bill, but I confess I was one of four who voted against it because we are building on myths.

My staff just this morning brought this to my attention, and I have to tell you I have not read it. The Cato Institute, which is not a liberal operation, has in their publication called Policy Analysis this, and the heading on the story is this: "Prison Blues. How America's foolish sentencing policies endanger public safety."

The Gramm motion wants to build and compound the problems that we have with mandatory minimums.

The House legislation does not do away with mandatory minimums. I would vote to do away with them tomorrow. Should people who are guilty of crimes of violence spend time in prison, and should we protect society? Absolutely. Sixty percent of those in Federal prisons today have not been involved in crimes of violence. We are wasting $20,000 a year to pay for each of them.

I think we have to be more creative. I think we have to look at other countries. I think we have to do a better job.

The Gramm motion just builds on our present folly, and compounds the present folly, and I think should be defeated.

I yield the floor, Mr. President.

The PRESIDING OFFICER. The Chair recognizes the Senator from Texas.

Mr. GRAMM. Mr. President, there is not any Member of the Senate that I have a higher regard for than the Senator from Illinois. This is a case where we differ really for two reasons, I think.

First, I think we have a different assessment of the facts; and second, I think we basically have a different theory and conception of human behavior.

What I would like to try to do is just respond to the points that the Senator raised and then at least for my part, unless some other point is raised, to conclude the debate.

First of all, I would take some issue with the thesis that there is no established relationship between crime and punishment. In fact, if you look at the trend lines, I would argue that you can make a case that in the 1960's and the 1970's we dramatically reduced the amount of time that people were spending in prison for committing violent crimes. When you consider such factors as probability of apprehension, probability of indictment, the probability of conviction, and then how much time in prison you served if you actually were convicted, I would argue that the expected cost in prison time for committing crime in America fell dramatically in the 1960's and the 1970's, and in the early 1980's we started to reverse that. As we started to reverse that, the trend started to change.

Second, I wish we knew the root causes of crime. There is no doubt about the fact that a welfare system that creates hopelessness and dependence, that is a fertile area for child abuse, is a clear breeder of this problem.

We are spending $301 billion a year trying to deal with those kinds of problems, and I want to find root causes. I am not positive that we have truly identified them. I do not buy the thesis that the reason people are criminals is because they are poor or because they cannot read.

When I was growing up, I had uncles who did not read, I had lots of kinfolk who were poor. As far as I know none of them ever robbed anybody or ever beat up anybody or ever committed a crime or ever went to jail.

Mr. SIMON. Mr. President, will my colleague yield?

Mr. GRAMM. I am happy to yield.

Mr. SIMON. Having said that, I think the Senator has to admit that there is some relationship to the fact that 82 percent of the people in prison are high school dropouts. That is totally at variance with the general population. So there is some relationship between their education and their being in prison, that they have found fewer options out there.

Mr. GRAMM. If I might respond, I am certainly in favor of reducing high school dropout rates. Whether people drop out of high school or whether they do not, they have to be held accountable for their actions. While I do not know how to solve every part of the crime problem, there is one part of it that is very much on my mind and in my heart and I know how to solve it. That is we do not have to get up every morning and open the newspaper and read about some violent predator criminal who had been convicted 5 or 6 times for terrible crimes and he or she is back out on the street and has killed someone's child. We do not have to live with that.

What my provisions are trying to do is to assure that when people are convicted of these crimes, when they get these long sentences they actually serve the sentences.

Our colleague from Florida, Senator MACK, presented the other day in the crime debate an example of where Florida had struggled with this problem. The case he pointed out was a professional criminal who had committed some 60 violent crimes who had been convicted of 7 major felonies, who was out of prison on an early release program, who went to a quiet neighborhood, broke into a home, beat up a pregnant woman, and stole her car. They apprehended him, thank God, and they put him in jail, and they gave him life imprisonment, but 6 months later he is up for parole. That makes the criminal justice system the laughing stock of the Nation.

So my point is I do not know how to solve each part of the problem, but there is part of it I know how to solve. I know that when people are on the other side of the bars, that if you are on this side of the bars they cannot do you any harm. I want to be certain that when people commit these violent crimes and they are apprehended and sent to jail, that they stay in prison for a long period of time, and that society is protected. There are a lot of people in prison. The problem is that they are in and out of prison.

I do not know how many people commit crimes because they do not believe they are going to do the time that they are sentenced to and how many might be deterred if they believed that they really were going to spend a long time in prison.

My law enforcement officials tell me in Texas that when they apprehend somebody for a drug violation, say, and that criminal finds out—when they believe they are going to be sentenced in the State system, where they will serve a very small fraction of their sentence, they do not take the process very seriously. But when they find out that they have sold the drugs close to a school or that they violated some other Federal law and they are going to Federal prison where there is no parole, suddenly they take the process very, very seriously.

So what I want to do is to be certain that if we say there ought to be 10 years in prison for selling drugs to a child, that people know, no matter what the circumstances are, that they are going to serve the 10 years in prison. I believe that will mean fewer people in prison, not more people, because I think we will deter the crime.

Finally, let me say in terms of judges—and I appreciate my colleague's kind comment. I think most Members of the Senate work hard in trying to appoint good judges. But as I have looked at data from the sentencing commission, what I have found is that when judges have discretion, the sentences that are being handed out are not substantially different from the minimums that are required.

If someone has committed a drug felony and they had a gun, and I look at the sentencing commission data, I do not find that use of the gun results in more jail time for these people. I find, around the country, tremendous variability in sentences.

So what I am trying to do in these provisions is to simply eliminate the uncertainty by saying that if you are convicted of these crimes—for example, possessing a firearm during the commission of a violent crime or drug felony—that you know you are going to get 10 years in prison and you are going to serve every day of it. If you discharge the firearm, you are going to get 20 years. If you kill somebody, you are going to spend your life in prison or you are going to be put to death. That is something people could understand.

Since I do not want people to carry firearms, I do not want them to discharge a firearm trying to shoot people, and I do not want them to kill people, I want them to know with certainty what the penalty is going to be. And the same with these other provisions.

So I think this is a straightforward motion. It simply supports the bill that we adopted overwhelmingly. I hope my colleagues will accept it.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I do not want to take a lot of the Senate's time, because we had an opportunity in November to debate. As my friend from Texas pointed out, we voted on a lot of this stuff a number of times. But I would like to make a few comments.

As usual, I find myself somewhere between the Senator from Texas and the Senator from Illinois on these issues. I do think there is a relationship between punishment and crime. I do think there is a correlation. I do not think that poverty dictates criminal behavior. Although I will acknowledge that, statistically, there is a higher rate, that may be because they cannot afford good lawyers. And it may be as complicated as they are in a very different circumstance that caused them to do that.

For example, it is true that 85 percent of the people in State prison systems are high school dropouts. But the truth also is that the vast majority of high school dropouts never commit a crime. So I do not want to get too overwrought by the statistics, except to make three or four basic points.

First, all of the examples my friend from Texas has mentioned and others—Democrats and Republicans alike—about the person who commits a heinous crime after having been convicted and sentenced in a previous crime, having served only a small part of their time and having been let out, they are all State prisoners. They are not Federal prisoners.

I am sure there is a Federal prisoner who has served his or her time and gotten out and committed a heinous crime. But I have yet to hear one example on the floor of the U.S. Senate since I authored, with one other person, a bill that became known as the sentencing commission.

I am the guy who originally—with Senator McClellan and Senator KENNEDY, way back then, and with others in the 1970's—wrote that bill. And it works.

The irony is we have a Federal system that works pretty well. The Senator from Texas is right. You get convicted in a Federal court, you go to jail. And you go to jail based on the sentencing guidelines which drastically limits the discretion of a Federal judge. Because the Senator from Texas is right.

You look around the country. What happens is, you get convicted of the same crime in, say, Delaware or Arkansas or California or New York, and you will find wildly varying sentencing, and wildly varying amounts of time that are actually served.

So, first point: It does make a difference that you have certainty in the system. The Federal system has certainty and the Federal system works well.

And, to quote a former President who was quoting someone else, I guess, but a phrase that was a favorite phrase of his, "If it ain't fixed, don't"—"If it ain't broke, don't fix it." I always have trouble remembering everything Ronald Reagan said, and I had trouble with that, as well. He used to say, all kidding aside, "If it ain't broke, don't fix it."

The Federal system is not broke. It can be improved, but it is not broke. We have prison space. Our folks are going in prisons when they are convicted. We are providing more money for more prison space. We can argue whether it is fast enough or ahead of the curve enough or not, but we have space.

Also, when we put folks in the Federal prison, they stay in the Federal prison. When they get convicted in a Federal court, they go to prison.

Now, the problem is, my friends from the Dakotas and Texas and Delaware and everywhere else are frustrated, and they are frustrated because their States do not do such a hot job—not very good, not as good as the Federal Government.

That is a strange thing to hear said on this floor. But they are not as good. And so, what they do is, on average—and I will not take the time to go down every State, because I do not want someone suggesting to me that I am in any way violating the rules of the Senate by maligning the State; and I am not maligning anyone, because these are just facts.

The average amount of time a person convicted in a State court in any State in America—not "any"—most States in America, because some have truth-in-sentencing, but you get convicted of a crime and the statute book says you can get up to 10 years, and the judge stands there and says, "I'm going to send you to jail for 5 years." So your sentence is 5 years. In all the States, on average, that person is only going to go to jail and actually serve time in jail of about 2 years, roughly, 43 percent of the time to which they have been sentenced after having been convicted without having received the maximum.

This is not 42 percent of the time they could have been sentenced to. This is 42 or 43 percent of the time they were actually sentenced to by a judge. Say they are now sentenced to serve 5 years in the State penitentiary. They only get 43 percent of that time.

If a Federal judge says, "You are now sentenced to 5 years in the Federal prison," you serve that 5 years. You get good time off, which is minimal.

And the other side of it, the Federal judge has the ability to increase or decrease your sentence 15 percent, either because of extenuating, mitigating, or aggravating circumstances. We left them a little discretion when we wrote that, but not much.

Now, that is frustrating to everyone. So one of the provisions the Senator from Texas has—and I know the Senator from North Dakota also feels strongly about—is this truth in sentencing. It says, we, the Federal Government, are going to tell you, every State in America, that you have to adopt the way we do it federally or we are not going to give you any money for prison construction.

As I have said before, I am for that. I think that is a good thing; if it will work if the States will actually go out and do what they have to do to qualify for this money.

But let me tell you, let us assume that the Presiding Officer is the Governor of Connecticut or the Governor of Texas or the Governor of California. I walk up, and I am your administrative assistant, and I walk in and say, "Good news, Gov, you know that prison population problem we have? The U.S. Senate and the U.S. House just passed a bill and they sent it to the President. There are $6—$8—probably closer to $8 or $10 billion—$6 or $8 billion in there for prison construction for the States."

And you go, "Wow, boy, I dodged that bullet. I do not have to go to the legislature now to ask for a tax increase to build more prisons to solve our problems. The Federal Government is coming to our rescue."

"Wait a minute. That's the good news. The bad news is, in order to even put in an application to get any of that prison construction money we have to prove to the Feds that we are keeping our prison population in jail for 85 percent of the time, like the Federal Government does—85 percent of the time for which they have been convicted."

Even for a very slow Governor—and the Senator from Connecticut would be a very quick Governor—even for a very slow Governor it does not take long to calculate that in his mind or her mind. If they are only having their folks serve 43 percent of the time now, and they have to serve 85 percent of the time—unless they pass a law saying no more crime in Texas this year, we will have a moratorium on crime, unless that happens, if the crime rate continues roughly at the same rate, the Governor has to go down to the State legislature and say, "Ladies and Gentlemen of the House and Senate of the State of Texas, Delaware, Connecticut, North Dakota—we have a chance to get money, Federal money to build prisons. But before we can get a penny we have to double our prison budget, build twice as many cells as we now have, so we can keep the people we now have in jail for 85 percent of the time, which is twice the time they are now serving. And you have to go to the taxpayers—of Connecticut or Delaware or New York or California—and tell them I am going to increase your taxes to do that before we can get any Federal money."

I think Governors should do that. I think they should be honest with you. I think they should be honest with the American people and say, "We have a problem here in the State of X. We have prison overcrowding. We are letting our folks out of jail early. It should stop and I am going to raise your taxes by $500 million, $1 billion"—whatever the size of the State.

I call that truth in legislating. We are doing that here. We are telling the American people exactly what everything is going to cost and exactly where we are going to get the money to pay for it. It was a long time in coming but we are doing it. That is what Governors should do.

But my worry is here is what will happen. Maybe I am wrong. But I just want to get it on the RECORD. I am worried that if we attach the string requiring 85 percent of the time be served for those sentenced, one of two things is going to happen. Either the judges in the State are going to cut drastically back on the amount of time they sentence people to, people who deserve to be in jail a long time, or the State is not going to apply for the Federal money because in the Senate bill there is, for example, only $3 billion for State prison money—it is called regional prisons—Federal money that the States can use to put away their State prisoners. In order to qualify for that $3 billion over 5 years, the States collectively have to go out and first spend $60 billion—$60 billion. I am not making this number up. So the States would have to spend $60 billion to have the right to qualify to compete for $3.

I think that is fine. If they do it. But I make a prediction to you, and I have been proven wrong before and occasionally been proven right. I will make you a bet. I will make you the following bet. I will bet you that if this provision requiring 85 percent of time served stays in the bill relating to any portion of the prison money, that the States will not build new prisons. That money will sit there and not be spent. Or, if it is spent, it will be spent in the following way. The county jails—and a lot of counties have the responsibility of taking care of the jail system —in wealthy counties will go out and they will spend the money and they will get the money. And the very place we need the increased prison space, in the high crime rate areas, will not have more prisons, and the very place we do not need it will get the prisons built if any are built at all.

So, what I would rather see us do—and I just offer this as consideration for my friend from North Dakota and my friend from Texas and others, and keep in mind I am for certainty in the prison system. Again it used to sound almost heretical to suggest, but a Democrat wrote that bill—this guy—BIDEN. So I am all for it. My bona fides have been proven for 12 years on this subject.

I am for certainty, and keeping you in jail to serve your time. But I would rather see us say something like the following, which I think we might be able to get agreement to on the House side: That a State, in order to qualify to get this money, would have to submit to the Attorney General a plan that would demonstrate and in fact require that over a period of time they would move to meeting the require-

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ment of having people serve up to 85 percent of the time for which they are sentenced. Because I want prisons built now. I do not want them built 5 years from now or 15 years from now.

Last year 30,000 violent offenders, convicted in a court of law by a jury of their peers, for a violent offense—30,000 of all those convicted of violent crimes never served a day in jail; 30,000 never saw the inside of a jail after being sentenced or heard the clank of the bars behind them. These are not first time nonviolent offenders—they may be a first-time violent offender, but they are not first time nonviolent offenders.

I want those folks in jail. The Senator from Texas, I know he understood it, he could have cited the statistic which I have been citing for 10 years on this floor, that roughly 6 or 7 percent—depending on which study you take—of the criminals in America commit somewhere between 65 and 80 percent of all the crimes. Did you hear what I just said? An infinitesimal—a very small percentage of the criminals commit most of the crimes.

Those of you who are schoolteachers, those of you who live with schoolteachers, those of you who know school teachers, ask them, with discipline problems in their school—different than crime now—if they could go into a school of 1,500 people, how many people, if they could arbitrarily remove the troublemakers in the school to change the nature of the way in which the school was run—how many kids would they have to kick out of a school of 1,500 to restore some semblance of order?

I will lay you 8 to 5, go home and ask anybody who teaches, I bet you they tell you for a school that size, they will give you a number from 30 to 75 kids max. That is human nature.

It is the same way with criminals, the same principle. Almost 6 million felonies were committed last year—crimes committed last year, and how many of these people commit them over and over and over again? Do you know how many crimes are committed on the average by an addict? A heroin addict? A cocaine addict? And most of them are polyabusers, they are heroin and cocaine and everything else.

Do you know how many crimes a year they commit on average? One hundred fifty-four crimes a year. We have identified in the United States of America 2.7 million addicts; not users, addicts.

Now figure it, you found those 2.7 million and assume that the number is off by 50 percent. Assume they commit 100 crimes apiece, and you can get them all off the street or all cured. Big impact.

The point I am trying to make is this: We need more prison space. I think, although well intended, this is counterproductive to send me to a conference and tell me that I cannot bring back a bill that does not have a requirement of 85 percent of the time having been served. It seems to me you are sending me on a mission impossible, based on what the House has done. And even if I pull it off, and we have the votes to do it, you are being counterproductive.

I want more prison money. I put in the Biden crime bill a total of $6 billion. I like the House's provision even better. They have $13 billion. We cannot afford that much, relative to the other, but they have no strings attached, basically. They allow the States to build these prisons now. Now. Not wait for regional prisons, not wait for any signoff. They allow them to start now.

I see my friend from North Dakota is standing to speak; I will yield to him in a moment and then I will come back to the rest of the motion of the Senator from Texas. But I respectfully suggest we be somewhat more innovative.

There is a guy named Henry Fulsom, who is a fine Republican elected official, the most honorable, decent man I have ever known, whom I served with on the county council in New Castle County, DE. Henry Fulsom was the first guy I heard say—which I have heard many times since and I am sure it was said several hundred years ago—he said politics is the art of the practical.

I want a practical solution here. I want those 30,000 people last year who were convicted of a violent offense in the State prison system to go to jail. And to paraphrase my friend from Texas, although it would be best to keep them in jail 85 percent of their time, at least while they are in 45 percent of their sentence, they are not marauding my mother, my family, my constituents, my people. So it is better than nothing. I am afraid the alternative is nothing.

I think we should use this as a wedge. It is not inappropriate like some of the other things in this amendment are totally inappropriate, in my view. It is not inappropriate to say to the States, "Look, you want Federal money, here's the deal: You have to do it this way."

But I really think the 85 percent requirement makes it almost impossible for it to work, although I have no argument with the utility of that action if it were taken because, as I said—again, I do not say this to keep pointing out I wrote a bill, but I say it for my own bona fides. This is not someone who is up here who really is not for tough prison sentences, who is not for flat-time sentencing, who is not for keeping people in jail. I am not a liberal in conservative clothing on this thing. This is real, live stuff.

I am the guy who wrote the bill with others. The Federal system works well. The States would do well to emulate the system. But it seems to me if you insist that they immediately go to 85 percent, the cost to them and their taxpayers is so gigantic in order to qualify for such a small piece of money, that they are not going to do it.

I respectfully suggest that all my colleagues or their staff just pick up the phone, call your Governor back home—Democrat or Republican—and ask them what they think, whether they can go to the legislature now and ask for an additional tax increase to build a number of prisons immediately to demonstrate that they are keeping people in 85 percent of the time.

I am delighted to yield to my friend. I thank him for his patience. My friend from North Dakota knows a great deal about this subject and feels strongly about it.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I listened to the discussion by the Senator from Texas and the discussion by the Senator from Illinois. I had the same reaction as the chairman of the committee.

The Senator from Illinois makes the point that if we do not do something about the causes of crime, then we are not going to resolve this problem. There are not enough bricks in the country to build enough prisons to respond to America's crime epidemic. Much of it is for reasons that we do not even begin to understand.

Let me just describe, by reading you one piece from the Detroit News, about the death of a poor woman named Elizabeth Alvarez:

> It was with the wave of a hand from a 10-year-old boy that brought Elizabeth Alvarez to her death on a humid afternoon last August in Detroit. The boy, Jacob Gonzalez, 10 years old, wheeled around a bank parking lot on the banana seat of a pink bicycle he had stolen, and looked for a robbery victim. His accomplice, Damien Doris, a 14-year-old drug dealer, who owed the neighborhood kingpins $430, lay in wait near the automated teller machine.
>
> Mrs. Alvarez, pregnant and the mother of three, was hurrying to get cash for a birthday party. She passed by little Jacob and smiled, "Isn't it a good day?" Jacob said she asked. Jacob nodded in agreement and watched her walk toward the machine. He signaled to Damien when their prey had made her withdrawal. But Mrs. Alvarez refused to hand over her $80, so Damien shot her in the head with a .22 caliber pistol. Jacob looked at the woman. The boys backed away. The boys thought the bullet might explode. They ran off to divide the proceeds. Jacob's take was $20. He bought a chili dog and some Batman toys. Both boys were arrested the next morning.

These boys were 10 and 14 years old. We do not even begin to understand what is happening in this country. Would we have read this 10, 20, or 40 years ago? Things have changed, and those who say things have not changed do not understand what is happening on the streets in this country.

This system does not work in this country. Walk a block from this build-

ing and look at any residential building and you will find bars on the windows. A block from the Capitol a building cannot be sold without bars on the windows. Is it to keep those residents in the buildings? No, not hardly, although you wonder who the prisoners are. It is to keep out those who would threaten the people living on the residential streets just blocks from the U.S. Capitol.

I suppose all of us come here with individual experiences that cause us to look at the criminal justice system in a different way. Etched in my memory forever is a late night phone call telling me my mother had been killed in a high-speed police chase by a man who was sentenced to 10 years in prison, with 5 years suspended. And, of course, he was out in a fraction of the 5 years.

I will probably never in my life overcome the anger I have at the criminal justice system. When you get involved in that system, especially if a loved one is affected, you understand that victims are not treated fairly. It is just a fact. They just are not treated fairly. There is a lot of anger all across this country because everyone now worries about becoming a victim to the increasing epidemic of violent crime.

There is fear in this country that we did not have 10, 20 and 30 years ago. Last year, 24,000 murders, 110,000 rapes, 670,000 robberies, 1.1 million assaults. That is in a free country. We are the murder capital of the world. The question is, Why? The Senator from Illinois asked that question. I wish I knew the answer.

If I or my colleagues knew the answer, I suspect we would spend all of our time constructing the kind of solutions that are necessary to respond and diminish the amount of violent crime in our country. But the fact is we do not know the answer. We know some of the causes, and we must begin to address some of those causes.

But in the meantime, I support the instruction offered by Senator CONRAD from North Dakota and Senator MACK from Florida. They propose to instruct the conferees that the crime legislation which comes back to us include the provision that if you are convicted of a violent crime, you serve 85 percent of your sentence.

I come here to support that today, although it is not enough. It is the best we will get, but it is not enough. I, this week introduced legislation which I expect to have considered over the next year or so, and I hope eventually will be passed, that does something much different than that. I want people convicted of violent crimes to be sentenced, and when they are sentenced they serve their entire sentence—no fractions, no percentages. If you commit a violent crime, when you are sentenced, you serve your sentence.

Now, how do you get States to do that? I have offered a bill that some will say is very difficult to support. Not for me. Some who do not know much about the Constitution will say it is unconstitutional, but in my judgment clearly it is not, and there are court decisions that support my position.

What I suggest is this: States should have in place a policy that says, if you are convicted of a violent crime, you will serve your entire sentence—no time off, no good time, no deciding that after watching cable television for several years we will let you out early. If you are sentenced for 7 years, you serve 7 years.

If States elect not to have that policy in place and they decide for their own reasons—in order to save money, because of overcrowding, or other things—they decide they want to let people who have committed violent crimes out early, then I say make them responsible for the cost of that decision.

We spend a lot of time talking about cost shifting in the health care system because some people are covered and some people are not; some people do not have the resources so somebody else has to pay for it.

I tell you where there is shifting going on—in the criminal justice system. Somebody says we cannot afford to keep somebody in prison, so we let them out early even if they are a violent criminal. Do you think that is not a cost to society? What about the next victim in the next month? Is that next victim not a cost, not only in terms of human tragedy but in income and property? The fact is this is simply cost shifting. Violent criminals let out early go out and commit more and more and more crime.

My legislation very simply would say, if a State makes the decision to let a violent criminal out early, and that criminal then goes out and commits another violent crime during the time when he or she would have been in prison, the victim has the right to sue the State that let them out early. I want the jurisdiction that decides to save money by letting violent criminals out of jail to be responsible for that violent criminal's next act. I want the victims to be able to sue the State for not keeping that violent criminal in jail.

Tough? Sure. Radical? Maybe to some. Right? Absolutely.

The fear about the epidemic of violent crime in America is clear. It does not take Dick Tracy to understand who is going to commit the next violent act. It is going to be the person that committed the last violent act. For example, Polly Klaas in California, the young girl who was abducted from her home in the early evening and killed. I have in my briefcase the rap sheet of the man who abducted her. It is over 3 pages, single spaced, arrest after arrest, conviction and incarceration. And State incompetence after incompetence because the criminal justice system knew this criminal was dangerous and did not keep him locked up. And because that person was turned out on the streets, this young girl is now dead.

Well, my point is we have to do things better and we have to do things smarter. I want to put as much pressure as we can on all those in charge of incarcerating people to get them to keep violent criminals in prison for their full sentence.

I say to my friend from Delaware—and I compliment him enormously for this bill—we have to be a lot smarter about the way we incarcerate people. A criminal is not a criminal is not a criminal. We have over a million people in jail. Half of them are nonviolent. We do not need to build giant brick and mortar edifices to keep in prison offenders who are nonviolent.

Mr. BIDEN. If the Senator will yield, he knows in the Biden crime bill there is $3 billion for just that, $3 billion for boot camps for nonviolent criminals.

Mr. DORGAN. I was about to say that, and this is a demonstration of what I think we can do on a much larger scale. We can make room for 100,000 violent offenders now by turning nonviolent people out of those cells, and putting them in incarceration facilities that cost one-fifth of what it costs to build these giant prisons. That is the point. We have to be much smarter.

I am simply saying the energy you see in the Chamber from Senator CONRAD and Senator MACK is an energy that comes directly from the American people. The American people have decided that we do not want to be victims of crimes committed by criminals who should have still been in prison but were let out because States decided they could not afford to keep them in prison. They could not afford it, but the victim is going to have to afford the costs of being a victim of crime.

Let me just again compliment the Senator from Delaware on this bill. However, I intend to come back again and again and again to try to effect a change in which we not only address the root causes of the crime epidemic but we also try to keep those who we know are violent behind bars for their full sentence so that they are not out victimizing other Americans.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. I thank the Senator from North Dakota. We have no disagreement on the answer. It is the means to accomplish the ends. Let me be a bit facetious and suggest the following. A better way to assure that North Dakota would do what the Senator wants, if it does not already, or California or Texas or any State would do what the Senator wants would be to say, "You do not get any highway funds again un-

less you incarcerate people for 85 percent of the time," because they care about the highway funds. They do not have to raise more money in order to do that. They do not have to build anything. They are in a situation where that would have more impact.

But to say now my theory is this: You get no money to keep people in prison unless you spend, if it is not twice the money, if it is 30 percent of the money, unless you spend a lot more money than you are going to get—everyone would have to agree to that—unless you spend a lot more money than you are going to get, you do not get any money to build prisons, I predict to you it will have the exact opposite effect my friend from North Dakota wants. More of those people will be out of jail—not fewer, more.

Before I ask unanimous consent here, I will conclude by suggesting to you we do not have a Federal problem. Running the risk of seeming like I am being a little too facetious, my friends who dare do this should go home and run for Governor. That is the place you should be. Run for Governor. And you be the one to go tell the people of your State you are going to raise their taxes. I hope you do. You should.

But it gives Governors and State legislators a way out in order to ask for the money. They are going to have to go to the people in this antitax era and say, "Let me raise your taxes." You know how they lecture on balanced budgets all the time. I love those gubernatorial lectures on balanced budgets. They say, "Come down here." And they pass two amendments when the National Governors Conference meets. They have two resolutions to send to Congress. The first one is, "Congress, balance your budget like we do." The second one is, "And, by the way. Send us more money because we don't want to do our job and go to the people and tell them we need more money."

Ninety-six percent of all the crime committed in America is committed solely within the jurisdiction of a Governor, a mayor, a county executive, or a local person—96 percent. We should help. And we are going to help. We are going to provide billions of dollars of help. I do not mind telling the American people where we are going to get the money to pay for this. Here is how we are going to pay for it flat out. But let us at least raise the money so they will spend it on what we want them to.

Mr. President, I yield the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, what drives the emotion of the distinguished Senator from Florida and his counterpart on the Democrat side of the floor is that people out there are tired of the average sentence time served in the States being 40 percent. And they are specifically tired of it when it comes to violent criminals. When a murderer gets a sentence of 15 years on the average, and serves less than 7, the average murderer in this country, it does not take many brains to realize that there has to be something done to keep these people off the street.

When the average rapist gets sentenced to 8 years in prison and serves less than 2, a rapist—our daughters are at risk—it is not hard to understand why some of us would like to see those sentences, at least 85 percent, carried out. That is what the truth in sentencing is. Whether it should be triggered by the regional prison concept or some other concept, it is almost irrelevant to me. But we want to get the violent criminals, and lock them up and throw away the key for at least 85 percent of that time that they are sentenced. If they use a gun, then they ought to get it doubled.

That is the way to stop the unwise, the unlawful, and the dirty, rotten use of guns in this society, not some ridiculous, idiotic, 5-day waiting period that has caused almost everybody to go out and buy their guns now—the typical liberal solution to things. "Let us have a 5-day waiting period. That is going to solve all of our problems." All that has done is increased gun sales like 300 percent across this country because people could not wait to go out and get their guns now that they are going to have to wait 5 days.

These liberal solutions have never worked. Of course, now they have Brady II. Brady I was supposed to do everything for us. It has not done a doggone thing. In fact, it is going to undermine law enforcement in this country.

Now they want an assault weapon ban. They are going to ban 19 weapons. But they have defined them in such a way that over 100 will be banned, but they are going to exclude, exempt, 650 that have basically the same firing mechanism as these so-called 19—to take away the rights of American citizens, as defined in the second amendment to keep and bear arms, which is certainly more than a militia right as defined by some today. That is the national guard right. That is not what the Founding Fathers meant. That is not what they meant when they wrote that amendment. The militia was every American citizen who felt inclined to support our country.

So we can moan and groan about truth in sentencing all we want. But that is what the American people want. They want the violent criminals put away.

I happen to agree with the distinguished Senator from North Dakota that we should not be spending all of our expensive jail time for those who are not violent people. I happen to agree with the Senator from Delaware that boot camps may be a solution for people like that. We should not make prison a very nice time for people. Unfortunately, our do-gooders on the liberal side of the equation want to make sure that everybody is treated beautifully in prison. Frankly, I think it is time to get tough on these people.

I have another part of this I would like to spend a few minutes on.

Mr. President, the two Houses of Congress are soon going to go to a conference on the crime bill. I regret to report that the crime bill passed by the other body contains several billion dollars in ill-defined social programs—I might say ill-defined 1960's Great-Society-style social spending programs in the guise of anticrime legislation.

As such, these wasteful social spending boondoggles will rob the people of Utah and every other State of scarce resources which would be aimed at fighting crime, building prisons, hiring local, State, and Federal law enforcement officials and officers, and similar law enforcement measures.

Take, for example, the Local Partnership Act contained in the House bill. This program will give local governments $2 billion for fiscal years 1995 and 1996 to use for four purposes: education to prevent crime, substance abuse treatment to prevent crime, coordination of Federal crime prevention programs and, job programs to prevent crime. There are no other standards in the House bill. That is it—those four broad-based standards. We just have these four general purposes.

In plain English, this is just Federal money for local government social programs with the crime label put on them for cosmetic purposes. By slapping the phrase "to prevent crime" on these purpose clauses, this provides the cover to hijack $2 billion of precious crime fighting resources for anything at all that localities will label "education to prevent crime," or for drug treatment, or for more Government jobs programs.

The $2 billion would be much better spent in really fighting crime by spending it on prisons, law enforcement officers, and equipment.

Let me take another example of wasteful social spending in the House bill, the Model Intensive Grant Program. This program allows the Attorney General virtually total discretion to spend $1.5 billion over 5 years in grants for up to 15 chronic high-intensive crime areas to develop comprehensive crime prevention programs. This money apparently can be spent on anything that can arguably be said to attribute to reducing chronic violent crime.

The House bill says this includes but is not limited to youth programs, "deterioration or lack of public facilities, inadequate public services such as public transportation," substance abuse treatment facilities, employment services offices, and police services, equipment, or facilities.

I believe in spending wisely on crime prevention, although most of that funding should not come from the crime bill, where we should focus very heavily on enforcement.

But this open-ended Model Intensive Grant Program allows spending on just about anything that can be remotely described as crime prevention, however tenuously, including public transportation. We are supposed to be sending the President an anticrime bill. Let the Department of Transportation offer some of its existing funds for transportation services for preventive crime. Let us not take it out of our crime bill.

Mr. President, you can bet that conferees from the other side of the aisle will propose inadequate funding for new prisons in the crime bill. We will undoubtedly need to spend more on prisons. We need to spend more on prisons for two interrelated reasons. We can talk about ensuring that children do not go astray, and we should be concerned about that. But we have many vicious criminals right now who are not serving enough of their sentences. And speaking of crime prevention, one of the best things we can do to prevent crime right now is to take violent criminals off the streets for long periods of time so that they cannot commit anymore crimes.

Another social spending program in the House bill is $525 million for a Youth Employment and Skills Crime Prevention Program which funnels cash to State and local governments for job training and make-work programs.

This is a duplication of the programs I have just mentioned, except this one is run by the Department of Labor. Despite the fact that there are already over 150 Federal job training programs at a cost of over $20 billion a year, the Attorney General announced this week that the administration supports this program and has asked that Congress increase the program to $1 billion.

Frankly, the best crime prevention program is one that ensures swift apprehension and certain and lengthy incarceration for violent criminals. The more than $4 billion in these three boondoggle programs in the bill the other body sent belong in prison construction and other measures.

These social spending programs are neither tough nor smart on the fight against crime. We can and must spend our moneys more wisely, and in the process we have to move to truth in sentencing.

I want to point out a little bit about just how these programs work. This lists seven Federal departments who sponsor 266 programs which serve delinquent and at-risk youth—266. These are already existing programs. This is Federal departments on this side and the number of programs each department has.

The Department of Education has 31 programs already in existence without the crime bill. The Department of Health and Human Services has 92 programs already in existence. We are doing a lot in this area without the crime bill. The Department of Housing and Urban Development has 3 programs; Department of Interior, 9 programs; Department of Justice, 117 programs; Department of Labor has 8; Department of Transportation, 6, for a total of 266 Federal programs for at-risk youth.

Yet, we would add $4 billion more. In other words, every time you try to do something about crime, those on the liberal side of the equation load the bill up with more social spending programs that are not working anyway, rather than do the things that have to be done against violent crime in our society.

So I repeat this. The GAO recently reported to Senator DODD, who heads our Family and Children Subcommittee on the Labor Committee, that there are 7 Federal departments fostering 266 prevention programs which currently serve delinquent or at-risk youth. Like I say, of these 266 programs, 31 are run by the Department of Education, 92 by HHS, and 117 by the Justice Department.

GAO found that there already exists a massive Federal effort on behalf of troubled youth," which spends over $3 billion a year. GAO went on to report that:

> Taken together, the scope and number of multiagency programs show that the Government is responsive to the needs of these young people * * *. It is apparent from the Federal activities and response that the needs of delinquent youth are being taken quite seriously.

That is in the GAO report, Federal Agency Juvenile Delinquency Development Statements, August 1992.

Despite the findings of the GAO, the House crime bill throws even more money at State and local government under the prevention label, while failing to acknowledge our ongoing efforts. Listening to the House bill supporters, one would assume the Federal Government has done nothing in the area of crime prevention.

They load up the House bill with almost $10 billion of prevention. I believe there are some legitimate areas where we can do something about prevention, but I have to tell you right now that we are doing plenty without loading up this crime bill with more than we need. We need the prisons; we need the police; we need to get tough on crime; we need the mandatory minimum sentences; we need the beefing up of Quantico, of our DEA, of our FBI, of our Justice Department prosecutors, rather than cutting back on them. We need tough antirural crime initiatives, antigang initiatives, violence-against-women initiatives, the scams on the senior citizens, against telemarketing fraud. All of that in this bill would make a difference against crime in our society.

Mr. President, I have to say that we have a lot of problems in going to conference on this crime bill, not the least of which is the gun ban and, of course, not the least of which is this racial justice act, which would virtually outlaw all implementations of all death penalties in our society today, and would cost the American taxpayers billions, if not trillions of unnecessary dollars, as the whole capital punishment system would come to a screeching halt and be embroiled in all kinds of litigation, all kinds of statistical analysis, all kinds of social welfare work, to the point that people will throw their hands up in the air and say we really cannot get tough on criminals, especially those who commit willful, violent, heinous murders against the public.

Mr. President, I wanted to make a couple of these points during this debate today, because I have to go back to the truth-in-sentencing provisions. If we do not get tough on the violent criminals, we are not going to make headway in this society. All of the prevention programs in the world are not going to help us.

With that, I yield the floor.

Mr. BIDEN. Mr. President, I thank my friend from Utah. Look, Mr. President, we are debating old ground here. We have been through it a number of times. I have made my case as it relates to truth-in-sentencing. I am willing to take a chance if my friends are. I want to be able to say—I should not say it this way—I told you so. I am going to wash my hands of this one.

I want to make it clear that I want more prison space. I think the States need the help. I think to do this to the States and insist this is the only way they can do it, they will not build the prisons needed, they will not spend the money we are going to appropriate for the States. When it turns out that we pass this big bill with prison money in it, if truth-in-sentencing is in here the way it is, do not come back to me 2 years from now and say we have a prison shortage in America. I do not want to hear it.

If it turns out the States do all this, then I will, as I have done at least on one other occasion on the floor, come to the floor and say, mea culpa, mea culpa, mea culpa, mea maxima culpa. Forgive me, I was wrong. I would be delighted to stand here and say I was wrong.

The States are going to spend $60 billion over 5 years, and we are going to spend somewhere around that area over the next several years. We are going to spend between $3 and $6 billion over the next several years, and we will build all these prisons and America will be safe. If that happens, the pages looking at me, who will be 5 years older, and will all be in college, I will remind them and everybody else, I will come to the floor and say I was wrong, mistaken.

I am told this is cleared by my Republican friends.

I ask unanimous consent that the vote on Senator CONRAD's motion to instruct occur at 6:30 p.m.; that upon the disposition of that motion, the Senate vote on Senator GRAMM's motion to instruct; that these votes occur without any intervening action or debate; that no amendments be in order to either motion, and that no other motion to instruct the conferees on H.R. 3355 be in order after 4 p.m. today.

Mr. HATCH. Reserving the right to object, Mr. President, and I do not believe I will object. We do have this other resolution we would like to get in on.

Mr. BIDEN. Mr. President, I ask unanimous consent that we vote——

Mr. HATCH. We do not need a vote on it.

Mr. BIDEN. I will accept it. Let me make sure I understand what I am accepting. I am accepting the motion to instruct that calls for a big room and the press present.

Mr. HATCH. The last time—in the last conference—they called the conference on a Sunday in the middle of a Redskins game; they put it in a small room, or a relatively small hearing room, foreclosed anybody from the public from viewing what was going on, including the media. It turned out to be a fiasco.

I really believe that it is in the best interest of the Senator from Delaware and all of us, to have this in the largest room we can find in the Senate—one of the three caucus rooms—or have it in open forum and allow anybody in the public to come, including the media, so they can see what we are doing about crime in this. It is not going to be a fun conference or a beautiful thing to behold. It is going to be a mess. I think it is time for the general public to see what it is like, the games that are played, sometimes maybe by both sides.

So I think it will just be a thing that will benefit all of us. I am really cheered by the fact that our distinguished chairman on the Judiciary Committee is willing to accept that resolution. As soon as we get it typed up, we will bring it to the floor and get it passed.

Mr. BIDEN. Mr. President, this is a little revisionist history here, but let me point out I do not think whether there is a Redskins game on or the Super Bowl we should not have a conference. I would like to point out I do not want to get in a big fight here that after months and months my Republican colleagues not allow me to go to conference.

They did not want a crime bill because it had gun legislation in, number one.

No. 2, we held the conference in the Judiciary Committee room which is almost as big as the Senate floor.

No. 3, to the best of my knowledge the press was there. Under the sunshine law there is not an ability to tell the press they cannot come into the room. To the best of my knowledge, the press was there; the TV was there; people were there. As a matter of fact, there were a couple of interesting stories written, to put this in perspective, about how I ramrod the Republicans, and they watched it.

Why did I do that, by the way? I did that because they filibustered a crime bill for 2 years, and I will do it again if they try to filibuster it for 2 more years. I want the public there to see it, too.

I promise you the public will be there. I promise you I will agree to whatever room they want to have it in, if we have it on the this side or if we do not have it on this side. I am all for everybody watching it. If you want to add the possibility of putting it in RFK stadium, I will add RFK stadium if you want.

Keep in mind, the Biden crime bill we were trying to pass for 4 years. So I am anxious to pass it. I want everyone to be there. I want everyone to see it. I am ready to go. I will accept it even without it being written, even without seeing the language. I trust my colleague so much, I will accept his assertion that it be in a big room with television. I cannot, obviously, dictate to the Rules Committee which room they give us, but I promise you we will hold it on the lawn if we have to in order for everybody to be able to come and see it. And we will sell tickets if you want.

So I will accept the motion, sight unseen.

The PRESIDING OFFICER (Mr. CAMPBELL). The Senator from Delaware is in the process of seeking a unanimous-consent request. Does he seek to revise that request?

Mr. BIDEN. No. I withdraw the request.

Mr. HATCH. Mr. President, we will certainly agree with the request if we can.

Just to straighten the record out, though, the reason for the delay the last time is we were in a fight over the ratio of conferees. Finally, we got rolled on it. No question about it.

The only reason I remember the Redskins game is because that was the only game I think I was permitted to go to in years, and my good friend from Wyoming was with me. It was not a very good game because they were losing. We did not mind coming to the conference, and we both left.

The fact is it was a rollover of the other party conference that occurred behind closed doors, without the public having any idea about it and without anybody seeing what was going on, and with an attempt by maybe both sides trying to gain private advantage—frankly, we felt on one side, but nevertheless I am sure the other side probably felt, both sides, so I will even agree to that.

The fact of the matter is at this time it should not be, and I think it plays in the distinguished chairman's best interest, and certainly it does in our best interest, to make sure that we sit down and do it in an open forum so that everyone can see what is going on. On this side this year, in a rather large room, one of the three caucus rooms, either S. 325 in the Russell Building, or the Hart 216, or 106 in the Dirksen Building, whatever the large caucus room is.

Mr. BIDEN. Mr. President, I doubt anybody would object to that. I have never yet found a Senator who was not willing to have television cameras in a room, particularly a big room, and particularly a big undertaking. I am happy to do that.

I might add, somewhat facetiously, if the new rules we passed relative to the last week's debate are in place, no one will have to worry about a Redskins game interrupting anything. So we are going to be fine.

Mr. President, I would renew my unanimous-consent request and acknowledge to the Senator I accept the motion.

Mr. SIMPSON. Mr. President, reserving the right to object, and I will not object, I do think that it is appropriate to say that Senator BIDEN and Senator HATCH have worked very closely together. Surely we have our disagreements. But they have been accommodating to those on Senator BIDEN's side and on our side of the aisle.

This is a very difficult issue. It is about money. It is about partisanship. It is about police. It is about prevention. It is about punishment. But I think we can get it done, and I think it is very important. Senator HATCH has expressed it very clearly, that even though there was a filibuster—there were threats that there were—it was still a conference that took place in a shoe box, and they just kind of wadded people in on the sides.

I was there. I was a conferee. It was not a pleasant thing, because it is never pleasant when you get rolled. But when you are in the minority you do get rolled. I understand. That is politics. That is fair. I have no whine about that.

I think it will be good because I want the people—not to see how the Senate does its work, the Senate does its work, I think, in a very open way, at least these two managers have— I want them to see how the House works, where they took two motions to instruct from the U.S. House of Representatives that passed by votes of 260 to whatever and just sat and smiled and rolled their own House.

I remember that very well. It was with a great deal of high glee. And some of the people who were in there when the House instructed the con-

ferees to stick with the provisions—I think there were at least two provisions by big votes, this group of conferees from the House just, as I say, in an arrogant way just closed the book.

This is the House that gives us lectures on the filibuster and says that we over here are an evil group who do an ugly thing called filibuster. Yes, we do. It helps a minority within the minority, regardless of what party you are in.

Over there they just run it with an iron fist and hang people out to dry, take their amendments, put someone else's stamp on them, and ship them down the road.

I want the public to see that it is really something to see, to give them a whole new view. That is why I think the motion to instruct will be appropriate, and not to reveal any chicanery in the Senate, but to show how blatant are these House conferees. It is the same stacked deck. It is the same stacked House conference. Just take a look at it. And here we go. I know them. I like them. They were pleasant persons. But they play a version of hardball that makes us now look like we are wandering around with our hands and feet covered with Band-Aids.

The PRESIDING OFFICER. Is there further objection to the request of the Senator from Delaware?

Without objection, it is so ordered.

The Senator from Delaware.

MOTION TO INSTRUCT CONFEREES

Mr. BIDEN. Mr. President, I send a motion to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Chair will tell the Senator there was a motion currently pending.

Does the Senator seek unanimous subsequent to set that motion aside?

Mr. BIDEN. Yes. I unanimous consent to set aside, I believe it is the GRAMM motion.

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

The Gramm motion is set aside.

The PRESIDING OFFICER. The motion will be stated.

The bill clerk read as follows:

The Senator from Delaware [Mr. BIDEN] moves to instruct conferees on the part of the Senate that the conferees on the part of the Senate on the disagreeing votes of the two Houses on the bill H.R. 3355 be instructed to insist that the committee of conference report a committee substitute that includes the following measures:

(1) The Violent Crime Reduction Trust Fund to ensure that funds are available to support the vital programs ranging from prevention to punishment authorized in the crime bill.

(2) Adequate funding to put 100,000 more police officers on the streets of our neighborhoods and local communities in community policy programs.

(3) Significant funding for State and local crime prevention programs, including prevention programs specifically aimed at children most at risk of turning to drugs and crime, as well as general drug treatment and prevention programs.

(4) Significant funding for the construction and/or operation of—

(A) secure prison facilities for violent offenders; and

(B) boot camps, jails, and other low or medium security State and local facilities to house nonviolent and less serious offenders.

(5) Tough penalties for violent criminals.

(6) A comprehensive Violence Against Women Act, including resources to improve law enforcement responses to domestic violence, for victim services, for educational programs, and including a civil rights cause of action for violent felonies motivated by gender bias.

(7) Funding for Federal law enforcement, including the Federal Bureau of Investigation, the Drug Enforcement Agency, the Justice Department, United States attorneys, and for other Federal law enforcement agencies.

Mr. BIDEN. Mr. President, a lot of the motions we have heard and will hear, although very important to individual Senators and maybe even important to some aspects of the bill, are not the heart and soul and guts of this legislation.

The reason this is such important legislation is not merely that it spends a lot of money, we do that lots of times on things that are not important. But it is important because it is the first time, as I said, we struck a balance here on the floor, liberals and conservatives alike, with notable exceptions. I believe that we have to deal both with the violent criminals who are out there, those people who are already convicted of a crime, with tough sentencing and penalties, more police, et cetera, at the same time trying to prevent crime as well, people from getting into the crime stream.

As I said, the motion to instruct, so far by and large, has been about fighting crimes in the margin. Only some 5 percent of the violent crimes, only 5 percent are prosecuted at a Federal level. And yet my colleagues on the other side of the aisle, and some on my side, would have us believe that tough Federal penalties are critical parts of this bill.

I am for the tough Federal penalties, but let me just assure you and anyone listening, if only 5 percent of all the violent crimes—5 percent—are prosecuted at the Federal level, and we toughen that 5 percent, does anybody believe that is going to affect crime in America?

So it is kind of important we put this in focus.

I agree that tougher penalties for violent offenders are important. That is why in the Biden bill that I introduced—the original bill here, now the Biden-Hatch bill that passed here—we included the largest ever expansion of the Federal death penalty to cover some 50 crimes that included over 60 additional penalties, primarily covering drugs and drug traffic.

But stiff Federal penalties will not be the dam that stops the river of crime from flowing through our country. Far more importantly, this crime bill will help the States do their job, which is to investigate, prosecute, try, and incarcerate the 95 percent of the criminals who are terrorizing our streets and neighborhoods within State jurisdictions. And that means, first and foremost, that we have to make sure both sides of the crime fighting equation add up.

On the one hand, we have to provide the States with the resources to punish violent criminals. We must also reach out and prevent would-be criminals from coming down the path in the first place.

As I have already said today, I do not want to waste any more time debating what I believe are the marginal options to instruct.

So, without any further talk, I have sent to the desk a motion to instruct which directs the conferees to agree upon a balanced, comprehensive crime bill, which includes all the key building blocks that we passed in this Senate and that are truly effective crime-fighting strategies.

In my opinion, I believe we should direct the conferees to, one, include in the conference report the Violent Crime Reduction Trust Fund. We must guarantee to the American people we have the money and we are going to spend the money on crime. I think it is the single most serious domestic as well as foreign problem that faces this Nation. And we should set aside a trust fund to guarantee the American people, for the next 5 years we are going to meet the commitment that we say, that the money is available for vital programs, ranging from prevention to punishment, that is authorized in the Biden-Hatch crime bill.

It directs the conferees to provide adequate funding to put 100,000 cops on the street over the next 6 years; in our case, 5 years. But 100,000 cops. The House bill only has 50,000 cops that we provide the money for at the local level.

These police officers will be on the streets of our neighborhoods and local communities in community policing programs. For if we know one thing about crime, we know that there is less crime that occurs on a corner where a cop is standing at that moment. We do not know a whole lot more, but we know if a cop is on the corner, and if a cop is not on the other corner, there is going to be crime committed on the other corner more likely than where the cop is standing. We know that.

This is a tough bill we passed out of the Senate to provide the States to hire 100,000 new cops. There are now only 544,000 cops in all of America. So we are almost increasing by 20 percent the number of local police officers in this bill.

And we should instruct the conferees to hold fast on my 100,000 number, not the 50,000 number the House has.

My motion also directs the conferees to provide sufficient funding for secure prison facilities for violent offenders and tougher penalties to keep violent offenders where they belong—behind bars.

We should be instructed that we go back and not come back here with a conference report that does not have sufficient money in it for prison construction.

I also want to help the States build and operate boot camps, jails, and other low- and minimum-security facilities, in line with what my friend, Senator DORGAN from North Dakota, was talking about. These are for nonviolent, less serious offenders. The House does not have any money in there for boot camps. You can do it at about 40 percent of the cost. We should stick with the Senate position to have that $3 billion in there for boot camps.

My motion also instructs the conferees to heed the other side of the ledger and provide sufficient funding for State and local government crime prevention programs, including prevention programs specifically aimed at children most at risk to drugs and crime.

Under the leadership of people like Senator DODD, Senator DOMENICI, Senator DANFORTH, and many others on our side of the aisle and on both sides, we have included such provisions in the crime bill. They are an important and balanced piece of this legislation.

So, Mr. President, I hope there is no argument about what I have just suggested.

This crime bill is made up of four major components. One, there is a trust fund. Two, there are real, live, hard dollars for States to build boot camps and prisons. Three, there is in this bill 100,000 cops—100,000 cops. And, four, there is in this bill the Violence Against Women Act, which I also included and that my friend from Utah has cosponsored, that deals for the first time in a concentrated way with the abuse heaped upon women through violence in American society, and identifies it as not a unique but an identifiable and clearly able-to-be-dealt-with problem.

And the last part of this bill we passed out of here which we should have instructions on is to do what Senators DOMENICI and others have instructed on the Republican side, as well as my friends on my side, and that is to balance it off with general, serious prevention efforts that we know work, by giving States money to set up these programs which we know work, to prevent children from moving into the crime and drug stream in the first place.

Mr. HATCH. Will the Senator yield?

Mr. BIDEN. Yes.

Mr. HATCH. I think the Senator has a good motion here.

I wonder if I may ask my dear colleague to consider adding three additional matters to it. He has agreed to these before, so I do not think they would be a problem, but I think it would strengthen the motion.

One is, of course, the Senior Citizens Against Marketing Scams Act.

Mr. BIDEN. I will agree, Mr. President.

Mr. HATCH. Make that No. 8.

Then, No. 9, title 14 of the Senate bill, which responds to rural crime, which all of us are concerned about.

Mr. BIDEN. I will agree with that.

Mr. HATCH. No. 10, section 1031 of the Senate bill, which improves the training of law enforcement and provides technical automation. It is basically the Quantico part of the bill.

Mr. BIDEN. Mr. President, I agree with that, as well.

Mr. HATCH. Then I certainly am going to agree to this particular motion, and I compliment my good friend and colleague for having done so.

MODIFICATION OF MOTION TO INSTRUCT CONFEREES

The PRESIDING OFFICER. Does the Senator from Delaware seek to modify his motion to include those measures?

Mr. BIDEN. I will seek to modify the motion to include the three additional measures mentioned by my friend, Senator HATCH. I agree with him. I seek to so modify.

The PRESIDING OFFICER. The Senator has that right. The instructions will be so modified.

The motion, as modified, is as follows:

I move that the conferees on the part of the Senate on the disagreeing votes of the two Houses on the bill H.R. 3355 be instructed to insist that the committee of conference report a committee substitute that includes the following measures:

(1) The Violent Crime Reduction Trust Fund to ensure that funds are available to support the vital programs ranging from prevention to punishment authorized in the crime bill.

(2) Adequate funding to put 100,000 more police officers on the streets of our neighborhoods and local communities in community policing programs.

(3) Significant funding for State and local crime prevention programs, including prevention programs specifically aimed at children most at risk of turning to drugs and crime, as well as general drug treatment and prevention programs.

(4) Significant funding for the construction and/or operation of—

(A) secure prison facilities for violent offenders; and

(B) boot camps, jails, and other low or medium security State and local facilities to house nonviolent and less serious offenders.

(5) Tough penalties for violent criminals.

(6) A comprehensive Violence Against Woman Act, including resources to improve law enforcement responses to domestic violence, for victim services, for educational programs, and including a civil rights cause of action for violent felonies motivated by gender bias.

(7) Funding for Federal law enforcement, including the Federal Bureau of Investigation, the Drug Enforcement Agency, the Justice Department, United States attorneys, and for other Federal law enforcement agencies.

(8) the "Senior Citizens Against Marketing Scams Act" as passed by the Senate;

(9) Title 14 of the Senate bill which responds to rural crime; and

(10) Section 1031 of the Senate bill which improves training of law enforcement and provides technical automation.

Mr. BIDEN. Mr. President, let me make it clear. The only reason I did not include those—and they are very important—in the Biden crime bill was the rural provision—actually, they are all in that crime bill. I am for that.

But the thing I do not want us to be the least focused on here are the big ticket items: 100,000 cops, billions of dollars for prisons and boot camps, prevention money that is real, that the States can use, and the trust funds.

They are the great-big-ticket items that make this a bill with real teeth in it, real teeth. We can pass everything else in that bill, but if we do not pass those four things, this bill, although helpful, is not one-twentieth as valuable as legislation with those major provisions. And they are in disagreement with the House right now, so it is helpful to me.

Again, I want the RECORD to show, so there is not any misrepresentation or mischaracterization when we come back with the conference report—and I thought it interesting, my friend from Utah said or my friend from Wyoming said, "It's going to be a difficult conference." My instinct was to say, "Tell me about it."

This is going to be a difficult conference. The Presiding Officer, who served with distinction in the House of Representatives before he came to the Senate, knows that in the House side they already have appointed 62 conferees, the core conferees for the bill. But the House is very, understandably, fastidious about jurisdictional breakdowns. So anything that affected the Labor Committee or the Ways and Means Committee, they have conferees assigned as well for that portion of the bill. It is like operating with a committee of the whole.

Two conference bills before the last one, which was already filibustered to death, I remember sitting in a large room as the only Senator sitting there with waves of House Members coming in. I felt like I was in a tag-team wrestling match and I had no one to tag. For an hour I would sit down and debate with six or seven House Members who were on this subcommittee. Then they would leave and I would catch my breath and there would be five from another committee. Because they are very fastidious—I am not criticizing—they are very fastidious, as the Presiding Officer knows, about their jurisdiction.

So this will not be easy, but I am confident it will be done. Because the American people will not stand in my view for any further delay. Anybody

who dares filibuster a bill when it comes back, I think they are going to have heaven to pay from the voters when they in fact go home.

I think that everyone has to understand now that these instructions equip me to make a case. Essentially, they are not binding. They are not binding. They cannot be binding because I cannot guarantee what the House will do or not do. So I will commit to go to the House with these in hand. But Lord only knows what we will be able to come back with.

Mr. President, I ask unanimous consent that the vote on the motion to instruct occur without intervening action or debate immediately upon the disposition of Senator GRAMM's motion to instruct and that no amendments be in order to my motion, and that it be in order to have the order of the yeas and nays en bloc on my motion and the previous two motions to instruct.

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

Mr. BIDEN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BIDEN. Mr. President, it is my hope that there are not any more motions to instruct. I do not know that there are. Essentially, what we are going to end up doing—I understand why—but everyone is going to instruct that we be for the Senate bill. I am for the Senate bill. I wrote it, the underlying bill, anyway. But I suspect people are going to come over. This is kind of an interesting thing. It must be interesting for people watching us. Essentially what is happening here, for the first time in my experience in 22 years here, is that there is a negotiation going on, on the floor of the U.S. Senate right now through these motions, to try to, in effect, renegotiate the position of the Senate before we get to sit down to negotiate with the House. I am willing to do that but I am not sure any of this means a whole lot. We already know where the Senate stands on these things.

But I would ask Senators if they have any motions to be reminded that there is a unanimous consent that if they are not here by 4 o'clock to introduce that motion, the motions will not be in order.

One of the things I think the Senate will find interesting, and maybe people watching will as well, is the Senator from Utah and I agree on this stuff. Probably we disagree on some things, like federalization of every handgun law.

GRAMM MOTION TO INSTRUCT CONFEREES

Mr. President, I received a letter from the Chief Justice of the United States. Chief Justice Rehnquist said:

I am writing in my capacity as Presiding Officer of the Judicial Conference of the United States to convey the opposition of the Judicial Conference—

That is the judges. Not just the Supreme Court, the Federal courts—

to proposed legislation that would provide for Federal jurisdiction over offenses traditionally reserved for State prosecution. I enclose a statement expressing the objection and the reasons therefor * * *.

Then I received a letter directly, from John F. Gerry, who is chief judge and chairman of the executive committee of the Judicial Conference of the United States. He sent me a letter which takes strong opposition to several provisions in the Senate bill which I also am opposed to. It says:

Recent actions on a crime bill also reflected a natural response to growing concerns about crime. Unfortunately, proposed legislative response have expanded—unwisely in my view—the role of the Federal courts in the administration of criminal justice. The Federal courts undoubtedly have an important part to play in the war against crime, but I urge Congress to review carefully the impact on the Federal courts, and on the traditional balance between State and Federal jurisdiction, before adopting the more expansive proposals in the crime bill.

And then reading further it says:

Federalization of State Prosecutions Position of the Judicial Conference.

I think we should listen to this. It says:

The Judicial Conference of the United States opposes legislation adopted by the Senate that would expand Federal criminal law jurisdiction to encompass homicides and other violent State felonies if firearms are involved. Such expansion of Federal jurisdiction would be inconsistent with long-accepted concepts of federalism, and would ignore the boundaries between appropriate State and Federal action.

The addition to Federal jurisdiction of virtually any crime committed with a firearm that has crossed a State line will swamp the Federal courts with routine cases that States are better equipped to handle, and will weaken the ability of the Federal courts effectively to deal with difficult criminal cases that present uniquely Federal issues.

I ask unanimous consent all three of these be printed in the RECORD at this point.

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

JUDICAL CONFERENCE
OF THE UNITED STATES,
Washington, DC, May 19, 1994.

Hon. JOSEPH R. BIDEN, JR.,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I write as Chairman of the Executive Committee of the Judicial Conference of the United States. By this letter, I wish to express the continuing opposition of the Judicial Conference to proposed legislation that would expand federal criminal law jurisdiction to encompass homicides and other violent state felonies if firearms are involved.

The Chief Justice recently reiterated the concerns of the Judiciary with specific reference to the Senate bill in his 1993 Year-End Report on the Federal Judiciary:

"Recent actions on a crime bill also reflected a natural response to growing concerns about crime. Unfortunately, proposed legislative responses have expanded—unwisely in my view—the role of the federal courts in the administration of criminal justice. The federal courts undoubtedly have an important part to play in the war against crime, but I urge Congress to review carefully the impact on the federal courts, and on the traditional balance between state and federal jurisdiction, before adopting the more expansive proposals in the crime bill. Serious consideration should be given to providing greater assistance to the state courts in handling their traditional jurisdiction, rather than sweeping many newly created crimes, such as those involving juveniles and handgun murders, into a federal court system that is ill-equipped to deal with those problems and will increasingly lack the resources in this era of austerity."

In short, providing Federal jurisdiction over offenses traditionally reserved for state prosecution is not a wise use of our scarce Federal resources.

I have enclosed a copy of a letter previously transmitted to Congress by the Chief Justice, expressing the opposition of the Judicial Conference to similar legislation introduced in the 102nd Congress. Attached to that letter is a statement setting forth the Judicial Conference position on this matter. It remains an accurate statement of the Judicial Conference position on the proposed legislation.

I appreciate your consideration of these issues.

Sincerely,

JOHN F. GERRY.

SUPREME COURT
OF THE UNITED STATES,
Washington, DC, September 19, 1991.

Hon. JACK BROOKS,
Chairman, Committee on the Judiciary, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I am writing in my capacity as Presiding Officer of the Judicial Conference of the United States to convey the opposition of the Judicial Conference to proposed legislation that would provide for federal jurisdiction over offenses traditionally reserved for state prosecution. I enclose a statement expressing the objection and the reasons therefor in more detail. I appreciate your serious consideration of these views.

Sincerely,

WILLIAM H. REHNQUIST.

Enclosure.

FEDERALIZATION OF STATE PROSECUTIONS POSITION OF THE JUDICIAL CONFERENCE OF THE UNITED STATES

The Judicial Conference of the United States opposes legislation adopted by the Senate which would expand federal criminal law jurisdiction to encompass homicides and other violent state felonies if firearms are involved. Such expansion of federal jurisdiction would be inconsistent with long-accepted concepts of federalism, and would ignore the boundaries between appropriate state and federal action.

The addition to federal jurisdiction of virtually any crime committed with a firearm that has crossed a state line will swamp the federal courts with routine cases that states are better equipped to handle, and will weaken the ability of the federal courts effectively to deal with difficult criminal cases that present uniquely federal issues.

Not only will bona fide federal criminal prosecutions suffer if the Senate's expansive firearms provisions are adopted, but federal courts, overburdened by criminal cases, will be unable to carry out their vital respon-

sibilities to provide timely forums for civil cases.

Mr. BIDEN. Mr. President, the point the judges go on to make is the point which we have made a number of times. That is that one of the purposes of the Federal court system is not only to handle Federal crimes but to handle very complicated criminal actions, major stings, major drug cartels, major moves on the mob and so on. And one of the things everybody says, either directly or by implication here, is the Federal system is working pretty well. Nobody is in here worrying about the Federal system. Federal judges work, the judiciary works, the Federal prison system is by and large working. The Federal prosecutors are working. The Federal FBI, and DEA, and Federal agencies are doing their jobs.

Now what the judges are saying is you come along and take the bulk of the crimes that are committed by street gangs and punks, serious crimes, and put them into the Federal courts which only have 5 percent of the resources to handle 95 percent of the crimes, you end up with real problems. For example, nationwide there were 544,309 State and local police officers in 1992. Federal police, DEA, FBI, U.S. Marshals and Border Patrol total 20,400; 20,400 versus 544,000. We are going to add 100,000; so versus 650,000 local cops.

Why are we moving them into Federal jurisdictions? The way to deal with these crimes is to put more cops on the street. That is why we are going to spend $9 billion to put more cops on the street. Local cops. At the State and local level there are over 23,000 prosecutors trying criminal cases. At the Federal level there are 3,000.

Do you realize that the district attorney's office in Philadelphia, PA, handled more criminal cases last year than the entire Federal system? One DA's office, than the entire Federal system.

Federally, the judges, there are 9,600 State trial court judges to hear felony and serious misdemeanors. In the entire Federal system there are 629 district court judges to hear these cases: 629.

Let me do two more statistics. In 1992, there were 48,366 criminal filings in the U.S. district court. That same year, there were 4 million criminal filings in State courts of general jurisdiction. That means that felonies and serious misdemeanors, 82 times as many as in Federal or State court. Indeed, between 1955 and 1991, a total of 1.3 million criminal cases were filed in the Federal court system, U.S. district courts.

So in 36 years, there were only one-third of the number of cases filed in Federal court as there were in any 1 year in the State courts. And today, there are about 1.3 million prisoners in State jails, in county jails; 84,000 in Federal jails.

Why did I tell you all these statistics? For a simple reason: If we go forward and bring back a crime bill that is enacted into law that federalizes all gun crimes where the gun crosses a State line—according to the Justice Department, offenders armed with handguns at a State and local level committed over 900,000 violent crimes in 1992—if the provision in the bill that Senator GRAMM wants to instruct us to keep prevails, that makes eligible 900,000 cases that are not now in Federal court to be eligible.

Obviously, they will not all get caught. Obviously, they will not all be brought to Federal court. But 900,000 would be eligible. Keep in mind now, for the last 36 years, adding up every criminal case tried in the Federal courts, there are only 1.3 million. So in 1 year, we are making more cases eligible when States already have jurisdiction, and we are providing somewhere around $15 billion to $20 billion to the States in Federal money in this bill to deal with their local crime problem, and we are going to put these into Federal court?

You know what will happen, Mr. President, whether it is in your State, whether it is in Denver or Boulder, wherever it is. Prosecutors are going to send them to the Federal level.

Again, we have something that works. The Federal system works. You did not hear anybody on the floor of the Senate complaining about the Federal system. Go back to President Reagan. "If it ain't broke, don't fix it." The place we should fix is the State system, and we provide money for them to do that.

So on the Gramm instruction—Senator PHIL GRAMM, of Texas—I really think that for us to insist that there be concurrent jurisdiction, up to another 900,000 offenses, just because a gun was used, seems to me to make it very difficult for any Federal prosecutor to sit there and decide what case he or she is going to handle. They will be swamped with cases that now go before the court.

Let me be a little cynical, if I may, and hopefully my cynicism is not well founded. In local communities where they are having serious budget problems and they have increases in crime, what do you think they are likely to do when, in fact, their case load is high? Do you think they are likely to go back to their mayor or their county executive or their Governor and say, "We need more prosecutors," or "We need more judges, in addition to the billions of dollars the Federal Government has already sent us"? Or are they likely to say, "No, we're not going to move this. Let the Federal Government move it."

It seems to me the way to do it is the way we have done it, Mr. President; and that is, to send those localities who need help—and they do need help—send them the money to hire local officials, local prosecutors, build local prisons, hire local police, so they can get this done. Do not shift it all to the Federal level. I will not even take the time of the Senate because they have heard me too many times make this case, but I will not even get to the issue of the notion of federalism and the proper allocation of power within the Constitution envisioned by the founders. I will leave that for another day.

But for a lot of reasons, not the least of which is the National District Attorneys Association, a group that is quoted often on the floor—and I have great respect for them—who is opposed to the racial justice provision and other provisions, they also oppose this provision of the crime bill that I am being sought to instruct to keep in the bill.

I see two of my colleagues are on the floor. They have to get their provisions in.

I have one more thing before I yield, and I will not take the time to read this. Senator HATCH, in his comments, made reference to the impact of the Brady law. I ask unanimous consent to print in the RECORD a copy the Thursday Final Edition of the Washington Post, a story that reads:

> In the first month of the Brady operation * * * a national 5-day waiting period and background check has prevented handgun purchases of at least 1,605 people, including fugitives and felons convicted of armed robbery, murder, and manslaughter, according to preliminary statistics from 15 States and cities.
>
> Forty-four fugitives or persons facing outstanding warrants were denied guns, including one South Carolina man wanted for sexual assault who was arrested in the gun store.

I also ask unanimous consent that a USA Today article dated April 15, 1994, "Bonus: Background Check Turns Up Criminals," be printed in the RECORD.

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

[From the Washington Post, Mar. 31, 1994]

BRADY LAW APPEARS TO CAST EFFECTIVE NET; EARLY FIGURES SHOW HANDGUN SALES DENIED TO FUGITIVES, FELONS

(By Pierre Thomas)

In its first month of operation, the Brady law, a national five-day waiting period and background check, has prevented handgun purchases by at least 1,605 people, including fugitives and felons convicted of armed robbery, murder and manslaughter, according to preliminary statistics from 15 states and cities.

Forty-four fugitives or persons facing outstanding warrants were denied guns, including one South Carolina man wanted for sexual assault who was arrested in the gun store. Gun control supporters lauded the early statistics as a definitive, but conservative, indicator of the law's effectiveness.

Opponents, meanwhile, called it a meaningless infringement on the rights of law-abiding citizens. The National Rifle Association is supporting lawsuits in Texas, Arizona, Montana and Mississippi that argue

the Brady law is unconstitutionally vague and violates the 10th Amendment because it encroaches on the authority of states.

Gun control proponents said the early evidence clearly shows criminals routinely walk into gun stores and attempt to buy guns over the counter.

"Who says * * * criminals always get their guns on the street?" asked John W. Magaw, director of the Bureau of Alcohol, Tobacco and Firearms. "I must tell you the Brady law is breathing hope into this battle against crime involving firearms."

Magaw's comments came during a news conference on the 13th anniversary of the assassination attempt on President Ronald Reagan, which left Reagan's press secretary James S. Brady nearly dead from a gunshot to the head. The event helped spur a national gun control movement.

"Although today is an anniversary, on which I prefer not to dwell, I must say it is certainly satisfying that today, for the first time in 13 years, we don't have to call for the most basic gun control laws in the country." Brady said yesterday of the law named for him. "For the first time on this day, I don't have to remind lawmakers that we need the Brady bill."

Under the new law, federally licensed gun dealers are required to notify the chief law enforcement officer in the potential buyer's community. That law enforcement official is to make a "reasonable effort" to determine if the buyer is a convicted felon, mentally unstable or otherwise prohibited from buying a gun. The waiting period is to be dropped after five years, when a national computerized instant-check system is supposed to be operational.

Twenty states and territories, including Maryland and Virginia, had similar or more stringent measures in effect before the national Brady law was passed. Counting queries from these jurisdictions, 375,853 inquiries about gun purchasers have been made to the FBI's computerize criminal information network. Of those, 23,610 have been identified as possible felons, ATF officials said.

At least 60 persons, primarily fugitives, are being prosecuted for violations of federal firearms statutes, Magaw said. The bureau has not started systematic arrests of persons in probable violation of the law, he said, noting available ATF resources were being used to assist local and state departments in administering the law. After more study there will be "follow-ups," he said.

"The Brady law saves lives," said Rep. Charles E. Schumer (D-N.Y.). "The results of Brady are outstanding, but not surprising."

NRA officials had a decidedly different view, staging a counter-news conference just before the ATF media event.

"The numbers are misleading," said Rick Sellers, chairman of the NRA's Criminals Cause Crime Coalition. "The Brady law doesn't focus on criminals. They are not going after criminals. They are bothering citizens."

The NRA's tactics and lawsuits drew sharp words from Brady, who called the organization and the gun lobby the "Evil Empire." The group "is trying to win back in the courts what they lost on Capital Hill," he said. "This is more than ridiculous, it is downright dangerous * * *. The NRA should be ashamed."

No, said the NRA's Sellers. "The Evil Empire is the handgun control and criminal support lobby."

[From the USA Today, Apr. 15, 1994]

BONUS: BACKGROUND CHECKS TURN UP CRIMINALS

(By Debbie Howlett)

Five days after the Brady handgun law went into effect, Robert Delariva tried to reclaim his handgun at a Reno pawn shop.

He filled out a form and the clerk entered the information on a computer for the background check as required by the new law. The police showed up minutes later and busted him on a felony warrant for writing bad checks.

Delariva, 46, is among an estimated 38,000 felons who've turned up in background checks of handgun purchasers in the seven weeks since the Brady law took effect.

Officials at the Bureau of Alcohol, Tobacco and Firearms say they have no idea how many of the felons are arrested; most state or local officials can't say how many arrests have been made.

Still, ATF officials are pleased—and a bit surprised—that the ehecks are revealing so many criminals.

"We're nuking them until they glow at the pawn shops," says Jack Killorin, ATF spokesman. "I guess they don't figure a pawn shop is a federally licensed firearms dealer. It says something about the judgment of the American criminal."

The FBI's computerized criminal information network has handled about 90,000 background checks a week since Feb. 28. About 16% of those are denied, though only one in three denials actually turns out to be a felony matter.

May of the "hits" turn out to be a case of mistaken identity or a misdemeanor matter, such as an unpaid traffic ticket.

And many of the felons, such as Delariva, are minor-leaguers compared with murderers, rapists, and armed robbers.

The National Rifle Association is a leading opponent of the burden placed on local law enforcement officials.

The NRA is financing five of six federal court challenges to the Brady law brought by county sheriffs.

On Wednesday, John Arnold of Fort Walton Beach, Fla., became the first person convicted under a lesser-known provision of the Brady law that makes it a federal crime to steal a weapon from a licensed gun dealer, he faces up to 10 years in prison.

Mr. BIDEN. I yield the floor.

Mr. STEVENS. Mr. President, I ask unanimous consent that I be recognized in morning business to make a short statement and to introduce a joint resolution.

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

Mr. STEVENS. I thank the Chair.

(The remarks of Mr. STEVENS pertaining to the introduction of S.J. Res. 194 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. STEVENS. I thank the managers of the bill and the Chair.

The PRESIDING OFFICER. Who seeks recognition?

MOTION TO INSTRUCT CONFEREES

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York [Mr. D'AMATO].

Mr. D'AMATO. Mr. President, I rise to send a motion to the desk on behalf of myself and Senator DOMENICI to instruct the conferees to follow its contents.

The PRESIDING OFFICER. The clerk will report the motion.

The assistant legislative clerk read as follows:

The Senator from New York [Mr. D'AMATO], for himself and Mr. DOMENICI, moves that the conferees on the part of the Senate on the disagreeing votes of the two Houses on the amendment of the Senate to the bill H.R. 3355 be instructed to insist that the committee of conference report a conference substitute that includes in its entirety, Section 2405 of the Senate amendment entitled "Mandatory Prison Terms for the Use, Possession, or Carrying of a Firearm or Destructive Device During a State Crime of Violence or State Drug Trafficking Crime," and section 2406, "Murder Involving Firearm."

Mr. D'AMATO. Mr. President, before I address the motion that Senator DOMENICI and I have sent to the desk, the motion to instruct the conferees to accept very specific language, let me talk to one other issue which I am not going to ask the conferees to be instructed on because the Senate voted overwhelmingly last week, 58 to 41, that those provisions known as the racial justice provisions not be accepted by the Senate.

I think it is quite clear what the sentiment of the Senate is, and I hope that those provisions will be dropped in their entirety because it is too important a matter to have conferees dabble with, then come back and possibly jeopardize the passage of this bill or certainly impede passage of the bill. That would be a mistake.

If we are going to debate this, then let us debate it fully as to what should or should not be, to see that there is no discrimination, that the laws apply equally. There is not one Senator in this Chamber, Republican or Democrat, who would disagree that we want to see that the laws are applied fairly and equally as it relates to the imposition of all penalties, and certainly the death penalty.

But to trivialize it in such a manner without full debate of this body and to have this body then have to accept that on the basis of there being no hearings—no hearings that were conducted on this issue, no debate but, rather, to take it because the House on a very close vote, 216 to 214, accepted it, that would be a mistake. That would be wrong.

I hope the conferees understand that notwithstanding that this Senator is not going to ask for a motion to instruct that they delete all of those provisions, they not try to come back with some pablum and say, well, we have dropped out the retroactivity part of it. That is not going to be sufficient. This Senator will then be forced to oppose the adoption and move that we recommit it to conference. I do not think it would be helping the justice system to have us in a needless delay.

Mr. President, the motion which I offer to instruct the conferees, sent to the desk on behalf of Senator DOMENICI and myself, is one that has been voted upon by the Senate and passed by a margin of 58 to 42.

My colleagues have repeatedly commented that this is one of the toughest crime bills they have ever seen. I really want to keep it that way. I want to see to it that we are not just giving it lip service and rhetoric.

The fact is, Madam President, there is very little in the way of new money to do what we are talking about. We talk about building regional prisons. There is no money to do that. There is very little money if any. And my distinguished colleague and ranking member of the Budget Committee will talk to that. But I do not know where the money is going to come from to hire the 100,000 police officers. And now we understand it is going to be somewhat less than 100,000.

So this bill, for all of its good provisions, has a lot of rhetoric in it and it does not do very much.

Now we get into the subject of licensing guns. We say that is important. Somehow that is going to stop crime or it is going to cut down on crime.

Look, I would like to know why and how it is, the logic of having a bill that contains new provisions for the control of guns when the ultimate control we need is on the use of a gun. The thing that people are crying out for is safety. They are saying my kids are being savaged; we are being held hostage in our own homes; our neighborhoods are not safe. Forget about going to the parks. Forget about using mass transportation in the off-peak hours. We want some civility.

So what do we do? We pass gun registration provisions. The only ones who are going to listen to the gun provisions are the law-abiding citizens; they are the ones who are going to go out and get fingerprinted and do so 7 days ahead of time. The crooks and criminals are not going to do this.

What about the guns coming over State lines? Ninety percent of the guns used in violent crimes cross State lines. And I daresay that 99.9 percent will never be registered. Do we forget about those? If we are going to say it is a crime if you do not register a gun, and the Federal Government mandates this, regardless of States rights, then why not protect the people of this country and why not say if you take a gun across State lines and use it to commit a holdup, kill somebody, that the Federal courts will have jurisdiction as well. Why not say if you are going to come over and rob somebody, shoot down a little merchant, whether it be here in Washington, DC, or in New York City or in the hamlets and byways of our great country, that it is a Federal responsibility to provide for the domestic tranquility and local governments and court systems are broken down, where they do not have room for these people, then why not say it? Why do we not have the courage to say if you use a gun, we think it is so important if you use a gun in the commission of a crime, 10 years in prison—10 years. Does it make sense? Sure.

What we have is the judiciary saying, "You are going to flood our courts." I could not give a darn. I could not give a darn. Tell that to the people who are dying out on the streets: "Oh, that is a local matter," they say. What we are doing is trivializing this whole matter of crime.

Oh, it is great political rhetoric. We take a poll. We find out people are serious. We have to do something. And what do we do? Pablum. Oh, we are tough. So we pass all these death penalty provisions. You are a chicken inspector and you get shot and they go to jail, or a postal inspector, or you commit some exotic crime, those are not the crimes that are savaging cities.

(Mrs. MURRAY assumed the Chair.)

Mr. D'AMATO. What about the guy who gets a gun, goes across the State line, comes in and holds up the mom and pop and shoots them? And then he plea bargains, plea bargains, because the courts over here do not have room, they do not have capacity, no prison space. Why should the prosecutors prosecute? Why should that not be a Federal crime? Why should we not do that?

I tell you something. In New York they could certainly use that help. I would like to see the district attorney who would turn it down when he has an overcrowded calendar, overcrowded courts, overcrowded prisons. And that is why they have the average person in New York who commits a robbery with a gun getting a year and three months. That is all he serves. What do you think happens? He is back out on the street. He is doing the same thing.

We can say all we want that it is a local responsibility, but you know what? They are copping out. They are not doing it. They do not have the money. They do not have the resources. They do not have the appropriations. That is a fact. That is a fact in New York.

I think it is a fact that most of our major urban centers—we say, "If it ain't broke, don't fix it." I agree. But it is broken. Our local court systems are broken, and we are not going to give them the money to fix them. If we give them the money, the exigencies of politics being what they are, they will not direct it to the right areas. And we have to say, "You commit a crime with a gun, 10 years. You shoot the gun, 20 years. You kill somebody, the death penalty." Now you are talking seriously. Then we will see whether we can get this great, august, group of the Congress to begin to put up the money to back up these actions.

There are 200,000 gun cases. They are not going to take them all. But if you have a local Federal prosecutor who wants to help the local district attorney, he can. We are not trying to trivialize the Federal courts. They are important. I think they should be involved in the most important battle for civility in this country. We are losing that battle. We are losing that battle. I think it is worthwhile. I tell you, OMB has drafted some figures here. They say the courts only have to take 2,300 of those cases.

Again, I think that this is something that the people are crying out and yearning for. It is for domestic tranquility, so they can live without fear that they or their families or their loved ones will be victimized by this violence. And you are never going to get this under control unless and until people understand that we are serious about using a gun to commit a crime. I do not give two hoots and a holler about whether you register it. But if you use it in the commission of a crime, by gosh, you ought to go to jail, and you ought to go for 10 years.

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

Mr. D'AMATO. Certainly.

Mr. BIDEN. I ask my friend from New York, the Senator on the one hand says—I think he is right—that the States and localities, for whatever reasons, have not met their responsibility. This is No. 1.

No. 2 that if we send them the money to handle these additional cases, and also to hold people more accountable, keep them in jail, instead of the horrific statistic that I just heard—that violent crime with a gun, 1.3 years in New York City or New York State—that if we send them the money, I think his quote was the "exigencies of politics" will result in it not being spent to do that.

So that leaves, it seems to me, only one choice. If we take on this responsibility at the Federal level, we have to meet the need. Is he willing, as I calculated, to join with me in a piece of legislation that will quadruple the number of Federal judges so that we have 2,800 Federal judges instead of slightly over 700 Federal judges, and quadruple the number of Federal attorneys, prosecutors, and quadruple the budget of the FBI? Just leave those out. Just leave prosecutors and judges. Because, even if only 100,000 additional cases go to the Federal court system, even if only 30,000 additional cases result out of the 900,000 offenses committed with a gun, even if only 30,000 get sent to the Federal level, that will mean that criminal cases in the Federal courts will almost double in 1 year.

Right now the entire criminal docket filings in the District courts, all of the District courts, in the Nation, Federal, is 48,366. Even if only one-sixth—it

would be less than that—900,000 eligible, 30,000 go and get prosecuted, get filed in the Federal court, you are almost doubling the number of criminal cases. Federal courts have to try.

As we all know—because the Senator knows the banking area better than I do, knows the security industry better than I do, knows the white-collar crime area better than I do in terms of what needs to be done—the lawyers in New York, Wilmington, Washington, Washington State, and the State of New Mexico are saying their civil cases are not getting heard because of the criminal docket. We are going to double at least the criminal docket, and we are not going to add any judges.

So I would suggest that if we end up doing this—which I do not think is the way to go, based on the principle of federalism—I want everybody to know who votes for it that I am going to be back here asking the number of Federal judges to be increased to close to 3,000 and the number of Federal prosecutors to be. Right now the total number of Federal prosecutors we have in the United States of America is 3,000; total number in the entire United States of America. That is what we have.

So if we just increase by 30,000 the number of criminal cases, as a consequence of this, and there are 900,000 cases eligible—we just increase by 30,000—right now that gives every one of these prosecutors out there a significant additional burden. So I would think we would have to move somewhere around 9,000 or 10,000 prosecutors.

Mr. D'AMATO. I might suggest that those numbers are way out of proportion. We have a graph from OMB, and it indicates that possibly there would be something like 2,300 cases. Let us suppose we took on 30,000 cases.

Mr. BIDEN. Will the Senator put that in the RECORD? I do not doubt the number. I just wonder how they got the number.

Mr. D'AMATO. We will put this in the RECORD.

But let us assume you took 30,000 violent cases, and you are going to take the important part of the cases that locals do not have the capacity, or want to share with the Federal Government. In many cases you are going to have local prosecutors who are designated as special prosecutors. That is done oftentimes.

Second, the convictions in these cases, in most cases under the Federal rules, are much easier.

Third, let me say as it relates to what the judges—whatever the increase in judges is necessary to keep our judicial system from breaking down, this Senator will vote for it. The same with the prosecutors, the same with prisons.

Let us take some of the abandoned bases that we have and begin to convert them into regional prisons. It is going to cost money. My gosh, if we get these violent predators off the streets, we cannot invest money in a better way. Forget the rest of this nonsense; if we spend money on programs, that the people would gladly say, "Cut them out, if you are going to make a safer place for me and my kids to live."

That is what this Senator is advocating.

Mr. BIDEN. Will the Senator yield for a unanimous consent request?

Mr. D'AMATO. Yes.

MOTION TO INSTRUCT CONFEREES

Mr. BIDEN. I have a unanimous-consent agreement that has to be made before 4 o'clock. It will only take 30 seconds. It relates to an agreement I made with my Republican colleague on a motion to instruct that I agreed to accept. But I am told it was never sent to the desk. It must be done by 4 o'clock.

I send a motion to instruct the conferees, a motion to instruct, submitted by Senators HATCH, SIMPSON, DOLE, and BIDEN, and I ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to setting aside the preceding motions?

Without objection, it is so ordered.

The motion to instruct conferees is as follows:

Mr. HATCH, Mr. SIMPSON, and Mr. DOLE move that the conferees on the part of the Senate on the disagreeing votes of the two Houses on the bill H.R. 3355 be instructed to insist that the committee of conference—

(1) hold all meetings in one of the following rooms:

(A) SR 325;

(B) SH 216; or

(C) SD 106;

(2) ensure that all of the meetings of the committee are open to the public and the print and electronic media; and

(3) hold all meetings during reasonable hours at times when the Senate is in session.

Mr. BIDEN. Madam President, is the motion adopted? I urge the adoption of the motion. I ask unanimous consent that the motion be agreed to.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The motion is considered, and agreed to.

Mr. BIDEN. I yield the floor.

Mr. D'AMATO. I do not know if I have to ask for the yeas and nays. But before yielding to my distinguished colleague from Arizona, may I ask for the yeas and nays?

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DECONCINI. Madam President, the Senator from New York raises really what I think is the crux of the problem, not so much in his resolution which I see no problem for voting for, because I voted for it before, and he knows how I feel about it. So I understand the resolution.

But the point is we need some more money. Where do we get it? If we start to enhance the court system, as the Senator from Delaware points out—and I happen to agree with him that we are going to have to, maybe not quadruple, but double the judges in my estimation, and the prosecutors—where are we going to get the money?

It is not just the salaries of the U.S. attorneys, the judges, and the U.S. marshals. But you have to have, as you said, the prisons, you have to have courthouses, you have to have transportation. We are talking about billions of dollars.

The money is not there, and the problem is that we do not have the courage here to vote for the money. We cannot cut the space station. We cannot cut defense any more. We cannot cut whatever else somebody feels important here, Star Wars or what have you. We will not raise taxes, when it comes down to it, somewhere at some time.

I will not be here next year when it all comes down. But you all will have to vote to raise some revenues. You will have to raise some revenues if you really want to, in my judgment—and I generally ask the Senator. Does he agree that we have to have some money, and it may mean some taxes, if in fact we cannot cut entitlements, we cannot cut the space station, or anything else? I do not see how else you protect the people of this country without spending some money, either from cuts, which, yes, we pay for or cannot do, or taxes. Otherwise, we are not going to do it. Would the Senator agree?

Mr. D'AMATO. Let me answer, and then I will yield to my colleague from New Mexico for a question.

You say there is no doubt that we are going to need additional resources—money. We say "resources." We do not want to talk about money. We need more money. If you are going to successfully engage the battle against the career criminals, against the people who are ravaging our cities, our States, our communities, our neighborhoods, all the rest of this business, and even this crime bill, which has wonderful provisions, you do not have the money.

So this Senator says let us create a situation where we are forced to allocate the resources. By gosh—and I want to tell you something. If it means we have to cut some good programs, you will see that the people will say, "Yes, if you are going to put the money in and really make a safer community, and we are going to take the predators off the streets and keep them off the streets." You had better believe they will support that. I would support it if it means increasing revenues, taxes. If we are going to apply it to really going after criminals and locking them up and prosecuting them and seeing to it that the system works, I would vote for that. But I am not going to vote to increase taxes for more so-

cial programs. I will not do that, because the people will not want that.

We have been kidding the people. We have abdicated our responsibility because we have seen the neglect, benign neglect, taking place in urban America, but it has happened. We have an obligation to do something.

I yield the floor.

Mr. DOMENICI. Madam President, I say to the Senator from Arizona, I suggest after the adoption of the D'Amato-Domenici amendment, now the subject matter again of this motion to instruct, the Senator from New Mexico, in this crime bill, put an amendment together recognizing that if this became law, there would be some additional money needed by the Federal judiciary and Federal district attorneys. We authorized an additional $1.25 billion over 5 years in this body; it was accepted. Let me tell you where the money will come from. First of all, the judiciary got $280 million; the Justice Department got $575 million over 4 years; the FBI got $230 million; the U.S. attorneys got $140 million.

Frankly, when we did this, before us was a trust fund. The trust fund was $22 billion. It was set aside for crime prevention under this bill. That is the way the language read. This bill is the subject matter of this motion to instruct. Frankly, I will tell you that I do not think you can get out of that $22 billion, with everybody's wish list—$1.2 billion to enhance the capability of the Federal criminal judicial system—unless you can go before the subcommittee that puts the money up and say we have just built into the law of the land, finally, a really effective tool for the U.S. attorneys and U.S. judges and U.S. juries, to put some of those committing violent crimes with guns in jail.

I believe if we pass that jurisdictional change, we would find this money within the $22 billion.

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

Mr. DOMENICI. Can I make my case for this and then yield to the Senator? Well, I will yield now.

Mr. DECONCINI. Madam President, the Senator raises the point—and the only question I have is he believes, and I do not agree with him—that if we had this mandatory sentencing and the things he is talking about, we in that Appropriations Committee would come up with that $1.4 billion out of the State, Justice, Commerce subcommittee on which you are the ranking member. I do not think we would do it, because we will not cut foreign aid to Russia; we cannot cut these aids anyplace else under foreign operations; you are not going to cut the State Department; you have not hired an FBI agent for 2 or 3 years.

So my point is: Is the Senator not really saying that if we do not have the will to cut—which we do not—the only way to get revenue is from other sources? And that means, as the Senator from New York says, taxes. Is that not what we are talking about?

We ought to go to the people and say: Folks, the reality is we cannot get the money from the cuts. We can talk about it and wish, but I think the Senator will agree that we are not going to get it from cutting down there—only if we are going to raise taxes and put that money in a trust fund that will go to pay for the judges and prosecutors.

Does the Senator agree?

Mr. DOMENICI. No; I do not, Madam President. I understand my good friend from Arizona was a prosecuting attorney—not at the Federal level—and he understands a lot about this. Let me suggest that if, in fact, the trust fund stays in the bill, and the chairman of the committee that is going to conference told the Senate before lunch that it would, I gather that the $22 billion, taken out of the capped amount—that is the way it reads: You take it out of the money available to all these committees, and essentially you cut them by $22 billion over 5 years and put it over here in a trust fund just to be used for this. Frankly, is that going to happen, even if the trust fund is adopted?

It looks like Chairman BYRD is following it for the first year. It looks like there is $2.4 billion in budget authority, and about $700 million in outlays you might attribute to the trust fund. I do not know, if the trust fund is in place, what we are going to do the second year. It is the law. It says the caps have been reduced and moneys taken out of all those discretionary accounts, taken out and put in this trust fund. So when you spread the money around, you have already cut effectively $22 billion, and they will have to struggle as to what programs they cut.

I want to make a point about what the American people have finally arrived at in their minds after discussions about a crime bill since last November. They have finally come to the conclusion that the U.S. Government, its courts, its juries, its U.S. attorneys, and its new laws, have very little, if anything, to do with the crime and violence going on in their streets, in their schools, in their subdivisions, in their shopping centers, on the mass transit systems, and in cars that drive up alongside each other. I read in the paper that a man barely had a grin on his face when he drove alongside another car, and the occupant of the other car did not like it, so he just shot him.

Will they finally come to the conclusion that we have nothing whatsoever to do with any of that? That is why many of them are saying crime is the big issue. Is the Federal Government going to do anything about it? They are beginning to say, well, we do not know. It is not because they think we are not going to pass this bill. It is because there is nothing in this bill that says we are going to help with the crime that is occurring on the streets and in the manner that I have described, that you have described, and that the Senator from New York has described.

So it seems to me that this amendment, adopted overwhelmingly in the Senate, if it comes back out of conference sends one final, good, positive signal to the people of this country. It says: Yes, we are going to build more prisons; yes, we are going to help our States if they want to join us in joint prison construction. But it also says the U.S. attorneys and Federal judges have the jurisdiction—that means authority—to go after the violent criminals who are using guns that have been transmitted in interstate commerce in the commission of a crime and mandate some sentences for them.

Frankly, I think it is a slight ray of hope. It is a ray of hope that we are going to do something rather than leave it all up to the State attorneys, to the district attorneys, to the courts. I visited all of the justices of our district courts, and I saw all 18 in the city of Albuquerque. They are befuddled with the caseload. They are overwhelmed with the number of juries, overwhelmed because our State prison will not hold enough of them. And they are saying, "What are you all going to do about it?"

They want help, and I hope that in this bill, we help them. I think we ought to help them with this approach.

Mr. DECONCINI. Will the Senator yield?

Mr. DOMENICI. I am pleased to yield.

Mr. KERREY assumed the chair.

Mr. DECONCINI. Mr. President, the Senator from New Mexico is talking to the choir here. The Senate already passed this by 58 or 60 votes.

Mr. DOMENICI. The House has not.

Mr. DECONCINI. The House has not.

To me, it is an insult to the conferees, in a way, and to the chairman—maybe he does not feel that way—that we are going to go in there and give this away. I anticipate to be a conferee. I am not going to give it away. I may be voted out; maybe I will be voted down.

If there is someone here who thinks, as to the message sent by the Senator from New York, we want to say ditto, fine; let us not stand here and say we have not done anything. We might not be able to cure the crime problem in the neighborhoods and shopping centers, but I think the body went on record with a decent crime bill.

Mr. DOMENICI. I did not imply we did not.

Mr. DECONCINI. I get the feeling here we are going to sell out over here, and in the conference we are going to sell out to everybody there. I hope we do not get a crime bill if, in fact, we sell out.

Mr. DOMENICI. Will the Senator yield?

Mr. DECONCINI. I will.

Mr. DOMENICI. I still have the floor.

Mr. DECONCINI. The Senator still has the floor.

Mr. DOMENICI. Frankly, what I am saying is that the public has not been hearing very much about this issue as it is presented here on the floor. They have been hearing about more jails and prevention, and today we are trying to refocus attention on a provision in the Senate bill which the Senator from Arizona supported. He just indicated he is going to support it again. He supported tough measures like this for a long time, with additional task forces to go after certain kinds of criminals.

I have been with him on those amendments. He has done a great job. But what has happened is we never made them law. It is nothing like this. We have never put anything like this in law other than illegal drugs. And believe you me, the druggies know if the Federal Government is involved in something, after that they are going to jail. This sort of says the same thing.

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

Mr. DOMENICI. Yes.

Mr. DECONCINI. This is in the bill, right?

Mr. DOMENICI. It is in the bill.

Mr. DECONCINI. Yes.

Mr. DOMENICI. We are asking the conferees and the Senate here tonight to once again confirm by overwhelming vote that we want to extend the jurisdiction of the Federal courts a little in behalf of the American people.

I want to close by saying I do not just say this on the floor. I say to my friend from New York, I had two Supreme Court Justices in the Appropriations Committee, and I say this to the Senator from Arizona, they were there to seek their budgets and the budget of the circuit courts. They were Justice Kennedy and Justice Souter.

They made the case that they did not want the Federal courts—these are Supreme Court Justices, entitled to great deference and respect—to be turned into police courts, I say to my friend, police courts.

So I said: "Mr. Justice, with the greatest respect, is trying someone who used a pistol to shoot six kids, and that pistol went across State lines in a robbery, a police court case? It was used to rob over there, and brought across. Now we are going to try them in one of our Federal courts with a Federal jury. Mr. Justice, is that a police court case?"

Of course, you know, the Justice said what anyone would say: "I did not mean that, Senator."

But some people speak about the Federal courts as if, if we asked them to do anything in this war on crime that they are not currently doing, that we are going to ruin them. Is that right?

Mr. D'AMATO. Right.

Mr. DOMENICI. I tell you, if civil dockets have to wait some more while we put 15,000 or 20,000 people away who are using guns, transmitting them across State lines, and shooting people, little kids, if we have to use them and put the civil docket off for a while, so be it.

I think that is what the people like to hear anyway, and like to see happen. I will vote for more money for them so they will not have to do it.

I yield the floor.

Mr. D'AMATO. Mr. President, I make an observation.

The PRESIDING OFFICER. Does the Senator from New Mexico yield the floor?

Mr. DOMENICI. I yield to the Senator from New York. I will yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, let me say this, because I think it is important that we say this publicly. There has been no greater fighter and champion in the area of taking on the druggies, of involving this country on a national level and on an international level, and attempting to interdict, setting up a special task force in our housing projects in New York City, in particular, which made a great difference and brought civility to one project that I know of, in particular. When we talk about a project, we are talking about a large housing complex where thousands of people live and many of them were held before we sent in a strike force to open that place up and get rid of the guys with the guns, et cetera.

My good friend and colleague from Arizona, Senator DECONCINI, has done a great job. We worked together. I am privileged to have worked with him, as he championed so many of these things and made a difference.

I am sorry, and I do not want to be partisan in this, that there are some in both administrations, the prior administration and this administration, who do not share the sense of urgency that my colleagues on the floor, Senator DOMENICI and Senator DECONCINI, have demonstrated—not rhetoric—by making tough decisions and finding it and making a difference.

I see a lot of the work that the Senator has undertaken that, quite candidly, is being paid little attention in some areas almost being dismantled. I think it is wrong, and I think we are going to come to regret that kind of activity.

But again I say this was across the line. It happened in the previous administration and it happens in this one. So it is not partisan politics.

My friend did raise a question about why the need to do this. I am very much concerned that the conferees, Republicans and Democrats, in an attempt to get the bill passed, will let this provision drop and will not fight for it. They do not really understand there are some of us who really do believe that this is maybe the kind of last hope we have before things get so bad that we then have the cries for the National Guard, et cetera. In certain communities, I hear Congressmen and the opposition in the party, the other party, calling for and suggesting that maybe the National Guard be brought into some communities.

I do not think we should try to reach that point. I think where we have the code of civil judicial law in the Federal level, that can be indicated with our local people. That makes much more sense than that.

I know a Congressman—I am not going to say who—in New York who has actually called on a number of occasions for the use of the National Guard in his community. Let me tell you, that is how bad things are. Are we really going to begin to think, if you think of the tragedy of having young men, 18, 19, 20, and 21-year-old Guardsmen out there, they are now going to become involved in trying to keep civil order? That is rampant with all kinds of horrible ramifications. We do not need that. We do not want that.

By gosh, people have a right to have the Federal Government in this fight for civility, and I do not think some of our colleagues share it. They have not shared it with us in the past, and I said us. They have not shared with the Senator from New York the compassion to recognize now what is going on, and stand up and make a determined fight to make a difference. They have not.

We have been there. We have been voted down. We voted to build prisons, and they voted us down. We voted for more people, and they voted us down.

This is a ray of hope, and we have to say to our colleagues: We do not want you to give this up. We want you to say to the House: You put some stuff in there; we put this in there. We want this provision. We think that it will be a beginning. And, frankly, my colleague said it. He said it is a ray of hope. It is not going to change the whole thing. There will be some prosecutors on the local level with district attorneys, with Federal people, who use them and have some success, and maybe people will catch on.

And maybe, as we had in New York—I remember when we had our mayor, who was a prosecutor. He had Drug Day one day, and he worked it out with the local jurisdictions. One day each week was designated as Federal Drug Day. So on those days, when drug arrests were made, guess where they were taken? They were taken to the Federal court.

I have to tell you, when the druggies found out when Drug Day was, it started in the morning, and that afternoon, they stopped. They did not want to

wind up in a Federal court, because it meant they went to prison. It did not mean they had a plea bargain and they were back out on the street.

I am suggesting maybe there is a ray of hope. Maybe they will take the Federal guys seriously on gun crimes, robberies, et cetera, if they set a Federal jurisdiction, a Federal day, and give some hope.

I do not say it will cure all. I guess I am coming down and making this plea again with my colleague, Senator PETE DOMENICI, because I think my colleague from Arizona may have hit the nub. Maybe we do not feel, notwithstanding the 58 or 60 of my colleagues in the past who fought for this, and the conferees indicated, I think they might care so much with the overall of politics of the crime bill that they lose the passion to say: By gosh, let us try to make a difference. I do not say that to my colleague. I know he has been there; he has done it. But for some of our colleagues, that is a question.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. DECONCINI. Mr. President, I thank the Senators, both from New Mexico and New York. We have worked on a number of things, and I thank the Senator for the compliments.

But the Senator from New York, particularly up in his State, and serving on the Treasury-Postal Committee that deals with that area of customs and ATF, played a major role in that task force, as did the Senator from New Mexico, in getting those designated in the drug strategy.

My talking here, I hope, is not interpreted by anybody, nor the Senator from New York, thinking I think he is not sincere. I know he is sincere. What bothers me is we are being in conference, and it really bothers me, and I have to tell my friend on the other side of the aisle that it troubles me, we are not over there now confronting those who may want us to pass a soft crime bill. The sooner we get there, the sooner we are going to know, and the sooner you are going to know, because Senator HATCH from Utah and others are going to be there and they are going to be arguing for a tough crime bill. And it is going to be part of the public pressure.

That is what I think is there.

My problem is, you know, I hope we do not spend too much time here, because I could offer an amendment. I could become a convert on the assault weapons ban. This body adopted it. I hope we do not give that away. The House does not have it in there. The Senator from New Mexico may hope that we do give it away.

But there are a lot of strong feelings here that this is a tougher bill and we ought to move ahead with this bill and I hope we can do that today. Because I think we are losing time. I think signals are sent here. I think if we do not deliver the package, that is when we are going to be criticized by the public.

I intend to do all I can, assuming I am a conferee on this bill, to stick with the Senate's position. I do not have to have a crime bill. The chairman may have to have a crime bill. I do not have to come back with a bill that to me does not have any community policing. I think that is good. It does not have the death penalty. I think that is good. It does not have the racial justice.

On the other hand, I am not going to hold out for one single thing.

This particular point I think is right. I am glad the Senator offered it on the bill. As he knows, I support it.

Mr. President, this crime bill that we have before us is, I truly believe, the most comprehensive crime bill that has passed the Senate in my short term here of 17 years. It is not going to cure the problem. It is not going to make safe streets in Phoenix and Tucson and Flagstaff, AZ, by passing this bill and having the President sign it.

The Senator from New Mexico raises the point, or perhaps the Senator from New York as well, are we going to pay for it? We set up a trust fund. There has been criticisms of trust funds before around here, as we all know. We use them some when we think it is convenient and then they are good and other times they are criticized.

The point is, I think this is a valid trust fund. At least it sets aside the money.

It is going to be up to the appropriators to come up with that money out of these caps without raising the caps. Now, that is not going to be easy. It is not going to be easy at all. I do not know where we are going to get the money. But, in the long-term, if we are going to have a trust fund of over $20 billion over 5 years, it seems to me we are going to have to raise some revenues or what is going to happen is we are not going to fund whatever we ultimately pass on the crime bill, whether it is 75,000 community police or 110,000 community police, because we are not going to do it.

Another thing I am very pleased the chairman from Delaware has indicated to me. There is a sense-of-the-Senate provision in this bill that we will not, as a Congress, reduce overall law enforcement. Because the problem of adding community police and then reducing Federal police is really ludicrous. I think it is very vital here that we not let that happen. Because if that happens, we are subject to severe criticism that we in the Federal Government are augmenting the police.

And the effort to bring order to the Federal system through the FBI, DEA, ATF, Customs, and what have you is not going to be easy to do. Because the administration, on one hand, wants 100,000 police and we have created a trust fund to try to fund it. On the other hand, under the trust fund that creates the over $20 billion, they are cutting 35,000 police, Federal police. We cannot have it both ways in my judgment.

I have already talked to the chairman. He feels very strongly that we have to resolve that in the conference.

So, this is not going to be an easy conference. I do not think we should go to the House with anything but determination, not only on the amendment of the Senator from New York that he added to the bill, but on the assault weapons amendment. That is an important amendment. There is a majority in this body that supports that, and yet you do not see a resolution yet to instruct the conferees to stick to it.

I think the reason is because those of us who want the assault weapons bill in, we want to get down to business. We want to sit down and start working and trying to grind out a bill.

I think the chairman of this conference is one of the most able Members of the Senate. He is a good match for the House conferees. He is not one that gives in. He is not one that takes every amendment on the floor. You know how many of these we voted on during this crime bill.

And we know stories here of other chairmen who just say, "Come on. I will take your amendment," and then give it away.

Not Senator BIDEN. Sometimes he even opposed a few of these. But I have seen him in the past go and fight with those conferees, stay up late at night, say "no bill" because he would not give in.

And so I think it is only appropriate that we vote on this, get it done, get it to the House, get the conference started, and see if we cannot put together a bill. I believe we can.

I yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. Mr. President, among the provisions of the Senate bill are those contained in sections 841 through 844 of title 8 of the bill having to deal with sexual predators.

During the course of the debate on this proposal last fall, I offered that amendment, paralleling the provisions of a statute of the State of Washington which deals with a peculiar shortcoming in the way in which our criminal justice system operates.

Sexual predators are, fortunately, frequently apprehended and frequently convicted. They do not, generally speaking, get sentences of such time that will take them simply out of an age in which they are likely to engage in sexual predation.

Very few of our criminal justice experts feel that many of them actually can be rehabilitated. And so, more often then not, they are released to the community and far more often than

not they are recidivists. Often when they go to communities in which they are known, they strike fear into the hearts and the minds of many of the women and children of our society. And yet, more frequently than not, when they are released, there is no notice of that release and the first notice that it has taken place comes with the first offense in another series of sexually predatory activities.

The legislature of the State of Washington relatively recently passed a very wide-reaching sexual predators law, one part of which actually allowed certain evaluations of these individuals and their retention in confinement if there was no assurance that they were not going to repeat their offenses. That was somewhat controversial in the State of Washington and was clearly controversial here on the floor of the Senate.

The tracking provisions, however, were not. The tracking provisions caused, in the State of Washington, notice to be given to communities to whom sexual predators are released, whether it is a community in a State from which they originated or some other community in the State. It alerts local law enforcement officers to their presence in their community so a reasonable eye can be kept on them. And it alerts the neighborhood in which they are going to live, sometimes causing great apprehension, but at the very least causing people who might be their victims to be more careful.

After a relatively brief debate, these sexual predator provisions were included in the Senate bill by a unanimous vote and with the enthusiastic support of the distinguished Senator from Delaware, the chairman of the Committee on the Judiciary.

I have discussed this matter with him informally and he has assured me that he is in favor of those provisions and will do what he can to save them in conference with the House.

The House simply did not take up the subject. It did not come up in the Judiciary Committee proceedings and it was not proposed as an amendment on the floor of the House. So we certainly do not have a record that Members of the House of Representatives were opposed. I am convinced they would have passed it as overwhelmingly had they had the opportunity, as did Members of the Senate.

I can assure also that the distinguished senior Senator from Utah, [Mr. HATCH], is an enthusiastic backer of those proposals.

I would ask the Senator from Delaware, when he returns to the floor, to respond to my query and my request, my sincere request, that he do the best he possibly can in retaining these extremely valuable sections in a final version of the crime bill.

The protection of our children and the protection of our women from repeat sexual predators must be as high a priority as we can come up with. There are many, many victims of these activities. They are usually defenseless victims, and so frequently they are victims of people who already have criminal records and who have been released, unknown to the community, back into that community.

What we would do by these provisions would be to take a statute and make it national in nature. We could cause release across State lines to be recorded on law enforcement computers. The FBI would keep a record of those in Federal custody. States would notify other States when predators had been released and had gone to a second State.

It will take a good idea and make it a national idea. It will be a wonderful protection for both women and young children. I thank the Senator from Delaware for his private assurances of support, and I hope that, during the course of the rest of the afternoon, he will make those assurances public.

Mr. BIDEN. Mr. President, while I was necessarily absent from the floor, my colleague from Washington State, Senator GORTON, took to the floor and asked a question of whether or not I, as the Chair of the conference on the Senate side, would stand by the Senate position in subtitle F, entitled "Sexually Violent Predators," sections 841 and 842.

The short and direct answer is yes, I will. The House bill does not have such provision in it. I will do whatever I can to get the House to yield to the Senate position on subtitle F, sections 841, 842, 843, and 844 of the Senate-passed crime bill. I will do my best to get the House to recede to the Senate position on that issue.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL I ask unanimous consent that the Senate proceed to the consideration of calendar No. 423, H.R. 1933, the Martin Luther King Commission reauthorization bill, at 12 noon on Monday, May 23; that the bill be considered under the following limitation: There be 1 hour for debate on the bill; that the only first-degree amendments to the bill be the following and limited to the time limits specified; that they be subject to second-degree amendments provided they are relevant to the subject matter of the first degree and limited to half the time as the first degree: five relevant amendments by Senator HELMS, or his designee, 2 hours each; three relevant amendments by Senator BROWN, or his designee, 2 hours each; two relevant amendments by Senator MOSELEY-BRAUN, or her designee, 1 hour each; and two relevant amendments by Senator WOFFORD, or his designee, 1 hour each; that all times be equally divided in the usual form; that no motions to recommit be in order; that all first-degree amendments must be offered by the close of business Monday, May 23; that no votes occur prior to Tuesday, May 24 at 2:30 p.m. and that when these amendments are disposed of the bill be read a third time and a vote on passage of the bill occur without any intervening action or debate.

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

Mr. MITCHELL. I thank my colleague for his courtesy, and I thank those Senators who are involved in the negotiating and preparation of this unanimous-consent agreement.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

THE VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994—MESSAGE FROM THE HOUSE

The Senate continued with the consideration of the message.

Mr. SPECTER. Mr. President, I have sought recognition to comment on a number of provisions of the pending crime bill, to provide my thinking to the conferees on what I consider to be one of the two central problems of serious crime in America. Those two problems are the career criminals and the imposition of the death penalty.

I have listened at some length to the discussion on the floor today about giving very substantial additional jurisdiction to the Federal courts on criminal matters. I believe that has to be done very circumspectly. I introduced the Federal armed career criminal bill back in 1981. It became law in 1984 and was broadened in 1986. This law provides for sentences up to life imprisonment for any career criminal found in possession of a firearm. There is broad Federal jurisdiction on drug matters generally, but I believe we have to proceed very cautiously to broaden the jurisdiction of the Federal courts, or the State courts will not undertake their responsibilities.

I believe there are some things which the Federal Government can do to assist the States which will leave the States largely in control of the administration of criminal justice, because, under our Federal system, it has been the tradition of the States to handle the vast bulk of criminal prosecutions. Our Federal system was established to give limited powers to the central government, reserving the bulk of powers to the States. I think we have to rely upon the States for the principal amount of criminal prosecutions.

When it comes to dealing with career criminals, there are some things the Federal Government can do to help the

States but still leave the primary responsibility in the States. There is substantial legislation pending in this crime bill, pending before the House-Senate conference, which would provide funding for realistic rehabilitation to try to take offenders out of the cycle of crime at an early stage with early intervention and to provide rehabilitation in the form of literacy training and job training for first and second offenders.

There is little public concern for the welfare of the criminal himself or herself, but there is substantial interest in the public on efforts which will take the career criminal out of the crime cycle. I believe that we have to focus on that problem.

It is no surprise when a functional illiterate, without a trade or a skill, leaves prison and goes back through the revolving door to a life of crime. But there is another aspect, and that involves the ability of the prosecutor—a job I held for many years in the city of Philadelphia—to get a life sentence after the career criminal has committed three or four violent offenses. It is not as simplistic as "three strikes and you're out," a popular slogan at this time, because the reality is when the judge faces the moment of sentencing, it is very difficult to get him to impose, or her to impose, a life sentence on the defendant unless the judge concludes that that defendant has had a fair opportunity.

If there is a chance at rehabilitation with literacy training and job training, and the first offender fails and commits a second offense and then has still another chance and commits a third offense, then I think it is realistic and proper at that juncture for the judge to impose a life sentence.

The Federal Government can further be of assistance to the States in providing prison space for those who are convicted under the habitual offender statutes. It is a fact that many judges are reluctant to sentence to life imprisonment because of the overcrowded prisons. When I was district attorney of Philadelphia, some 40 States in the Union had habitual offender statutes, but they were used very little—realistically, not at all in the city of Philadelphia where we had 500 homicides a year and some 30,000 crimes. And there is substantial funding in this bill for the Federal Government to provide prison space for the States which will allow State judges to sentence career criminals or habitual offenders to life sentences. I think that is the kind of assistance which the Federal Government ought to be giving rather than having wide, sweeping changes which would bring to the Federal Government virtually all of the responsibility for criminal law enforcement.

There is another issue which this bill does not take up, which I have spoken on in the past and spoke in the Republican caucus today and I want to comment on again; and that is, the absence in this bill of any remedial legislation dealing with the tremendous delays in the Federal courts which have rendered the imposition of the death penalty a virtual nullity. In order for the death penalty to have any effect, like any other form of punishment, it has to be swift and it has to be certain. But today, the death penalty is a relative rarity.

Recently, when the death penalty was imposed in Illinois, after some 30 years without a death penalty having been carried out, and similarly in Maryland, it made front-page news. While there are some 2,800 criminals on death row, last year the sentence was carried out in only 38 cases. The death penalty, which is, in effect, the flagship of criminal law enforcement, is not being carried out and the criminal element knows it. It really makes the criminal justice system a laughingstock.

The death penalty can be an effective deterrent. In my days in the Philadelphia district attorney's office, when the death penalty was carried out, there was a lot of evidence that professional burglars would not carry a weapon with them in the course of a burglary for fear of killing someone and facing a first-degree murder charge for felony murder. Many hoodlums would not carry guns in the course of robberies, again, for fear that someone might be killed and they might face the death penalty under a first-degree murder charge.

I believe that the death penalty has to be carried out in a very, very careful way. I am hopeful that the conference committee will reject the House provision which imposes a statistical study for the determination of whether the death penalty has been imposed unfairly. That provision has been incorporated into the House bill under the name of the Racial Justice Act which, I submit, is a misnomer because the essence of fairness in criminal justice is to have each individual case considered on its own merits, in terms of the nature of the offense, and the background of the individual. It ought not to depend upon a statistical tabulation.

I do believe that a recent order entered by a Federal judge in the middle district of Pennsylvania calling on the Department of Justice to articulate standards for when the death penalty will be requested, is a sensible step in the direction of guaranteeing objective standards and of being as sure as we can that the death penalty will only be imposed after consideration by prosecuting officials at the highest level under preexisting standards.

But if there is to be a statistical tabulation on the death penalty, it seems to me that that will remove the individualization of justice from the nature of the offense and from the background and record of the criminal.

So it is my hope, Mr. President, that as the crime bill moves through the conference we will focus on ways that we can be of assistance to the States without assuming all of the States' traditional criminal law enforcement responsibilities in violation of the basic tenets of federalism; that we will work to try to help the States with career criminals by creating incentives to ensure that they provide opportunities for realistic rehabilitation in prison to take the career criminals out of the crime cycle in order to protect law-abiding citizens or, where that is not done, after the first offense and after the second offense, we will have set the stage for the imposition of life sentences for career criminals or habitual offenders, and that we will provide incentives for States to use their career criminal laws with Federal prisons.

These are very important provisions which I hope will receive the attention of the conference committee and come forward in the final version of the conference report.

Mr. President, in the absence of any other Senator seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

UNANIMOUS-CONSENT AGREEMENT

Mr. BIDEN. Mr. President, I ask unanimous consent that the vote on Senator D'AMATO's motion to instruct occur without any intervening action or debate upon the disposition of my motion, and that no amendments be in order to his motion, and that, upon the disposition of his motion, the Chair be authorized to appoint conferees.

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

Mr. BIDEN. Mr. President, while I have the floor, we are waiting until 6:30 because two of our colleagues would not agree to what every other colleague would agree to, to voice vote all of these amendments. I apologize to the rest of my colleagues for being inconvenienced on something that, quite frankly, does not matter much whether it passes by voice vote or whether we have a rollcall vote on these. But the Presiding Officer understands this place as well as I do.

D'AMATO MOTION TO INSTRUCT CONFEREES

Mr. BIDEN. Mr. President, I will be very brief.

To refresh everyone's recollection, Senator D'AMATO's amendment federalizes any crime committed with a gun that at any time crossed a State line. We are told by reliable authority, by the Justice Department, that offenders armed with handguns in the year 1992

committed 900,000 violent crimes. So what we have just done is we have made eligible for prosecution in the Federal court system crimes now totally within the State court system, 900,000 offenses, 900,000 potential cases.

Obviously, not all those 900,000 people are going to be arrested, and all 900,000 are not necessarily individuals. Maybe 500,000 people committed 900,000 of these crimes. No one knows. But it is safe to say that there are going to be at least between 50,000 and 100,000 of these crimes where someone is apprehended and they are going to go to trial.

Let us take the most conservative estimate. Say it is 50,000 people who now are going to go into Federal court, requiring a Federal prosecutor, a Federal judge, and a Federal prison cell when, in fact, they are now all eligible to be and, in fact, are tried at the State court level.

That will more than double the total number of crimes tried in the entire Federal court system. Not tried, handled. There were 43,000 criminal indictments that were in Federal court last year. I think the number, to be precise, is 43,300 something. But it is 43,000 plus.

Excuse me, I said 43. I correct myself; 48,366 Federal district court criminal cases entertained by the district court last year. In one fell swoop, we will add—we could add—200,000, but we will add probably 50,000 cases eligible, just with the D'Amato amendment, that are now in State jurisdiction. We more than double the entire number of cases the entire Federal court system now handles.

To put this in perspective, in 36 years, from 1955 to 1991, there were a total of 1.3 million criminal cases filed in the Federal district court in 36 years, 1.3 million: 900,000 would be eligible in 1 year.

There were 4 million criminal filings in State courts of general jurisdiction, 82 times as many as in the Federal court system. There is a reason for that. There are considerably more resources at the State level to handle these cases. There are 23,000 prosecutors across this country, 3,000 Federal. There are 9,600 State trial court judges. There are 629 Federal trial court judges. There are 1.3 million prisoners in State jails. There are 84,000 in Federal jail. This is kind of silly.

But there is another provision in the D'Amato amendment, and that is the one that says if you commit murder with a gun, it is a Federal crime now. I have no objection to that. I support the death penalty. But there are 15 States in America where the people have voted not to have the death penalty, Delaware not being one of them. I do not know what Montana is, but 15 States in America have said, after overwhelming debate, deliberation, consideration, their legislators and/or their Governors have voted or vetoed, depending on what it is, against legislation that said we want a death penalty.

It is one thing to come in here and assist a State. It is another thing to completely vitiate States' rights on things that are totally local matters.

So if the D'Amato amendment is adopted, we will, even though I support the death penalty, be telling the people of Wisconsin, New York and 13 other States: What you feel like doing in your home State does not matter; we, the U.S. Senators and legislators, know better than your legislature knows, we know better than you know, we know better than your people know.

Whether it is by referendum they oppose the death penalty, whether by legislative vote they oppose the death penalty, or gubernatorial veto they oppose the death penalty, 15 States said, "Look, we don't want a death penalty." That is their business. We are Federal—Federal—elected officials.

In the Biden crime bill we are going to be going to conference with, I believe we should have a Federal death penalty for Federal offenses. So we make the rules for the Federal Government. And I am for the death penalty. I think if the State of Delaware wants to have a death penalty, I should not tell them whether they can or cannot. I am a federally elected official. I did not run for the State legislature. I did not run for Governor. And the people in my State said, "Hey, we want the death penalty." But the people in New York said, through their system of checks and balances, "We don't want a death penalty." The people in Wisconsin said, "We don't want a death penalty." Is it our prerogative to stand on the floor of the Senate and say, "Hey, here's the deal. We know better than you"?

I wonder what the Senator from New York and others would say if there were enough votes on the floor to say any murder committed with a gun that crossed interstate lines could not receive the death penalty, must be minimum mandatory life in prison, and we had 35 State death-penalty laws overruled where a gun was involved. I will bet you, Mr. President, we would hear a lot of States' rights arguments on the floor then.

It seems to me there has to be a principled rationale on matters that affect State-Federal relationships. There has to be a consistent rationale. I cannot pick from one pile one day and another pile the next day, as to what I want to make Federal, based on my whim or what I like. It seems to me there should be a principle.

I ask unanimous consent to print in the RECORD a speech that I made on federalism to the Judicial Conference to the Third Circuit Conference.

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

SETTING THE STAGE FOR THE NINETIES—OUR MUTUAL OBLIGATION

(By Senator Joseph R. Biden, Jr.)

I am honored to be here today, to address the judges of the trial and appellate courts within the third circuit—which includes my home State of Delaware. I am especially pleased to accept your invitation to discuss how the Congress will set the agenda for the federal courts in the coming decade.

Implicit in this assignment is an acknowledgement that the Constitution gives the Congress that very power—to set within the very broad limits authorized by the Constitution the scope of the federal courts' jurisdiction.

Although debate about Federal jurisdiction is not new, public attention to that debate has increased in recent years. Some members of the judiciary have expressed concern about the number and kind of cases occupying the Federal courts.

In some instances, there is a desire to have Congress reduce the courts' existing jurisdiction—as with diversity cases and habeas corpus reform. In others, there is opposition to efforts by Congress to expand the courts' jurisdiction—such as efforts to make new federal crimes or to recognize new Federal civil rights actions.

I welcome the efforts to raise the profile of this debate. Indeed, I hope the Congress will respond to the judiciary's concern by considering with great care all legislative proposals that affect Federal court jurisdiction. In this respect, however, I solicit your help.

Much of the recent public debate about Federal jurisdiction has had a practical tone—it has focused on the burdens placed on the Federal courts by an increasing caseload.

The concern is legitimate, for the costs are real—today, Federal litigants in many districts, particularly those bringing civil cases, face significant delays in getting their claims heard. In some jurisdictions, judges and other court personnel are overwhelmed by the sheer volume of their dockets.

But the focus on the practical dimensions of the problem has tended to displace discussion of the goals that should govern our efforts to fashion a solution. Efficiency is neither the only value our judiciary must serve, nor does recognizing it as one goal help us choose what cases should be heard by our Federal courts.

We must pursue a constructive debate about what principles should guide the process of choosing. Then we can distinguish between those claims that fit within traditional notions of Federal jurisdiction, those we may wish to add, and those that do not belong.

The focus on the pragmatic is understandable. The statistics on caseload increases leap from the page in black and white; the columns of numbers easily convey the additional burdens facing you: in the decade between 1981 and 1991, the number of filings in Federal district courts nationally increased by 28.5 percent—with civil cases increasing 23 percent; and criminal cases by 61 percent.

Less easy to articulate, much less to quantify, is the cost of the public's loss of faith in the ability of our system to provide justice. The intangible nature of that loss makes it difficult to address, but it does not diminish our need to do so.

What I will try to do this morning is to turn the debate in that direction—to identify the principles I believe should guide Congress in setting the agenda for the Federal courts, and to articulate standards for distinguishing between a "Federal case" and one that should be heard in another forum.

I. CONSTITUTIONAL AUTHORITIES FOR FEDERAL JURISDICTION

The history of Federal court jurisdiction is marked by constitutional authority of vast proportions and by the gradual realization of that authority as the Congress expanded Federal court jurisdiction over the last century.

Article III of the Constitution sets forth the structure of the Federal judiciary and allows the Congress to grant the lower courts broad authority:

"Section 2. The judicial power shall extend to all cases, in law and equity, arising under this constitution, the laws of the United States . . ."; and to treaties; to all cases affecting ambassadors, other public ministers and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States or citizens thereof.

Notwithstanding the breadth of this authorization, the first Congress chose not to give the lower courts the full power permitted by article III. In creating the Federal district courts through the judiciary act of 1789, the congress focused on diversity of citizenship jurisdiction, admiralty jurisdiction, and jurisdiction over cases where the Federal Government was a party.

The Congress did not grant the courts Federal question jurisdiction in civil cases, and civil claims based on Federal law (and not otherwise enjoying Federal jurisdiction) were originally tried in the State courts, with appellate review of State supreme court decisions exercised by the United States Supreme Court.

Similarly, although the Congress gave the Federal courts exclusive jurisdiction over "all crimes and offences cognizable under the authority of the United States," it enacted few criminal laws.

Early on, the Congress prohibited and punished only those acts directly related to the functions of the Federal Government or occurring on United States Territory—acts which could not be covered by the criminal laws of the States. These included treason, espionage, bribery of Federal officials, perjury in a federal court, interference with the assessment or collection of Federal taxes, and murder or manslaughter if committed in a place within the exclusive jurisdiction of the United States.

For the most part development of the criminal law was left instead to the States. In fact, even when the Congress passed specific Federal criminal statutes, it regularly provided for concurrent jurisdiction by State courts.

II. THE EXPANSION OF FEDERAL JURISDICTION FOLLOWING THE CIVIL WAR

It was only in the wake of the Civil War that the momentum shifted in favor of giving the Federal courts more of the power authorized by the Constitution. What accounted for this dramatic change?

The driving force behind the expansion of Federal jurisdiction was the perception of the Congress that State courts were not able or, in some cases, not willing to protect Federal rights—in that instance, the civil rights—of the recently freed African-American slaves. This concern was explicit during debate on the Civil Rights Act of 1871. Representative Lowe of Kansas stated that the "Records of the [state] tribunals are searched in vain for any evidence of effective redress" of federally secured rights.

Part of this perception, no doubt, was trust in the superior independence of judges whose tenure and salaries were impervious to attack by the public or the legislature. Representative Coburn of Indiana stated during that same 1871 debate that,

"The United States courts are further above mere local influence than the county courts; their judges can act with more independence, cannot be put under terror, as local judges can;

"Their sympathies are not so nearly identified with those of the vicinage; the jurors are taken from the State, and not the neighborhood; they will be able to rise above prejudices or bad passions or terror more easily."

Thus moved by political and practical events following the Civil War, the Congress grew to prefer Federal courts as the primary interpreters and enforcers of Federal law.

First, with the enactment of the post-Civil War amendments and statutes limiting State power to interfere with Federal rights, the Congress shifted the balance of Federal question jurisdiction from the State to the Federal courts.

Second, roughly the same period witnessed the expansion of Federal criminal jurisdiction.

Throughout the present century, Congress has passed laws prohibiting kidnapping, extortion, use of firearms, many forms of theft, and other violent acts, where the means of accomplishing the criminal act involved a Federal instrument, such as use of the mails or interstate commerce.

III. SHOULD THE CONGRESS HALT THE EXPANSION OF COURT JURISDICTION?

As a result of this trend, the Federal court caseload has increased sharply. Many eminent jurists and commentators on the courts now argue that the Federal system is overloaded with cases that should not be there. The concern lies both with the sheer volume of cases, as well as with the nature of the claims occupying the time and attention of the Federal trial and appellate courts.

Thus have we come to the current question: Should the Congress now exercise its discretion to shrink lower Federal court jurisdiction?

Of course, the concern about expanding Federal jurisdiction is not new. The following passage could as easily be from a 1993 speech by Chief Justice Rehnquist as from the 1925 Harvard Law Review article by Charles Warren where it actually appears:

"The present congested condition of the dockets of the Federal courts and the small prospect of any relief to the heavily burdened Federal judiciary, so long as Congress continues, every year, to expand the scope of the body of Federal crimes renders it desirable that consideration be given to the possibility of a return to the practice which was in vogue in the early days of the Federal judicial system."

That is, to give the States primary jurisdiction over many cases within Federal constitutional authority.

IV. A PRINCIPLED APPROACH TO FEDERAL JURISDICTION

How, then, can we identify those cases that have the strongest claim on Federal jurisdiction?

There is little controversy where the States are not competent to act because the matter is one of exclusive Federal jurisdiction, as where cases involve conduct that occurs on Federal territory or across State lines.

But, where States are equally competent to act, how are we to distinguish among all the cases the Federal courts are constitutionally authorized to hear? How are we to identify those of highest priority that pose the strongest claim on the limited resources of a Federal forum?

I propose the principle that motivated the post-Civil War Congress as a starting point for our debate:

Federal courts should hear claims where the States are unable or unwilling to protect an important Federal interest.

This principle immediately suggests two others.

First, Federal courts should hear cases involving conduct that is occurring in many jurisdictions, overwhelming the ability of any one State to respond.

Second, Federal courts should hear those cases where the gravity of an important Federal interest and the pervasiveness of the States' inaction together outweigh the burden to the Federal system.

If applied to legislative proposals that would expand Federal jurisdiction, these criteria could serve as a starting point for determining whether a claimed Federal interest is weak or strong.

A. Creation of new Federal crimes

Turning first to the question of criminal jurisdiction: Two different justifications have been offered to support recent legislative proposals making conduct a crime under Federal law.

1. Use of Federal facilities

The first of these, where Federal jurisdiction over specific conduct is premised on the use of Federal facilities, is the most problematic. The potential for expanding Federal jurisdiction using this rationale is virtually limitless—if the use of a Federal facility that is merely incidental to the conduct at issue is deemed sufficient to justify Federal intervention.

One example is a bill currently pending in both Houses of Congress that would make "Stalking" a Federal crime if the mail or wire fraud statutes are involved. Stalking can be competently investigated and prosecuted by State authorities.

The practice of "Bootstrapping" Federal jurisdiction simply on a showing that an individual has used the mail or telephone, when there is no particular demonstrated need for Federal intervention, is a weak claim of Federal jurisdiction. In my view, the Congress should not employ the incidental use of Federal facilities to bring claims into Federal court in the absence of another basis for Federal jurisdiction.

Senator COHEN'S stalking bill, enacted by Congress last year, plays a much different role. It authorized the National Institute of Justice to draft a model stalking bill for enactment by the States. The bill was designed to permit States to retain jurisdiction over the criminal conduct, but offered them the benefit of the Federal Government's expertise in crafting statutory language that would not run afoul of the first amendment's protection of free expression.

2. Where local authorities are overwhelmed

A second basis for assertion of Federal jurisdiction over criminal conduct occurs where local authorities are overwhelmed by the magnitude of criminal conduct, usually involving a multi-jurisdictional element. In such cases, the superior resources of the Federal Government offer a practical benefit in fighting complex criminal activity that exceeds the capacity of any one local authority to investigate and prosecute. I believe Federal jurisdiction is appropriate in these cases, although concurrent State jurisdiction over the criminal conduct usually exists.

The challenge we must face, however, is in ensuring proper allocation of specific cases between the Federal and State courts. For example, in the 1980s, the Congress expanded the jurisdiction of the Federal courts over drug cases in response to the volume and magnitude of criminal activity related to illegal Drugs. The result has been a steep rise in the number of drug cases being prosecuted in Federal courts—from 3,372 in 1981 to 11,929 in 1991—an increase of 220 percent over 10 years.

But it is important to get behind the statistics and analyze the nature and merits of these cases.

Large, complicated, multi-jurisdictional drug trafficking cases belong in Federal court. I believe the Federal system is the only authority capable of investigating and bringing to justice the organized crime rings running multi-national drug trafficking operations. The problem is that too many small cases—against first time offenders or low-level runners—are brought in Federal courts, rather than in the State courts that are equally competent to hear them.

The Congress has an obligation to promote better allocation of such cases, to identify the pragmatic priorities for managing cases, given the limited space on the Federal docket, and United States attorneys must work effectively with State and local prosecutors within their districts, to encourage targeting of cases to the appropriate forum. We must also work with the States where inconsistencies between State and Federal laws—most notably involving sentencing standards—lead prosecutors to prefer Federal courts.

Finally, the Congress must carefully evaluate legislative proposals that base Federal jurisdiction on the fact that local authorities are overwhelmed. For example, in the last Congress, an amendment was offered in the Senate that would have subjected all State gun offenses to Federal jurisdiction. Federalizing all gun crimes does not lend to the fight against gun violence the weight of Federal authority so much as render the Federal authority meaningless.

Because of the potential for limitless expansion, proposals based on this rationale should be carefully considered and the need to assert Federal jurisdiction should be clear and strong. A better vehicle for Congress to express the national outrage over gun violence, in my view, is passage of gun control legislation such as the Brady bill and an assault weapons ban.

B. Where the States are unable or unwilling to act

A different situation is presented by legislative proposals to recognize civil rights claims. As with the Civil War amendments and statutes, these laws are designed to fill in where State courts are unable or unwilling to protect Federal constitutional or statutory rights.

Although such laws often extend to what look like "local" matters—such as the ability to obtain a marriage license, access to restaurants, safety from physical violence—they actually serve to safeguard a national principle such as equality.

Federal jurisdiction in such cases is premised on a belief that Federal courts afford a superior forum for the adjudication of these claims for two reasons:

First, because the institutional independence enjoyed by Federal judges affords them a real—and just as importantly, a perceived—protection of impartiality.

And second, because where a constitutionally protected right is involved, there is a benefit to ensuring a consistent interpretation and application of the law throughout the Nation.

Most importantly, Federal adjudication of these claims demonstrates the national commitment made to eradicating discrimination. Only a Federal court can speak with the voice of the entire Nation. Each branch of the Government has joined in condemnation of conduct proscribed by a Federal statute—the legislature in passing the law, the executive in executing the law, and the judiciary in adjudicating claims brought pursuant to the law's authority.

Lending the prestige of the Federal Government to a cause is an invaluable tool of education; its effectiveness in promoting the goals of the law reaches far beyond anything available to an individual State or locality.

In my view, where a case involves the protection of a civil right guaranteed by the United States Constitution or a Federal statute, the Federal interest is strong and the presumption of federal jurisdiction appropriate.

V. CASE STUDY: THE VIOLENCE AGAINST WOMEN ACT

Over the last several years, one bill in particular has served as the catalyst for my attempt to derive a principled theory of Federal jurisdiction. The Violence Against Women Act, legislation I first introduced in 1990, has been the subject of some controversy.

Although most of the bill is not controversial from a jurisdictional perspective, one of the bill's provisions has caused controversy: Title III creates a Federal civil rights cause of action for violent crimes motivated by gender bias.

When I first introduced the bill, the Federal Judicial Conference opposed it, on the grounds that it would bring into the Federal courts "domestic relations disputes" and other litigation traditionally reserved to the State courts. I believe the opposition to the bill—which was recently reversed by the conference—reflected a misunderstanding of its intent and scope. Read with an eye to the principles just outlined, title III stands firmly within the scope of established Federal jurisdiction.

Title III would provide a civil rights remedy for gender-motivated violent crimes, permitting a victim of such crime to sue the perpetrator of that violence for damages and injunctive relief. The distinction I have tried to maintain in title III of the Violence Against Women Act is precisely that embodied in post-Civil War civil rights laws.

Think about the difference between a mugging of a person who happens to be an African-American and a lynching of an African-American by an all-white mob. The first is NOT a Federal Crime, the second may be the subject of Federal civil rights remedies.

The Violence Against Women Act specifically provides that "Random" crimes NOT motivated by gender bias are not covered by the act. Proof of discriminatory motive is explicitly required.

If we recognize that hate beatings of African-Americans violate the right to be free and equal, we should guarantee the same protection to America's women.

Title III falls within established Federal jurisdictional principles governing civil rights remedies. Like existing civil rights remedies, its animating principle is a national ideal of equality. It remedies conduct that burdens an individual because of a characteristic that is immutable and morally irrelevant—a characteristic like race or, in this case, gender.

The bill places the cause of action in the Federal courts for two reasons: First, because the Federal courts have traditionally been charged with enforcing national principles of equality. And, second, because State remedies have too often proven inadequate.

The record of the States in addressing violence against women has been, and remains, marked by prejudice rather than reason. Barriers of law, of practice and of prejudice, still exist. For example, some States have eliminated entire classes of persons from the scope of rape statutes. In these States, a father who rapes his child or a husband who beats and rapes his wife—or even his former wife—has not committed a persecutable offense.

In my own State of Delaware, among others, rape by someone who is a "voluntary social companion" of the victim is classified as a less serious offense.

It is my view that title III should bring only a small number of new cases into Federal court. Indeed, I intend for its primary purpose to be the symbolic recognition that violence against women is a national tragedy that warrants the commitment of our National Government—much the same way as fighting race discrimination has for much of this century.

VI. CONCLUSION

The question of what cases should be adjudicated by the courts of the United States is complex. Legitimate pragmatic concerns with an overloaded system have led many to argue that subjects the State courts can address do not belong in the Federal system.

But this argument begs the question: The constitutional authority of the Federal courts is broad—as a matter of jurisdictional theory, a strong presumption favors a Federal forum for claims involving rights guaranteed by the United States Constitution or Federal statutes.

The real question is: Given the practical limits of Federal court resources, what cases are of the highest priority? What cases have the very strongest claims on the Federal courts?

We must be careful to make the right choices. The civil rights of women or minorities must not be held hostage to the shortage of resources. We must address pragmatic concerns about overcrowded dockets without losing sight of the ultimate goal:

To restore to our Federal courts their deserved reputation as a hallowed place—a place where majoritarian impulses do not stampede over the legitimate needs of minorities; a place where the great moral truths embodied in our constitution still reign supreme.

The value of a Federal forum could not be more starkly illustrated than by the events of the past year in Los Angeles. One year ago, four police officers were acquitted by a State jury of charges of assaulting Rodney King. For many Americans, the verdict came to symbolize the failure of justice, and the civil unrest it touched off served as a chilling reminder that we all pay a price for widespread disillusionment with our judicial system.

Then, this past Saturday, a Federal jury convicted two of the same four police officers for violating Mr. King's civil rights—rights guaranteed by the fourth and fourteenth amendments to the United States Constitution. As we debate the matter of what cases our Federal courts should hear, we must bear in mind that the public's faith in justice hangs in the balance.

Today, I have addressed only a small part of what this debate must become. We must undertake a comprehensive review of Fed-

eral jurisdiction—looking at matters, such as diversity jurisdiction, I have not mentioned today.

What I have attempted here is to begin the debate at the point of greatest challenge—deriving a principled means of identifying those cases the Federal courts should decide. By setting forth the guidelines I have used to evaluate legislative proposals that affect the courts' jurisdiction, I do not pretend to have all the answers.

I hope my thoughts will provoke all of you here today and your colleagues throughout the Federal judiciary to join this debate, in concert with my colleagues in the Congress and with the new administration.

We all share in a solemn responsibility imposed upon us by the Constitution that has made a great nation out of a diverse people over more than two eventful and challenging centuries—in the words engraved upon the lintel of the Supreme Court Building, to assure "equal justice under law" to every American.

That is our mutual obligation—and one we can fulfill only by joining our energies, our intellects, and our hearts in a common enterprise to preserve and extend the historic promise of our matchless Constitution.

Mr. BIDEN. Mr. President, I spent a lot of time on it, deliberating what I thought should be the principled rationale for Federal intervention in State matters as it relates to the criminal justice system or any other effort.

Historically what we have done, Mr. President, is we have only intervened when there has been an unwillingness on the part of State courts to apply the Federal Constitution which many States, including mine, sadly did on civil rights matters for years. So we came along and said, "Look, you States are not giving people their civil liberties and civil rights, so we are going to pass a Civil Rights Act."

We also have done it in areas where there is something that is clearly within the State-Federal ambit. International drug trafficking cannot be stopped by the State of Delaware, but they inherit the wind because we do not do a good enough job federally, so we pass laws allowing the Federal Government to intervene in drug cases because there is a nexus. Drugs hardly ever start and end within that State. So what happens is, drugs come in through the Port of New York or California, the Port of San Diego or Seattle on the west coast, or Galveston—wherever. They are disseminated throughout the country. No one, single, police agency can handle that network. You need interstate jurisdiction. So it makes sense for the Federal Government to be involved. It makes sense.

We also have gotten involved where the States have not met their responsibility in any way. But the idea of federalizing the death penalty and insisting that the 15 States like the State of Wisconsin—I see the Senator from Wisconsin here, who made a very eloquent speech on this matter when we debated it in November last. It seems to me we should not be telling them that they are going to have to impose the death penalty, a Wisconsin citizen will get the death penalty because the Federal Government thinks they should.

Now, I happen to think there should be the death penalty. In the Biden crime bill there are over 50 death penalties. I have been heavily criticized from my friends on the left for that. But I happen to believe in the death penalty. But I also think there has to be some principled rationale by which we separate State and local and Federal matters.

The Founding Fathers, sitting up here in a hot Philadelphia summer, spent an awful lot of time trying to figure out this new form of Government. Montesquieu spent a lot of time about 100 years earlier figuring this notion out. That is the revolutionary part of this Government. It works unlike any other in the world—separated powers, not the concentration of power.

I wonder how many people on this floor would call for the federalizing of all police forces locally. Anybody want a Federal police force? No local police? I do not. I do not want that. It has been one of the tenets of our separated powers concept. There is not a Federal police force. We do not come in and tell the local police in Delaware what they can and cannot do. If it is a Federal crime, an FBI agent is involved. If it is not a Federal crime, he or she is not involved.

But gosh, what we are doing here, in the name of I do not know what, to use the phrase of a friend of mine, we are standing federalism on its ear. There is no sense to this.

What is the principled rationale to say OK, wait a minute now. Guns, we are going to federalize any crime committed with a gun because they, in fact, cross a State line. How about if we say anybody who commits a crime while wearing a piece of clothing that had traveled in interstate commerce and crossed the line is now eligible to be tried in a Federal court, or must be tried in a Federal court?

It is not like this bill is not a big deal. It is a big deal. What are we doing? We are giving the State of New York, the State of Delaware, the State of California, South Dakota, all the States, billions of dollars for them to go out and hire more local police, build more local prisons, hire more local prosecutors, build boot camps. We are saying, what do you need? They have come back and said look, we have a real problem. We need more police. We said OK, we will give you the money to hire more police. We are not sending Federal police, and the people who live in the cities and States that the folks here are from, if the local police force wears blue uniforms, they are not going to have someone showing up in a green uniform saying, "I am a Federal police officer and I am working here at the local level."

We are saying this is a local problem. We will give you money to hire local police like you always have. We are doing the same with prison systems. We are not saying OK, we are going to build a Federal prison in your State and we are going to federally run that prison and tell you who you can let in and not let in. We are saying you have a State problem. We are going to give you some Federal money to build State prisons run by State and local people.

My gosh, that is the way federalism is supposed to work. If we want to help the States, let us help them. And we do that in this bill, for gun offenses. We provide all these additional cops. As I pointed out earlier, Mr. President, and I know because you have worked so hard on this criminal legislation with us, we are adding 100,000 cops. In the entire United States of America, there are only about 550,000 cops. Not even that. I think it is 540,000 cops.

OK, we are going to add 100,000, almost a 20 percent increase in the number of local cops. Is that, as another friend of mine says, chopped liver? Are we not helping? Are we not helping the local officials?

No, that is not enough for people. We have to decide we know better than the Governor of a State. We know better than the State legislators. We know better than everybody. And we do not want to let the people of a State decide how they believe their criminal justice system should work.

I just think we are setting a terrible precedent. We are going to vote at 6:30, or shortly thereafter, on this. I have no illusions about how that vote is going to turn out. I think part of it is nobody wants to be seen as not being tough on crime.

Well, other than probably anybody on this floor except possibly the Senator from Arizona, Senator DECONCINI, I do not know anybody who has worked more and had a "tough on crime," self-serving statement to make than me. But people are going to come in here and say, no, we have to vote on this. We are going to do this.

I just think we are going to rue the day that we go this route, because I tell you what it is going to do. If it passes, becomes law, I am going to be back here on the floor, assuming I am still here and still chairman of the Judiciary Committee, I am going to be back on the floor saying we only have 624, or 625 or 635 trial court judges. We now have doubled the number of cases. We have to double the number of judges. Everybody better belly up to the bar to pay for them. We only have 3,000 Federal prosecutors in all the United States of America. Now, with all this additional work at the Federal level, let us hire more Federal prosecutors.

I do not know. It is kind of discouraging.

I wish to point out, when I got here in 1973, January of 1973, the press at

home used to write about me as Joe Biden, the iconoclast—I do not know who thought it up—because they could not quite figure out how someone who had such a strong view on civil rights and civil liberties was so, in the context of the times, "tough on crime." It did not fit. If you were tough on crime, you were not supposed to care about civil rights and civil liberties. And conversely, if you cared about civil rights and civil liberties, you were not supposed to be tough on crime. I never thought they were at odds with one another, quite frankly.

When I joined the Judiciary Committee, through a friend who was then my counsel on the committee, a first-rate lawyer named Mark Gitenstein, we sat down in my early years here and said, "Well, what do we have to do to fix the Federal criminal justice system?" And there were four initiatives I decided I wanted to work on and, I say with some little pride, accomplished them. One was a lot of people were committing crimes while awaiting trial.

So I drafted, with Mark's help, the "speedy trial law." We got it passed. It means, if you do not go to trial within 60 days, they have to let you go. Guess what? That got their attention in the Federal courts. Everybody goes to trial in 60 days. There are notable exceptions. You can get 90 days with extensions. But basically they went to trial. All of those crimes being committed while people were out on bail dropped.

The next thing I wanted to do was—I thought we did not have enough Federal prison space, so I supported, along with others, legislation increasing the number of prison spaces. Guess what? It passed. We do not have the problem at the Federal level. We did. We do not now.

The third thing, I thought the way the sentencing thing worked was a bad idea. There was too much discretion, and it was being applied in a prejudicial manner. To overstate it, the study showed that if you were young and black, and young, white, and middle class, and you committed the same exact crime, the young, white, middle-class person got probation and the young black got jail.

So back then it was facetiously referred to as the Biden-same-time-for-the-same-crime bill. It is now the bill that is called the sentencing commission. The law is now if you get sentenced at a Federal court, you go to jail for 85 percent of the time at a minimum; mostly 100 percent of the time. And you can get a 15-percent reduction for mitigating circumstances. That much discretion is left to the judge, and you can get a 15-percent add-on for aggravating circumstances. That discretion is left to the judge. People actually serve their time.

The last thing I did, which everyone was a little bit—not everyone; many of my Democratic friends were a little bit disturbed—but I thought we needed more Federal judges. I am the guy with the Republican President who introduced a bill for an additional, I think, 84 or 88 Federal judges. I remember going in the caucus. My friend from Arizona will remember. He supported it. And we basically got lambasted saying, "Wait a minute. What are you doing? You are adding 84 new judges for Ronald Reagan to appoint." I was not happy about Ronald Reagan appointing those judges. But we needed the judges.

The end result was—not because of what I, Senator DECONCINI, and others did, but in little part because—the Federal system is working relatively well.

A lot of things have to be improved. We need more Treasury agents. We need more customs agents. We need more FBI agents. We still need more. But on balance the system is working pretty well.

As I said, all the horror stories—and they are real; I do not mean to belittle them—that we hear are not about Federal prisoners. They are not about Federal convicts. They are not about federally convicted people who were let out of jail. They are all about State courts.

So we have one system basically that is working pretty well. It is called the Federal system. It is ironic, is not it, that I would be able to stand on the floor and say there is a Federal thing that is working; the Federal system? You do not pick up the paper and hear criticism on a large scale, hardly at all, of the Federal criminal justice system. But you hear absolutely excoriating—with good reason, I might add—things about the State justice system. So we have one that is working now.

It seems to me that we have to do one of two things. I see my friend from North Dakota is here, and he may want to speak, so I will not take much more time. We have to do one of two things. We either have to really beef up this Federal system to accommodate all this new responsibility so it does not become broken again, so it continues to function, or we have to provide money and expertise to the State systems to help them fix it.

This is not rocket science. I mean, it seems you have to do one of the two. What is being proposed here is we are going to do one in this bill, the crime bill, which is to help shore up that State system. I predict the number will be closer to $29 billion worth of help over, I predict, 6 years and not 5.

But on the other hand, as my friend from Arizona pointed out, we are not doing much to help the Federal system except we are going to add onto the Federal system an incredible burden. So we are not going to completely fix the one and we are going to break the other. That does not seem to me to make sense.

I am willing to work with my colleagues, after we pass this crime bill, for additional legislation if you want to go ahead and do this—that is, to shift this burden to the Federal Government—as long as you balance it like this bill balances it, and say, "OK. If you want to do it, I will do it," if, in fact, you say, "OK. All gun crimes committed are eligible or must be with concurrent jurisdiction of the Federal Government." But that is section 1 of the bill.

Section 2, we are adding the requisite number of prosecutors, Federal judges, and Federal prisons to accommodate the expected workload. If you are going to do that, that is at least—I am not suggesting anyone who has a different view is being dishonest—but in a literal sense that is an honest way of doing it, and then add, as the Senator from Arizona in a very straightforward way pointed out earlier this afternoon, the money to pay for it. Tell me where you are getting the money.

But my goodness. Here we are, in my view, confusing the principle of federalism; in fact, putting in motion what will do real damage to the Federal system of justice and not much help to the State system.

I want to remind all of you who are so—I mean this sincerely—business oriented, when in fact you increase by 10, 20, 30, 50, 100, 200—and no one can predict exactly what it will be—percent the criminal caseload on 635 Federal judges, and then your business community comes to you and says, "By the way, I have a commercial case filed in the Federal court. They tell me I will not be able to even go to trial for it for 2 years." That is not an exaggeration by the way. Right now there is an incredible backlog. But when your business community says, I cannot get into court for 2 years on my case—and I have a little press statement I can give you which says I knew that when I voted and I cared less about your concerns because I think the Federal Government should handle this additional responsibility that heretofore has been handled at the State level.

Look, I challenge anyone in this Chamber, after hearing this or their staffs hearing this, to come back tomorrow, or Monday, or Tuesday, whatever is the appropriate time, and enter in the RECORD something from the Chamber of Commerce in their State or community that says the following: "I have ample and ready access to the Federal courts. There is no need to speed up the process. I have no problems relative to commercial litigation."

I challenge any Senator to come into this Chamber representing the views of their business community or their chamber of commerce, and say that. Maybe it is because my responsibility is to deal with the Federal court system as chair of the Judiciary Committee. But I am bombarded, with good reason, by Federal judges, but more importantly by local business officials,

men and women, who point out to me that they lose tens of thousands of dollars a year being unable to resolve their commercial and business disputes because of lack of access to the Federal courts. Because of the Speedy Trial Act, the court must try the Federal criminal cases first.

So, I hope we at least go into this with open eyes.

So I do not think anyone is likely to listen to what I have to say on this right now. The environment does not lend itself to that at the moment. But I do want to be in a position at least to have done my duty and my responsibility as chairman of the committee of laying on the record what I honestly believe to be the consequences of the action we are about to take, if it becomes law, if it comes out of conference, if the President signs it—the consequences for commercial litigation in the Federal system, the availability of Federal judges and prosecutors, and the impact it will have on crime.

Maybe I am wrong. We will see. But just remember, if it turns out that I happen to be right, be prepared to tell the voters of the Nation that you are willing to spend more money, you are willing to hire more judges, you are willing to hire more prosecutors, at a magnitude of two, three, and four times as many as we have now, to meet this new workload.

I see my friend from North Dakota on the floor. I assume he wants to speak to one of these resolutions.

I yield the floor.

Mr. DORGAN. Mr. President, I say to the distinguished chairman that I will soon insert in the RECORD a communication I received from the Chairman of the Federal Reserve Board.

With your indulgence, I ask unanimous consent to speak for 4 minutes as in morning business.

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

The Senator from North Dakota is recognized.

THE FEDERAL RESERVE BOARD

Mr. DORGAN. Mr. President, as I was listening to the Senator from Delaware, I was also looking at my desk drawer. As is the custom in the Senate, people carve their names in desk drawers. In that drawer is not only the name of a distinguished former Senator from many years ago, Gerald Nye, from North Dakota, but Warren G. Harding, and the name of a Senator from the State of the Presiding Officer, La Follette, a great populist.

As I was thinking about populism, I was thinking about the Federal Reserve Board. There has never been a clearer picture of combat between the little interests and big interests in this country than that which goes on behind closed doors at the Federal Reserve Board. I have been very distressed by the Fed's increasing interest rates—which is the same as increasing taxes on every American. I have been very vocal in my criticism.

The Chairman of the Federal Reserve Board has written to me a two-page letter on why the Federal Reserve board has raised interest rates.

I ask unanimous consent that this letter be printed in the RECORD.

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

FEDERAL RESERVE SYSTEM,
Washington, DC, May 13, 1994.

Hon. BYRON L. DORGAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR: Thank you for your letter of April 25 expressing concern about recent monetary policy actions. I appreciate the opportunity to explain our policy approach in some detail.

The Federal Reserve's recent moves to increase short-term interest rates are most appropriately understood in a historical context. In the spring of 1989, we began to ease monetary conditions in this country as we observed the consequence of balance-sheet strains resulting from increased debt, along with significant weakness in the collateral underlying that debt. Households and businesses became much more reluctant to borrow and spend, and lenders to extend credit—a phenomenon often referred to as the "credit crunch." In an endeavor to defuse these balance-sheet strains, we moved rates lower in a long series of steps through the summer of 1992.

The resulting sharp decline in debt service charges and the restructuring of balance sheets eventually alleviated the financial distress, enabling the economy to begin to move again in a normal expansionary pattern. In recent quarters, real GDP has accelerated noticeably with particular strength in interest-sensitive sectors. More than two million jobs have been created over the past twelve months, and the unemployment rate has fallen substantially. In this more robust financial and economic climate, expansion of money and credit has picked up.

With our objective of ameliorating impediments to economic expansion met, there was no longer any policy purpose in maintaining the level of nominal interest rates at the accommodative position held throughout 1993. With balance sheets in improved shape, the economic expansion apparently solid and self-sustaining, and the margin of slack in productive capacity dwindling, a shift away from our accommodative position implemented in a measured and deliberate way (so as not to unsettle financial markets) was clearly called for. Maintenance of the degree of accommodation that was necessary in recent years would have posed a level of risk of mounting inflationary imbalances that we perceived as unacceptable.

To be sure, long-term interest rates moved up far more than we would have anticipated early this year. We had originally expected long-term interest rates to move a little higher temporarily as we tightened. The sharp jump actually experienced, in my judgment, is accounted for by a dramatic rise in market expectations of economic growth and, perhaps, associated concerns about future inflation. Given the sharp change in market perceptions of economic conditions, longer-term rates eventually would have increased nearly the same—or perhaps even by more—had the Federal Reserve done nothing so far this year.

You are correct: There currently are few indications that inflation has already begun to pick up. But our concerns are for the future. It is of crucial importance that the necessary monetary policy adjustments be implemented *in advance* of the potential emergence of inflationary pressures, so as to forestall their actual occurrence. Shifts in the stance of monetary policy influence the economy and inflation with a considerable lag, usually a year or more. The challenge of monetary policy is to interpret current data in a way that permits us to anticipate future inflationary or contractionary forces that may evolve in the product or financial markets and to counter them by taking action in advance.

If we are successful in this endeavor, we will *not* see any buildup of inflationary pressures. Ideally, our actions will promote financial conditions under which our economy can grow at its greatest potential, consistent with steady, noninflationary expansion of employment and incomes. In reality, of course, we can't be entirely certain of the results of our actions. The economy will be subject to a variety of influences that can be foreseen only imperfectly or not at all. We must weigh the risks and judge the most likely outcomes, all the while keeping in mind the need to adjust policy as unexpected developments become evident. But we believe that by keeping monetary policy pointed clearly toward our long-term goal of sustainable noninflationary growth we will help bring about the best possible economic outcome for the American people.

Sincerely,

ALAN GREENSPAN.

Mr. DORGAN. I say, with great respect to the chairman of the Fed, that he is fundamentally wrong. They have made decisions in secret and without public debate that will put the brakes on this economy at precisely the time when we need more economic growth and jobs. This is pitting the big interests against the little interests. These are policies made when there is no credible evidence of inflation on the horizon, and are designed to help the money center banks. It is a classic conflict between the big interests and little interests—and the little guys always loses. In the thirties, Bob Wilson and the Texas Playboys had a song about it: "The little bee sucks the blossom, but the big bee gets the honey; the little guy picks the cotton, and the big guy gets the money."

The Federal Reserve policies are designed to protect the large financial sector of this country, but will injure irreparably the productive sector, those who create jobs and work in jobs.

We are told that this is a global economy. So why should we believe it when the Federal says we are reaching capacity to produce refrigerators and cars? That is not true. If it is a global economy, and if we are beginning to reach capacity—which we are not—companies will produce them somewhere else. We are not going to have additional price run-ups. Nowhere on the horizon is there a threat of inflation. The consumer price index rose only one-tenth of 1 percent. You are not going to battle inflation by in-

creasing interest rates for everybody in this country. Where is the inflation? Where is the evidence? This has a lot more to do with other things: speculation on Wall Street, inordinate speculation in derivatives with some of the largest banks in this country. It has more to do with things other than inflation.

I regret that the Federal Reserve Board has taken policy action that I think is wrongheaded. I think the Fed's actions will injure this country's productive economy.

I yield the floor to my friend from Arizona.

Mr. DECONCINI. Mr. President, I join the Senator from North Dakota.

I think the Senator from North Dakota makes a very good point. This is destructive, in my opinion, of the Federal Reserve. It is not done in the open. The public has no explanation of why this is done. There are no indicators that we are on the verge of inflation, or of economic boom here that is going to get out of hand. I am anxious to read the letter from the chairman of the Federal Reserve. I have not written him. I have spoken about this on the floor. This irritates me, and it is very destructive.

HUMAN RIGHTS IN CHINA

Mr. DECONCINI. Almost 5 years ago, the world watched in horror as thousands of peaceful democracy activists were massacred in Tiananmen Square. Not only has the Chinese Government attempted to erase the memories of that tragic event, but in succeeding years has continued to imprison and torture peaceful political dissidents, to restrict freedom of expression and to suppress religious practices. Those are severe charges, but they are accurate.

One year after an Executive order was signed which stated that MFN would not be renewed unless China showed significant overall progress in human rights, President Clinton faces an important choice. The President has the opportunity to decide whether we stand for a government which uses torture and terror to maintain its hold on power or whether we stand with the forces that are trying to peaceful express their ideas and move to a more democratic form of government. I believe the choice is clear. We must send a signal to the Chinese Government that the treatment of their citizens will be judged according to internationally recognized standards.

That is the same signal we sent for about 50 years to the former Soviet Union. They finally got the message; they finally bent, they finally changed.

The previous administration's decisions to renew MFN and to pursue a policy of constructive engagement with the Chinese Government was greeted with a continuation of flagrant disregard for human rights, human dignity and due process. Similarly, last year's extension has been following with what many consider to be a deterioration of respect for human rights in China. The disregard for basic rights by Chinese officials was underscored by events which took place during the recent visits to China by Assistant Secretary of State Shattuck and Secretary Christopher.

One of China's most prominent dissidents, Wei Jingsheng was rearrested on April 1 of this year—his apparent crime was meeting with Mr. Shattuck and allegedly urging him to tell President Clinton to continue pressing China on human rights issues. According to the Washington Post, China is prepared to charge Wei with treason.

During the March 14 press conference that Secretary Christopher held in Beijing he said, "I came to China to try to ensure that the Chinese side understands the importance of human rights to the United States in connection with Most Favored Nation treatment." Well Mr. President, the Chinese officials showed us what they think of human rights by rounding up citizens before, during and after the Secretary's visit whose crime was expression of prodemocracy views.

MFN is a privilege, and it is one the Chinese Government has not earned. If this trade status is extended, we will be rewarding the Chinese Government for repressing nonviolent expression. Furthermore, we will be saying that China has lived up to the conditions placed in last year's Executive order and is on its way to democratic reform, something which clearly has not occurred.

I would like to discuss a couple of the arguments that have been used in this debate. Many in this country are convinced that if China is denied MFN it will be of grave economic consequence to our country. But Mr. President, the truth is that access to the United States market is far more important to the Chinese, than the reverse. Our $23 billion trade deficit with China is strong evidence of the importance of our market to that country. That figure is expected to reach $30 billion this year. The credible threat of denying the Chinese billions of dollars is leverage we can and should use to force change in China.

Another argument used by those who support MFN extension is that its revocation will hurt those that it is designed to help. This is the same argument used by many who voted against sanctions against the past South African Government. Sanctions against South Africa accomplished what I believe the link between human rights and MFN will for China—they proved effective in convincing that country's leaders that a government which imprisoned peacemakers, banned journalists, and denied basic human rights would not benefit from the economic might of the United States. Just as sanctions accelerated the demise of apartheid in South Africa so can they accelerate the respect for human rights and democracy in China.

Mr. President, there are many areas of human rights violations in China which are appalling. I would like to briefly touch on one which is particularly disturbing—the situation in Tibet. As reported in today's Washington Post, a congressional staff delegation which traveled to Tibet in April reported that "China's policies in Tibet pose a grave threat to the survival of the Tibetan religion and culture." Since 1949, it is reported that the Chinese have destroyed 6,000 Tibetan monasteries. The number of political prisoners in Tibet has increased 30 percent from 1992, repression against Tibetan Buddhist nuns has sharply increased over this period and demolition of traditional Tibetan homes and buildings has increased dramatically.

Another prominent Chinese dissident, now an astrophysicist at the University of Arizona, has spoken most clearly of the real question the United States currently faces with MFN renewal. If we do not have the will to stand up for human rights, as we profess, then China will feel free to flout the international community of civilized nations not only with respect to human rights but perhaps also other areas such as the development and sale of its military might. We risk the danger of contributing to a chain of events which will pose a threat to the stability of all of East Asia.

I look forward to the day when MFN and human rights in China are not linked. But that will be the day when China becomes a respected member of the international community of civilized nations. The ball is in the Chinese court. All we are asking is that they respect internationally accepted norms of human rights. It is up to Beijing to meet these basic conditions.

We have a deficit of $23 billion now with the People's Republic of China. It is going to be $30 billion in another year or two. They need us. It is time for us to stand on what America is all about and what we did to bring down the Berlin Wall and the change in the Soviet Union, and that is to hang tough on human rights, which is something that all Americans can be proud of.

THE VIOLENT CRIME AND LAW ENFORCEMENT ACT OF 1994—MESSAGE FROM THE HOUSE

The Senate continued with the consideration of the message.

CONRAD MOTION TO INSTRUCT

Mr. DURENBERGER. Mr. President, I rise to explain the reasons I will be voting against the motion to instruct the crime bill conferees with respect to the truth in sentencing provisions in the Senate bill.

The Senate bill requires States to change their sentencing policies to match the Federal system in order to qualify to send State prisoners to 10 regional prisons.

I understand and appreciate the motivation of my distinguished colleagues who have put forward this motion, Senators CONRAD and MACK. The concern is that violent criminals in State prisons are only serving a small portion of their sentences.

Let me be clear: Violent criminals should not be set free to prey on our communities. But I believe the approach in the Senate bill is the wrong way to address this problem.

First, I have a fundamental belief that people on the local level are better equipped than politicians in Washington to craft crime policy. The proponents of this motion claim that the public is demanding that criminals serve stiffer sentences. If that is true, then citizens should take their case to State legislatures, which tend to be even more responsive to pressures from their constituents. Indeed, we have seen that happening this year in States across the country.

Second, the reason many States have released criminals long before their sentences have been served is the problem of prison overcrowding. It seems counterproductive to tell States that we will not offer them relief from prison overcrowding until they increase incarceration.

In addition, the increasing incarceration of nonviolent offenders because of mandatory minimum sentences has forced many States to release more serious offenders. In Minnesota, we have been more successful than other States in the area of prison overcrowding because we reserve prison space for the most violent offenders and use alternative punishment for offenders who are not a threat to the community.

State criminal justice officials are nearly unanimous in opposing the Senate provision that is the subject of this motion.

Recently, I received a letter from Commissioner Frank Wood of the Minnesota Department of Corrections which outlines these concerns. I ask unanimous consent that the text of that letter be printed in the RECORD at the conclusion of my remarks.

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

MINNESOTA DEPARTMENT
OF CORRECTIONS,
St. Paul, MN, May 6, 1994.

Hon. DAVE DURENBERGER,
U.S. Senator,
Washington, DC.

DEAR SENATOR DURENBERGER: As the U.S. Senate and House crime bills move to conference committee, I would like to express my concerns regarding provisions of the bills relating to construction of regional prisons and state grants for prison expansion. These provisions have serious implications that could dramatically impact state budgets.

The most serious concerns are the requirements in the Senate bill that must be met to place prisoners in regional prisons funded in the legislation. Requiring qualifying states to eliminate parole or make changes to ensure offenders serve 85 percent of their sentences, and mandating laws that are at least as strict as the federal guidelines for certain crimes, will seriously impact state prison crowding. Prison systems already over their capacities would become more crowded, far outstripping any benefits realized from the use of new regional prisons.

The House bill also contains a state grant program that includes similar damaging qualifications. States must demonstrate from one year to the next that they are increasing the percentage of convicted violent offenders sentenced to prison, and that they are increasing the average prison time served by those offenders through mechanisms such as mandatory sentences and three-time loser laws.

Increasingly harsh policies such as those contained in these requirements frequently result in a distorted use of criminal justice resources and unnecessarily increase costs with no appreciable corresponding impact on crime or fear of crime. Many states have traveled down this misguided path, and the results have been disastrous. Huge amounts have been committed to the after-the-fact reaction (prisons), leaving little or no revenues to fund preventative initiatives which would reduce violence, crime and fear in our cities.

However, as an alternative to the Senate bill regional prisons language, the House bill contains another much more flexible provision. It authorizes the Attorney General to make grants to states and multistate compacts to develop, expand, modify or improve correctional facilities and programs to ensure that space is available for violent, repeat offenders. This proposal for a state grant program more appropriately and strategically addresses state needs for federal assistance to address prison overcrowding. It mandates that states ensure violent offenders serve a substantial portion of the sentences imposed.

I respectfully urge you to contact members of the conference committee and convey to them these concerns. There are serious adverse consequences of requiring states to change their sentencing structure and policies, particularly when these changes result in additional state spending far beyond the financial benefits of the crime bill. Thank you for your consideration of this request.

Sincerely,

FRANK W. WOOD,
Commissioner.

The PRESIDING OFFICER. The question occurs on the motion offered by the Senator from North Dakota [Mr. CONRAD] to instruct the conferees on the disagreeing votes of the two Houses with respect to the bill H.R. 3355. On this question, the yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Massachusetts [Mr. KENNEDY] and the Senator from Virginia [Mr. ROBB] are necessarily absent.

I also announce that the Senator from Alabama [Mr. SHELBY] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from New Mexico [Mr. DOMENICI] is necessarily absent.

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

The result was announced—yeas 74, nays 22, as follows:

[Rollcall Vote No. 123 Leg.]

YEAS—74

Akaka	Faircloth	Mack
Baucus	Feinstein	Mathews
Bennett	Ford	McCain
Bingaman	Glenn	McConnell
Bond	Gorton	Mikulski
Boxer	Graham	Murkowski
Breaux	Gramm	Nickles
Brown	Grassley	Nunn
Bryan	Gregg	Pressler
Burns	Harkin	Pryor
Byrd	Hatch	Reid
Campbell	Helms	Riegle
Chafee	Hollings	Rockefeller
Coats	Hutchison	Roth
Cochran	Inouye	Sarbanes
Cohen	Kassebaum	Sasser
Conrad	Kempthorne	Simpson
Coverdell	Kerrey	Smith
Craig	Kerry	Specter
D'Amato	Kohl	Stevens
Danforth	Lautenberg	Thurmond
Daschle	Leahy	Wallop
Dole	Lieberman	Warner
Dorgan	Lott	Wofford
Exon	Lugar	

NAYS—22

Biden	Hatfield	Moynihan
Boren	Heflin	Murray
Bradley	Jeffords	Packwood
Bumpers	Johnston	Pell
DeConcini	Levin	Simon
Dodd	Metzenbaum	Wellstone
Durenberger	Mitchell	
Feingold	Moseley-Braun	

NOT VOTING—4

Domenici	Robb
Kennedy	Shelby

So the motion to instruct was agreed to.

GRAMM MOTION TO INSTRUCT CONFEREES

Mr. DURENBERGER. Mr. President, I rise to explain why I will oppose the motion to instruct the crime bill conferees offered by my distinguished colleague from Texas, Senator GRAMM.

The consensus in the judiciary community is that mandatory minimum sentences are terrible policy. But that has not stopped Congress from putting over 100 mandatory minimums on the books.

Some mandatory minimums are focused on violent crime, but others cover first time nonviolent offenses. The result is that we have swelled our prison population with people who aren't a threat to the community and who would probably do better in an alternative to incarceration.

The Senate crime bill contains a provision which would allow a departure from mandatory minimums for a narrow class of first time nonviolent offenders. The House bill contains a broader safety-valve provision. I prefer the House approach, and that is one of the reasons I will not support this motion.

Mandatory minimum sentences have not succeeded in reducing crime, and in many cases have reduced the prospects for rehabilitation. Increasing incarceration has done little more than create

more hardened criminals at the taxpayer's expense.

Few people have more experience dealing with criminals than judges. But mandatory minimums take away the ability of judges to do their job—to make the punishment fit the crime. They do not allow judges to take factors into account like the offender's age, role in the offense, or prospects for rehabilitation.

That should offend our sense of justice, and that is why I will oppose this motion.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. May we have order, please.

The PRESIDING OFFICER. The Senate will come to order.

The majority leader.

Mr. MITCHELL. Mr. President, the vote just completed was held under a regular 15-minute time limitation. I ask unanimous consent that the succeeding votes be limited to 10 minutes.

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

Mr. MITCHELL. I thank the Chair.

The PRESIDING OFFICER. The question occurs on the motion offered by the Senator from Texas [Mr. GRAMM] to instruct the conferees on the disagreeing votes of the two Houses with respect to the bill, H.R. 3365.

The yeas and nays have been order. The clerk will call the roll.

Mr. FORD. I announce that the Senator from Massachusetts [Mr. KENNEDY] is necessarily absent.

I also announce that the Senator from Alabama [Mr. SHELBY] is absent because of illness.

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

The result was announced, yeas 66, nays 32, as follows:

[Rollcall Vote No. 124 Leg.]

YEAS—66

Baucus	Exon	McCain
Bennett	Faircloth	McConnell
Bingaman	Feinstein	Mikulski
Bond	Ford	Murkowski
Boxer	Gorton	Nickles
Breaux	Graham	Nunn
Brown	Gramm	Pressler
Bryan	Grassley	Pryor
Bumpers	Gregg	Reid
Burns	Hatch	Riegle
Byrd	Helms	Robb
Campbell	Hollings	Rockefeller
Coats	Hutchison	Roth
Cochran	Kassebaum	Sarbanes
Cohen	Kempthorne	Sasser
Conrad	Kerrey	Simpson
Coverdell	Kohl	Smith
Craig	Lautenberg	Stevens
D'Amato	Lieberman	Thurmond
DeConcini	Lott	Wallop
Dole	Lugar	Warner
Domenici	Mack	Wofford

NAYS—32

Akaka	Danforth	Feingold
Biden	Daschle	Glenn
Boren	Dodd	Harkin
Bradley	Dorgan	Hatfield
Chafee	Durenberger	Heflin
Inouye	Mathews	Packwood
Jeffords	Metzenbaum	Pell
Johnston	Mitchell	Simon
Kerry	Moseley-Braun	Specter
Leahy	Moynihan	Wellstone
Levin	Murray	

NOT VOTING—2

Kennedy Shelby

So the motion to instruct was agreed to.

Mr. BRADLEY. Mr. President, I voted against the Gramm motion to instruct the crime bill conferees for one reason—because it included an instruction to conferees to support Senator D'AMATO's provision federalizing gun crimes. While I support the other parts of this amendment—the crime trust fund, tough mandatory minimums, and cracking down on those who sell drugs to minors, I cannot support the federalization of gun crimes. We cannot get caught up in such a frenzy that we deal with every aspect of the crime problem by removing State authority and responsibility and shifting it to the Federal Government. We simply do not have the resources to deal with the extraordinary flood of 900,000 new cases that would be shifted to the Federal courts if this provision were to become law.

VOTE ON BIDEN MOTION TO INSTRUCT CONFEREES

The PRESIDING OFFICER. The question occurs on agreeing to the motion offered by the Senator from Delaware [Mr. BIDEN] to instruct the conferees on the disagreeing votes of the two Houses with respect to the bill, H.R. 3355.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Massachusetts [Mr. KENNEDY] is necessarily absent.

I also announce that the Senator from Alabama [Mr. SHELBY] is absent because of illness.

The result was announced—yeas 94, nays 4, as follows:

[Rollcall Vote No. 125 Leg.]

YEAS—94

Akaka	DeConcini	Kempthorne
Baucus	Dodd	Kerrey
Bennett	Dole	Kerry
Biden	Domenici	Kohl
Bingaman	Dorgan	Lautenberg
Bond	Durenberger	Leahy
Boren	Exon	Levin
Boxer	Faircloth	Lieberman
Bradley	Feingold	Lott
Breaux	Feinstein	Lugar
Brown	Ford	Mack
Bryan	Glenn	Mathews
Bumpers	Gorton	McCain
Burns	Graham	McConnell
Byrd	Gramm	Metzenbaum
Campbell	Grassley	Mikulski
Chafee	Gregg	Mitchell
Coats	Harkin	Moseley-Braun
Cochran	Hatch	Moynihan
Cohen	Heflin	Murkowski
Conrad	Hollings	Murray
Coverdell	Hutchison	Nunn
Craig	Inouye	Packwood
D'Amato	Jeffords	Pell
Danforth	Johnston	Pressler
Daschle	Kassebaum	Pryor
Reid	Sasser	Thurmond
Riegle	Simon	Warner
Robb	Simpson	Wellstone
Rockefeller	Smith	Wofford
Roth	Specter	
Sarbanes	Stevens	

NAYS—4

Hatfield	Nickles
Helms	Wallop

NOT VOTING—2

Kennedy Shelby

So the motion was agreed to.

D'AMATO MOTION TO INSTRUCT CONFEREES

Mr. DURENBERGER. Mr. President, I rise to explain the reasons I will be voting against the motion to instruct the crime bill conferees regarding the federalization of gun crimes.

The Senate bill would create concurrent Federal jurisdiction over any crime committed with a firearm, and would authorize the death penalty when a death results.

First, I make no secret of the fact that I am an opponent of the death penalty. I oppose it for philosophical reasons; I believe it perpetuates the cycle of violence and I believe it is unbecoming for a civilized nation. I also oppose capital punishment for practical reasons; there is no evidence that it deters violent crime, and it actually costs our criminal justice system more to execute a person than it does to incarcerate a person for life.

Second, I am disturbed by the way the Senate frantically moved to federalize crimes on this bill. Last year, my good friend Judge Paul Magnuson, a distinguished Federal judge, pointed out to me that of the 33 jury trials he had tried that year, only 2 were civil cases. And he believes his caseload is an exception because many judges have probably handled no civil cases.

As we load up the Federal courts with more and more criminal matters, we are approaching the point where we do not have a civil judiciary in this country. We have hundreds of State court judges in Minnesota and only five Federal judges. Our Federal criminal justice system simply does not have the resources to handle the caseload that could result from the Senate bill.

State criminal justice systems are much better equipped to handle the problem of crime than the Federal system. That is why I will oppose this motion.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from New York [Mr. D'AMATO] to instruct the conferees on the disagreeing vote of the two Houses with respect to the bill H.R. 3355. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Massachusetts [Mr. KENNEDY] is necessarily absent.

I also announce that the Senator from Alabama [Mr. SHELBY] is absent because of illness.

The result was announced—yeas 51, nays 47, as follows:

[Rollcall Vote No. 126 Leg.]

YEAS—51

Baucus	Faircloth	McCain
Bennett	Feinstein	McConnell
Breaux	Ford	Mikulski
Brown	Gramm	Murkowski
Bryan	Grassley	Nunn
Burns	Hatch	Pressler
Byrd	Helms	Riegle
Conrad	Hollings	Robb
Coverdell	Hutchison	Rockefeller
Craig	Jeffords	Roth
D'Amato	Kassebaum	Sasser
DeConcini	Kempthorne	Simpson
Dodd	Kerrey	Smith
Dole	Lieberman	Stevens
Domenici	Lott	Thurmond
Dorgan	Lugar	Wallop
Exon	Mack	Warner

NAYS—47

Akaka	Feingold	Metzenbaum
Biden	Glenn	Mitchell
Bingaman	Gorton	Moseley-Braun
Bond	Graham	Moynihan
Boren	Gregg	Murray
Boxer	Harkin	Nickles
Bradley	Hatfield	Packwood
Bumpers	Heflin	Pell
Campbell	Inouye	Pryor
Chafee	Johnston	Reid
Coats	Kerry	Sarbanes
Cochran	Kohl	Simon
Cohen	Lautenberg	Specter
Danforth	Leahy	Wellstone
Daschle	Levin	Wofford
Durenberger	Mathews	

NOT VOTING—2

Kennedy	Shelby

So, the motion was agreed to.

GRAMM MOTION TO INSTRUCT

Mr. LEVIN. Mr. President, I support three provisions of the Gramm motion: the provision supporting the establishment of a Violent Crime Reduction Trust Fund; the provision supporting allowing suspension of a mandatory minimum sentence only in those cases where the individual is truly a first-time, nonviolent offender; and the provision supporting the Senate amendment which provides mandatory minimum terms of imprisonment for adults who sell illegal drugs to a minor or who use a minor in drug trafficking. All of these provisions were also in the crime bill which I support.

I will vote against the Gramm motion, however, because of its fourth provision, which provides for a death penalty. As you know, Mr. President, I have long opposed the death penalty for a number of reasons, including its inability to correct for mistakes made in the judicial process.

On a previous motion, the Conrad-Mack motion, the debate ignored the fact that the Senate language displaces a three-strikes-and-your-out incentive in the House language for serious violent felonies. The displacement of that provision is surely worthy of greater consideration before our conferees are instructed to displace it.

The PRESIDING OFFICER. Under the previous order, the Chair appoints Mr. BIDEN, Mr. KENNEDY, Mr. METZENBAUM, Mr. DECONCINI, Mr. LEAHY, Mr. HATCH, Mr. THURMOND, Mr. SIMPSON, and Mr. GRASSLEY conferees on the part of the Senate.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair on behalf of the Vice President, in accordance with title 22, United States Code, sections 1928a–1928d, as amended, appoints the Senator from South Carolina [Mr. HOLLINGS] as a member of the Senate delegation to the North Atlantic Assembly spring meeting during the second session of the 103d Congress, to be held in Oslo, Norway, May 26–31, 1994.

MORNING BUSINESS

Mr. FORD. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak therein for up to 5 minutes.

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

S. 2019 TAKINGS AMENDMENT

Mrs. BOXER. Mr. President, I voted for final passage of S. 2019, the reauthorization of the Safe Drinking Water Act, despite serious misgivings about the takings amendment approved by voice vote late yesterday.

I voted for the bill because it contains provisions I consider crucial to protecting public health. The bill also provides a significant new level of flexibility that will allow us to meet our goals at the lowest possible cost for the thousands of local water supply systems.

The bill includes provisions I offered both in committee and on the floor that strengthen the legislation in significant ways. The Senate approved my amendment to require the EPA to take into account children, infants, pregnant women, the frail elderly, and other vulnerable groups when setting drinking water standards. The Senate also approved my amendment to protect the 30 million Americans who depend on well water from lead leaching at dangerous levels from well-water pumps and component parts.

S. 2019 also includes provisions I authored that will assure water system customers of adequate notice if their water supplier violates drinking water quality standards and clarify the EPA's authority to define what constitutes "best available technology" for small water systems.

But, unfortunately, S. 2019 also includes an amendment I considered to be a threat, not only to our safe drinking water laws, but to Government's ability to fulfill its most basic responsibility—the protection of the health and safety of our people.

The amendment would require Federal agencies to do a takings impact assessment every time they issue a new regulation. While that sounds reasonable—a fair way to protect private property rights—the amendment is part of what the Atlanta Constitution describes as a "broad-based, well-organized but low-profile effort to gut environmental and land use laws."

So called takings bills have been introduced, and defeated, in legislatures across the country, and have been brought before the Senate on several occasions. Faced with a bill nearly identical to the Dole amendment, the Governor of Idaho wrote:

> Simply stated, this bill is not concerned with the protection of property owners and the promotion of the social welfare * * *. Instead, it central focus is the protection of select property owners (developers, polluters, etc.) to do what they want regardless of the effects of their actions on their communities and their neighbors. This legislation essentially throws up paperwork and bureaucratic roadblocks to the state's promulgation of regulations to further protect the general welfare of the people * * *.

Republican legislators from New Hampshire and Colorado wrote Members of Congress last year:

> [T]akings legislation would increase taxes and create a new, unnecessary level of bureaucracy. As fiscal conservatives, and believers in limited state government, we successfully opposed state "takings" bills because they were expensive "Budget-Busters," which would require large and undeterminable new costs.

Mr. President, I ask unanimous consent that these letters be included in the RECORD.

Mr. President, I believe that the right to own private property is one of our fundamental rights as Americans. But this isn't about protecting private property, and I must oppose efforts to undermine the right to governments to fairly regulate land use in the interest of the public. I support orderly development and the sanctity of neighborhoods; I believe we should keep powerplants, prisons, and porno theaters from being built next to homes; and Government should be able to prevent one property owner from flooding another's land, to keep rivers clean by insulating them from too much development, to make sure no one property creates a nuisance or a hazard for the rest.

Mr. President, as the National Governors Association has said, "Interpretation of the fifth amendment of the Constitution concerning the taking of private property by the Government is the appropriate province of the courts * * * legislative requirements are not warranted."

While I supported final Senate passage of S. 2019, I reserve my right to oppose a conference report on this, or any bill, that includes a so-called takings amendment.

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

OFFICE OF THE GOVERNOR,
STATE CAPITOL,
Boise, ID, April 1, 1993.

Hon. MIKE SIMPSON,
Speaker of the House,
House of Representatives.

DEAR MR. SPEAKER: I have the honor to advise you that I have transmitted to the Office of the Secretary of State herewith, without my approval, disapproved, and vetoed: House Bill 322 within the time limited by law, the same having arrived in the Office of the Governor at the hour of 4:28 p.m. on March 24, 1993.

House Bill 322 requires each state agency to designate a person to prepare a "takings impact statement" for state agency actions with "takings implications." "Private property" has been defined in this bill as including "all property, real or personal." If this bill were to become law, state agencies would be required to prepare takings-impact assessments for each and every state agency action with takings implications, including the promulgation of regulations and the granting, denial or conditioning of licenses or permits. The bill contemplates the creation of a morass of additional state government paperwork for seemingly no purpose. Various state agencies have testified that they would be required to hire at least an additional attorney and support staff for that attorney just to comply with this legislation. The fiscal impact on state government would be burdensome despite the legislative pronouncement that this bill has "no fiscal impact." Thus, the Legislature by this bill would like to require state agencies to engage in a paperwork runaround without providing any funding to support the work required.

The preparation of written takings-impact assessments would involve a time-consuming and expensive bureaucratic process that would make government decision-making slower and less effective. Regardless of whether an action actually would result in a constitutional violation, an agency would be required to include an analysis of "alternatives" to the action and the preparation of "an estimate of the financial cost to the government agency occupational health and safety of workers, consumers, children, and the underprivileged against those who would exploit them.

Simply stated, this bill is not concerned with the protection of property owners and the promotion of the social welfare of the Idaho citizens. Instead, its central focus is the protection of select property owners (developers, polluters, etc.) to do what they want regardless of the effects of their actions on their communities and their neighbors. This legislation essentially throws up paperwork and bureaucratic roadblocks to the state's promulgation of regulations to further protect the general welfare of the people of the state of Idaho.

In the final analysis, enactment of this legislation would be a complete waste of the taxpayers' money. The Legislature has already provided that, pursuant to Idaho Code §67-5218, "a concurrent resolution may be adopted [by the Legislature] rejecting, amending, or modifying" an agency rule that it finds offensive. In addition, the Legislature has the ability to request a state agency to provide an accounting of the effect of a proposed rule. In this regard, Idaho Code §67-5203(e) has required a state agency to prepare a "statement of economic impact" of any proposed rule when requested by the joint germane sub-committee. Such a statement is to include "an evaluation of the costs and benefits of the rules and regulations to the people of the state of Idaho." Idaho Code §67-5201(8). Thus, the Legislature already has a mechanism by which it could obtain an analysis of the effect of state agency regulations. I am not aware, however, of the Legislature's ever using this tool. House Bill 322 would require state agencies to prepare hundreds of analyses, despite the fact that the Legislature has never even asked for such a similar analysis under existing legislation.

Finally, this bill is even more expansive, onerous and flawed than previous versions of the same legislation: Senate Bill 1439, which I vetoed last year, and House Bill 262aa, which I vetoed two years ago.

For these reasons, Mr. Speaker, I have withheld my approval, disapproved, and vetoed House Bill 322 and returned the same within the time provided by law.

Sincerely,

CECIL D. ANDRUS,
Governor.

OCTOBER 26, 1993.

DEAR MEMBER OF CONGRESS: As Republican state legislators, we are writing to urge you to oppose federal "takings" bills and amendments for the same reasons that we and our colleagues killed similar state legislation: "takings" legislation would increase taxes and create a new, unnecessary level of bureaucracy.

As fiscal conservatives and believers in limited state government, we successfully opposed state "takings" bills because they were expensive "Budget-Busters," which would require large and undeterminable new costs.

State and federal "takings" bills would give taxpayer subsidies to special interests who have to comply with legal requirements designed to protect the private property, and the health and safety, of average Americans.

Everyone agrees that where the courts determine that private property has been "taken" for public use, just compensation must be paid under the Fifth Amendment to the federal Constitution or similar state constitutional provisions. We agree, however, with the National Governors' Association, which resolved in 1992 that "takings" issues are "the appropriate province of the courts" and that such bills "would have far-reaching implications for state and local zoning, land management, and public health laws of all kinds."

In cases where there is clearly no constitutional right to compensation, "takings" bills would injure average citizens by increasing taxes or by diverting limited government resources for a new entitlement program. They would also increase litigation and require taxpayers to hire lawyers and accountants to conduct a site-specific examination of any conceivable impact on each piece of property from each government action.

The idea that property owners can demand government compensation because of perceived limitations from health, safety, anti-pollution and other laws and regulations is constitutionally unsound. It would also harm the public by raising taxes and by discouraging government actions that protect our rights. We all live downstream, downwind or next door to property where pollution and other harmful activities have been restrained to protect our rights.

Therefore, we urge you to join us in voting against increased taxes and unnecessary bureaucracy by opposing "takings" bills.

Sincerely,

RICHARD L. RUSSMAN,
Republican—E. Kingston, New Hampshire Senate.

TONY GRAMPSAS,
Republican—House District 25, Speaker Pro Temps, Colorado House of Representatives.

TAIWAN DESERVES FAIR TREATMENT

Mr. BROWN. Mr. President, I rise today to congratulate President Lee Teng-hui of the Republic of China on the fourth anniversary of his Presidency.

President Lee Teng-hui is the first freely-elected President in the history of the Republic of China. Under the leadership of President Lee, the Republic of China on Taiwan has become one of the fastest-growing, most dynamic economies in the Asia-Pacific region. In the past 4 years, Taiwan also made impressive progress in democratization: Free and fair elections are routinely held in a multiparty political system. Today's Taiwan is one of the most stable, prosperous, and democratic nations in the world.

Maintaining our close relationship with Taiwan is in our national interest. It is an important pillar supporting regional peace, regional security and regional prosperity. President Bush recognized the importance of Taiwan to the region when he dispatched his Cabinet-level appointee, United States Trade Representative Carla Hills, to Taiwan. Continued high-level United States attention to Taiwan is an important component of the success of United States policy in the Asia-Pacific region.

Congressional recognition of Taiwan's importance was evidenced in the Foreign Relations Act signed into law by President Clinton on April 30, 1994. Section 508 of that Act urges the President, on behalf of the Congress, to: ". . . send Cabinet-level appointees to Taiwan . . ." and to ". . . take steps to show clear United States support for Taiwan both in our bilateral relationship and in multilateral organizations of which the United States is a member."

Nonetheless, early in May, this clear expression of congressional intent was ignored by the administration. President Lee was humiliated by the State Department's rude and inappropriate refusal of his request to stop overnight in Hawaii while on his way from Taiwan to Costa Rica. The Communist government of the People's Republic of China lodged a diplomatic protest about who the United States should and should not permit to overnight on United States soil, and government "kowtowed." The Clinton administration's treatment of a freely elected leader is embarrassing to all Americans, and calls into question this administration's commitment to democracy.

Mr. President, I would like to take this opportunity to commend my col-

league, Senator SIMON, for being the first to bring this matter to the public's attention. This rude treatment has the potential to severely hamper our relations with Taiwan and to affect Taiwan's international status.

To demonstrate to President Lee of Taiwan that the rude and inappropriate behavior of this administration is not shared by the American public, Senator MURKOWSKI and I have sent a letter to President Clinton expressing our serious concerns over this event. We have also invited President Lee Teng-hui to visit our home States of Colorado and Alaska. We hope that President Lee's visit to our States will demonstrate the extensive, close, and friendly feelings that everyday Americans have for the people of Taiwan.

Mr. President, I ask uananimous consent that these two letters be printed in the RECORD at the conclusion of my remarks.

I thank the Chair.

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

U.S. SENATE,
Washington, DC, May 17, 1994.

Hon. WILLIAM J. CLINTON,
The President,
The White House.

DEAR MR. PRESIDENT: On April 30, 1994, you signed into law the Foreign Relations Authorization Act. Section 508 of that Act urges you to "take steps to show clear United States support for Taiwan. . . ." This expression of congressional intent is consistent with the Taiwan Relations Act which sets forth the policy of the United States "to preserve and promote extensive, close, and friendly commercial, cultural, and other relations between the people of the United States and the people on Taiwan. . . ." 22 U.S.C. 3301.

Despite this expression of congressional intent, we were embarrassed to learn that the Department of State refused the request of the Honorable Lee Teng-hui, the freely elected leader of the democratic Republic of China on Taiwan, to overnight in Hawaii enroute to Costa Rica. We believe this decision was ill advised. We were particularly dismayed to hear that this decision was made to appease the PRC's Ambassador who had protested the presence of President Lee on American soil.

Mr. President, we believe that our country should be doing everything it can to promote close and friendly ties with the Republic of China on Taiwan—a democratic country that is extremely important to our economic and security interests in East Asia. For that reason, we have attached a letter that we have sent to the Honorable Lee Teng-hui inviting him to visit our home states of Alaska and Colorado, and to be our guest in Washington. We think that such a visit by Mr. Lee can go a long way to repair the damage done by the recent snubbing at the hands of the State Department, and to promote extensive, close, and friendly relations with the people of the Republic of China on Taiwan.

Sincerely,

FRANK MURKOWSKI,
HANK BROWN,
U.S. Senators.

U.S. SENATE,
Washington, DC, May 17, 1994.

Hon. LEE TENG-HUI,
President, Republic of China on Taiwan.

DEAR PRESIDENT LEE: The Republic of China on Taiwan, under your leadership, has become a leader in the industrialized world with a dynamic and growing economy and a prosperous and free people. As Senators from states with a strong focus on the Pacific Rim, we see tremendous opportunities to expand and strengthen ties between the people of the United States and the people of the Republic of China on Taiwan. We are firmly in favor of preserving and promoting extensive, close, and friendly commercial, cultural and other relations between the United States and Taiwan.

For that reason, we would like to formally invite you to come to the United States to see for yourself the strong sentiments and support for the Republic of China on Taiwan. Specifically, we would like to invite you as our guest to visit our home states—Alaska and Colorado. We would also be honored if you could be our guest in Washington, D.C.

Thank you for your consideration of our invitation.

Sincerely,

HANK BROWN,
FRANK H. MURKOWSKI,
U.S. Senators.

FOURTH ANNIVERSARY OF THE PRESIDENCY OF PRESIDENT LEE OF THE REPUBLIC OF CHINA ON TAIWAN

Mr. DOLE. I am pleased to join the distinguished Senator from Alaska, Senator MURKOWSKI, and other Senators from both sides of the aisle in recognizing the fourth anniversary of the inauguration of President Lee Teng-hui of the Republic of China on Taiwan—an anniversary that will be officially observed on May 20.

President Lee has provided his nation remarkable leadership at an important time of political and economic transition in Asia.

Under President Lee's leadership, democracy has taken a giant leap forward on Taiwan. Under his leadership, the economy of Taiwan has continued to grow, and the people of Taiwan have continued to enjoy growing prosperity. And under his leadership, Taiwan has further expanded its constructive role in international and multilateral affairs, in such organizations as the Asian Development Bank, GATT and the Organization for Asian Pacific Economic Cooperation Development Bank.

All these achievements merely set the stage for what I believe, and many Senators believe, will be even more impressive accomplishments in the years ahead. Certainly the Republic of China on Taiwan deserves to play a role, and can play a highly constructive role, in the United Nations. Certainly we, in this country, can enjoy even closer and more mutually beneficial relations with the Republic of China on Taiwan, in all spheres. And certainly Taiwan will continue to be one of the most powerful engines for what we hope will be growing global prosperity based on free and fair international trade.

I remember with special appreciation the contributions the people of Taiwan made last year to help alleviate the suffering of the people of Kansas and elsewhere in the midwest during the terrible floods which devastated the region. It is but one of many examples of the genuine, long-standing friendship between our people.

Let both nations continue to build on that friendship. And let us all join today in congratulating President Lee and the people of the Republic of China on Taiwan on all that they have accomplished, at home and around the world.

THE 40TH ANNIVERSARY OF THE SUPREME COURT'S BROWN VERSUS BOARD OF EDUCATION RULING

Ms. MOSELEY-BRAUN. Mr. President, yesterday was the 40th anniversary of the Supreme Court's landmark ruling in the case of Brown versus Board of Education. In Brown, Chief Justice Earl Warren, writing for a unanimous court, struck down the doctrine of separate but equal, holding that it did, in fact, violate the equal protection clause of the 14th amendment to the Constitution.

What tends to get lost in the discussion over Brown is that, in purely legal terms, the decision was actually very narrow. It was limited in scope, applying solely to the field of public education. It did not even provide the plaintiffs with a remedy for correcting the discrimination, forcing them to return to the Supreme Court the next year, in a case known as Brown II, for relief. The simple fact is that the actual plaintiffs in Brown never realized the fruits of their victory, never actually attended a desegregated school, due to the official government resistance in carrying out Brown's directive.

However, I think the reason that gets lost—the reason that, on its 40th anniversary, no one discusses the narrowness of the Court's ruling in Brown—was summed up by an editorial in yesterday's Washington Post. The editorial stated, "Seldom does a Supreme Court ruling have such a profound impact on the country's social structure, moral tone, and constitutional assumptions as to become a benchmark in the Nation's history".

For the fact is that, with a single stroke of the pen, the Supreme Court started this Nation down a long and troubled road toward equal opportunity for all citizens, regardless of race or religion or gender or national origin. By writing in its unanimous opinion that "In the field of public education, the doctrine of separate but equal has no place," the Supreme Court laid the cornerstone for all the advances in civil rights in America in the past 40 years.

In 1954, the year of the Brown decision, the entire South, and many border States, lived under the domain of Jim Crow. Blacks were relegated to the back of the bus, were banned from white lunch counters, and were not allowed to use the same bathroom or water fountains as whites. Interracial marriage was prohibited—by law—in many States, and any black who attempted to vote was quite literally risking his or her life. Although today the Court's ruling seems quite logical, and not all that revolutionary, we can never forget the extraordinary courage of those who, in that atmosphere, fought for the proposition that separate but equal was, in fact, inherently unequal—the late Supreme Court Justice Thurgood Marshall, who argued the Brown case before the Court, his cocounsels, George Hayes and James Nabrit, Jr., Linda Brown and her family, and the other plaintiffs in the case and, of course, the Supreme Court itself.

We can never overstate the importance of this ruling. For without the decision in Brown, there is no telling where our Nation would be today. Without the Supreme Court on its side, would the U.S. Congress have had the courage to pass the Civil Rights Act of 1964, the Voting Rights Act of 1965 or the Civil Rights Act of 1968? Without the Supreme Court on their side, would those who rallied around a woman named Rosa Parks, who refused to give up her seat on the bus, have had the courage to risk water cannons and police dogs and rocks to stand alongside her? Would civil rights achievements in other areas—banning discrimination against women, against those with disabilities—have been possible? Thankfully Mr. President, these are questions we will never have to answer.

Nonetheless, 40 years later, I cannot help but be troubled that, in so many areas, our Nation is no longer moving forward toward racial unity and harmony but slipping back toward segregation, toward two nations, separate and unequal. Nowhere is that more obvious than in our Nation's schools, the very subject of the Brown ruling.

In a study conducted for the Department of Education last year, Prof. Gary Orfield found that despite rapid movement toward integration from the mid-1960's to the early 1970's, our Nation's schools are now more segregated than ever. Specifically, this study found that 70 percent of black and Hispanic students now study in classrooms with a predominantly minority enrollment. In my hometown of Chicago, that number is even more troubling—more than 90 percent of black students still attend either mostly black or predominantly minority schools.

Or take another example, the continued discrimination in the administration of the death penalty. Last week, this body debated the Racial Justice Act, an act that would have afforded those sentenced to death the same right to present a claim of discrimination as those turned down from renting an apartment or fired from their jobs. As study after study after study presented during the debate shows—including a study conducted by the General Accounting Office—there exists to this day a pattern of racial disparities in the charging, sentencing, and imposition of the death penalty. One need look no further than the Federal criminal justice system itself to realize this. Since 1988, the Federal death penalty for drug kingpins has been sought against 36 defendants—4 white, 4 Hispanic, and 28—or 77 percent—African-American.

Mr. President, the fact that millions of our Nation's citizens continue to be segregated by race and ethnicity in our Nation's schools as well as in our Nation's communities is unacceptable. The fact that defendants continue to be sentenced to death based on their race, or the race of their victims, is unacceptable. These statistics tell us what we already know—that despite the historic decision in Brown, despite the gains in civil rights of the past 40 years, we still have a long way to go before the doctrine of separate but equal is truly abolished.

I know this is not a fun subject to discuss. I know people throughout this country wonder why we can't forget about race, why we can't just be proud of how far we've come, and leave well-enough alone. As Clarence Page stated in a recent column in the Chicago Tribune, the idea that separate but equal is inherently unequal has fallen on hard times. Said Page, and I quote, "Never have I seen whites more weary of the idea that race is still a significant problem in America. Never have I seen black folks, particularly young blacks, so weary of pressing for white acceptance." But we cannot, we must not allow this weariness to distract us from the task at hand. The issues at stake are too important.

I recently returned from South Africa where I was able to witness what can happen when people of all races and colors come together to fight against racism and segregation.

By now we have all seen the truly moving and truly remarkable sight of blacks and whites together waiting in lines literally miles long, waiting 8 full hours and more, to vote in the first multiracial elections in South Africa's history.

I was a part of the U.S. delegation that was present at the inauguration of Nelson Mandela. He is a man who spent 27 years in prison, not for crimes, but for trying to open up opportunities for all South Africans. But he was not embittered by his years in prison. Instead he stayed true to his values.

Nelson Mandela, and the coalition he heads, is bringing new freedom and new opportunity to black South Africans. But his victory was not just a victory for black South Africans but for South Africans of every race and color.

South Africa is in the process of transforming itself into a multicultural, pluralistic, democratic society. That metamorphosis was personified by the Pretoria Children's Choir. This group of young teenagers looked like South Africa. One could see strains of every imaginable racial and ethnic group, and they sang and danced in unison. One song brought tears to my eyes. They sang: "We all know we are different from one another; be proud of your heritage; but know that you are my brother."

Mr. President, I mention my recent trip to South Africa because while the Supreme Court's Brown versus Board of Education ruling began the dismantling of our Nation's system of apartheid in education, of apartheid in the death penalty, more needs to be done.

Education is more than a private benefit to individuals, it is a public good for us all. How well a democratic society is able to function depends in large part on the opportunities for education available to its citizens. That connection is seen in everything from crime statistics, to health status, to electoral participation, to international competitiveness.

The elimination of discrimination in the death penalty is equally important. I know some people ignore the implications of this continued discrimination by reasoning that, after all, these are only criminals. They have committed heinous and unspeakable acts, and it doesn't really matter if we deny them equal protection under the law. But the simple fact is, if we continue to allow death sentences to be imposed on the basis of race, we diminish all of our humanity. This country has long stood for the proposition that even those who have done wrong have rights. Even those who have committed a crime deserve not to be discriminated against on the basis of race. Eliminating that protection for any class in society—even criminals—sends a strong message that equal protection is not s highly valued in this Nation as we claim it is.

Mr. President, these are just two illustrations of the fact that, as far as this Nation has come since that day 40 years ago when the Supreme Court handed down the Brown decision, we still have a long way to go. Brown was a giant step forward in the process of achieving full political and economic integration. But we've made more progress on the political front than on the economic front. Full economic integration is necessary to overcome the legacy of discrimination, and education is an important part of achieving that economic integration.

While the problems we confront today, in 1994, are different than the ones confronted by the Supreme Court

40 years ago, in 1954, the fundamental meaning of Brown versus the Board of Education has not changed. At its core, Brown was bout values—about the significance and worth of every individual, regardless of race or religion or gender or national origin. Brown stated what we all know, that we are greater as a Nation if we stand together and use the talents of all our citizens than if we allowed ourselves to be divided on a characteristic as meaningless and irrelevant as the color of one's skin. No matter what happens, no matter what new problems we confront, we must never forget that message. Instead, the belief in true equality that was voiced in Brown should underlie everything we do in this Nation, today, tomorrow and every day.

Mr. President, the 40th anniversary of Brown should not just be a time to reflect on the importance of the decision. Rather, it should be a time for the people of this Nation, including those of us in the Senate, to rededicate ourselves to the struggle of ensuring equal justice for all. It is worth recalling what Frederick Douglass said over a century ago: "If there is no struggle, there is no progress." We must ask and demand that we all live up to the values our Declaration of Independence and our Constitution so eloquently expounded. That is the strategy that has resulted in the greatest success. It is the path that offers the most for each and every one of us, and for our Nation.

I would like to conclude my remarks by reminding my colleagues that we are stronger as a Nation, and stronger as people if we can work together, if we can utilize the talents of every one of our people. If we can put aside racism, and sexism, and all of the other "isms" that separate us from one another, in short, if we can live up to the values we state so eloquently in our Constitution.

THE RACIAL JUSTICE ACT

Ms. MOSELEY-BRAUN. Mr. President, once again, for the third time in as many weeks, the Senate is debating the Racial Justice Act. For the third time Members of the Senate have engaged in debate about whether or not we should provide safeguards to protect against a problem so prevalent—the problem of racial bias in the imposition of the death penalty—that even a study commissioned by this body, and conducted by the independent General Accounting Office concluded that there is, and I quote:

> A pattern of evidence indicating racial disparities in the charging, sentencing, and imposition of the death penalty.

Now I do not understand why we in the Senate need to be on record in opposition to the evil of ending discrimination in the death penalty once again here today. We just voted on this last week, and those who oppose ending racial discrimination in the death penalty won. There is clearly no reason why we need to have this exact same conversation 1 week later. But the fact of the matter is that there have always been individuals, including those in Congress, who will stand in repeated and immovable opposition to laws protecting our civil rights. And so those of us who believe in civil rights, who believe in ending discrimination in the death penalty, must come out and debate this with them every single time.

The way opponents of the Racial Justice Act are behaving, you would think there was absolutely, positively no evidence of discrimination in the death penalty. You would think the authors of the Racial Justice Act just dreamed it up on a rainy day because they had nothing better to do.

The fact of the matter is that the Racial Justice Act was developed after the U.S. Supreme Court explicitly stated in the case of McCleskey versus Kemp that the evidence of racial discrimination in that case was, and I quote, "best presented to the legislative bodies," who could develop the appropriate solutions. McCleskey involved what is referred to as the "Baldus study." The Baldus study was actually not one study, but two sophisticated statistical analyses of more than 2,000 Georgia murder cases. What the Baldus studies showed was that, even after taking account of 39 nonracial factors, defendants charged with killing white victims were 4.3 times as likely to receive a death sentence as defendants charged with killing black victims. The capital sentencing rate for all white victim cases was almost 11 times greater than the rate for black victim cases. Blacks who killed whites were sentenced to death at nearly 22 times the rate of blacks who kill blacks, and more than 7 times the rate of whites who kill blacks. In addition, prosecutors sought the death penalty for 70 percent of black defendants with white victims, but for only 15 percent of black defendants with black victims. Keep in mind that during the period of time involved in the Baldus study only 9.2 percent of Georgia homicides involved black defendants and white victims. I know I just presented a lot of facts and statistics to be digested all at once. However, if those numbers do not evidence a gross pattern of discrimination, Mr. President, then I do not know what does.

Now some listening to the debate today may think, well, the McCleskey case was decided 7 whole years ago. The problem documented by the Baldus study—the problem of discrimination in the death penalty—surely must have been corrected by now, right? We do not need to worry about that old problem anymore, right? Wrong. Nothing, Mr. President, could be further from the truth. If we have ended discrimination in the death penalty, why is it that under the Federal death penalty for drug kingpins, 77 percent of those chosen for death penalty prosecutions have been black? Keep in mind that 75 percent of those charged under this same statute have been white. Yet 77 percent of the death penalty charges—including 10 out of 10 capital cases that have been brought under the Clinton Administration and Attorney General Janet Reno—have been made against African-Americans. If that does not convince my colleagues there is a problem that desperately needs to be corrected, what will?

Another statistic that clearly demonstrates the continuation of racism in the death penalty is the fact that, of the 230 executions that have been carried out in the United States since 1976, only 1 of those—1—has involved a white person killing a black person. Think about that statistic for a second. Of 230 executions since 1976, only 1 involves a white killing a black. Does that statistic shock and appall and disgust anyone else in this body as much as it does me? How could anyone who is aware of that statistic be against the Racial Justice Act?

What do these statistics say about the value that is placed on a black life in this country? What does it say about the value that is placed on civil rights, on equal protection under the law, by this Senate, when we vote to say we reject the Racial Justice Act in light of such statistics. I submit, Mr. President, that our vote against racial justice says some pretty frightening things, things that the U.S. Senate, in 1994, ought not to be saying.

Mr. President, I do not want to take up a great deal of time discussing this issue today. I know the distinguished chairman of the Judiciary Committee, the Senator from Delaware, does not want to debate anew the entire crime bill. That is what the conference committee is for. Besides, I do not know what more I can say to convince my colleagues that this—racial discrimination in the death penalty—is in fact a problem. Given the conclusive and overwhelming evidence of continued racial apartheid in the imposition of the death penalty, it boggles my mind that the U.S. Senate would, over the course of 3 weeks, continue to insist that the Senate state over and over that we do not care if there is racial bias in the death penalty, that we do not want to be bothered to craft a remedy that will give those who are sentenced to death solely on the basis of their race the simple right to challenge that sentence in court.

For, once again that is all the Racial Justice Act does, Mr. President. It gives defendants the right to challenge a death sentence imposed on the basis of race, just as we in the this body have given renters the right to challenge a landlord who denies them an apartment based on race, or just as we have

given employees the right to challenge an employer who fires them based on race. It does not mandate that the court accept the defendant's argument. In fact, the act provides numerous opportunities for a prosecutor to prove, by a mere preponderance of the evidence, that nonracial factors were responsible for the death sentence. Nor does the act give the defendant the right to overturn the underlying conviction for which the sentence was issued. It merely provides an avenue for the defendant to present a claim of discrimination. If the Senate wants to vote against racial justice for the second time, in light of this overwhelming evidence, it certainly can, and will, do so.

Mr. President, this issue will not go away. I know the conference on the crime bill will be a difficult process. Not everything that we put in the bill in the Senate will stay in the bill. Not everything that was inserted in the House of Representatives will remain in the final bill. But, it seems to me that, if there is anything Congress must agree on, it is that death penalty sentences should be handed down in an unbiased manner. The Senate will once again have to decide if it is going to stand up for civil rights, if it is going to stand up for equal protection, if it is going to stand up to correct apartheid in the death penalty. That is what the Racial Justice Act is all about, and the issue will not go away.

Mr. BROWN addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado [Mr. BROWN] is recognized.

NOMINATION OF SAM BROWN

Mr. BROWN. Mr. President, I am concerned about a nomination that the Senate, I believe, will be considering next week. It is the nomination by the President of Sam Brown for the rank of Ambassador to head our delegation to the Conference on Security and Cooperation in Europe.

The Conference on Security and Cooperation in Europe is an organization of enormous importance. Originally arising out of the Helsinki accords, this effort was designed to draw European nations on both sides of the Iron Curtain together; to have them work toward peace; and to have them work toward resolution of human rights questions. Nonetheless, the Conference was dramatically changed in 1990 and 1992, when a substantial international security role was added. Responsibilities for monitoring both the Open Skies Treaty and the reduction of Conventional Forces in Europe Treaty were added. Also added was a Forum for Security Cooperation envisioned as the final point for resolution—including recommendations for military intervention—of vexing military confrontations. For instance, the forum has the leading European responsibility for recommendations concerning resolution of the conflict between Armenia and Azerbaijan.

Moreover, this Conference, and the Ambassador specifically, will be charged with efforts to help coordinate and negotiate new reductions in conventional forces. Thus, what was an ambassadorship dealing primarily with humanitarian efforts has changed dramatically. It now has significant responsibilities for major military recommendations and matters of enormous importance to our national security. The person who heads the CSCE delegation has a large responsibility, not simply to represent this country, but to coordinate the very important details of delicate negotiations while safeguarding our national security interests. I am particularly concerned because the nominee has no national security experience. The nominee has no military experience. The nominee has no diplomatic experience other than having supervised an agency that supervised the Peace Corps. Moreover, the nominee's management background is not one that would lend confidence. The nominee, to put it bluntly, while bright and articulate and an able person in many ways, is simply unqualified for the post.

His lack of national security experience raises grave questions not only about his ability to do the job but his ability to sell a new conventional forces reduction agreement should one be achieved. This evening 41 of us have signed the following letter to the President of the United States.

DEAR PRESIDENT CLINTON: We are writing to urge you to reconsider your nomination of Mr. Sam Brown for the rank of ambassador to head the U.S. delegation to the Conference on Security and Cooperation in Europe. We question whether Mr. Sam Brown possesses the necessary expertise to effectively serve in this capacity.

During the Senate Foreign Relations Committee's consideration of Mr. Brown's nomination, he was questioned extensively about his relevant experience. The CSCE has added significant facilities to promote European security since 1990, and figures heavily into monitoring arms control agreements central to the continued security of the continent. Namely, CSCE is responsible for monitoring the Conventional Forces in Europe (CFE) treaty, the Open Skies treaty and for negotiating future follow-ons to these important documents.

Prior ambassadors to the CSCE and those sent from other member nations as representatives had extensive diplomatic and national security backgrounds. Mr. Sam Brown's record speaks for itself. It contains no national security experience and no significant diplomatic experience. He has no international business experience and no relevant academic experience.

Poland, Hungary and the Czech Republic have been eager to become an integral part of the West. They've applied for NATO membership and entry into the European Union. In both cases, they were rebuffed. The only significant regional organization which they can participate in as full members is the CSCE. Posting an unqualified ambassador as our representative sends yet another signal that the United States attaches little importance to these fledgling democracies.

In addition to his lack of qualifications, Sam Brown's past record is enlightening. He served as head of ACTION during the Carter administration where his abilities earned him headlines such as "ACTION Chief Labeled Inept Martinet." The House Appropriations Committee staff conducted an extensive investigation of ACTION during his tenure, and found numerous violations of law, regulation and policy. Not only that, his effort to eliminate ACTION's independent inspector general gave the distinct appearance of an attempt to cover up these numerous discrepancies and prevent independent review of the agency's practices.

Clearly, Mr. Brown lacks the necessary diplomatic and national security experience to effectively represent the United States at CSCE. His mismanagement at ACTION further calls into question his selection for this important post. If it is your intention to ensure Sam Brown is appointed to a post within the Federal Government, we urge you to consider him for another position more suited to his experience.

Mr. President, this letter is signed by 41 Members of this Chamber.

I hope very much that the President will heed the role of advice and consent that is ours under the Constitution.

The signers of this letter are not saying that Sam Brown should not serve the administration in some capacity. Certainly, the experience of this Chamber is to give the President wide discretion and even approve Members and Representatives which I know Members of this body would not necessarily nominate themselves.

At least 40 nominees of this administration I have voted for and supported. This one, however, I cannot support. It is my belief that Sam Brown clearly does not have the experience that is needed.

Mr. President, I raise these concerns because I believe it is important that the Senate have a full and clear debate on Sam Brown's qualifications before voting on cloture. I hope this evening to urge upon the consideration of the leadership an opportunity for that debate to take place before the cloture vote is taken.

Mr. President, I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. BROWN. Madam President, I ask unanimous consent to proceed as if in morning business.

The PRESIDING OFFICER (Ms. MOSELEY-BRAUN). Without objection, it is so ordered.

Mr. BROWN. Madam President, I want to share with the body the com-

ments of Jack Anderson, writing for the Washington Post, when he was describing the management problems of Sam Brown, the nominee before this body next week with regard for the post of ambassador to the CSCE. I quote now from Jack Anderson under a headline that reads, "ACTION Chief Labeled Inept Martinet."

[The Washington Post, Thursday, Dec. 14, 1978]

Sam Brown, the tousle-haired anti-war activist-turned-bureaucrat, comes across as an easygoing, charismatic, refreshing new face on the Washington political scene. But his leadership of ACTION, which oversees such do-good programs as the Peace Corps and VISTA, has drawn increasing criticism from both inside and outside the organization.

The recent forced resignation of Peace Corps director Carolyn Payton was a monumentally mishandled affair. Regardless of the merits of her firing, the circumstances surrounding it were so messy as to give credence to charges that Brown simply is not up to the job President Carter gave him.

Insiders told our associate Jack Mitchell that the Payton firing was only the tip of the iceberg. They say Brown's direction of ACTION's domestic and international programs has been all thumbs from the very start. Mismanagement, favoritism and plain incompetence characterize Brown's regime.

Brown's professed goal of an egalitarian "workplace democracy," which would have been unique in Washington bureaucracy, could account for the slapdash, uncoordinated administration of ACTION and the crumbling image of a once-respected government agency.

But Brown is accused of more than just inept bungling in a job that's too big for him. ACTION aides say he has become an authoritarian martinet who brooks no interference from his subordinates. He is, they say a bureaucratic dictator.

Morale at ACTION is rock-bottom low. Bad publicity has negated the positive achievements of the agency's programs. Brown's response has been not to clean up his own act but to look for a press aide who can give him a brighter image.

The dismissal of Payton, one of the Carter administration's few influential black officials, brought some of the agency's dirty laundry out in the open.

The conflict between the gregarious Brown and the more reserved Payton appears to have been basically a personality clash. At any rate, Brown was so eager to pressure Payton to quit that her resignation was leaked to the press before she had agreed to it.

Caught by surprise and embarrassed by the report of her firing, Payton denied it. She had to go to presidential counsel Robert Lipshutz to confirm that her resignation had actually been requested by the president.

Brown's growing band of detractors claim that he and his cronies have been trying to apply the anti-Establishment idealism of their New Left days to the complicated task of administering multimillion-dollar social programs. The result has been chaos, the critics say.

And starry-eyed idealism has not prevented ACTION brass from squandering the taxpayers' money with an abandon that would be envied by any entrenched bureaucracy in Washington.

A case in point was ACTION's hare-brained scheme to send unemployed inner-city black youths to Jamaica to work. ACTION officials jetted off to the Caribbean resort to set up the project.

But Jamaican officials, faced with massive unemployment and an inflation rate of up to 50 percent a year, put the kibosh on the dizzy plan. They were appalled at the idea of American ghetto youths being thrown in with resentful, out-of-work Jamaicans on their politically troubled island.

Cost-conscious watchdogs at the budget office have warned ACTION's spendthrift poohbahs that the agency's travel expenditures had to be reduced. ACTION staffers, for example, have been spending hundreds of thousands of dollars in the past few months attending meetings all over the world. At the same time, workers in the field have been told there's not enough money to fly them back to Washington for briefings.

Taxpayers recently footed the bill for conferences in Casablanca and Nairobi attended by no less than 31 ACTION paper-shufflers. Each junket cost about $80,000. The highlight of both meetings, sources told us, was the obvious friction between Brown and Payton.

Footnote: Brown was not available to talk to us at press time, but this supporters at ACTION insist that reports of his incompetence and tyranny are either untrue or exaggerated. "Sam's not that way at all," they say.

An ACTION spokeswoman told us that Payton's resignation was announced "in response to media calls" after she had indicated she was quitting.

The Jamaican project, she said, was an "experimental idea" designed to improve minority participation, but was dropped early this year after a negative response from Jamaican officials.

Madam President, that is not an article written by a critic of the administration, nor, indeed, by anyone who is a Republican. That is an article written by Jack Anderson of the Washington Post. It recounts, in very direct and blunt language, some of the management experience of the nominee to head our very important CSCE delegation. It is but one of many, many reports pointing out the management blunders and the management problems that Sam Brown brings to his job.

I emphasize, this is not partisan. This is not from a Republican source. But it does, I think, reflect on the concern that 41 Senators have expressed to the President in asking the President to reconsider this nomination and find a different post for Sam Brown.

Madam President, let me go on, because the mismanagement was noticed and reported on by many people other than simply Jack Anderson. The House, controlled by a Democratic majority in those years, commissioned the staff of the Appropriations subcommittee in this area to prepare a report on Sam Brown's management practices at ACTION. It details, in that report by the committee staff, mismanagement in a wide-ranging number of areas. I commend it to the reading of the Members of this body.

On page 88, it outlines improper procurement practices followed under Sam Brown. On page 105, it details financial mismanagement. On page 35, it details grants awarded without competition. On page 40, it reports training programs with materials attacking Government agencies, politicians, and utilities as enemies. On page 43, it relates involvement in restricted activities. On page 22, it details improper use of experts and consultants. On page 16, it reports ignored legal requirements in setting pay levels. At page 112, it details the abolition of the independent inspector general.

I might add, the effort to do away with the independent inspector general was done at a time when it appeared that the independent inspector general may well be active in pointing out the mismanagement practices of the agency itself; in other words, doing exactly what an inspector general is supposed to do. It appears the attempt was to reward him with dismissal.

Madam President, I hope every Member of this body will read this report. This is not written by Republicans. This is written by a staff employed by the Democratic majority of the House of Representatives. It details in specifics major mismanagement mistakes. We have a responsibility, I believe, to help the President. The Constitution states it clearly: To advise and consent.

The fact that now and then you have a nominee come forward who is not qualified is not unique to this administration. It is not unique to the Democratic Party. It is a problem that has plagued both Republican and Democratic administrations. I am one who believes that we do the executive no favor if we approve officials who do not have the ability and the background to perform adequately. Sam Brown has been tried and tested, and the results are in. They speak clearly and eloquently to the fact that he is not able to handle these important responsibilities.

The vote on this nominee should not be partisan. Democrats should not feel an obligation to support a President when he has made a bad nomination, just as Republicans should not have felt obliged to support Republican Presidents when they named a bad nominee.

This Senator has voted for over 99.3 percent of the nominees sent forward by this White House. I have voted for every single nominee from the State of Colorado from this White House. But Sam Brown simply is not qualified for the job, and his past experience speaks clearly to that.

Let me go into a summary of the charges that are detailed by the House Democratic staff.

"Improper procurement practices," quoting from the Democratic report.

The Advanced Procurement Planning directed by order 2620.1 is virtually nonexistent, and administrative lead time and contract delivery requirements are often unrealistically compressed. The insufficient lead time [plus other factors]. . . Contributes to questionable procurement practices.

That is from page 88 of the report.

Violation of ACTION regulation:

Order 2620.1, promulgated May 7, 1973, established ACTION procurement and contract planning policy to eliminate or reduce unnecessary crises caused by late requests and last-minute negotiations.

That is the regulation we are talking about. The report notes a violation of that commonsense regulation. I quote further, this from page 90 of the report:

Although formally advertised procurement (the sealed bid) method is preferred by the Government, the negotiated method of contracting may be used in exceptions as described in 41 U.S.C. 252(c).

Violation of the statute:

With some consistency, however, ACTION contracts reviewed authorized use of the negotiated method of procurement only after negotiations had been underway or were completed. . . . Concurrent signings of the documents posed serious risk of noncompliance with the statute.

That is from page 91 of the report.

The report goes on:

[ACTION's] nonsynopsis of sole-source procurements as a customary practice raises questions as to the concealment of such awards from public awareness and conflicts with the statutory requirement to synopsize procurements.

What is the violation of the statute here?

It is a statutory requirement to synopsize procurements in the Department of Commerce Business Daily, exceptions permitted when less than 15 days are allowed for proposed submission.

That is from page 91 as well.

Contracts for which the required certificate was not obtained include awards of over $101,000, $274,000 and $495,000.

That from page 91 of the report.

What is the violation of statute:

The truth in negotiating law (Public Law 87-653) requires the contracting officer to obtain a certificate of current cost or pricing data on each contractual action exceeding $100,000.

Madam President, these are clear violations of a statute. These are not irresponsible charges. These are documented charges, an official document of the House of Representatives Appropriations Committee.

Questionable activities of program officials include encouraging contractors to commence work without a contract, developing statements of work jointly with contractors, and obtaining budgets (estimated costs) from contractors for use as in-house estimates.

That from page 92.

Violations of Federal procurement regulation:

Program office "authorization" was a violation since only a contract officer can bind the Government and costs claimed did not meet the criteria for precontract costs.

Questionable contract practice:

Development of statement of work is the responsibility of the program office; ACTION often jointly developed the statement, in some cases even before the authorized official determined the contract would be a sole-source contract.

Let me repeat that:

. . . ACTION often jointly developed the statement, in some cases even before the authorized official determined the contract would be a sole-source contract.

If that is not inside dealing, I do not know what it could be described as.

Again, questionable contract practice:

Program office personnel used numbers derived from contractors such that estimates proposed by sole-source contractors exactly matched those estimated in-house.

Madam President, I want to ask this body if anyone thinks these are good practices? They clearly violate the regulations and statutes, and they are not one-time affairs, but indications of many frequent violations.

The document goes on, this summarized under financial mismanagement:

Lack of management attention to ACTION's budget procedures caused approximately $417,000 to be obligated without congressional approval.

That from the report on page 105.

A violation of statute:

Obligations occurred when ACTION was without appropriation or continuing resolution.

In other words, the rules were simply ignored.

Quoting again from the report:

. . . an overobligation . . . was discovered by ACTION, and the offending employee reprimanded. However, the violation was not reported to the Office of Management and Budget or to the Congress, as required by statute.

From page 105 of the report.

Violation of the statute:

Overobligation, beyond congressionally approved amounts illegal without congressional notification and approval.

For those interested, that is found in section 3679(b) 31 U.S. Code 665.

Quoting further of areas of financial mismanagement:

During an audit of Peace Corps operations in El Salvador in the fall of 1977, auditors from the former Inspector General Division found that the acting country director had, on three separate occasions, violated the antideficiency statute . . . involving the execution of three contracts in September 1977 citing a nonexistent fiscal year 1978 appropriation.

That is found on page 198 of the report.

What is the violation of statute?

Execution of three contracts with improper cite was the violation of the Antideficiency Statute.

That is 31 U.S.C. 665.

Another violation of statute:

According to 31 U.S.C. 665, any employee who violates must be subjected to appropriate discipline and the violation reported by the director of ACTION through OMB to the President.

Madam President, no violation was reported, a direct violation of the guidelines of the statute.

I hope Members will ask themselves if this series of mismanagement practices is something that commends one for a higher post? I think to move someone up with this kind of background raises serious questions as to whether this Chamber is even paying attention. It is one thing to make a mistake, it is another to have the facts pointed out and to simply ignore them.

The report continues:

The investigative staff examined the vouchers of 10 ACTION officials . . . and found they had claimed full per diem on their vouchers for the periods in question [when actually they had stayed in the homes of other ACTION officials during their travels.]

Let us be clear what happened here. Ten action officials claimed per diem when they did not have the expenses. They just stayed in someone else's home. The report continues:

It is likely the violations were much more widespread.

That is from page 109.

The Uniform State/AID/USIA Foreign Service Travel Regulations require that travelers must deduct fixed percentages of their per diem for services (food or lodging) provided by U.S. Government agencies or installations.

Separate trips were made to Cuba and the People's Republic of China by two staff members who were officially carried in the "Time and Attendance" logs as being at their official duty sites in the United States.

Not bad if you can get it.

The report continues on detailing the mismanagement practices, this under the summary of grants awarded without competition:

All of the national grants approved through September 30, 1978, were awarded without formal advertising or requests for proposals.

That is from page 35.

. . . all 12 grants were awarded noncompetitively.

That conclusion is drawn from the summary.

Madam President, this did not happen once. It did not happen twice. It did not happen three times. It happened on numerous grants.

What are the violations of policy guidelines?

The rules governing the selection of VISTA sponsors are spelled out in the VISTA policy guidelines:

. . . six [of the total of 12 that were approved] were awarded to organizations represented at the roundtable discussions at which the ACTION director met with a number of nationally reputed community and social activists to discuss the agency's new directions.

That from page 35.

What are the violations of the policy guidelines?

During the first year of the national grant program, ACTION awarded 12 VISTA grants to national sponsors on a non-competitive basis. A number of these awards were made to friends and former associates of the VISTA director.

Madam President, let me repeat that last line because I think it is an important part of the report.

ACTION awarded 12 VISTA grants to national sponsors on a non-competitive basis.

A number of these awards were made to friends and former associates of the Vista director.

That found on page 45.

Continuing on with the simple summary of the mismanagement practices found by the House Democratic Appropriations Committee staff, "Training Materials Describe Government Agencies, Politicians, Utilities as Real Enemies." I think it would shock some taxpayers to find this kind of material being printed up by the Government they support.

This document was made available to VISTA volunteers, presumably, as recommended reading. Some examples of the questionable passages contained in the Midwest training document follow:

The Third Principle of Direct Action organizing is that it attempts to alter the relation of power between people's organizations and their real enemies. The enemies are often unresponsive politicians, tax assessors, utilities, landlords, government agencies, large corporations or banks.

Madam President, I ask the Members of this Chamber to consider if we ought to be as a Federal Government advising people who their enemies are and stirring up discontent. Discontent is appropriate at times; it is a mover; it is a changer. But is it really this Federal Government's responsibility to pay people to go out and organize and identify enemies in society?

The report continues. This is again from the passages published under VISTA: "Give people 'a taste of blood.' Push your opponents so hard you can see them squirm."

Does that sound like a policy that we ought to be advising Americans to follow? But continuing:

You may want to assign some people to be "inciters" and move about to heat up the action, getting people angrier and angrier and encouraging them to show their anger. You may at other times want some "calmers" to stand near people who may be disruptive to the focus of the action.

The examples go on.

Your power is your ability to hurt the target or withhold something the target wants. The hurt can be immediate, as in a strike or a boycott, or it can be a potential.

The examples of passages put out by VISTA and Sam Brown continue:

Stunts can help * * *. If for example, a politician won't meet with you, tape a sign across his office which says, "This Office Closed to the Public." If someone won't come into a debate, put a dummy in the chair and debate for dramatic effect.

As previously set out, Midwest was awarded a grant of more than $500,000 to train volunteers.

Madam President, the full text of these remarks comes from page 40 of the report.

Madam President, I ask unanimous consent that the summary of the House Committee on Appropriations report on ACTION be printed in the RECORD. Furthermore, I would like to make available to all Members of the Senate and their staffs the full copy of the House report in my office. Madam President, I yield the floor.

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

MISMANAGING PRACTICES IDENTIFIED BY THE HOUSE APPROPRIATIONS COMMITTEE, 1978

IMPROPER PROCUREMENT PRACTICES

"The Advance Procurement Planning directed by Order 2620.1 is virtually nonexistent, and administrative lead time and contract delivery requirements are often unrealistically compressed. The insufficient lead time [plus other factors] . . . contributes to questionable procurement practices." (FCR, p. 88)

Violation of action regulation: Order 2620.1, promulgated May 7, 1973, established ACTION procurement and contract planning policy to eliminate or reduce unnecessary crises caused by late requests and last-minute negotiations.

"Although formally advertised procurement (the sealed bid) method is preferred by the Government, the negotiated method of contracting may be used in exceptions as described in 41 USC 252(c)." (FCR, p. 90)

Violation of statute: "With some consistency, however, ACTION contracts reviewed authorized use of the negotiated method of procurement only after negotiations had been under way or were completed . . . Concurrent signings of the documents pose serious risk of noncompliance with the statute." (FCR, p. 91)

"[ACTION's] Nonsynopsis of sole-source procurements as a customary practice raises questions as to concealment of such awards from public awareness and conflicts with the statutory requirement to synopsize procurements." (FCR, p. 91)

Violation of statute: It is a statutory requirement to synopsize procurements in the Dept of Commerce Business Daily, exceptions permitted when less than 15 days are allowed for proposal submission. (FCR, p. 91)

"Contracts for which the required certificate was not obtained include awards of over $101,000, $274,000 and $495,000." (FCR, p. 91)

Violation of statute: The Truth in Negotiation Law (PL 87-653) requires the contracting officer to obtain a Certificate of Current Cost or Pricing Data on each contractual action exceeding $100,000.

"Questionable activities of program officials include encouraging contractors to commence work without a contract, developing statements of work jointly with contractors, and obtaining budgets (estimated costs) from contractors for use as in-house estimates." (FCR, p. 92)

Violation of Federal procurement regulation: Program office "authorization" was a violation since only a contract officer can bind the Government and costs claimed did not meet the criteria for precontract costs.

Questionable contract practice: Development of statement of work is the responsibility of the Program office; ACTION often jointly developed the statement, in some cases even before the authorized official determined the contract would be a sole-source contract.

Questionable contract practice: Program office personnel used numbers derived from contractors such that estimates proposed by sole-source contractors exactly matched those estimated in-house.

FINANCIAL MISMANAGEMENT

". . . lack of management attention to ACTION's budget procedures caused approximately $417,000 to be obligated without Congressional approval." (FCR, p. 105)

Violation of statute: Obligations occurred when ACTION was without appropriation or continuing resolution. [Sec. 3679(b), 31 USC 665].

". . . an overobligation . . . was discovered by ACTION, and the offending employee reprimanded. However, the violation was not reported to the Office of Management and Budget or to the Congress, as required by statute." (FCR, p. 105)

Violation of statute: Overobligation, beyond congressionally approved amounts illegal without congressional notification and approval [Sec. 3679(b), 31 USC 665].

"During an audit of Peace Corps operations in El Salvador in the fall of 1977, auditors from the former Inspector General Division found that the Acting Country Director had, on three separate occasions, violated the anti-deficiency statute . . . involv[ing] the execution of three contracts in September 1977 citing a nonexistent FY 1978 appropriation." (FCR, p. 108)

Violation of statute: Execution of 3 contracts with improper cite was violation of Anti-Deficiency Statute (31 USC 665).

Violation of statute: According to 31 USC 665, any employee who violates must be subjected to appropriate discipline and the violation reported by the Director of ACTION through OMB to the President. No violation was reported.

"The Investigative Staff examined the vouchers of 10 ACTION officials . . . and found they had claimed full per diem on their vouchers for the periods in question [when actually they had stayed in the homes of other ACTION officials during their travels]. It is likely the violations were much more widespread. . . ." (FCR, p. 109)

Violation of regulation: The Uniform State/AID/USIA Foreign Service Travel Regulations require that travelers must deduct fixed percentages of their per diem for services (food or lodging) provided by U.S. Government agencies or installations.

Separate trips were made to Cuba and the People's Republic of China by two staff members who were officially carried in the "Time and Attendance" logs as being at their official duty sites in the United States. (FCR, p. 110)

GRANTS AWARDED WITHOUT COMPETITION

"All of the national grants approved through September 30, 1978, were awarded without formal advertising or requests for proposals (FCR, p. 35). . . . all 12 grants were awarded noncompetitively" (FCR, Summary)

Violation of policy guidelines: The rules governing selection of VISTA sponsors are spelled out in VISTA policy guidelines.

". . . six [of a total of 12 that were approved] were awarded to organizations represented at the roundtable discussions at which the ACTION Director met with a number of nationally reputed community and social activists to discuss the agency's new directions." (FCR, p. 35)

Violation of policy guidelines creating appearance of impropriety: "During the first year of the national grants program, ACTION awarded 12 VISTA grants to national sponsors on a non-competitive basis. A number of these awards were made to friends and former associates of the VISTA director." (FCR, p. 45)

TRAINING MATERIALS DESCRIBE GOVERNMENT AGENCIES, POLITICIANS, UTILITIES AS REAL ENEMIES

"This document was made available to VISTA volunteers, presumably, as rec-

ommended reading. Some examples of the questionable passages contained in the Midwest training document follow:

'The Third Principle of Direct Action organizing is that it attempts to alter the relations of power between people's organizations and their real enemies. The enemies are often unresponsive politicians, tax assessors, utilities, landlords, government agencies, large corporations or banks.

'Give people a 'taste of blood.' Push your opponents so hard you can see them squirm.

'You may want to assign some people to be 'inciters' and move about to heat up the action getting people angrier and angrier and encouraging them to show their anger. You may at other times want some 'calmers' to stand near people who may be disruptive to the focus of the action.

'Your power is your ability to hurt the target or withhold something the target wants. The hurt can be immediate, as in a strike or boycott, or it can be potential. . . .

'Stunts can help. . . . If for example, a politician won't meet with you, tape a sign across his office which says, 'This Office Closed to the Public.' If someone won't come into a debate, put a dummy in the chair and debate that for dramatic effect.' "

"As previously set out, Midwest was awarded a grant of more than $500,000 to train volunteers." (FCR, p. 40)

INVOLVEMENT IN RESTRICTED ACTIVITIES

"The Investigative Staff found a number of volunteers who are engaged in staff-related activities such as employment interviewing, teaching assistance, and sales work." (FCR, p. 43)

Violation of action policy: Under ACTION policy, a VISTA was not permitted to perform staff work. (FCR, p. 43)

"VISTAs assigned under both the CORAP and Midwest grants were participating in union organizing drives until instructed to discontinue the activity by the ACTION Office of Compliance. Other volunteers under the CORAP grant had actively participated in lobbying and other political activities." (FCR, p. 43)

Violation of statute: The Domestic Volunteer Service Act prohibits VISTAs from engaging in labor organizing or political activities. (FCR, p. 43)

"The Investigative Staff understands that one of these organizations . . . provided both financial and other support to the Farm Labor Organizing Committee in that organization's recent effort to disrupt the tomato harvest in Ohio and organize the workers. It is difficult to conceive of a VISTA being part of such a scene without taking sides and getting involved."

Violation of statute: The Domestic Volunteer Service Act prohibits VISTAs from engaging in labor organizing or political activities. (FCR, p. 85)

IMPROPER USE OF EXPERTS AND CONSULTANTS

". . . ACTION used its expert/consultant appointment authority extensively to facilitate early placement of personnel hired incident to the change of national administrations, hired experts to serve in staff positions, set pay rates at levels not commensurate with past earnings, and improperly designated all employees hired under its appointment authority as 'experts.'" (FCR, p.22)

At least 20 top-level ACTION employees were initially appointed as experts, pending official clearance and approval. ACTION rationalized misuse of expert authority as "common practice" throughout the Government.

Violated policy: May 12, 1977 presidential memorandum issued citing excessive volume of consultants and experts and requiring report on all consultative arrangements (no report required on experts).

ACTION circumvented concern by designating all of its upper-level temporary or intermittent help as "experts."

Abused policy: Policy for expert pay levels was a "few dollars more" than employee's best prior earning rate.

3 ACTION "experts" hired at $100/day reported previous earnings reflecting daily rates of $38, $55, and $58. (FCR, p.22)

1 employee hired at $85/day had been earning $38/day. (FCR, p.22)

Violated Federal regulation: Federal Personnel Manual outlines proper & improper uses of consultants. Improper use defined by the manual: "To do a job that can be done as well by regular employees, do a full-time continuous job. . . ." (FCR, p.22)

Most "glaring" example: 2 employees in ACTION personnel office from Nov 1977 until early summer 1978 as employment specialists. Both "experts" were subsequently appointed to the same positions as permanent full-time employees.

IGNORED LEGAL REQUIREMENT TO USE PAST EARNINGS IN DETERMINING PAY

"The Investigative Staff found that ACTION, with concurrence from the Civil Service Commission, largely discounts past salary in making appointments to excepted positions." (Full Cmte Rpt, p. 16)

Violation of regulation: the "Pay Comparability Policy", approved by the Civil Service Commission, provides that Federal salaries should roughly equate with the salaries for positions of comparable responsibility in the private sector.

"The Investigative Staff can find *no evidence* that ACTION ever did pay any attention to previous salaries as a factor in making qualification determinations." (Full Cmte Rpt, p. 16)

"The maximum salary increase as a result of employment with ACTION (among cases reviewed) went to a high-level management official in the field organization. * * * As a result of the appointment, the employee realized a salary increase of *over $20,000*. That appointment was to a GS–15 position." (FCR, p. 17)

"Six other cases were reviewed involving salary increases of $15–$17,000. * * *" (FCR, p. 18)

"* * * three of the appointees to regional director positions did not even bother to report salary information for prior employment in their applications." (FCR, p. 18)

ABOLITION OF INDEPENDENT INSPECTOR GENERAL

"In July 1975, ACTION established an Office of the Inspector General (OIG) to provide the Director of the agency with an independent and objective focal point to review the integrity of agency programs * * * In February 1978, the agency abolished the [OIG] and in its place established an Office of Compliance * * * consist[ing] of an Audit Division, an Investigations Division and an Equal Employment Opportunity Division." (FCR, p. 112)

Creation of conflict of interest: When passing PL 95–452 (Inspector and Auditor General Act), the Congress intended that the Inspector General offices would have no program responsibilities. The EEO has significant program responsibilities, such as affirmative action and awarding grants and contracts to minority firms. Putting the two into one office created a clear conflict of interest.

Thwarting the will of Congress: The Office of Compliance and ACTION's General Counsel moved responsibility for determining whether a case should be referred to the Department of Justice from the Inspector General to the Office of the General Counsel. PL 95–452 seeks to prevent just such delays resulting from agency clearance processes.

Violations of Law/Potential Violations of Law Not Reported: Forbidden union organizing in Rhode Island conducted by VISTA volunteers not reported by the Office of Compliance. Violation of Anti-Deficiency Statute not reported to OMB.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. I ask unanimous consent that the Senate proceed to executive session to consider the nomination of Executive Calendar 835, Derek Shearer.

The PRESIDING OFFICER. Without objection, it is so ordered. The nomination will be stated.

DEPARTMENT OF STATE

The legislative clerk read the nomination of Derek Shearer, of California, to be Ambassador to Finland.

CLOTURE MOTION

Mr. FORD. Madam President, I send a cloture motion to the desk.

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the nomination of Derek Shearer to be Ambassador to Finland:

Claiborne Pell, Paul Wellstone, Dennis DeConcini, John F. Kerry, Carl Levin, J. Lieberman, John Glenn, Jeff Bingaman, Byron L. Dorgan, Kent Conrad, Frank R. Lautenberg, Daniel K. Akaka, Charles A. Robb, Patrick Leahy, Tom Daschle, Harlan Mathews.

Mr. FORD. Madam President, I now ask unanimous consent the Senate proceed to Executive Calendar 858, Sam Brown.

The PRESIDING OFFICER. Without objection, it is so ordered. The nomination will be stated.

DEPARTMENT OF STATE

The legislative clerk read the nomination of Sam W. Brown, Jr., of California, for the rank of Ambassador during his tenure of service as Head of Delegation to the Conference on Security and Cooperation in Europe.

CLOTURE MOTION

Mr. FORD. I now send a cloture motion to the desk.

The PRESIDING OFFICER. The motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the nomination of Sam W. Brown, for the rank of Ambassador during his tenure of service as Head of Delegation to the Conference on Security and Cooperation in Europe:

Claiborne Pell, Daniel K. Akaka, Edward M. Kennedy, Paul Simon, Paul Wellstone, Carl Levin, Barbara Boxer, Herb Kohl, Jeff Bingaman, Howard Metzenbaum, J.J. Exon, Tom Daschle, Carol Moseley-Braun, Jim Sasser, Wendell Ford, George Mitchell.

Mr. FORD. Now, Madam President, I ask unanimous consent that the cloture vote on the nomination of Derek Shearer immediately follow disposition of H.R. 1933, the Martin Luther King Commission.

I further ask unanimous consent that the cloture vote on the nomination of Sam Brown immediately follow disposition of the nomination of Derek Shearer or immediately following the cloture vote on the Shearer nomination, if cloture is not invoked.

I ask unanimous consent that the mandatory live quorums be waived.

I also ask unanimous consent that at 9 a.m. on Tuesday, May 24, the Senate proceed to executive session to consider the nominations of Derek Shearer and Sam Brown, en bloc; that the time from 9 a.m. to 12:30 p.m. be equally divided between the chairman and ranking member of the Committee on Foreign Relations, or their designees, for debate only on either nomination.

Mr. BROWN. Reserving the right to object, Madam President, and I shall not object, I wanted to make it clear that this Senator believes debate of Sam Brown's nomination is appropriate prior to the cloture vote on Sam Brown.

I understand that because of other obligations the majority leader is not available to review that request at this time. But I am given to understand that he will consider that, and it is my hope this body would allow at least a period of 4 hours of debate on Sam Brown's nomination before a cloture vote.

I withdraw the reservation.

The PRESIDING OFFICER. The Senator withdraws the reservation. The Senator from Kentucky.

Mr. FORD. Will the Chair go ahead and proceed with the ruling.

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

Mr. FORD. Madam President, I might say to my friend from Colorado that there are now set 3½ hours that could be given to the debate for Sam Brown.

Now, Madam President, I ask unanimous consent that the Senate consider the following nominations: Calendar 900 to and including 905, Calendar No. 907 to and including 917; all nominations placed on the Secretary's Desk in the Coast Guard and National Oceanic and Atmospheric Administration.

I further ask unanimous consent the nominees be confirmed en bloc; that any statements appear in the RECORD as if read; that upon confirmation the motions to reconsider be laid upon the table en bloc; that the President be immediately notified of the Senate's action, and the Senate return to legislative session.

Madam President, I wish to amend my unanimous-consent request to include Calendar No. 895.

Mr. BROWN. Reserving the right to object, I assume that includes also 900 and 901 as well?

Mr. FORD. The Senator is correct, 900 to and including 905.

Mr. BROWN. I thank the Senator.

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

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF DEFENSE

Joshua Gotbaum, of New York, to be an Assistant Secretary of Defense.

DEPARTMENT OF TRANSPORTATION

T.R. Lakshmanan, of New Hampshire, to be Director of the Bureau of Transportation Statistics, Department of Transportation, for the term of four years expiring June 14, 1996.

FEDERAL COMMUNICATIONS COMMISSION

Rachelle B. Chong, of California, to be a Member of the Federal Communications Commission for a term of five years from July 1, 1992.

Susan Ness, of Maryland, to be a Member of the Federal Communications Commission for the remainder of the term expiring June 30, 1994.

Susan Ness, of Maryland, to be a Member of the Federal Communications Commission for a term of five years from July 1, 1994.

FEDERAL MARITIME COMMISSION

William D. Hathaway, of Maine, to be a Federal Maritime Commissioner for the term expiring June 30, 1998.

Joe Scroggins, Jr., of Florida, to be a Federal Maritime Commissioner for the remainder of the term expiring June 30, 1994.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Arnold Gregory Holz, of Maryland, to be Chief Financial Officer, National Aeronautics and Space Administration.

COAST GUARD

Rear Admiral Robert E. Kramek, U.S. Coast Guard, to be Commandant, United States Coast Guard, for a term of four years with the grade of admiral while so serving.

The following officer of the U.S. Coast Guard, to be Vice Commandant, United States Coast Guard, with the grade of vice admiral while so serving:

Rear Adm. Arthur E. Henn.

The following officer of the U.S. Coast Guard, to be Chief of Staff, United States Coast Guard, with the grade of vice admiral while so serving:

Rear Adm. Kent H. Williams.

The following officer of the U.S. Coast Guard, to be Commander, Atlantic Area, United States Coast Guard, with the grade of vice admiral while so serving:

Rear Adm. James M. Joy.

The following officer of the U.S. Coast Guard, to be Commander, Pacific Area, United States Coast Guard, with the grade of vice admiral while so serving:

Rear Adm. Richard D. Herr.

The following officer of the United States Coast Guard Reserve for appointment to the grade of rear admiral:

Robert E. Sloncen.

The following officer of the United States Coast Guard Reserve for appointment to the grade of rear admiral (lower half):

Richard W. Schneider.

The following officers of the United States Coast Guard for appointment to the grade of rear admiral:

Roger T. Rufe, Jr.

Howard B. Gehring.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Rear Admiral John C. Albright for appointment in the grade of rear admiral (lower half), while serving in a position of importance and responsibility as Director, Pacific Marine Center, National Oceanic and Atmospheric Administration, under the provisions of title 33, United States Code, section 853u.

COAST GUARD

The following officers of the United States Coast Guard for appointment to the grade of rear admiral:

Rudy K. Peschel.

Gerald F. Woolever.

Richard D. Herr.

John W. Lockwood.

Norman T. Saunders.

James C. Card.

The following officer of the United States Coast Guard to be a permanent commissioned officer in the grade of lieutenant commander in the Regular Coast Guard:

Joanne McCaffrey.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

IN THE COAST GUARD, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Coast Guard nominations beginning Curtis B. Odom, and ending Eugene R. Lytton, Jr., which nominations were received by the Senate and appeared in the Congressional Record of March 22, 1994.

Coast Guard nominations beginning Stephen E. Flynn, and ending Maryann P. Smid, which nominations were received by the Senate and appeared in the Congressional Record of April 11, 1994

National Oceanic and Atmospheric Administration nominations beginning Stephen H. Manzo, and ending Lawrence P. Chicchelly, Jr., which nominations were received by the Senate and appeared in the Congressional Record of April 11, 1994.

STATEMENT OF SENATOR ERNEST F. HOLLINGS ON THE NOMINATION OF RACHELLE B. CHONG

Mr. HOLLINGS. Madam President, I am pleased that the Senate is considering the nomination of Rachelle B. Chong to the Federal Communications Commission [FCC].

Ms. Chong has been nominated as a Republican to serve a term of 5 years that began July 1, 1992. This seat was formerly held by Commissioner Sherrie Marshall, who resigned on April 30, 1993.

Ms. Chong is a telecommunications attorney and partner in the San Francisco law firm of Graham & James. She has been a member of the firm since 1987. Ms. Chong was also a former member of the Washington law firm of Kadison, Pfaelzer, Woodward, Quinn &

Rossi, where she practiced from 1984 to 1987.

Ms. Chong was born in Stockton, CA in 1959. She graduated Phi Beta Kappa from the University of California at Berkeley in 1981. She received her law degree from Hastings College in 1984, where she was editor of the school's law journal.

In her nomination hearing before the Senate Commerce Committee on May 10, 1994, Ms. Chong demonstrated that she understands the many important issues facing the FCC. I urge my colleagues to support Ms. Chong's confirmation, and I look forward to working closely with her once she is confirmed.

STATEMENT OF SENATOR ERNEST F. HOLLINGS ON THE NOMINATION OF SUSAN NESS

Mr. HOLLINGS. Madam President, I rise today to support the nomination of Susan Ness to the Federal Communications Commission [FCC].

Ms. Ness has been nominated as a Democrat to serve the remainder of a term expiring June 30, 1994, and to serve a full 5-year term that begins July 1, 1994. The seat with the unexpired term was formerly held by Commissioner Ervin S. Duggan who resigned on January 31, 1994, to become the president of the Public Broadcasting Service.

Ms. Ness worked from 1983 to 1992 in the Communications Industries Division of the American Security Bank in Washington, DC. While there, Ms. Ness served in several capacities, including group head and vice president. Prior to this, Ms. Ness served as an assistant counsel to the House Committee on Banking, Currency and Housing, and as an attorney/advisor for the Consumer Product Safety Commission.

Ms. Ness, a native of Elizabeth, NJ, received her B.A. from Douglass College at Rutgers and J.D. from Boston College Law School. Ms. Ness subsequently received an MBA from the University of Pennsylvania's Wharton School in 1983.

Ms. Ness' nomination hearing was held before the Senate Commerce Committee on May 10, 1994, and her knowledge and understanding of the important issues facing the FCC was unquestionable. In particular, the FCC is grappling with implementation of the new Cable Act and spectrum allocation. I urge my colleagues to support Ms. Ness' confirmation, and I look forward to working closely with her once she is confirmed.

STATEMENT OF SENATOR ERNEST P. HOLLINGS ON THE NOMINATION OF WILLIAM D. HATHAWAY

Mr. HOLLINGS. Madam President, I am pleased that the Senate is considering the renomination of William D. Hathaway to the Federal Maritime Commission [FMC]. The Commerce Committee reported the nominations of Bill Hathaway without objection on May 17, 1994.

The FMC is charged with the administration of the regulatory provisions of the shipping laws. As an independent regulatory commission, the FMC plays a vital role in the domestic and foreign trade of the United States.

In carrying out its responsibilities for the regulation of the oceanborne transportation in the foreign commerce of the United States, the FMC must ensure that such trade is conducted fairly and that it is not burdened by nonmarket barriers to ocean shipping. The FMC is authorized to take action and impose sanctions to correct unfavorable shipping conditions in the U.S. foreign commerce. Among its duties are the regulation of domestic rates, receipt and review of tariffs, and protection of the U.S. shipping industry against unduly discriminatory practices of ocean common carriers in the domestic offshore trades of the United States.

In this regard, the vast experience of this nominee in the U.S. maritime industry should prove to be of great value to the FMC. Given the recent political events in the world, the FMC may be faced with even greater challenges in the upcoming years. I am sure that Bill Hathaway is well prepared for these new challenges.

Bill Hathaway is currently serving as Chairman of the FMC. He has held that position since April 1993, when the former Chairman, Chris Koch, resigned. Prior to his service on the FMC, he served in various government positions in the State of Maine and in the Federal Government. He was also self-employed as an attorney in his own law firm as well as in partnership with others.

As most of you know, Bill served as a U.S. Senator, Democrat from Maine, from 1973 to 1979. He also served in the U.S. House of Representatives, Democrat from Maine, from 1965 to 1973, where he was a member of the Merchant Marine and Fisheries Committee. Before being nominated to his current term as an FMC Commissioner, he was employed by the Washington, DC law firm of Patton, Boggs & Blow from 1979 through 1990.

Bill attended Harvard from both undergraduate school and law school. He received his A.B. degree from Harvard in 1949 and his J.D. from Harvard Law School in 1953.

I urge my colleagues to support Bill Hathaway's confirmation, and I look forward to working closely with him.

STATEMENT OF SENATOR ERNEST F. HOLLINGS ON THE NOMINATION OF JOE SCROGGINS, JR.

Mr. HOLLINGS. Madam President, I am pleased that the Senate is considering the nomination of Joe Scroggins, Jr., to the Federal Maritime Commission [FMC]. The Commerce Committee reported the nomination of Mr. Scroggins without objection on May 17, 1994.

Mr. Scroggins has over 30 years of experience working in the maritime industry in both the public and private sector. He has seafaring experience as an officer aboard several merchant vessels. From 1969 through 1971, he served as an assistant dean at the U.S. Merchant Marine Academy, where he developed a nationwide minority recruitment program designed to attract qualified minority students. He has also served as director of facilities for the Port of Houston Authority and has most recently served as the deputy port director for the Tampa Port Authority.

Mr. Scroggins received his B.S. degree from the U.S. Merchant Marine Academy in 1963. He later earned his M.B.A. degree from Harvard Business School in 1973.

As you can see, Mr. Scroggins is well qualified to be a Federal Maritime Commissioner and I urge my colleagues to support his confirmation.

STATEMENT OF SENATOR HOLLINGS ON THE NOMINATIONS OF VICE ADMIRAL KRAMEK TO BE COMMANDANT, AND REAR ADMIRAL HENN TO BE VICE COMMANDANT OF THE U.S. COAST GUARD

Mr. HOLLINGS. Madam President, today the Senate is considering the nominations of Vice Adm. Robert E. Kramek to be Commandant and Rear Adm. Arthur E. Henn to be Vice Commandant of the U.S. Coast Guard.

These are especially challenging times for the Coast Guard, for it continues to be called upon to carry out a number of important missions. The Coast Guard has been on the front line in responding to oil spills, participating in military operations, and carrying out its many other maritime roles. In order for the Coast Guard to continue its tradition of excellence, it must have strong, qualified leadership, and Admiral Kramek and Admiral Henn provide just this type of leadership.

Rear Admiral Kramek presently is the chief of staff of the Coast Guard, serving as commanding officer of USCG Headquarters and the senior rear admiral. He is both a surface operations specialist and naval engineer with extensive service in all Coast Guard regions, including the Atlantic, Pacific, Caribbean, and Alaska regions. Admiral Kramek has headed the Haitian migration task force and was the coordinator for the "War on Drugs" in the Southeastern United States and the Caribbean. A native of New York City, he is a 1961 graduate of the Coast Guard Academy. His postgraduate education includes master of science degrees in naval architecture and marine engineering, mechanical engineering, and engineering management. He attended postgraduate school at the University of Michigan, Johns Hopkins University, and the University of Alaska.

Admiral Kramek's awards include the Coast Guard Distinguished Service Medal, two Legion of Merit Awards, the Meritorious Service Medal, Coast Guard Commendation, and Achieve-

ment Medals, and the Humanitarian Service Medal with bronze star.

Rear Admiral Henn currently is the head of the Coast Guard Office of Marine Safety, Security, and Environmental Protection. For 21 of his 31 years of service, he has specialized in maritime safety and environmental protection. A 1962 graduate of the Coast Guard Academy, Admiral Henn also earned combined master of science degrees in naval architecture, marine engineering, and metallurgical engineering from the University of Michigan in 1968. He is a native of Cincinnati, OH.

Admiral Henn's awards include the Legion of Merit, two Meritorious Service Medals, Coast Guard Commendation, and Achievement Medals, and two Commandant's Letter of Commendation Ribbons.

Admiral Kramek and Admiral Henn are highly qualified for these important positions in the Coast Guard and I am confident that they will continue to serve our country with the same diligence and commitment as they have served in the past. I urge my colleagues to join with me in approving these nominations.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

MORNING BUSINESS

Mr. FORD. Madam President, I ask unanimous consent that the Senate return to morning business.

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

NUTRITION LABELING AND EDUCATION ACT

The text of the bill (S. 2087) to extend the time period for compliance with the Nutrition Labeling and Education Act of 1990 for certain food products packaged prior to August 8, 1994, as passed by the Senate on May 17, 1994, is as follows:

S. 2087

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That before August 8, 1994, sections 403(q) and 403(r)(2) of the Federal Food, Drug, and Cosmetic Act and the provision of section 403(i) of such Act added by section 7(2) of the Nutrition Labeling and Education Act of 1990, shall not apply with respect to a food product which is contained in a package for which the label was printed before May 8, 1994 (or before August 8, 1994, in the case of a juice or milk food product if the person responsible for the labeling of such food product exercised due diligence in obtaining before such date labels which are in compliance with such sections 403(q) and 403(r)(2) and such provision of section 403(i)), if, before June 15, 1994, the person who introduces or delivers for introduction such food product into interstate commerce submits to the Secretary of Health and Human Services a certification that such person will comply with this section and will comply with such sections 403(q) and 403(r)(2) and such provision of section 403(i) after August 8, 1994.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 1:27 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2473. An Act to designate certain National Forest lands in the State of Montana as wilderness, to release other National Forest lands in the State of Montana for multiple use management, and for other purposes.

H.R. 4277. An Act to establish the Social Security Administration as an independent agency and to make other improvements in the old-age, survivors, and disability insurance program.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 236. Concurrent Resolution authorizing the 1994 Special Olympics Torch Relay to be run through the Capitol Grounds.

The message further announced that the House agrees to the amendments of the Senate to the bill (H.R. 2139) to amend title 44, United States Code, to authorize appropriations for the National Historical Publications and Records Commission.

The message also announced that pursuant to the provisions of 22 United States Code 276d, the Speaker appoints as members of the United States delegation to attend the meeting of the Canada-United States Interparliamentary Group the following Members on the part of the House: Mr. JOHNSON of Florida, Chairman, Mr. LAFALCE, Vice Chairman, Mr. HAMILTON, Mr. OBSERSTAR, Mr. GIBBONS, Mr. RICHARDSON, Mr. PETERSON of Florida, Mr. GOSS, and Mr. WALSH.

At 7:29 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 2087. An Act to extend the time period for compliance with the Nutrition Labeling and Education Act of 1990 for certain food products packaged prior to August 8, 1994.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The message also announced that the Speaker has signed the following enrolled bills and joint resolution:

H.R. 2139. An Act to authorize appropriations for the National Historical Publications and Records Commission for fiscal years 1994, 1995, 1996, and 1997.

S. 2024. An Act to provide temporary obligational authority for the airport improvement program and to provide for certain airport fees to be maintained at existing levels for up to 60 days, and for other purposes.

S.J. Res. 168. Joint Resolution designating May 11, 1994, as "Vietnam Human Rights Day."

MEASURES REFERRED

The following measure was read the first and second times by unanimous consent, and referred as indicated:

H.R. 2473. An Act to designate certain National Forest lands in the State of Montana as wilderness, to release other National Forest lands in the State of Montana for multiple use management, and for other purposes; to the Committee on Energy and Natural Resources.

MEASURES PLACED ON THE CALENDAR

The following bills were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 4277. An Act to establish the Social Security Administration as an independent agency and to make other improvements in the old-age, survivors, and disability insurance program.

The following bill, previously received from the House of Representatives, was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 4278. An Act to make improvements in the old-age, survivors, and disability insurance program under title II of the Social Security Act.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2664. A communication from the Comptroller of the Department of Defense, transmitting, pursuant to law, a report of a violation of the Antideficiency Act, case number 94-01; to the Committee on Appropriations.

EC-2665. A communication from the Comptroller of the Department of Defense, trans-

mitting, pursuant to law, a report of a violation of the Antideficiency Act, case number 92-05; to the Committee on Appropriations.

EC-2666. A communication from the Chairman of the Armed Forces Retirement Home Board, transmitting, a draft of proposed legislation to amend section 1007 of title 37, United States Code, to authorize a deduction from the active-duty pay of enlisted personnel of the armed forces in an amount not to exceed two dollars; to the Committee on Armed Services.

EC-2667. A communication from the Acting General Counsel of the Department of Defense, transmitting, a draft of proposed legislation entitled "Department of Defense Laboratory Revitalization Demonstration Act of 1994"; to the Committee on Armed Services.

EC-2668. A communication from the Chief of Legislative Affairs, Department of the Navy, transmitting, pursuant to law, notice of the intention to offer a transfer by sale of certain vessels; to the Committee on Armed Services.

EC-2669. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on direct spending or receipts legislation within five days of enactment; to the Committee on the Budget.

EC-2670. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on direct spending or receipts legislation within five days of enactment; to the Committee on the Budget.

EC-2671. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on direct spending or receipts legislation within five days of enactment; to the Committee on the Budget.

EC-2672. A communication from the President of the United States, transmitting, notice relative to the Selective Service System; to the Committee on Armed Services.

EC-2673. A communication from the Deputy Under Secretary of Defense (Environmental Security), transmitting, pursuant to law, the report on environmental compliance for the Department of Defense for fiscal years 1995 through 1999; to the Committee on Armed Services.

EC-2674. A communication from the Secretary of Defense, transmitting, pursuant to law, the report on Program Activities for Facilitation of Weapons Destruction and Nonproliferation in the Former Soviet Union for the period October 1, 1993 through March 31, 1994; to the Committee on Armed Services.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-515. A resolution adopted by the Senate of the Legislature of the State of Hawaii; to the Committee on Environment and Public Works.

"SENATE RESOLUTION 225

"Whereas, the United States Department of Transportation, acting under the Highway Safety Act of 1966, issued standards for state highway safety programs in 1967, including one requiring states to adopt motorcycle helmet laws; and

"Whereas, by 1975, all but three states had complied by enacting motorcycle helmet laws; and

"Whereas, Congress amended the Highway Safety Act in 1976 to rescind the helmet law requirement and limit the Department of Transportation's authority to the use of funding sanctions for state noncompliance with federal safety program standards; and

"Whereas, between 1976 and 1991, twenty-nine states repealed or modified their motorcycle helmet laws; and

"Whereas, the motivation for federal intervention is highway safety, yet a report to Congress by the General Accounting Office dated July, 1991, entitled Highway Safety, specifically states that "motorcycle safety research is limited by data shortcomings"; and

"Whereas, it is often alleged that the frequency of fatal head injuries is much greater without mandatory helmet use laws but no statistics or the method of compilation have been shown; and

"Whereas, claims are asserted that severe injuries and deaths increase substantially in states where mandatory helmet use laws are repealed, yet the supporting data for such claims has not been complied in a manner or form with which all parties of interest can agree; and

"Whereas, a study by the Highway Research Center at the University of North Carolina concluded that the severity of motorcycle crash injuries was not associated with helmet use; and

"Whereas, studies by the National Highway Traffic Safety Administration covering the period 1987-1989 revealed that fatality rates for motorcycle accident victims in no-helmet-law states were lower than in states categorized as helmet-law or modified-helmet-law states; and

"Whereas, a substantial number of motorcyclists and passengers voice concern that riding with a helmet increases the risk of accidents and injury due to restricted head movement resulting in limited view; and

"Whereas, those states where mandatory helmet laws have been repealed or modified have found that the issue of personal freedom takes precedence over the risks, if any, attendant to riding unhelmeted, and that adults are capable of making responsible choices on their own behalf; now, therefore,

"*Be it resolved by the Senate of the Seventeenth Legislature of the State of Hawaii, Regular Session of 1994*, That the United States Congress is requested to further amend the Highway Safety Act of 1966 to delete the authority of the Department of Transportation to use funding sanctions to require states to enact mandatory helmet laws; and

"*Be it further resolved*, That certified copies of this Resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of Hawaii's Congressional Delegation."

POM-516. A joint resolution adopted by the Legislature of the State of California; to the Committee on Finance.

"ASSEMBLY JOINT RESOLUTION NO. 63

"Whereas, The implementation of the North American Free Trade Agreement (NAFTA) creates a welcome opportunity for the wine industry in California to increase wine and brandy trade for its quality products between the United States, Mexico, and Canada; and

"Whereas, NAFTA has the potential to increase sales of California wine and brandy to the rapidly expanding Mexican market, which will result in healthy wine and winegrape industries in California, and increased jobs, tourism, and tax revenues; and

"Whereas, The California Legislature has a vital interest in opening up markets for California agricultural products; and

"Whereas, Canada is the largest importer of wines from the United States, and Mexico is the fourth largest; and

"Whereas, Under NAFTA, Mexico has granted to the United States a 10-year phaseout for tariffs on table wines; a six-year phaseout of tariffs on wine coolers; a 10-year phaseout of duty on brandy; a five-year phaseout of tariffs for dessert wines; and immediate removal of duty on champagne types wines; and

"Whereas, Mexico recently entered into a separate agreement with Chile, a major competitor with United States wines in world markets, and under that agreement, Mexico's duties on Chilean wines dropped from 20 percent to 5 percent, and then to zero in two years; and

"Whereas, Mexican wine coolers receive immediate duty-free treatment by the United States, compared to United States wine coolers that require a six-year phaseout of the Mexican tariff; and

"Whereas, Mexico is allowed 10 years to phaseout its tariffs on United States brandy, but tariffs on Mexican brandy imported into the United States drop immediately to zero; and

"Whereas, The federal government has committed itself to trade talks with Mexico beginning in January 1994, to negotiate a more rapid tariff phaseout for wine and brandy under NAFTA; and

"Whereas, The successful outcome of these negotiations is crucial to achieving a level playing field for California winegrape growers and winemakers; now, therefore, be it

"*Resolved*, That the federal government should do everything possible in its negotiations with the Mexican government to establish a "level playing field" for the California wine and brandy producers and the winegrape growers; and be it further

"*Resolved*, That the negotiations should result in the immediate removal of Mexican tariffs on brandy and wine coolers and the reduction of wine tariffs to the level that Mexico has granted Chile; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit a copy of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-517. A resolution adopted by the Senate of the Legislature of the State of Hawaii; to the Committee on Governmental Affairs.

"Whereas, federal mandates imposed on state and local governments have increased greatly over the past several decades; and

"Whereas, federal statutes and administrative regulations for federal mandates impose substantial costs to the states and counties; and

"Whereas, at the same time that federal mandates have increased, federal funding for joint federal-state programs has sharply decreased; and

"Whereas, federal budgetary difficulties may promote more federal mandates on the states and counties for what are actually federal programs; and

"Whereas, state and local governments are already strained in their budgets, particularly in the costs of meeting the federal mandates; and

"Whereas, the 1990 federal budget agreement imposed almost $14 billion in mandated costs over the next five years to state and local governments; and

"Whereas, any further federal mandates would seriously jeopardize the financial well-being of the States and counties; now, therefore,

"*Be it resolved by the Senate of the Seventeenth Legislature of the State of Hawaii, Regular Session of 1994*, That the:

"(1) Congressional Budget Office is requested to continue its efforts to provide Congress with appropriate state fiscal impact statements on federal mandate legislation that affects the states and counties;

"(2) Congress is urged to enact legislation to require federal reimbursement to state and local governments for costs imposed upon them by federal mandates;

"(3) Office of Management and Budget is requested to formulate a comprehensive catalogue of federal mandates currently imposed on state and local governments; and

"(4) Administration is requested to appoint an executive branch task force to monitor and coordinate the administration's response mechanism to mandate proposals, including mandates that are included in the President's budget request and agency regulatory actions; and

"*Be it further resolved*, That the Attorney General of the State of Hawaii determine if a basis exists for a cause of action against the federal government where federal mandates imposed without funding threaten to adversely impact the state budget and economy; and

"*Be it further resolved*, That the Attorney General submit a report on findings and recommendations to the Legislature by September 1, 1994; and

"*Be it further resolved*, That certified copies of this Resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the House of Representatives of the United States, the Office of Management and Budget, the Congressional Budget Office, members of Hawaii's Congressional Delegation, the Governor of Hawaii, the Attorney General of Hawaii, and the Mayor and Council Chair of each county."

REPORTS OF COMMITTEES

The following reports of committees were submitted on May 18, 1994:

By Mr. GLENN, from the Committee on Governmental Affairs, with an amendment:

H.R. 1631: A bill to amend title 11, District of Columbia Code, to increase the maximum amount in controversy permitted for cases under the jurisdiction of the Small Claims and Conciliation Branch of the Superior Court of the District of Columbia (Rept. No. 103-261).

By Mr. GLENN, from the Committee on Governmental Affairs, without amendment:

H.R. 1632: A bill to amend title 11, District of Columbia Code, to remove gender-specific references (Rept. No. 103-262).

The following report of committee was submitted on May 19, 1994:

By Mr. BUMPERS, from the Committee on Small Business:

Special Report of the Legislative and Oversight Activities of the Small Business Committee During 1993 (Rept. No. 103-263).

By Mr. BYRD, from the Committee on Appropriations:

Special Report entitled "Allocation to Subcommittees of Budget Totals from the Concurrent Resolution for Fiscal Year 1995" (Rept. No. 103-264).

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

H.R. 1758. A bill to revise, codify, and enact without substantive change certain general and permanent laws, related to transportation, as subtitles II, III, and V-X of title 49, United States Code, "Transportation", and to make other technical improvements in the Code (Rept. No. 103-265).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. NUNN, from the Committee on Armed Services:

Clark G. Fiester, of California, to be an Assistant Secretary of the Air Force.

(The above nomination was reported with the recommendation that he be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. NUNN. Mr. President, from the Committee on Armed Services, I report favorably the attached listing of nominations.

Those identified with a single asterisk (*) are to be placed on the Executive Calendar. Those identified with a double asterisk (**) are to lie on the Secretary's desk for the information of any Senator since these names have already appeared in the CONGRESSIONAL RECORD of October 19, 1993, February 3, 1994, March 11 and 22, 1994, April 11 and 21, 1994, and May 3 and 5, 1994 and to save the expense of printing again.

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

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of October 19, 1993, February 3, 1994, March 11 and 22, 1994, April 11 and 21, 1994, and May 3 and 5, 1994 at the end of the Senate proceedings.)

**In the Naval Reserve there are 162 promotions to the grade of captain (list begins with Frank Henry Arlinghaus) (Reference No. 753).

*In the Marine Corps there are 10 promotions to the grade of major general (list begins with Claude W. Reinke) (Reference No. 1063).

*Major General Max Baratz, USA to be Chief, Army Reserve, United States Army (Reference No. 1180).

**In the Army Reserve there are 24 promotions to the grade of colonel and below (list begins with William M. Casey) (Reference No. 1199).

**In the Army there are 15 promotions to the grade of colonel (list begins with Chris Anderson) (Reference No. 1200).

**In the Army Reserve there are 24 promotions to the grade of colonel and below (list begins with Stephen L. Elder) (Reference No. 1201).

**In the Army Reserve there are 48 promotions to the grade of colonel and below (list begins with John C. Atkinson) (Reference No. 1202).

**In the Army Reserve there are 8 promotions to the grade of colonel (list begins with Joseph B. Flatt, Jr.) (Reference No. 1203).

**In the Army Reserve there are 63 promotions to the grade of lieutenant colonel (list begins with Humberto J. Acosta) (Reference No. 1204).

**In the Army there are 412 promotions to the grade of colonel (list begins with Stephen G. Abel) (Reference No. 1205).

**In the Marine Corps there are 74 promotions to the grade of colonel (list begins with Clifford M. Acree) (Reference No. 1206).

**In the Marine Corps there are 550 promotions to the grade of major (list begins with Ronnie L. Patrick) (Reference No. 1207).

**In the Navy there are 296 promotions to the grade of captain (list begins with Ronald Lee Alsbrooks) (Reference No. 1208).

**In the Army there are 47 promotions to the grade of major (list begins with Thomas E. Ayres) (Reference No. 1227).

**In the Navy there are 48 appointments to the grade of lieutenant (list begins with Diana B. Barrett) (Reference No. 1228).

**In the Marine Corps there are 150 promotions to the grade of lieutenant colonel (list begins with Richard M. Dunnigan) (Reference No. 1229).

*Colonel William M. Guy, ANG to be brigadier general (Reference No. 1256).

*Colonel Paul A. Weaver, Jr., ANG to be brigadier general (Reference No. 1257).

*Colonel Michael K. Wyrick, USAF to be brigadier general (Reference No. 1258).

*Lieutenant General Alonzo E. Short, Jr., USA to be placed on the retired list in the grade of lieutenant general (Reference No. 1259).

*Lieutenant General Samuel N. Wakefield, USA to be placed on the retired list in the grade of lieutenant general (Reference No. 1260).

*Vice Admiral Jerry L. Unruh, USN to be placed on the retired list in the grade of vice admiral (Reference No. 1261).

**In the Air Force there is 1 promotion to the grade of major (Cathy J. Schoorens) (Reference No. 1262).

**In the Air Force Reserve there are 19 promotions to the grade of lieutenant colonel (list begins with Robert A. Baker) (Reference No. 1263).

**In the Air Force Reserve there are 72 promotions to the grade of colonel (list begins with Charles E. Amos) (Reference No. 1264).

*Lieutenant General Thomas P. Carney, USA to be placed on the retired list in the grade of lieutenant general (Reference No. 1284).

*Lieutenant General James R. Ellis, USA to be placed on the retired list in the grade of lieutenant general (Reference No. 1285).

*Lieutenant General Merle Freitag, USA to be placed on the retired list in the grade of lieutenant general (Reference No. 1286).

*Lieutenant General Leo J. Pigaty, USA to be placed on the retire list in the grade of lieutenant general (Reference No. 1287).

*Lieutenant General Harold T. Fields, Jr., USA to be placed on the retired list in the grade of lieutenant general (Reference No. 1301).

*In the Army there are 2 promotions to the grade of major general (list begins with Leslie M. Burger) (Reference No. 1315).

**In the Marine Corps there is 1 appointment to the grade of colonel (Michael S. Fagan) (Reference No. 1319).

**In the Marine Corps there is 1 promotion to the grade of colonel (Stephen F. Mugg) (Reference No. 1320).

*Lieutenant General Arlen D. Jameson, USAF to be lieutenant general (Reference No. 1337).

*Major General John G. Coburn, USA to be lieutenant general (Reference No. 1339).

**In the Army there are 2 promotions to the grade of lieutenant colonel and below

(list begins with Valerie J. Rice) (Reference No. 1349).

**In the Army Reserve there are 48 promotions to the grade of colonel and below (list begins with William G. Butts, Jr.) (Reference No. 1350).

**In the Air Force Reserve there are 20 promotions to the grade of lieutenant colonel (list begins with Ronald D. Brooks) (Reference No. 1351).

**In the Army there are 69 promotions to the grade of colonel (list begins with Eric D. Adrian) (Reference No. 1352).

*Lieutenant General Paul G. Cerjan, USA to be placed on the retired list in the grade of lieutenant general (Reference No. 1359).

**Lieutenant General Jerome H. Granrud, USA to be placed on the retired list in the grade of lieutenant general (Reference No. 1360).

**In the Army Reserve there is 1 promotion to the grade of lieutenant colonel (Millie E. Hughes-Fulford) (Reference No. 1362).

**In the Marine Corps there are 176 appointments to the grade of second lieutenant (list begins with Jason A. Abell) (Reference No. 1366).

In the Navy there are 737 appointments to the grade of ensign (list begins with Craig L. Abraham) (Reference No. 1367).

*Lieutenant General Norman E. Ehlert, USMC to be placed on the retired list in the grade of lieutenant general (Reference No. 1386).

*Lieutenant General Robert A. Tiebout, USMC to be placed on the retired list in the grade of lieutenant general (Reference No. 1389).

Total: 3,098.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HATFIELD:

S. 2133. A bill to establish a Science Start Grant program, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. FAIRCLOTH (for himself, Mr. GRASSLEY, Mr. BROWN, Mr. DOLE, Mr. LOTT, Mr. WALLOP, Mr. SMITH, Mr. KEMPTHORNE, Mr. BURNS, Mr. NICKLES, Mr. THURMOND, Mr. HELMS, Mr. CRAIG, Mr. HATCH, Mr. MCCONNELL, and Mr. D'AMATO):

S. 2134. A bill to restore the American family, reduce illegitimacy, and reduce welfare dependence; to the Committee on Finance.

By Mr. ROCKEFELLER (by request):

S. 2135. A bill to authorize the Department of Veterans Affairs to conduct pilot programs for delivering health care services in States which have statutorily reformed their health care systems; to the Committee on Veterans' Affairs.

By Mr. GRAHAM (for himself and Mr. DORGAN):

S. 2136. A bill to prohibit sponsorship of television violence by agencies of the Federal Government, and for other purposes; to the Committee on Governmental Affairs.

By Mr. BAUCUS:

S. 2137. To designate certain National Forest lands in the State of Montana as wilderness, to release other National Forest lands in the State of Montana for multiple use management, and for other purposes; read the first time.

By Mr. KERRY (for himself and Mr. STEVENS) (by request):

S. 2138. A bill to amend the Magnuson Fishery Conservation and Management Act; to the Committee on Commerce, Science, and Transportation.

By Mr. ROCKEFELLER:

S. 2139. A bill to provide for the conservation, management, or study of certain rivers, parks, trails, and historic sites, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DASCHLE (for himself, Mr. HARKIN, Mr. PELL, Mr. GRASSLEY, Mr. HATFIELD, and Mr. DECONCINI):

S. 2140. A bill to permit an individual to be treated by a health care practitioner with any method of medical treatment such individual requests, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. BINGAMAN:

S. 2141. A bill to provide a grant program to award grants to certain rural communities that provide emergency medical services for Federal-aid highways, and for other purposes; to the Committee on Environment and Public Works.

By Mr. LAUTENBERG:

S.J. Res. 193. A joint resolution to designate May 1995 "Multiple Sclerosis Association of America Month"; to the Committee on the Judiciary.

By Mr. STEVENS (for himself, Mr. KERRY, Mrs. BOXER, Mr. BRADLEY, Mr. BROWN, Mr. BRYAN, Mr. BUMPERS, Mr. BURNS, Mr. CHAFEE, Mr. COATS, Mr. COCHRAN, Mr. COHEN, Mr. CONRAD, Mr. DASCHLE, Mr. DOLE, Mr. DOMENICI, Mr. DORGAN, Mr. EXON, Mrs. FEINSTEIN, Mr. GLENN, Mr. GORTON, Mr. GRAHAM, Mr. GRAMM, Mr. HATFIELD, Mr. HELMS, Mr. HOLLINGS, Mr. JEFFORDS, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. KEMPTHORNE, Mr. KENNEDY, Mr. KERREY, Mr. LAUTENBERG, Mr. LOTT, Mr. LUGAR, Mr. MATHEWS, Mr. MCCAIN, Mr. MCCONNELL, Mr. METZENBAUM, Ms. MIKULSKI, Mr. MITCHELL, Mr. MURKOWSKI, Mrs. MURRAY, Mr. PACKWOOD, Mr. PELL, Mr. PRESSLER, Mr. REID, Mr. ROBB, Mr. ROCKEFELLER, Mr. ROTH, Mr. SASSER, Mr. SIMPSON, Mr. WALLOP, Mr. WARNER, Mr. WELLSTONE, and Mr. WOFFORD):

S.J. Res. 194. A joint resolution to designate the second week of August, 1994, and the second week of August, 1995, as "National U.S. Seafood Week"; to the Committee on the Judiciary.

By Mr. DECONCINI (for himself, Mr. GRASSLEY, Mr. KERRY, Mr. MURKOWSKI, Mr. LIEBERMAN, Mr. MITCHELL, Mr. REID, Mr. WOFFORD, Mr. LAUTENBERG, Mr. JEFFORDS, Mr. WALLOP, Mr. WARNER, Mr. MOYNIHAN, Mr. KENNEDY, Mr. SARBANES, Mr. HOLLINGS, Mr. HEFLIN, Mr. GLENN, Mr. FORD, Mr. CONRAD, Mr. CAMPBELL, Mr. MACK, Mr. KOHL, Mr. SMITH, Mr. COCHRAN, Mr. BINGAMAN, Mr. DODD, Mr. D'AMATO, Mr. LEVIN, Ms. MIKULSKI, Mr. JOHNSTON, Mr. WELLSTONE, Mr. MATHEWS, Mrs. FEINSTEIN, Mr. NUNN, Mr. BRADLEY, Mr. FEINGOLD, Mr. GRAHAM, Mr. DURENBERGER, Mr. METZENBAUM, Mr. DOLE, Mr. THURMOND, Mr. PRESSLER, Mr. LOTT, Mr. HATCH, Mr. MCCAIN, Mr. SPECTER, Mr. BIDEN, and Mr. DOMENICI):

S.J. Res. 195. A joint resolution to designate August 1, 1994, as "Helsinki Human Rights Day"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATFIELD:

S. 2133. A bill to establish a Science Start Grant program, and for other purposes; to the Committee on Labor and Human Resources.

THE SCIENCE START GRANT PROGRAM ACT OF 1994

• Mr. HATFIELD. Mr. President, I regard the eight national goals we codified in the recent Goals 2000 legislation as very important challenges, challenges we must make every effort to meet in order to ensure the future of the Nation. All of these goals are interconnected. We cannot afford to lag behind in any and expect to attain the rest. At this time, it appears that U.S. student are lagging dangerously behind in mathematics and science achievement.

With the passage of Goals 2000 and, ultimately, the ESEA reauthorization, we hope to reduce that gap. Yet, there are still glaring holes in our math and science educational program. This legislation is designed to fill one of those holes, one that was pointed out in the 1993 Review of Federal Education Programs in Science, Mathematics, Engineering and Technology to the Federal Coordinating Council for Science, Engineering and Technology. The report states:

> Unfortunately, many currently funded Federal programs for children (e.g., Head Start) do not include science, mathematics, engineering, and technology (SMET) education. Young children are naturally curious and eager to understand the world around them; early exposure to age-appropriate, inquiry-based science and mathematics curricula provides the foundation on which later understanding rests.
>
> Federal programs intended to provide additional support for low-income children (e.g., Chapter I and Head Start) should include rich early science—and mathematics-related experiences among the basic criteria required for funding.

Is it possible to provide these experiences to preschoolers. The answer is provided by a program conducted at Marylhurst College in Portland, OR, and that answer is a resounding Yes. This wonderful program is training Head Start teachers to use exciting, age-appropriate math and science activities in their classes. Picture the effect these activities have on disadvantaged and minority youth. In all likelihood, this is the first chance these children have to relate math and science to their lives. The feedback from this 2-year-old program is phenomenal.

Consider what two teachers, Sherry Wright and Debi Coffey, from the Albina Head Start program in Oregon had to say.

> After two years of using the knowledge we gained from the Marylhurst College instructors, we truly feel confident in using science everyday. Our children have learned how to predict and discover the possible results to a problem. Our children will take the science

experiences that they learned in Head Start with them through the rest of their lives.

Audrey Sylvia, who had no science classes at all before the Marylhurst College Head Start Summer Institute, expresses the result excitedly and succinctly. "Now I am a science whiz."

My legislation provides for a competitive grant program to establish demonstration sites to acquaint the Head Start teachers with the stimulating processes involved in the inquiry approach. The teachers themselves must experience the excitement of hands-on activities in order to communicate that excitement to children. No more than 25 percent of the funds can be used for the purchase of supplies necessary to carry out the activities.

We simply cannot afford to miss the opportunity to replicate this concept throughout the Nation. This program is a positive investment in the lives of these disadvantaged children and will create a lifelong interest in math and science. That interest is critical to the future of the children and equally critical to the future of the Nation.●

By Mr. FAIRCLOTH (for himself, Mr. GRASSLEY, Mr. BROWN, Mr. DOLE, Mr. LOTT, Mr. WALLOP, Mr. SMITH, Mr. KEMPTHORNE, Mr. BURNS, Mr. NICKLES, Mr. THURMOND, Mr. HELMS, Mr. CRAIG, Mr. HATCH, Mr. MCCONNELL, and Mr. D'AMATO):

S. 2134. A bill to restore the American family, reduce illegitimacy, and reduce welfare dependence; to the Committee on Finance.

WELFARE REFORM ACT OF 1994

Mr. FAIRCLOTH. Mr. President, today, I am announcing the introduction of a comprehensive welfare reform proposal that I have been working on with two of my distinguished colleagues and good friends, Senator GRASSLEY of Iowa, and Senator BROWN of Colorado.

They have been true leaders for a long time in the endeavor for welfare reform, as well as in their pursuit of fiscal responsibility. I appreciate their leadership and support on this most important issue for our Nation.

Mr. President, before coming to the Senate, I spent 45 years in the private sector meeting a payroll as a businessman and farmer. Every year, I watched as the Congress came into session and adjourned, leaving it more difficult for working taxpayers and businessmen to make ends meet because of excessive Government spending programs that have put our country on the path to an economic disaster.

Out of all of the spending programs implemented by the Federal Government, I do not know of a group that has been a bigger failure than those collectively known as welfare.

Since President Johnson declared war on poverty in 1965, almost 30 years ago, the current price tag of that failed effort is now $5 trillion and growing daily. In the past 5 years alone, total welfare spending has more than doubled. Government welfare programs, often well intended, have destroyed the initiative of whole generations of our citizens.

Our Nation and the poor have gotten into the present fix because of a common sense principle, and that is: You get more of what you pay for. And for the last 30 years, the Federal Government has paid people not to work, the Federal Government has paid people to have children out of wedlock, and the Federal Government has paid people to remain unmarried.

Mr. President, it does not make common sense or show good judgment what we have been doing.

In 1992, Federal, State, and local spending on welfare programs was over $300 billion. Welfare programs are not currently subject to spending caps or to any discretionary review by the Congress. That means we end up spending vastly more than we can afford, based solely on the numbers generated by welfare bureaucrats encouraging welfare recipients.

I propose we place a cap on the growth of welfare entitlement programs, and in so doing we must restrict the long-term aggregate growth of welfare spending to 3.5 percent per year. This would prevent welfare spending from growing faster than inflation.

Some individual programs would be permitted to grow by more than 3.5 percent per year, but others would have to grow less. But the total aggregate growth of the 76 welfare programs, Medicaid not included, must be held at or below 3.5 percent per year. It is estimated that this will save $80 billion over 5 years.

President Clinton's welfare proposal will increase spending on welfare from $10 billion to $58 billion over the same period of time. Serious welfare reform means spending less money, not more money. I call on President Clinton to endorse this plan for placing a cap on welfare spending. If he truly wants to end welfare as we know it, as he has said many times, if he truly wants to reduce the dependency upon welfare, then the President should come forth and endorse this bill, which is true welfare reform and will do what he promised when he was campaigning, and that is end welfare as we have known it.

Those 76 programs would be converted into a single discretionary block grant to the States. This would allow the States the authority to increase or decrease funding on particular programs, based upon that program's success in that particular State and how it best served that State.

Mr. President, if we are going to begin a real reform of the system, we must address the root cause that has been fueling the welfare bureaucracy for 30 years, and that is illegitimacy. We must limit benefits to unwed teenage mothers in order to take away the current cash incentive to have more and more out-of-wedlock children at Government and taxpayers' expense.

This bill will eliminate direct payments, except medical aid, to unmarried women under 21 years old who have children out of wedlock. All direct payments would be eliminated. All welfare money which would have gone directly to the unwed mother is converted into a block grant to the State.

This would allow the States the opportunity to develop new and innovative programs to combat illegitimacy while taking away the cash incentive for young women to have more children out of wedlock. Currently, 30 percent of all American children are born to single mothers—30 percent. That is wrong. We need to promote and reward the institution of marriage. That is why this bill provides a tax credit to low-income married couples with children. It only makes common sense to expect that people who are being given a helping hand by the working people of America, the taxpayers, should be expected to at least do a day's work themselves.

The bill establishes serious but sensible work requirements, while requiring far more welfare recipients to work than any other proposals. We target work requirements on those welfare recipients who have the least justification for being out of the labor force.

All single, able-bodied adults without children who receive food stamps will be required to perform community service work. We would also require half of all single mothers receiving aid to families with dependent children benefits to work for their benefits with the priority going to women with children over age 5. This allows the children to reach school age before the mothers are required to work and thereby avoids the high cost of day care.

Mr. President, the working taxpayers who struggle every day with no guarantee should not be expected to work to guarantee a way of life for those who choose not to work.

As I have said many times before, we need workfare and not welfare in this country.

Finally, the search for real welfare reform can only come from spending the taxpayers' money more wisely. The Faircloth-Grassley-Brown Real Welfare Reform Act of 1994 is the best means to that end.

Mr. GRASSLEY. Mr. President, I rise today as an original cosponsor of this dramatic welfare reform proposal with my colleagues Senators FAIRCLOTH and BROWN.

I do so recognizing that it is far-reaching and will be perceived by some as extreme. But let us face it Mr. President, extreme circumstances demand

extreme measures in response if they are to be effective.

Today I will address an issue that I do not usually talk about, which has been on my mind for some time.

The latest social science studies demonstrate that the costs to our society of the moral decline since the 1960's have been devastating. Dr. Bill Bennett, former Secretary by Education, has brought attention to the decline in our Nation as a result of social and moral degeneration.

Dr. Bennett published the "Index of Leading Cultural Indicators," a compilation which attempts to demonstrate a data-based analysis of cultural issues. It is a statistical portrait from 1960 to the present of the moral, social, and behavioral conditions of modern American society.

In a Wall Street Journal article of March 15, 1993, entitled "Quantifying America's Decline," Bennett cited some of the statistics from the index. While social spending in the United States since 1960 has increased dramatically, the social indicators during the same period show overwhelming declines. For example, Bennett states that in the last 30 years, while there has been more than a fivefold increase in social spending by all levels of Government:

> There has been a 560% increase in violent crime; a 419% increase in illegitimate births; a quadrupling in divorce rates; in addition, there has been a tripling of the percentage of children living in single-parent homes; more than a 200% increase in the teen suicide rate; and a drop of almost 80 points in SAT scores.

He goes on to state that:

> Perhaps more than anything else, America's cultural decline is evidence of a shift in the public's attitudes and beliefs. * * * Our society now places less value than before on what we owe to others as a matter of moral obligation; less value on sacrifice as a moral good; less value on social conformity and respectability; and less value on correctness and restraint in matters of physical pleasure and sexuality.

Mr. President, Mr. Bennett states, and I agree, that "the good news is that what has been self-inflicted can be self-corrected."

With the devaluation of traditional views, we have seen a reciprocal increase in self-destructive behavior. This self-destructive behavior in turn increases the destruction of our families, our communities, and our Nation.

William Raspberry addressed this concern in a Washington Post article of September 8, 1993. He remarked that:

> To a striking degree, the problems we worry most about—teen pregnancy, fatherless households, AIDS and other sexually transmitted diseases, dropping out of school, infant mortality, even many aspects of poverty—are the consequences of inappropriate sexual behavior. * * * The hip response is to redouble AIDS research, establish birth control clinics (and nurseries) in the schools, distribute condoms and clean needles and in general to teach kids "what to do in the back of the car."

He goes on to question that:

> It's all very well to try to save people from the disastrous consequences of their behavior, but doesn't it make sense to try to discourage some of the behavior in the first place? * * * A part of the message must be directed not just as the awful consequences but at the deadly behavior itself.

Mr. President, no one should think we are nuts when we promote abstinence and the traditional family. Rather, in the face of all this evidence, is this not nuts to deny the obvious?

Traditional values were established to protect the sanctity of the marriage relationship and of the family. Judging from the observations made by Dr. Bennett and Mr. Raspberry, there is good reason in my view.

Now I realize that in this day and age of sexual enlightenment, this kind of attitude has been considered victorian and anachronistic. Perhaps it no longer should be, but as Irving Berlin once stated, "There's an element of truth in every idea that lasts long enough to be called corny."

With these thoughts in mind, and given the aforementioned statistics, those who promote sexual morality are looking pretty good right now, in my view.

Some might ask, "why do you keep talking about morality issues in Congress, State legislatures and other forums of debate?"

The answer is: Because our welfare policies to date have imposed an absence of morality upon our Nation. The traditional-minded among us are left to defend principles that history, current social trends, and religious teaching tell us are right.

Let us look at some specific negative consequences of out-of-wedlock births on the child, the young mother and society.

First, in 1965, the illegitimacy rate among black Americans stood at 26 percent. Today that rate is 68 percent and climbing. The illegitimacy rate among white Americans has risen tenfold, from 2.29 percent in 1960 to 22 percent today. The total of all out-of-wedlock births between 1970 and 1991 has risen from 10 to 30 percent. If the current rate continues, 50 percent of all births by the year 2015 will be out of wedlock.

Second, 82 percent of illegitimate births among whites are to women with a high school education or less.

Third, the younger the mother, the less likely she is to finish high school.

Fourth, young women who have children before finishing high school are more likely to remain on welfare longer.

Fifth, children born into welfare families are three times more likely to be on welfare when they reach adulthood.

Sixth, young people from single parent or stepparent families are 2 to 3 times more likely to have emotional or behavioral problems than those from intact families.

Seventh, single-parent mothering is the single biggest contributor to low birth weight babies.

Eighth, the probability for the children to experience low verbal cognitive attainment and experience child abuse and neglect are increased.

Ninth, the absence of a father in the life of a child has a negative effect on school performance and peer adjustment.

Tenth, young white women raised in a single parent family are 164 percent more likely to have children as teenagers and 92 percent more likely to have their own marriages end in divorce.

Eleventh, between 1985 and 1990, the public cost of teenaged births from AFDC, food stamps and Medicaid is estimated at $120 billion.

Twelfth, the one parent family is six times more likely to be poor than the two parent family.

Thirteenth, fathers of adolescent pregnancies tend to be more delinquent, 51 percent, and to have more psychological problems.

Fourteenth, illegitimacy doubles the likelihood of young black men engaging in criminal activities and triples the likelihood if they live in a neighborhood with a high concentration of single-parent families.

Fifteenth, the greater the incidence of single parent families in a neighborhood, the higher the violent crime and burglary.

Mr. President, this is the legacy of our failed welfare policy. This is the legacy of Government as father. It tears down rather than builds up. However well-intentioned, the State cannot substitute for the family.

In light of all of this evidence, how can we, as an intelligent Congress, not act to change public policy, to try to respond to this crisis? Especially the problem of out-of-wedlock births. How can we stand by and allow the trends to continue when we see clearly the utter destruction that has resulted?

The sexual liberation movement of the 1960's has demonstrated itself to be socially and morally bankrupt. Its once-accepted practices are starting to be rightly perceived by the mainstream as an abject failure. It is time that our social institutions and our Nation as a whole return to the teaching that moral obligation, self-sacrifice, social conformity, and abstinence are truly virtues to be upheld and appreciated. It is time for our public policies to promote the family, rather than destroy it. Those who teach otherwise will have an increasingly hard sell to a growingly skeptical mainstream.

Mr. President, these reasons are why we are introducing this bill today. We have got to address this dramatic problem.

By Mr. ROCKEFELLER (by request):

S. 2135. A bill to authorize the Department of Veterans Affairs to conduct pilot programs for delivering health care services in States which have statutorily reformed their health care systems; to the Committee on Veterans Affairs.

VA STATE HEALTH-CARE REFORM PILOT PROGRAMS ACT

• Mr. ROCKEFELLER. Mr. President, as chairman of the Committee on Veterans' Affairs, I have today introduced, at the request of the Secretary of Veterans Affairs, S. 2135, a bill to authorize the Department of Veterans Affairs to conduct pilot programs for delivering health care services in States which have statutorily reformed their health care systems. The Secretary of Veterans Affairs submitted this legislation to the President of the Senate by letter dated March 22, 1994.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all administration-proposed draft legislation referred to the Committee on Veterans' Affairs. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill and additional material be printed in the RECORD.

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

S. 2135

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

SECTION 1. SHORT TITLE.

This Act shall be cited as the "VA State Health-Care Reform Pilot Programs Act".

SEC. 2. DEFINITIONS.

For purposes of this Act—

(1) The term "Department" means the Department of Veterans Affairs.

(2) The term "family" means the spouse of a veteran or a child of a veteran as those terms are defined in section 101 of title 38, United States Code.

(3) The term "pilot program" means a program authorized by section 5(a) of this Act.

(4) The term "reformed health-care system" means a State program which is statutorily established by a State that the Secretary determines was established to assure that residents of the State have access to health-care services.

(5) The term "Secretary" means the Secretary of Veterans Affairs.

(6) The term "veteran" has meaning given such term in section 101(2) of title 38, United States Code.

SEC. 3. PILOT PROGRAMS AUTHORITY.

(a) AUTHORITY TO CONDUCT PROGRAMS.—In up to five States that have reformed health-care systems, the Secretary may conduct pilot programs under which the Department may provide health care services, directly or by contract, to persons identified in subsection (b) on the same or similar basis as the State plan mandates for residents in the State.

(b) PERSONS ELIGIBLE FOR SERVICES UNDER PROGRAMS.—Persons eligible to receive services under a pilot program are any residents of the State in which the pilot program is being conducted who are—

(1) veterans;

(2) individuals eligible for benefits under section 1713 of title 38, United States Code; or

(3) members of the family of any veteran who participates in a pilot program.

(c) AUTHORITY TO COMPLY WITH STATE HEALTH PLAN REQUIREMENTS.—In conducting pilot programs, the Secretary may comply with such requirements of State law applicable to the establishment and operation of a health plan under a State reform plan, or to functioning as a participant in, member of, or contractor to, such a health plan, as the Secretary considers appropriate for application to a department or agency of the Federal Government.

(d) CATCHMENT AREAS.—In conducting pilot programs in a State, the Secretary may—

(1) conduct the programs in some or all health care facilities of the Department located in the State; and

(2) establish such catchment areas within the State as the Secretary determines appropriate.

SEC. 4. CONDITIONS OF PARTICIPATION.

(a) CONDITION ON ESTABLISHMENT OF PROGRAMS.— The Secretary may establish and operate a pilot program in a State only after determining, based on such factors as the Secretary considers relevant (including the factors referred to in subsection (b)), that, in the absence of an enrollment option through a Department plan in that State, the projected workload in one or more Department health care facilities in the State would decline to a level that—

(1) would threaten to impair the capability of such facilities to meet one or more assigned mission of such facilities; or

(2) would result in a deterioration in the quality of the service delivered by such facilities to an extent that it would not be reasonable to continue to provide needed services in such facilities and satisfactory alternative arrangements could not feasibly be provided.

(b) FACTORS.—In making a determination under subsection (a), the Secretary shall consider the following:

(1) The relative universality of coverage provided to State residents under the State reform plan.

(2) The scope of benefits offered under the plan.

(3) The extent of financing supporting the plan.

(4) The extent to which the State may serve as a model for the Department in determining how to compete with other health care providers in other States when Congress enacts National health care reform.

(5) Such other matters as the Secretary determines appropriate.

(c) NOTICE AND WAIT REQUIREMENT.—(1) The Secretary may establish and operate a pilot program in a State not earlier than 30 days after submitting to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the pilot program.

(2) Each report submitted under paragraph (1) shall include the following:

(A) The rationale for proposed participation in the State reform plan.

(B) A description of the extent to which applicable provisions of State law specifically accommodate and facilitate participation of the Department in the State reform plan.

(C) A detailed business plan for the participation of the Department under the State reform plan.

(D) A description of the actions the Secretary has taken to consult with veterans on the proposed participation of the Department in the State reform plan.

(d) REQUIREMENT FOR REGULATIONS.—The Secretary may operate a pilot program in a State only after prescribing implementing regulations.

(e) COPAYMENTS.—(1) Except as provided in paragraph (2), the Secretary shall require persons receiving health care services under a pilot program to pay all premiums, copayments, deductibles, and coinsurance amounts required by State law in the State where the pilot program is undertaken.

(2) The Secretary may not collect premiums, copayments, deductibles, and coinsurance amounts under this subsection from the following individuals:

(A) Any veteran with a service-connected disability.

(B) any veteran whose discharge or release from the active military, naval or air service was for a disability incurred or aggravated in the line of duty.

(C) Any veteran who is in receipt of, or who, but for a suspension pursuant to section 1151 of title 38, United States Code (or both such a suspension and the receipt of retired pay), would be entitled to disability compensation, but only to the extent that such a veteran's continuing eligibility for such care is provided for in the judgment or settlement provided for in such section.

(D) Any veteran who is a former prisoner of war.

(E) Any veteran of the Mexican border period or World War I.

(F) Any veteran who is unable to defray the expenses of necessary care as determined under section 1722(a) of title 38, United States Code.

SEC. 5. EXPIRATION OF AUTHORITY.

The authority to conduct pilot programs under this Act shall expire on December 31, 1997.

SEC. 6. FUNDING.

(a) REVOLVING FUND.—There is established in the Treasury of the United States a revolving fund for conducting pilot programs authorized by section 3(a).

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the revolving fund for fiscal years 1995, 1996, and 1997 such sums as may be necessary to carry out the purposes of this Act.

(c) AVAILABILITY OF FUNDS.—(1) Amounts in the revolving fund established under subsection (a) shall be available without fiscal year limitation for payment of all expenses necessary to carry out the pilot programs, including—

(A) expenses of furnishing medical care and services;

(B) expenses of consumer surveys;

(C) expenses of printing, marketing, and advertising services (including contracts for such services); and

(D) expenses for the acquisition, construction, repair, or renovation of facilities (including the land on which facilities are located or to be constructed).

(2) Funds in the revolving fund shall not be available for a major medical facility project, or a major medical facility lease, under section 8104(a)(3) of title 38, United States Code, unless specifically authorized by law.

(d) COLLECTION OF FUNDS.—(1) The Secretary may recover or collect funds which result from participation by the Department in

a pilot program authorized under section 3(a) for care provided to veterans or their dependents. The Secretary may recover or collect such funds (including amounts received as premiums, copayments, deductibles or third-party reimbursements) from an individual, another agency or department of the Federal Government, an agency of State or local government, or a health-care provider, health care plan, insurer, or other entity.

(2) The Secretary shall, in consultation with the Director of the Office of Management and Budget, estimate the collection of funds to be received for services to be provided to veterans by each Department facility participating in a State pilot program during each fiscal year. Such estimates shall be based upon and consistent with the higher of—

(A) the fiscal year baseline for third-party recoveries, copayments, and other medical collections for the fiscal year included in the budget submitted to Congress by the President; or

(B) the fiscal year baseline for such collections for the fiscal year as reestimated by the Congressional Budget Office.

(3)(A) Amounts collected for services provided to dependents shall be deposited in the revolving fund established in subsection (a).

(B) Amounts collected for services provided to veterans in excess of the estimate determined under paragraph (2) shall be deposited in the revolving fund established under subsection (a).

(C) An amount up to the estimate determined under paragraph (2) shall be deposited in the Medical-Care Cost Recovery Fund established under section 1729(g) of title 38, United States Code.

SEC. 7. ADMINISTRATIVE FLEXIBILITY.

(a) APPLICABILITY OF NOTICE AND WAIT REQUIREMENT.—The Secretary may carry out any reorganization necessary to carry out a pilot program authorized by section 3(a) without regard to the provisions of section 510(b) of title 38, United States Code.

(b) APPLICABILITY OF OTHER PROVISIONS OF LAW.—The Director of a Department health care facility participating in a pilot project authorized by section 3(a) may enter into agreements with health care plans, insurers, health care providers, or with any other entity or individual to furnish or obtain any health care resource, as that term is defined in section 8152 of title 38, United States Code, without regard to the following:

(1) Chapter 7 of the Office of Federal Procurement Policy Act (41 U.S.C. 410 et. seq.).

(2) Chapter 4 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.).

(3) Subsections (b)(7), (e), (f), (g), and (h) of section 8 of the Small Business Act (15 U.S.C. 637), relating to certificate of competency, notice, and sole sourcing.

(4) Office of Management and Budget Circular A-76.

(5) Section 8110(c) of title 38, United States Code, relating to contracting out at Department medical facilities.

(6) Subchapter V of chapter 35 of title 31, United States Code, relating to Government Accounting Office protests.

(7) Sections 3526 and 3702 of title 31, United States Code, relating to jurisdiction over Government Accounting Office protests.

(8) Section 1491 of title 28, United States Code, relating to protests to the United States Court of Federal Claims.

(9) Section 702 of title 5, United States Code, and section 1346(2) of title 28, United States Code, relating to protests to United States district courts.

(10) Section 8125 of title 38, United States Code, relating to local contracts for health care items.

(11) The provisions of law appearing as sections 471 through 544 of title 40, United States Code, for purposes of the proposal of the Law Revision Counsel of a codification of Federal law, relating to the authority of the General Services Administration over leasing and disposal of property.

(12) Section 8122(a)(1) of title 38, United States Code, relating to out-leasing by the Department.

SEC. 8. MARKETING.

The Secretary may carry out such promotional, advertising, and marketing activities as the Secretary considers necessary to effectively establish and operate a health plan pilot program.

SEC. 9. REPORTS.

Not later than November 30 of each of 1995 through 1998, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the pilot programs carried out by the Secretary under this Act.

SEC. 10. SAVINGS PROVISIONS.

(a) BENEFITS.—The Secretary shall provide the persons referred to in section 3(b) with all benefits authorized to be provided to such persons under title 38, United States Code, in accordance with the terms and conditions applicable to such persons and such benefits, notwithstanding that such benefits are not provided under the pilot program.

(b) UTILIZATION OF OTHER DEPARTMENT FACILITIES.—Department facilities not participating in pilot programs shall continue to furnish health care benefits in accordance with the provisions of title 38, United States Code.

DEPARTMENT OF
VETERANS AFFAIRS,
March 22, 1994.

Hon. ALBERT GORE, Jr.,
President of the Senate, Washington, DC.

DEAR MR. PRESIDENT: We are transmitting a draft bill, "To authorize the Department of Veterans Affairs to conduct pilot programs for delivering health-care services in states which have statutorily reformed their health care systems."

The Nation is focused on the need for reform of our health care system. Several months ago, the President submitted legislation to the Congress which embodies his vision of a system which will ensure all Americans of access to affordable health care. His proposal would make crucial improvements in the VA health care system. Congress is now considering that legislation. However, many states are not waiting for national health reform. They are proceeding to enact their own reform measures now.

The different state reform initiatives vary considerably in detail, but they include the common theme of increasing access to care. Additionally, they often ensure that citizens can receive a standard benefits package containing a wider array of services than VA can now furnish to veterans. In that situation, many veterans who now obtain care from VA might choose to seek services from another provider. To ensure that VA is able to continue providing veterans with the care and services they need and deserve, VA must be allowed to participate in the new health care marketplace that is emerging in these states. Further, VA needs to participate in these states so it can learn to compete in the health care markets that will follow national health care reform. This draft bill would allow VA to accomplish these two objectives.

The draft bill would authorize pilot programs in up to five states under which VA would provide health care in accordance with a state health care system. The pilot programs could operate through December 31, 1997. Each pilot program would furnish care to veterans, dependents, and those eligible for CHAMPVA benefits who reside in such States on the same or similar basis as care would be provided for other citizens under State law. The Secretary could authorize a pilot in a state only after determining that failure to do so would result in a decline in VA workload to the extent that it would threaten a facility's mission, or result in serious deterioration in the quality of care provided.

The draft bill also provides that under any pilot program, veterans who now have high priority eligibility for care, (so-called category A veterans) would have to be able to receive care without incurring liability for any premium, deductible, or copayment. At least 30 days before actually initiating a program, the Secretary would have to submit a report to the Congress fully describing how the pilots would work. The Department would also have to promulgate implementing regulations.

To facilitate financial management of the pilot programs, the bill would establish a revolving fund. The fund would contain any amounts specifically appropriated to such fund, any amounts recovered or collected by reason of the furnishing of health care under a pilot program authorized by this Act, and any funds collected under current provisions of title 38, United States Code in excess of the current Congressional Budget Office baseline or Office of Management and Budget baselines—whichever is greater—for reimbursements for medical care. Amounts in the fund would be available until expended for all purposes of carrying out the pilot programs, except they could not be used for major facility construction or leasing.

Other provisions in the bill would provide the Department with greater administrative flexibility to allow it to compete in the health care market. Most importantly, the bill would exempt pilot sites from a number of specified laws and government policies which restrict their ability to freely procure goods and services. It would also ease current restrictions on the Department's ability to reorganize its facilities when necessary for the success of the pilot. Finally, the draft bill contains specific authority for the Department to conduct market and consumer surveys, and promote and advertise health plans.

We urge enactment of the proposed legislation as soon as possible so that VA can continue to meet the needs of veterans in those states which are reforming their health care systems in advance of national reform.

The Office of Management and Budget advises that there is no objection to the submission of this legislative proposal to the Congress, and its enactment would be in accord with the Program of the President.

Sincerely yours,

JESSE BROWN.●

By Mr. GRAHAM (for himself and Mr. DORGAN):

S. 2136. A bill to prohibit sponsorship of television violence by agencies of the Federal Government, and for other purposes; to the Committee on Governmental Affairs.

FEDERAL ADVERTISEMENT REFORM ACT

● Mr. GRAHAM. Mr. President, I have often said that Government should lead

by example. Today I am introducing legislation to require the Federal Government to take a leadership role in addressing the issue of violence on television.

Legislation considered by Congress thus far has been aimed at helping consumers make better-informed decisions about the shows they watch and the products they buy from companies that advertise on television. Senator SIMON has also been effective in using the threat of legislation to spur action from broadcast and cable programmers. On Tuesday, the cable industry held a press conference detailing its progress on this matter.

Meanwhile, agencies of the Federal Government continue to sponsor violent programming with their own advertising dollars. My bill would take the necessary first step—changing our own ways—before asking others to apply greater vigilance to the fight against television violence.

Our market influence should not be overlooked. We're not talking about the public service announcements that are run at little or no cost to the Government. In 1992, Federal agencies—led by the Postal Service, the military, and Amtrak—spent over $110 million on television advertising.

The question will be asked, How much of that money was spent supporting violent programming. The simple answer is, we don't know. That's why this legislation requires the National Telecommunications and Information Administration to determine which shows contain a high degree to violence.

What we do know about Government support for TV violence comes from Senator DORGAN, who has been a leader in the fight against television violence and, I am pleased to report, joins me a an original cosponsor of this bill.

Senator DORGAN asked students at Concordia College last year to survey a week of television programming and determine which shows contained the most violence and who was advertising on those shows. The study found that the U.S. Army was one of the top 20 sponsors of prime-time violence.

This is an issue, Mr. President, that is on the minds of American families.

In April, an eight grader from Davie, FL, visited my office. Fifteen-year-old Michael Gittinger won a trip to Washington in a contest called Speak for Yourself. Contestants submitted copies of letters they had sent to their representatives in Congress about issues of concern to them.

Michael was a State winner from Florida for his letter about violence in the media, written to Representative PETER DEUTSCH. I ask unanimous consent that Michael's letter be included in the RECORD, but I also would like to read a few lines from it.

"I am scared," Michael says.

"It is sad when children watch TV and see a show where killing is okay because it's cool."

He writes, "I think it is necessary for all of us to demand that the broadcast companies stop showing all these shows with too much violence . . . Concerned people could write advertisers asking them to stop sponsoring violent shows."

Mr. President, I agree with Michael. Each of us has a responsibility to change what is considered acceptable in American entertainment.

Enactment of the bill I am introducing today will say to Michael and others concerned about television violence that the Federal Government has heard their message. We are no longer going to sponsor violent programming on the one hand while with the other we pen legislation forcing others to solve this problem. Our efforts will be comprehensive.

Mr. President, I urge my colleagues to support and cosponsor this bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2136

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Advertisement Reform Act".

SEC. 2. DEFINITIONS.

For purposes of this Act—

(1) the term "Federal agency" means each authority of Government of the United States, whether or not it is within or subject to review by another agency, including—

(A) an executive agency, as defined by section 105 of title 5, United States Code; and

(B) the United States Postal Service and the Postal Rate Commission; and

(2) the term "Secretary" means the Secretary of Commerce, acting through the National Telecommunications and Information Administration.

SEC. 3. PROHIBITION.

(a) IN GENERAL.—Except as provided in subsection (b), a Federal agency may not advertise, or enter into a contract to advertise, any product, program, or policy during any television program identified as having a high degree of violence pursuant to section 4.

(b) EXCEPTIONS.—The identification of a television program as containing a high degree of violence pursuant to section 4 shall not apply to an advertisement pursuant to—

(1) any contract entered into prior to the date of enactment of this Act; or

(2) any contract entered into prior to the date of publication of such identification in the Federal Register.

SEC. 4. IDENTIFICATION OF VIOLENT PROGRAMMING.

(a) PROGRAM.—Not later than 6 months after the date of enactment of this Act, the National Telecommunications and Information Administration (in this Act referred to as the "Administration") shall establish a program to evaluate television programs with respect to violent content contained in the programs. The Administration shall establish the program in accordance with this section.

(b) PROGRAM SELECTION.—The Administration shall evaluate each program on each of the national broadcast television networks, or on cable television systems (in the case of programs available to a substantial percentage of the households that subscribe to cable television service nationally). For each calendar year, the Administration shall select at least 1 week during television sweeps, as defined by the Secretary.

(c) IDENTIFICATION OF PROGRAM.—After evaluating the television programs described in subsection (b), the Administration shall identify programs that contain a high degree of violence, as defined by the Secretary.

(d) PUBLICATION.—The Secretary shall publish in the Federal Register a list of the programs identified pursuant to subsection (c) each calendar quarter.

SEC. 4. REGULATIONS.

The Secretary shall promulgate such regulations as are necessary to carry out this Act.•

By Mr. BAUCUS:

S. 2137. To designate certain National Forest lands in the State of Montana as wilderness, to release other National Forest lands in the State of Montana for multiple use management, and for other purposes; read the first time.

MONTANA NATIONAL FOREST MANAGEMENT ACT OF 1994

• Mr. BAUCUS. Mr. President, I am introducing today a bill that I hope brings us one critical step closer to resolving Montana's longstanding wilderness debate. It is the identical piece of legislation that my colleague from Montana, Senator BURNS, and I agreed to, and which passed the Senate during the 102d Congress.

The vast majority of Montanans simply want to see the wilderness debate concluded in a way that protects those wildlands that are truly special places. Unfortunately, there is a vocal minority that either wants to see every acre of land designated as wilderness, or believes that the vast majority of our wild country should be opened up to mining, oil and gas development, and logging. But this is not the Montana I know. Montanans want balance. They want the wilderness issue resolved in a way that protects both jobs and environment.

For this reason, I believe the legislation that I am introducing is the best hope Montanans have of settling the wilderness debate. While this legislation is not perfect, it is reasonable. Both Senator BURNS and I have sponsored it in the past, and it passed the Senate by an overwhelming margin in 1992.

It is true that many environmental groups don't like it—it doesn't protect enough areas that many people believe merit wilderness designation. And it is true that industry doesn't like it—wilderness designations just don't allow for logging, mining, or oil and gas drilling. At this point, however, my focus is not on what it doesn't do, but rather on what it does. This bill allows us to pass a bill from the Senate and go to conference with the House; it allows us to break the 16-year stalemate; and it al-

lows us to do what the people of Montana elected us to do—resolve the wilderness debate.

I have spoken on several occasions over the past months to my colleague, Senator BURNS, regarding my intention to introduce our compromise legislation. It is my sincere hope that Senator BURNS will agree with me that prompt passage of this legislation is in the best interest of Montana and will join with me toward that end.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

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

U.S. SENATE,
Washington, DC, May 16, 1994.

Hon. CONRAD BURNS,
Dirksen Senate Office Building,
Washington, DC.

DEAR CONRAD: With the House close to passing Congressman Williams' Montana wilderness bill, we now have an opportunity to move Montana beyond its divisive issue by passing a bill through the Senate. I believe Montana is best served when we work together.

As much as anything, wilderness is an issue where reasonable Montanans can—and do—reach different conclusions. Almost every Montanan engaged in this debate has his or her ideal wilderness bill. Some want just about every remaining roadless acre made wilderness. Others say they want no more wilderness or, similar to the bill you intend to introduce, the Forest Service recommendations of about 800,000 acres. I respect the sincerity of each of these points of view. Yet I also believe the vast majority of our fellow Montanans think it's time to pass a bill that represents a compromise between uncompromising positions. And, ultimately, by carefully considering the environmental sensitivity, recreation and resource potential of each area, it is possible to pass a bill that protects both jobs and the environment.

However, over the weekend, I was surprised to learn that you plan to introduce a bill drafted by the Montana Resource Providers Coalition. During the several times we have discussed this issue in recent months, you failed to mention this proposal or course of action. While this proposal represents one side of the wilderness debate, it is not a bill that can pass Congress. If there is one thing that more than a decade of debate over Montana wilderness has taught us, it is that an unbalanced bill—tilted too far toward either preservation or development—has no chance of passage. Moreover, I believe there are a number of Montanans on both sides of this issue who want this issue settled and are willing to accept a reasonable compromise if we are willing to show the necessary leadership.

I'm reminded of Arnold Bolle; one of the finest Montanans I've ever known. You know that Arnie was a conservationist. And he was also a principled and practical man who wanted, perhaps more than anything, to live to see the Montana wilderness issue resolved. Sadly, this dream never became a reality. Shortly before he died, Arnie wrote me one last letter. He asked that the wilderness issue be settled this year. While Arnie wanted a number of wild areas protected, he also came to see the wilderness issue as something that pitted Montanan against Montanan. For both of these reasons, for the good of Montana's land and people, he wanted a bill passed. Up until the end, Arnie spoke his mind; he spoke the kind of common sense that always abounds in Montana.

Since you first came to the Senate, you have also often spoken about the need to pass a wilderness bill. In 1992, we worked together and we came close. While we reached agreement here in the Senate, we both recognized that our agreement did not—and could not—bind Congressmen Williams, Marlenee, or any other member of the House of Representatives.

Given all the trouble we've had passing a Montana wilderness bill, I still think it's possible to get the job done if we approach this issue with open minds and the "can do" spirit that has seen Montana through good times and bad.

Toward this end, as I have told you several times before, I will soon introduce the 1991-92 Baucus-Burns compromise bill. When we spoke recently, I urged you to join me in again cosponsoring this legislation. While neither of us would call it a perfect bill, it represents many hours of work and good faith compromise between the two of us. With our mutual support, it is also the one bill we know can pass the Senate. Once this happens, it would then be sent to Conference with the House. The final product, the Conference Report, will almost certainly amount to a "grand compromise" between the House and Senate bills.

We both know folks are tired of the "politics as usual" back in Washington. As a Republican and a Democrat, you and I have an opportunity to prove we can put partisanship aside and work together as Montanans for the good of Montana. The proposal I've outlined is the most constructive way I can think of to pass a Montana bill this year. I therefore ask you to join me again as a cosponsor of the Baucus-Burns bipartisan compromise.

Think it over. I hope we can work together and get this job done for Montana.

With best personal regards, I am

Sincerely,

MAX BAUCUS.●

By Mr. ROCKEFELLER:

S. 2139. A bill to provide for the conservation, management, or study of certain rivers, parks, trails, and historic sites, and for other purposes; to the Committee on Energy and Natural Resources.

WEST VIRGINIA RIVERS CONSERVATION ACT OF 1994

● Mr. ROCKEFELLER. Mr. President, today I am pleased to introduce the West Virginia Rivers Conservation Act. I believe this legislation will help protect and preserve some of West Virginia's most valuable natural resources for future generations, and enhance the State's growing tourism industry as well.

As former Governor of West Virginia, and now as a U.S. Senator, I have aggressively pursued policies and legislation designed to increase tourism in my home State and the Nation. I believe that protection of West Virginia's important natural resources, like those contained in this bill, is vital to these efforts.

Since the establishment of the New River Gorge National River, as a result of legislation introduced by the senior Senator from West Virginia, ROBERT C. BYRD, we have seen a greater appreciation of this precious resource. We have also seen an increase in economic benefits from the expanded tourism opportunities this area represents. In fact, over 700,000 visitors come to West Virginia and experience the New River each year.

To build upon these efforts, along with my colleague in the House, NICK RAHALL, I introduced the West Virginia National Interest River Conservation Act, which designated parts of the Gauley, Meadow, and Bluestone Rivers as components of the Wild and Scenic Rivers System. This bill was signed into law in 1988.

In the 102d Congress, I also joined NICK RAHALL in introducing two other pieces of legislation to protect natural resources in West Virginia. The first added approximately 12,000 acres to the boundaries of the New River Gorge National River, the Gauley National Recreation Area, and the Bluestone Scenic River. The second required the study of the New River for possible designation as a component of the National Wild and Scenic Rivers System and management under the Wild and Scenic Rivers Act.

The legislation I am introducing today is a followup to the legislation I introduced last Congress, and would officially designate 14.5 miles of the New River in West Virginia as a scenic river. This segment runs from the West Virginia-Virginia State line downstream to the Bluestone Lake in Summers County. The 11,191 acres within this proposed Scenic River segment are currently in Federal ownership and would continue to be managed as a wildlife management area under an existing agreement between the State of West Virginia and the Federal Government.

This legislation also authorizes the Secretary of the Interior to study an 11-mile segment of the Elk River, to determine its eligibility and suitability for inclusion in the National Wild and Scenic Rivers System, or as a unit of the National Park System as a national river or national recreation area.

The bill adds Carnifex Ferry Battlefield State Park to within the boundary of the Gauley River National Recreation Area, and adds to the Bluestone Scenic River the portion of Pipestem State Park that is not currently within its boundaries. Both of these additions are proposed in order to achieve maximum economy and efficiency in administering the park unit. Nothing in this legislation would affect the continued ownership and management of the State park unit by the State.

To increase the opportunities of citizens seeking greater and easier access to the Gauley and Bluestone Rivers, this bill does two things. First, it re-

quires the National Park Service to produce a plan to provide access to the Gauley River for private boaters and fishers in the middle segment of the river. Second, the bill contains provisions to provide a public access point to the Bluestone River, to be located near Eads Mill. Currently, those wishing to enter the river must travel to Pipestem State Park, which is the only available public access point.

The bill also includes an authorization for the National Park Service to construct a visitors center at Gauley Bridge. Located where the New River and Gauley River join to form the Kanawha River, I believe a visitors center in this location would help promote an increased public knowledge and appreciation of this area.

Mr. President, I believe this legislation will enable West Virginia to continue to grow as a tourist destination. The areas covered in this bill offer canoeing, hiking, fishing, and some of the best whitewater rafting in the Nation. In addition, these areas abound with examples of West Virginia's coal heritage and Civil War history. Passage of this legislation will help ensure that these natural, recreational, and cultural resources are managed in a manner that will allow for their enjoyment now and by future generations.

The House of Representatives has already passed this legislation, and given the importance of tourism and ecological preservation to West Virginia and the Nation, I ask that this legislation I am introducing today be given favorable consideration.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2139

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "West Virginia Rivers Conservation Act of 1994".

SEC. 2. NEW RIVER GORGE NATIONAL RIVER.

Section 1101 of the National Parks and Recreation Act of 1978 (16 U.S.C. 460m-15) is amended by striking "NERI-80,023, dated January 1987" and inserting "NERI-80,028, dated January 1993".

SEC. 3. GAULEY RIVER NATIONAL RECREATION AREA.

Section 201(b) of the West Virginia National Interest River Conservation Act of 1987 (16 U.S.C. 460ww(b)) is amended by striking "NRA-GR/20,000A and dated July 1987" and inserting "GARI-80,001 and dated January 1993".

SEC. 4. BLUESTONE NATIONAL SCENIC RIVER.

Section 3(a)(65) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)(65)) is amended by striking "WSR-BLU/20,000, and dated January 1987" and inserting "BLUE-80,004, and dated January 1993".

SEC. 5. DESIGNATION OF UPPER NEW RIVER, WEST VIRGINIA.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding at the end the following new paragraph:

"( ) UPPER NEW RIVER, WEST VIRGINIA.—(A) The segment in Summers County, West Virginia, from the West Virginia-Virginia State line downstream for approximately 14.5 miles as depicted on the boundary map entitled 'Upper New Wild and Scenic River', numbered UPNE 80,000 and dated July 1993 to be administered by the Secretary of the Interior as a scenic river.

"(B) The acreage limitation set forth in subsection (b) shall not apply to the segment designated under this paragraph. Nothing in this Act shall preclude the improvement of any existing road or right-of-way within the boundaries of the segment designated under this paragraph.

"(C) Jurisdiction over all lands and improvements on such lands owned by the United States within the boundaries of the segment designated under this paragraph is hereby transferred without reimbursement to the administrative jurisdiction of the Secretary of the Interior, subject to the lease in effect on the date of enactment of this paragraph (or renewed thereafter) between the United States and the State of West Virginia with respect to the Bluestone Wildlife Management Area.

"(D) Nothing in this Act shall affect the management by the State of West Virginia of hunting and fishing within the segment designated under this paragraph. Nothing in this Act shall affect or impair the management by the State of West Virginia of other wildlife activities in the Bluestone Wildlife Management Area to the extent permitted in the lease agreement in effect on the date of enactment of this paragraph. Upon request by the State of West Virginia, the Secretary shall renew such lease agreement with the same terms and conditions as contained in such lease agreement on the date of enactment of this paragraph under which State management shall be continued pursuant to such renewal. If requested to do so by the State of West Virginia, or as provided in the lease agreement, the Secretary may terminate or modify the lease and assume administrative authority over all or part of the areas concerned.

"(E) Nothing in the designation of the segment referred to in this paragraph shall affect or impair the management of the Bluestone project or the authority of any department, agency, or instrumentality of the United States to carry out the purposes of the project.".

SEC. 6. DESIGNATION OF ELK RIVER AS A STUDY RIVER.

(a) STUDY.—The Secretary of the Interior shall conduct a study of the segment of the Elk River, West Virginia, that is reflected on the Webster Springs Quadrangle (West Virginia) 7.5 minute series topographic map, United States Geological Survey, to determine its eligibility and suitability as either—

(1) a component of the national wild and scenic rivers system;

(2) a unit of the National Park System as a national river; or

(3) a unit of the National Park System as a national recreation area.

(b) REPORT.—Not later than 3 years after the date of enactment of this Act, the Secretary of the Interior shall submit a report containing the results of the study conducted pursuant to subsection (a) to the Committee on Energy and Natural Resources of the Senate and to the Committee on Natural Resources of the House of Representatives.

(c) EFFECT ON MANAGEMENT.—Nothing in this section shall affect or impair the management of the Sutton project or the authority of any department, agency, or instrumentality of the United States to carry out the purposes of the project on the date of enactment of this section.

(d) CONSULTATION.—In conducting the study required by this section, the Secretary shall consult with the West Virginia Division of Tourism and Parks and the West Virginia Division of Environmental Protection.

SEC. 7. CONSOLIDATED MANAGEMENT.

To achieve the maximum economy and efficiency of operations in the administration of the segment of the New River designated by the amendment made by section 5, the Secretary of the Interior shall consolidate offices and personnel administering such segment with offices and personnel administering the New River Gorge National River, the Gauley River National Recreation Area, and the Bluestone National Scenic River to the extent practicable, and shall utilize facilities of the New River Gorge National River to the extent practicable.

SEC. 8. MISCELLANEOUS PROVISIONS.

(a) NEW RIVER CONFORMING AMENDMENTS.—Title XI of the National Parks and Recreation Act of 1978 (16 U.S.C. 460m-15 et seq.) is amended by adding at the end the following new section:

"SEC. 1117. APPLICABLE PROVISIONS OF OTHER LAW.

"(a) COOPERATIVE AGREEMENTS.—Section 202(e)(1) of the West Virginia National Interest River Conservation Act of 1987 (16 U.S.C. 460ww-1(e)(1)) shall apply to the New River Gorge National River in the same manner and to the same extent as such section applies to the Gauley River National Recreation Area.

"(b) REMNANT LANDS.—The second sentence of section 203(a) of the West Virginia National Interest River Conservation Act of 1987 (16 U.S.C. 460ww-2(a)) shall apply to tracts of land partially within the boundaries of the New River Gorge National River in the same manner and to the same extent as such sentence applies to tracts of land partially within the Gauley River National Recreation Area.".

(b) BLUESTONE RIVER CONFORMING AMENDMENTS.—Section 3(a)(65) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)(65)) is amended—

(1) in the fifth sentence, by striking "leases" and inserting "the lease";

(2) in the seventh sentence, by striking "such management may be continued pursuant to renewal of such lease agreement"; and

(3) by striking the eighth sentence and inserting the following: "Upon request by the State of West Virginia so requests, the Secretary shall renew such lease agreement with the same terms and conditions as contained in such lease agreement on the date of enactment of the West Virginia Rivers Conservation Act of 1994 under which such State management shall be continued pursuant to such renewal. Upon request by the State of West Virginia, or as provided in such lease agreement, the Secretary may terminate or modify the lease and assume administrative authority over all or part of the areas concerned.".

SEC. 9. GAULEY ACCESS.

Section 202(e) of the West Virginia National Interest River Conservation Act of 1987 (16 U.S.C. 460ww-1(e)) is amended by adding at the end the following new paragraph:

"(4) ACCESS TO RIVER.—Not later than 90 days after the date of enactment of this paragraph, the Secretary shall submit a report to the Committee on Energy and Natural Resources of the Senate and to the Com-

mittee on Natural Resources of the House of Representatives setting forth a plan to provide river access for noncommercial recreational users within the Gauley River National Recreation Area. The plan shall provide that such access shall utilize existing public roads and rights-of-way to the maximum extent feasible and shall be limited to providing access for such noncommercial users.".

SEC. 10. VISITOR CENTER.

The Secretary of the Interior may construct a visitor center and such other related facilities as may be necessary to facilitate visitor understanding and enjoyment of the New River Gorge National River and the Gauley River National Recreation Area in the vicinity of the confluence of the New River and Gauley River. Such center and related facilities are authorized to be constructed at a site outside of the boundary of the New River Gorge National River or the Gauley River National Recreation Area unless a suitable site is available within the boundaries of either unit.

SEC. 11. EXTENSION.

For a 5-year period beginning on the date of enactment of this Act, the provisions of the Wild and Scenic Rivers Act applicable to river segments designated for study for potential addition to the wild and scenic rivers system under section 5(b) of such Act (16 U.S.C. 1276(b)) shall apply to the segments of the Bluestone and Meadow Rivers that were found eligible in the studies completed by the National Park Service in August 1983 but that were not designated by the West Virginia National Interest River Conservation Act of 1987 (Public Law 100-534; 102 Stat. 2702) as part of the Bluestone National Scenic River or as part of the Gauley River National Recreation Area, as the case may be.

SEC. 12. BLUESTONE RIVER PUBLIC ACCESS.

Section 3(a)(65) of the Wild and Scenic Rivers Act (16 U.S.C 1274(a)(65)) is amended by adding at the end the following new sentence: "In order to provide reasonable public access and vehicle parking for public use and enjoyment of the river designated by this paragraph, consistent with the preservation and enhancement of the natural and scenic values of such river, the Secretary may negotiate a memorandum of understanding or cooperative agreement, or acquire such lands or interests in such lands, or both, with the consent of the owner as may be necessary to allow public access to the Bluestone River and to provide, outside the boundary of the scenic river, parking and related facilities in the vicinity of the area known as Eads Mill.".

SEC. 13. GAULEY RIVER BOUNDARY MODIFICATION.

Section 205(c) of the West Virginia National Interest River Conservation Act of 1987 (16 U.S.C 460ww-4(c)) is amended by adding at the end the following new sentence: "If project construction is not commenced within the time required in such license, or if such license is surrendered at any time, such boundary modification shall cease to have any force and effect.".●

By Mr. DASCHLE (for himself, Mr. HARKIN, Mr. PELL, Mr. GRASSLEY, Mr. HATFIELD, and Mr. DECONCINI):

S. 2140. A bill to permit an individual to be treated by a health care practitioner with any method of medical treatment such individual requests, and for other purposes; to the Committee on Labor and Human Resources.

THE ACCESS TO MEDICAL TREATMENT ACT

● Mr. DASCHLE. Mr. President, today I am introducing, with Senators HARKIN, PELL, GRASSLEY, HATFIELD, and DECONCINI, the Access to Medical Treatment Act. This legislation will allow greater freedom of choice in the realm of medical treatments, and will make alternative treatments more available to the public.

The Access to Medical Treatment Act represents a significant departure from current medical practice. It is grounded in the belief that our current health care delivery system actually discourages rather than encourages the development of alternative therapies that could effectively treat illnesses that often do not respond well, if at all, to conventional medicine. And it seeks to open up the system to such treatments under controlled conditions.

As with any effort to change the status quo, questions have been raised about the practical effect of venturing into this new area of medicine. We have tried to address these concerns as we worked out the details of the bill, and I would like to talk in a moment about these important issues. First, however, I would like to relate how I became involved in the debate over alternative treatments, and share with my colleagues what was really the fundamental catalyst in my developing this legislation.

Berkley Bedell is a former Congressman from the Sixth District of Iowa. As did quite a few of us in the Senate, I had the privilege of serving with Congressman Bedell for several years in the House of Representatives, where he acquired a well-deserved reputation for intellectual honesty and commitment to principle, as well as for tilting at the occasional windmill. In more than one instance, he appeared out of step with conventional opinion and subsequently proved to be ahead of his time.

When Congressman Bedell left the House at the end of the 100th Congress, he was ill with Lyme disease. After trying several unsuccessful rounds of conventional treatment consisting of heavy doses of antibiotics, the cost of which ran in the thousands of dollars, he turned to an alternative treatment that he believes cured his disease. This treatment, which is actually a veterinary treatment, consisted on its most basic level of nothing more than drinking processed whey from a cow's milk. After approximately 2 months of taking regular doses of this processed whey, his symptoms disappeared. He estimates that the total cost for this alternative treatment was no more than a few hundred dollars.

In spite of Congressman Bedell's amazing recovery, and the fact that this same treatment appeared to be effective in some other cases of Lyme disease, the treatment can no longer be administered because it has not gone through the FDA approval process. This is only one example of untold numbers of treatments that may prove beneficial but cannot be tried without enactment of this legislation.

Shortly after he recovered from Lyme disease, Congressman Bedell discovered he had prostate cancer. Again, he found conventional treatments to be unsuccessful and turned to alternative medicine. This time he had to leave the country to obtain his treatment. But, once again, alternative therapy appears to have been successful thus far—he has been free of cancer for 4 years.

Mr. President, there are any number of Berkley Bedells across the country who are desperate for cures that conventional medicine simply does not seem to be able to provide. Yet, the tragic fact is that most people do not have the financial means to seek out alternative treatments abroad.

The Access to Medical Treatment Act attempts to address this situation. Its intent is twofold: First, to allow increased access to alternative treatments; and second, to allow increased opportunities for the trial of alternative treatments that may prove to be extremely effective.

If these treatments are so effective, it will be asked, why can't they merely go through the standard FDA approval process?

The answer is that the time and expense currently required to gain FDA approval of a treatment effectively precludes all but large pharmaceutical companies from undertaking such an arduous and costly endeavor. The heavy demands and requirements of the FDA approval process deny access to the potentially innovative contributions of individual practitioners, scientists, smaller companies, and others who do not have the financial resources to traverse the painstakingly detailed path to certification. The current system not only forgoes untold potential for exploring life-saving treatments, but also serves to prevent low-cost treatments from gaining access to the market.

I want to emphasize, however, that I do not intend or anticipate that this legislation will dismantle the FDA, undermine its authority or appreciably change current medical practices. It does not attack the FDA or its approval process. It complements it.

The FDA would remain solely responsible for protecting the health of the Nation from unsafe and impure drugs. The heavy demands and requirements placed upon treatments before they gain FDA approval are important, and I firmly believe that treatments receiving the Federal Government's stamp of approval should be proven safe and effective.

The intent of my legislation is merely to extend freedom of choice to medical consumers under controlled situations. I believe that individuals, especially individuals who face life-threat-

ening afflictions for which conventional treatments have proven ineffective, should have the option of trying an alternative treatment, so long as they have been informed of the nature of the treatment and are aware that it has not been approved by the FDA. This is a choice that is rightly left to the consumer, and not dictated by the Federal Government.

The Access to Medical Treatment Act will allow individuals, under certain carefully circumscribed conditions, to obtain medical treatments that have not yet been approved by the FDA. The medical treatments prescribed under this bill cannot be dangerous. However, given the fact that the very intent of the bill is to allow treatments that have not necessarily undergone extensive testing, it is possible that a treatment administered under the bill could turn out to be a danger to the patient. In these cases, the treatment must be immediately reported to the Secretary of Health and Human Services, and it cannot be utilized again.

The bill requires full disclosure to the patient of the treatment's contents and potential side effects, and of the fact that it has not been proven safe and effective by the Federal Government. The patient is required to sign a written statement indicating that he or she had been made aware of this information.

Finally, no claims can be made about the efficacy of a treatment except for claims made by the practitioner administering the treatment. Even in these limited cases, the claim may only take the form of an accurate and documented report made in a recognized journal or at a seminar, convention, or similar meeting. Furthermore, no practitioner may make a claim if he or she stands to gain financially as a result of that claim, outside of the reimbursement he or she might receive from an individual patient for administration of the treatment.

No doubt the largest concern that has been voiced about my proposal relates to the issue of consumer protection. Individuals are often at their most vulnerable when they are in desperate need of medical treatment.

It is absolutely critical that a proposal of this nature include strong protections to ensure that consumers are not subjected to charlatans who would prey on their misfortunes and fears for personal gain. The Access to Medical Treatment Act is armed with these protections.

The bill requires that a treatment be administered by a properly licensed physician. It also narrowly defines who qualifies as a properly licensed physician. Most importantly, however, the bill strictly regulates the circumstances under which claims regarding the efficacy of a treatment can be made. It prohibits all advertising and labeling claims, and any other claims by individuals for whom the underlying intent of promoting the treatment might be linked to personal financial gain.

What this means is that there can be no marketing of any treatment administered under this bill. Because marketing of a treatment is prohibited, I see very little incentive for anyone to try and use this bill as a bypass to the process of obtaining FDA approval. Also, because only properly licensed practitioners are able to make any claims at all about the efficacy of a treatment, I see very little room for so-called quack medicine. In short, if an individual or a company wants to make any profit off their product, utilizing this legislation will not be a preferable option.

Mr. President, I fully realize that there will be significant debate over both the concept and content of this legislation. I welcome this debate. In a sense, it is my purpose for introducing the bill.

What I am trying to do in this legislation is reconcile what many see as two irreconcilable interests—protection of consumers from unscrupulous charlatans and preservation of the consumer's freedom to choose alternative therapies. While I am as concerned as anyone about protecting the consumer, I also believe in an individual's right to choose to try a treatment that is not FDA-approved.

If various pieces of my bill are changed or altered in the process of debate, that is fine with me. In fact, I welcome improvements, because it will show that these issues are being taken seriously. And I believe they should be taken seriously. They are important issues, especially at a time when we are looking to overhaul this Nation's health care system.

The Access to Medical Treatment Act represents my best first attempt at cracking this paradox. I encourage debate and am open to changes. If this bill generates the serious discussion that I believe these issues merit, then I will have achieved my goal in introducing it. I welcome anyone who would like to join me in promoting this important debate to cosponsor this legislation.

Mr. President, I firmly believe that our health care delivery system should be more receptive to alternate treatments. I am also sensitive to the fact that how we accomplish that goal has important ramifications that must be thoroughly explored. It is my hope that the Access to Medical Treatment Act, and the debate it engenders, will serve those ends.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2140

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Access to Medical Treatment Act".

SEC. 2. DEFINITIONS.

As used in this Act:

(1) ADVERTISING OR LABELING CLAIMS.—The term "advertising or labeling claims" means any representations made or suggested by statement, word, design, device, sound, or any combination thereof with respect to treatment, including a representation made or suggested by a label.

(2) DANGER.—The term "danger" means any serious negative reaction that—

(A) occurred as a result of a method of treatment;

(B) would not otherwise have occurred; and

(C) is more serious than reactions frequently experienced with accepted treatments for the same or similar health problems.

(3) DEVICE.—The term "device" has the same meaning given such term in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)).

(4) DRUG.—The term "drug" has the same meaning given such term in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1)).

(5) FOOD.—The term "food" has the same meaning given such term in section 201(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(f)).

(6) HEALTH CARE PRACTITIONER.—The term "health care practitioner" means any properly licensed medical doctor, osteopath, chiropractor, or naturopath.

(7) LABEL.—The term "label" has the same meaning given such term in section 201(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(k)).

(8) LEGAL REPRESENTATIVE.—The term "legal representative" means a parent or an individual who qualifies as a legal guardian under State law.

(9) TREATMENT.—The term "treatment" means the use of any food, drug, device, or procedure.

SEC. 3. ACCESS TO MEDICAL TREATMENT.

(a) IN GENERAL.—Notwithstanding any other provision of law, and except as provided in subsection (b), an individual shall be permitted to be treated by a health care practitioner with any method of medical treatment that such individual desires or the legal representative of such individual authorizes if—

(1) such practitioner agrees to treat such individual; and

(2) the administration of such treatment falls within the scope of the practice of such practitioner.

(b) TREATMENT REQUIREMENTS.—A health care practitioner may provide any method of treatment to an individual described in subsection (a) if—

(1) there is no evidence that such treatment itself, when taken as prescribed, is a danger to such individual;

(2) in the case of an individual whose treatment is the administration of a food, drug, or device that has not been approved by the Food and Drug Administration—

(A) such individual has been informed that such food, drug, or device has not yet been approved or certified by the Food and Drug Administration for use of the medical condition of such individual; and

(B) such food, drug, or device (or information accompanying the administration of

such food, drug, or device) contains the following warning:

"WARNING: This food, drug, or device has not been proved safe and effective by the Federal Government and any individual who uses such food, drug, or device, does so at his or her own risk.";

(3) such individual has been informed of the nature of the treatment, including—

(A) the contents of such treatment;

(B) any reasonably foreseeable side effects that may result from such treatment; and

(C) the results of past applications of such treatment by the health care practitioner and others;

(4) except as provided in subsection (c), there have been no claims, including advertising and labeling claims, made with respect to the efficacy of such treatment; and

(5) such individual—

(A) has been provided a written statement that such individual has been fully informed with respect to the information described in paragraphs (1) through (4);

(B) desires such treatment; and

(C) signs such statement.

(c) CLAIM EXCEPTIONS.—Subsection (b)(4) shall not apply to an accurate and truthful reporting by a practitioner of the results of the practitioner's administration of a treatment in recognized journals or at seminars, conventions, or similar meetings, if the only financial gain of such practitioner with respect to such treatment is the payment received from an individual or representative of such individual for the administration of such treatment to such individual.

SEC. 4. REPORTING OF A DANGEROUS TREATMENT.

If a practitioner, after administering such treatment, discovers that the treatment itself (when taken as prescribed) was a danger to the individual receiving the treatment, the practitioner shall immediately report to the Secretary of Health and Human Services the nature of the treatment, the results of such treatment, the complete protocol of such treatment, and the source from which such treatment or any part thereof was obtained.

SEC. 5. TRANSPORTATION OF MEDICATION AND EQUIPMENT.

Notwithstanding any other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 201 et seq.), a person may introduce or deliver into interstate commerce medication or equipment for use in accordance with this Act.

SEC. 6. RESTRICTIONS ON LICENSING BOARDS.

A licensing board that issues licenses to health care practitioners may not deny, suspend, or revoke the license of a health care practitioner solely because such practitioner provides treatment to which section 3 applies.

SEC. 7. PENALTY.

A health care practitioner who violates any provisions under this Act shall not be covered by the protections under this Act and shall be subject to all other applicable laws and regulations.●

● Mr. DECONCINI. Mr. President, I join my colleague, the distinguished Senator from South Dakota, Mr. DASCHLE, as cosponsor of his legislation Access to Medical Treatment Act, which he is introducing today. This bill will allow the development and utilization of alternative medical treatments that may help patients and have been shown to have no adverse effects. I firmly believe that we must allow patients, when they have been fully informed of the alternative treatments, to control their own fate and obtain treatments they believe are beneficial to their well-being.

The FDA has made great strides toward reducing the time and expense involved in obtaining approval for medical treatments, devices and medications. Unfortunately, even with these improvements, medical consumers still have great dificulty in obtaining access to alternative health treatments. The proposal which we introduce today will not undermine nor reduce the role of FDA in assuring the effectiveness and efficacy of medical treatments and devices.

In this bill, we have simply stated that a licensed health care practitioner may provide any method of medical treatment that the individual desires provided there is no evidence that the treatment is dangerous and that the patient has been fully informed of any side effects from the treatment.

I am pleased that we have assured consumer safety protections within the bill. Those protections include informing the patient of the nature and foreseeable side effects of the treatment and the fact that FDA has not yet certified nor approved the device, food nor treatment. We have also prohibited any claims regarding efficacy from being made. We have also guaranteed consumers that reporting on the results or trials of any alternative treatments will be made by individuals who do not have any financial interest in the supply or administration of such treatment.

This bill seeks to empower the patient and to restore patient control over decisions affecting his or her own health care. Patients will be able to avail themselves of alternative and non-conventional treatment if they believe such treatment is beneficial. Patient control is an essential component of good health care which we must strive to maintain and preserve in debate on this bill as well as the larger health care reform proposals which we will address later this summer. We must promote and enable people to have access to alternative health care if it is viewed as helpful to alleviating pain and suffering.

Let me share with you a personal example of an alternative medical treatment which I found beneficial in the treament of recurring back and neck pain. Acupuncture treatments were initially viewed in this country as an alternative medical treatment without proven efficacy. In fact, the medical community in general frowned upon this approach to the treatment of pain. Despite the misgivings of established medicine, I pursued this treatment which I found very helpful in relieving my neck and back pain. I am glad that this treatment modality was available. Others should have access to such care if he or she determines such care is appropriate.

I am pleased to cosponsor this legislation with my colleague, Senator DASCHLE, and urge expeditious and favorable consideration of this important step forward in opening the door a little wider to alternative medical treatments. Patients deserve to walk through that door if they so choose.●

By Mr. BINGAMAN:

S. 2141. A bill to provide a grant program to award grants to certain rural communities that provide emergency medical services for Federal-aid highways, and for other purposes; to the Committee on Environment and Public Works.

EMERGENCY MEDICAL SERVICES ACT OF 1994

● Mr. BINGAMAN. Mr. President, I introduce legislation to authorize the Department of Transportation to establish a program providing grants to eligible rural communities which furnish emergency medical services to travelers on Federal-aid highways and which submit an application that is approved by the Secretary.

Many small, rural communities are increasingly asked to bear the burden of providing life saving, emergency medical services to victims of accidents along our Nation's Federal highway system. These communities have done this willingly and remarkably well given their meager resources. However, for many communities the burden has become practically overwhelming.

Mr. President, a recent accident along a stretch of U.S. Interstate 40 provides a poignant example of the difficulty which many of our Nation's small communities face in providing EMS services to accident victims along Federal-aid highways. A family of seven was traveling in two separate vehicles on I-40 in route to a ski vacation in Taos, NM. The family was originally from Ireland but currently reside in Plano, TX. As the family was passing a semitrailer, a strong gust of wind pushed the vehicle off the highway and the driver lost control. The second family vehicle was following closely and also lost control. Both vehicles rolled and all but one of the family members were thrown from their vehicles.

Guadalupe County Hospital, located in Santa Rosa, NM, a small town of 2,200 people, responded to the accident scene. The nearest trauma center was located 120 miles away in Albuquerque, NM. Mr. President, because of the efforts of this small, rural hospital, I am happy to report that all seven members of the family survived the accident. This is an example of the importance of the service that our rural communities provide to victims of accidents along Federal-aid highways. Guadalupe County Hospital employees and volunteers provide this service under tremendous

budgetary constraints that all too often leaves them with substandard equipment and inadequate funds to provide training.

Mr. President, I believe that we have a responsibility to help our Nation's rural communities in their efforts to save lives and provide emergency medical service to our Federal highway system. And, I believe that this is a responsibility that is not being met by current Federal programs because our smallest communities often find that available resources are depleted long before they reach our small rural areas like Santa Rosa.

That is why I am today introducing this legislation to provide communities with populations of 10,000 or less, and that are located at least 100 miles from the nearest urban center with a population of 500,000, with grants to purchase ambulances and other emergency medical equipment, and to provide training to emergency medical personnel.

I am pleased to support our Nation's rural communities in their mission to provide quality medical care to travelers from all States on our Federal highways.

It is my hope that we will be able to move swiftly to pass this legislation, and I urge my colleagues to support this bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2141

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

SECTION 1. DEFINITIONS.

As used in this Act:

(1) COMMUNITY.—The term "community" means an incorporated or unincorporated town or village (or equivalent municipal entity) with a population of fewer than 10,000 individuals, as determined by the Bureau of the Census in the census conducted by the Bureau in 1990.

(2) FEDERAL-AID HIGHWAYS.—The term "Federal-aid highways" has the meaning provided the term in section 101 of title 23, United States Code.

(3) RURAL COMMUNITY.—The term "rural community" means a community that is located at a distance of at least 100 miles from an urban center.

(4) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

(5) URBAN CENTER.—The term "urban center" means a municipality with a population of 500,000 or more individuals, as determined by the Bureau of the Census in the census conducted by the Bureau in 1990.

SEC. 2. GRANTS TO RURAL COMMUNITIES FOR EMERGENCY MEDICAL SERVICES.

(a) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall establish a grant program to provide grants to eligible rural communities that provide services to Federal-aid highways and that submit an application that is approved by the Secretary. An application submitted under this subsection shall be in such form as the Secretary may prescribe.

(b) ELIGIBLE RURAL COMMUNITY.—A rural community that expends not less than 25 percent of the funds allocated by the community for emergency medical services for services provided for medical emergencies that occur in the vicinity of a Federal-aid highway shall be eligible to receive a grant under this section.

(c) ELIGIBLE COSTS.—A grant awarded under this section may be used by an eligible rural community to—

(1) purchase ambulances and other emergency medical equipment; and

(2) provide training to emergency medical personnel.

(d) AMOUNT OF GRANT.—The amount of a grant awarded under this section may not exceed $20,000.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of Transportation $10,000,000 to carry out this Act.•

By Mr. LAUTENBERG:

S.J. Res. 193. A joint resolution to designate May 1995 "Multiple Sclerosis Association of America Month"; to the Committee on the Judiciary.

MULTIPLE SCLEROSIS ASSOCIATION OF AMERICA MONTH

• Mr. LAUTENBERG. Mr. President, I introduce legislation that will designate May, 1995 as "Multiple Sclerosis Association of America Month." The Multiple Sclerosis Association of America has worked diligently and now is marking its 25th year of service to multiple sclerosis sufferers. There are over 500,000 individuals in the United States with MS or related neurological disorders and there is no cause, cure or prevention for MS. The goals of the Multiple Sclerosis Association of America are to enhance the quality of life for multiple sclerosis sufferers and their families and to promote, expand and encourage public awareness and knowledge as to the needs and day-to-day concerns of MS patients.

Multiple Sclerosis Association of America members and their families are provided the following services free of charge: a toll-free hotline, peer counseling, patient educational information and referral, loan of therapeutic equipment, barrier-free housing facilities, bimonthly newsletter, and microclimate cooling through NASA technology.

I ask my colleagues to join me in designation the month of May "Multiple Sclerosis Association America Month." This will be a great opportunity to support our constituents who are concerned about health care and working hard to deal with the effects of this illness.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

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

S.J. RES. 193

Whereas in 1995, the Multiple Sclerosis Association of America will observe its 25th year of service to individuals suffering from multiple sclerosis, and their families;

Whereas over 500,000 individuals in the United States suffer from multiple sclerosis or other neurological disorders;

Whereas no cause, cure, or prevention for multiple sclerosis has yet been discovered;

Whereas the goals of the Multiple Sclerosis Association of America are to enhance the quality of life for multiple sclerosis sufferers and their families, and to promote, expand, and encourage public awareness and knowledge regarding the needs and daily concerns of individuals suffering from multiple sclerosis; and

Whereas members of the Multiple Sclerosis Association of America and their families are provided, free of charge, with a toll-free hotline, peer counseling, educational information, treatment referrals, loans of therapeutic equipment, barrier-free housing facilities, a bimonthly newsletter, and, through technology developed by the National Aeronautics and Space Administration, a protective suit designed to cool the body temperature of individuals suffering from multiple sclerosis in order to help restore demyelinated nerves: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) May 1995 is designated "Multiple Sclerosis Association of America Month"; and

(2) the President is authorized and requested to issue a proclamation—

(A) calling on the people of the United States to observe May 1995 with appropriate ceremonies and activities; and

(B) urging appropriate Federal agencies, and interested organizations, groups, and individuals, whenever possible, to promote the fact that the Multiple Sclerosis Association of America provides free services which are designed to assist individuals suffering from multiple sclerosis and their families and to assist the Multiple Sclerosis Association of America achieve its goal of providing a higher standard of living for all Americans afflicted with multiple sclerosis.•

By Mr. STEVENS (for himself, Mr. KERRY, Mrs. BOXER, Mr. BRADLEY, Mr. BROWN, Mr. BRYAN, Mr. BUMPERS, Mr. BURNS, Mr. CHAFEE, Mr. COATS, Mr. COCHRAN, Mr. COHEN, Mr. CONRAD, Mr. DASCHLE, Mr. DOLE, Mr. DOMENICI, Mr. DORGAN, Mr. EXON, Mrs. FEINSTEIN, Mr. GLENN, Mr. GORTON, Mr. GRAHAM, Mr. GRAMM, Mr. HATFIELD, Mr. HELMS, Mr. HOLLINGS, Mr. JEFFORDS, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. KEMPTHORNE, Mr. KENNEDY, Mr. KERREY, Mr. LAUTENBERG, Mr. LOTT, Mr. LUGAR, Mr. MATHEWS, Mr. MCCAIN, Mr. MCCONNELL, Mr. METZENBAUM, MS. MIKULSKI, Mr. MITCHELL, Mr. MURKOWSKI, Mrs. MURRAY, Mr. PACKWOOD, Mr. PELL, Mr. PRESSLER, Mr. REID, Mr. ROBB, Mr. ROCKEFELLER, Mr. ROTH, Mr. SASSER, Mr. SIMPSON, Mr. WALLOP, Mr. WARNER, Mr. WELLSTONE, and Mr. WOFFORD):

S.J. Res. 194. A joint resolution to designate the second week of August, 1994, and the second week of August, 1995, as "National U.S. Seafood Week"; to the Committee on the Judiciary.

NATIONAL U.S. SEAFOOD WEEK

Mr. STEVENS. Mr. President, I introduce a joint resolution to designate the second week of August each year as "National U.S. Seafood Week."

Through this joint resolution we seek to increase the awareness of American consumers of the availability and superior quality of domestically produced seafood.

The joint resolution also recognizes the importance of the commercial seafood industry—both the wild harvesting sector and aquaculture producers—in the United States.

The U.S. seafood industry provides hundreds of thousands of jobs to fish harvesters, growers, processors, managers, biologists, ship builders and suppliers, shippers, carriers, marketing personnel, wholesale and retail sellers, grocers and others.

Our domestic seafood industry produces roughly 10 billion pounds of seafood each year.

American consumers need to be more aware of the vast diversity, quality and availability of U.S. seafood.

Fresh seafood is commercially harvested from the oceans of every region of the country.

I would be remiss not to mention that roughly 6 billion pounds of seafood is harvested each year off Alaska alone.

Despite the availability of so much domestic seafood, American consumers eat only about 15 pounds annually.

Our counterparts in other industrialized nations eat over 50 pounds of seafood each year.

It is also unfortunate that a significant portion of the seafood Americans eat is imported.

The United States is the largest exporter of seafood in the world, but we are also the second largest importer of foreign seafood products.

We are shipping our superior quality U.S. seafood overseas, instead of eating it ourselves.

The average American consumer is unknowingly purchasing foreign seafood when superior quality domestic seafood could be available.

We hope this joint resolution will increase awareness and encourage Americans to consume more of a sustainable and healthy natural resource which is made in the U.S.A.

We hope that the fishing industry, consumer groups, the Departments of Commerce and Agriculture, the President, and every American will help us to celebrate National U.S. Seafood Week this year and in years to come.

We in the Congress and in the administration have recently spent considerable time working on a package to improve our health care system in the United States.

Well, I would point out that the commercial fishing industry has been making a tremendous contribution to the health of Americans by providing a truly healthy protein source.

In a time when we need to decrease the costs associated with health care, a healthy diet of seafood is both a prudent and tasty way for individuals to contribute.

I am proud to work with and thank Senator KERRY for his work on this joint resolution, and the 55 of my colleagues in the Senate who have agreed to be original cosponsors of the bill.

I would also like to thank two bright young Alaskans who helped in developing this joint resolution.

Kristi O'Hara of Naknek, AK, an intern in my office earlier this year, first suggested the concept of a National U.S. Seafood Week to me; and

Kristen Richmond of Anchorage, AK, who is part of my permanent staff, helped draft the joint resolution and worked to bring it to the attention of my colleagues in the Senate.

Their generation and future generations will benefit the most if Americans—particularly young Americans—begin eating more seafood, and make seafood a lifelong habit.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

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

S.J. RES. 194

Whereas, seafood is an important natural resource commercially harvested from the waters of every region of the United States;

Whereas, an increasing amount of seafood is also available through United States aquaculture production;

Whereas, the United States seafood industry provides hundreds of thousands of jobs and includes fish harvesters, growers, processors, managers, biologists, ship builders and suppliers, shippers, carriers, marketing personnel, wholesale and retail sellers, grocers and others;

Whereas, the buying and consumption of American seafood products boosts our national economy and supports the "Made in the USA" theme;

Whereas, seafood is one of the healthiest forms of protein, and is low in calories, fat and cholesterol;

Whereas, seafood is being processed in increasingly creative forms to provide a vast market and a great variety of products;

Whereas, each United States citizen consumes an average of 15 pounds of seafood annually, while citizens of some other industrialized fishing countries each consume over 50 pounds of seafood annually;

Whereas, the United States harvests and produces 10 billion pounds of seafood annually;

Whereas, the United States is the largest exporter of seafood in the world, but also the second largest importer of seafood, and domestic seafood which could be consumed by United States citizens is being exported to other countries;

Whereas, the average American consumer will unknowingly purchase foreign seafood due to a lack of awareness about the availability and superior quality of domestic seafood;

Whereas, competition in the world seafood market has increased, in part due to the subsidization of foreign seafood industries, particularly foreign aquaculture;

Whereas, domestic seafood is one of the nation's most valuable sustainable natural resources; and

Whereas, the United States could become a much healthier nation simply by eating a better diet, including eating more domestic seafood: Now, therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the second week of August, 1994, and the second week of August, 1995, be designated as "National U.S. Seafood Week." The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate ceremonies and activities.

• Mr. KERRY. Mr. President, today I would like to express my support of the joint resolution that Senator STEVENS and I are introducing designating the second week in August as "National U.S. Seafood Week." This joint resolution would recognize the role of the United States commercial seafood industry—including both those who fish the open seas and aquaculture producers—in supplying its valuable products to American consumers. The seafood industry, a vital and historic component of the culture of the Commonwealth of Massachusetts, nationwide also provides hundreds of thousands of jobs for fisherman, growers, processors, managers, biologists, shipbuilders and suppliers, shippers, carriers, marketing personnel, wholesale and retail sellers, grocers, restaurateurs, and others.

National U.S. Seafood Week would increase the awareness of the important differences between domestic and imported seafood products. Many American consumers are not fully aware of the availability and superior quality of the roughly 10 billion pounds of U.S. seafood products produced each year by the domestic seafood industry.

National U.S. Seafood Week will help to educate American consumers about the availability and high quality of domestic seafood, and to encourage the increased consumption of this valuable and nutritious natural resource. The awareness of the superiority of domestic products will help ensure that those involved in the harvesting, producing, processing and selling of U.S. seafood products will receive fair compensation for their efforts, which in turn, will help guarantee the sustainable harvesting and production of these precious resources.

I urge the speedy passage of the joint resolution.•

By Mr. DECONCINI (for himself, Mr. GRASSLEY, Mr. KERRY, Mr. MURKOWSKI, Mr. LIEBERMAN, Mr. MITCHELL, Mr. REID, Mr. WOFFORD, Mr. LAUTENBERG, Mr. JEFFORDS, Mr. WALLOP, Mr. WARNER, Mr. MOYNIHAN, Mr. KENNEDY, Mr. SARBANES, Mr. HOLLINGS, Mr. HEFLIN, Mr. GLENN, Mr. FORD, Mr. CONRAD, Mr. CAMPBELL, Mr. MACK, Mr. KOHL, Mr. SMITH, Mr. COCHRAN,

Mr. BINGAMAN, Mr. DODD, Mr. D'AMATO, Mr. LEVIN, Ms. MIKULSKI, Mr. JOHNSTON, Mr. WELLSTONE, Mr. MATHEWS, Mrs. FEINSTEIN, Mr. NUNN, Mr. BRADLEY, Mr. FEINGOLD, Mr. GRAHAM, Mr. DURENBERGER, Mr. METZENBAUM, Mr. DOLE, Mr. THURMOND, Mr. PRESSLER, Mr. LOTT, Mr. HATCH, Mr. MCCAIN, Mr. SPECTER, Mr. BIDEN, and Mr. DOMENICI):

S.J. Res. 195. A joint resolution to designate August 1, 1994, as "Helsinki Human Rights Day"; to the Committee on the Judiciary.

HELSINKI HUMAN RIGHTS DAY

• Mr. DECONCINI. Mr. President, as Chairman of the Commission on Security and Cooperation in Europe, also known as the Helsinki Commission, I am pleased to introduce today, together with several of my colleagues, a joint resolution to authorize and request the President to designate August 1, 1994, as "Helsinki Human Rights Day."

On August 1, 1975, the leaders of 35 countries gathered in Helsinki to sign the Final Act of the Conference on Security and Cooperation in Europe [CSCE], also referred to as the Helsinki Accords. This agreement launched a dynamic process which has contributed to the positive changes which have occurred in Europe in recent years. The Final Act, the seminal document of this process, covers major aspects of East-West relations, including military security, trade, economic cooperation, environment, scientific and cultural exchanges, as well as human rights and fundamental freedoms.

Membership in CSCE has grown significantly in light of sweeping political developments in Europe, including the demise of the Soviet Union and the former Yugoslavia. Today, 53 countries are participants in the CSCE process—51 Eurasian states, Canada and the United States.

Human rights remains the cornerstone of the CSCE process. The participating States have recognized that human rights and fundamental freedoms are the birthright of all human beings and that the protection and promotion of these rights is the first responsibility of government. The CSCE remains firmly committed to human rights, democracy and the rule of law, and has encouraged peaceful change through free and fair elections.

Over the years, the CSCE has inspired individuals and groups to speak out on behalf of those denied their human rights. It has also served as a useful forum in which individual human rights cases could be raised. Hundreds of political prisoners have been released and thousands of families reunited as a result of the pressure brought to bear within the framework of the Helsinki process. It has also been successful in chipping away at the barriers which artificially divided Europe for decades. We can be proud of our record of strong support for the CSCE.

Today, Europe is attempting to liberate itself from the legacy of the past, though problems persist. Of particular concern is the continued war of aggression and genocide waged against the people of Bosnia-Herzegovia. In addition, several of the newly independent states of the former Soviet Union, as well as tensions in Russia's relations with a number of neighboring states, are also cause for concern. The CSCE can play an instrumental role in addressing these issues and others which have serious consequences for the future of Europe. It can also further contribute to the political and economic transition taking place in much of East-Central Europe and the former Soviet Union

The resolution we introduce today reaffirms our commitment to the Helsinki Accords and the vital importance of respect for human rights and fundamental freedoms in advancing security and cooperation in Europe.

Mr. President, I urge my colleagues to support the adoption of this resolution and ask unanimous consent that the text of the resolution be printed in the RECORD.

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

S.J. RES. 195

Whereas August 1, 1994, is the 19th anniversary of the signing of the Final Act of the Conference on Security and Cooperation in Europe (CSCE) (hereafter referred to as the "Helsinki Accords");

Whereas the participating States have declared their determination to fully respect and apply the Helsinki Principles Guiding Relations among participating States, including respect for human rights, the territorial integrity of states, and the inviolability of frontiers;

Whereas the participating States have declared that "the protection and promotion of human rights and fundamental freedoms and the strengthening of democratic institutions continue to be a vital basis for our comprehensive security";

Whereas the participating States have declared that "respect for human rights and fundamental freedoms, including the rights of persons belonging to national minorities, democracy, the rule of law, economic liberty, social justice, and environmental responsibility are our common aims";

Whereas the participating States have acknowledged that "there is still much work to be done in building democratic and pluralistic societies, where diversity is fully protected and respected in practice";

Whereas the war in Bosnia-Hercegovina has resulted in organized, systematic, and premeditated war crimes and genocide and has threatened stability and security in Europe;

Whereas ethnic tensions, civil unrest, and egregious human rights abuses in several of the recently admitted CSCE States continue to result in significant violations of CSCE commitments; and

Whereas the CSCE has contributed to positive developments in Europe by promoting and furthering respect for the human rights and fundamental freedoms of all individuals and groups and provides an appropriate framework for the further development of such rights and freedoms and genuine security and cooperation among the participating States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. HELSINKI HUMAN RIGHTS DAY.

(a) DESIGNATION.—August 1, 1994, the 19th anniversary of the signing of the Final Act of the Conference on Security and Cooperation in Europe, is designated as "Helsinki Human Rights Day".

(b) PROCLAMATION.—The President is authorized and requested to issue a proclamation reasserting America's commitment to full implementation of the human rights and humanitarian provisions of the Helsinki Accords, urging all signatory States to abide by their obligations under the Helsinki Accords, and encouraging the people of the United States to join the President and Congress in observance of Helsinki Human Rights Day with appropriate programs, ceremonies, and activities.

(c) HUMAN RIGHTS.—The President is requested to convey to all signatories of the Helsinki Accords that respect for human rights and fundamental freedoms continues to be a vital element of further progress in the ongoing Helsinki process; and to develop new proposals to advance the human rights objectives of the Helsinki process, and in so doing to address the major problems that remain.

SEC. 2. TRANSMITTAL.

The Secretary of State is directed to transmit copies of this joint resolution to the Ambassadors or representatives to the United States of the other 52 Helsinki signatory States.•

ADDITIONAL COSPONSORS

S. 373

At the request of Mr. DECONCINI, the name of the Senator from Tennessee [Mr. MATHEWS] was added as a cosponsor of S. 373, a bill to amend title 17, United States Code, to modify certain recordation and registration requirements, to establish copyright arbitration royalty panels to replace the Copyright Royalty Tribunal, and for other purposes.

S. 1063

At the request of Mr. HATCH, the name of the Senator from Kentucky [Mr. MCCONNELL] was added as a cosponsor of S. 1063, a bill to amend the Employee Retirement Income Security Act of 1974 to clarify the treatment of a qualified football coaches plan.

S. 1288

At the request of Mr. AKAKA, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 1288, a bill to provide for the coordination and implementation of a national aquaculture policy for the private sector by the Secretary of Agriculture, to establish an aquaculture commercialization research program, and for other purposes.

S. 1443

At the request of Mr. EXON, the name of the Senator from Colorado [Mr.

BROWN] was added as a cosponsor of S. 1443, a bill to amend the Internal Revenue Code of 1986 to repeal the excise tax on luxury passenger vehicles.

S. 1465

At the request of Mr. HARKIN, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of S. 1465, a bill to amend certain education laws regarding gender equity training, dropout prevention, and gender equity research and data.

S. 1669

At the request of Mrs. HUTCHISON, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 1669, a bill to amend the Internal Revenue Code of 1986 to allow homemakers to get a full IRA deduction.

S. 2041

At the request of Mr. LAUTENBERG, the names of the Senator from Iowa [Mr. GRASSLEY] and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of S. 2041, a bill to encourage beneficiary developing countries to provide adequate protection of intellectual property rights, and for other purposes.

S. 2062

At the request of Mr. INOUYE, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 2062, a bill to amend the Federal Meat Inspection Act and the Poultry Products Inspection Act to permit the movement in interstate commerce of meat and meat food products and poultry products that satisfy State inspection requirements that are at least equal to Federal inspection standards, and for other purposes.

S. 2114

At the request of Mr. BIDEN, the names of the Senator from South Carolina [Mr. HOLLINGS], the Senator from North Dakota [Mr. CONRAD], the Senator from Alaska [Mr. STEVENS], and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of S. 2114, a bill to provide for the payment to States of plot allowances for certain veterans eligible for burial in a national cemetery who are buried in cemeteries of such States.

SENATE JOINT RESOLUTION 71

At the request of Mr. BROWN, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of Senate Joint Resolution 71, a joint resolution to designate June 5, 1993, as "National Trails Day."

SENATE JOINT RESOLUTION 178

At the request of Mr. DOMENICI, the names of the Senator from Minnesota [Mr. DURENBERGER], the Senator from Alaska [Mr. STEVENS], and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of Senate Joint Resolution 178, a joint resolution to proclaim the week of October 16 through October 22, 1994 as "National Character Counts Week."

SENATE JOINT RESOLUTION 182

At the request of Mr. JOHNSTON, the names of the Senator from Washington [Mr. GORTON] and the Senator from Alabama [Mr. HEFLIN] were added as cosponsors of Senate Joint Resolution 182, a joint resolution to designate the year 1995 as "Jazz Centennial Year."

SENATE JOINT RESOLUTION 183

At the request of Mr. ROTH, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of Senate Joint Resolution 183, a joint resolution designating the week beginning May 1, 1994 as "Arson Awareness Week."

SENATE RESOLUTION 148

At the request of Mr. SIMON, the names of the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Arizona [Mr. DECONCINI], the Senator from Iowa [Mr. GRASSLEY], and the Senator from Indiana [Mr. COATS] were added as cosponsors of Senate Resolution 148, a resolution expressing the sense of the Senate that the United Nations should be encouraged to permit representatives of Taiwan to participate fully in its activities, and for other purposes.

AMENDMENTS SUBMITTED

TECHNICAL CORRECTION ACT OF 1994

MCCAIN (AND INOUYE) AMENDMENT NO. 1736

Mr. FORD (for Mr. MCCAIN, for himself, and Mr. INOUYE) proposed an amendment to the bill (S. 1654) to make certain technical corrections; as follows:

On page 1, strike all of Section 1 and insert in lieu thereof the following:

(a) ENVIRONMENTAL COSTS.—Section 7 of the Northern Cheyenne Indian Reserved Water Rights Settlement Act of 1992 (Public Law 102-374, 106 Stat. 1186 et seq.) is amended by adding the following new subsections (f) and (g) and redesignating the succeeding subsections accordingly:

"(f) ENVIRONMENTAL COSTS.—All costs associated with the Tongue River Dam Project for environmental compliance mandated by federal law and fish and wildlife mitigation measures adopted by the Secretary are the sole responsibility of the United States. Funds for such compliance shall be appropriated pursuant to the authorization in subsection (e), and shall be in addition to funds appropriated pursuant to Section 7(b)(1) of the Act. The Secretary is authorized to expend not to exceed $625,000 of funds appropriated pursuant to subsection (e) for fish and wildlife mitigation costs associated with Tongue River Dam construction authorized by the Act, and shall be in addition to funds appropriated pursuant to Section 7(b)(1) of the Act."

"(g) REIMBURSEMENT TO STATE.—The Secretary shall reimburse Montana for expenditures for environmental compliance activities, conducted on behalf of the United States prior to enactment of this subsection (g), which the Secretary determines to have been properly conducted and necessary for completion of the Tongue River Dam Project. Subsequent to enactment of this subsection (g), the Secretary may not reimburse Montana for any such environmental compliance activities undertaken without the Secretary's prior approval."

(b) AUTHORIZATIONS.—The first sentence of section 4(c) of the Northern Cheyenne Indian Reserved Water Rights Settlement Act of 1992 (Public Law 102-374; 106 Stat. 1186 et seq.) is amended to read as follows: "Except for authorizations contained in subsection 7(b)(1)(A), 7(b)(1)(B), and the authorization for environmental compliance activities for the Tongue River Dam Project contained in subsection 7(e), the authorization of appropriations contained in this Act shall not be effective until such time as the Montana water court enters and approves a decree as provided in subsection (d) of this section."

(c) EFFECTIVE DATE.—The amendments made by this section shall be considered to have taken effect on September 30, 1992.

MCCAIN (AND INOUYE) AMENDMENT NO. 1737

Mr. FORD (for Mr. MCCAIN, for himself, and Mr. INOUYE) proposed an amendment to the bill S. 1654, supra; as follows:

"At the end of the bill add the following:

"Section 16 of the Act of June 18, 1934 (25 U.S.C. 476) is amended by adding at the end of the following new subsections:

"(f) PRIVILEGES AND IMMUNITIES OF INDIAN TRIBES; PROHIBITION ON NEW REGULATIONS.—Department or agencies of the United States shall not promulgate any regulation or make any decision or determination pursuant to the Act of June 18, 1934, (25 U.S.C. 461 et seq., 48 Stat. 984) as amended, or any other Act of Congress, with respect to a federally recognized Indian tribe that classifies, enhances, or diminishes the privileges and immunities available to the Indian tribe relative to other federally recognized tribes by virtue of their status as Indian tribes.

"(g) PRIVILEGES AND IMMUNITIES OF INDIAN TRIBES; EXISTING REGULATIONS.—Any regulation or administrative decision or determination of a department or agency of the United States that is in existence or effect on the date of enactment of this Act and that classifies, enhances, or diminishes the privileges and immunities available to a federally recognized Indian tribe relative to the privilable and immunities available to other federally recognized tribes by virtue of their status as Indian tribes shall have no force or effect.".

NOTICES OF HEARINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will be holding a hearing on Tuesday, May 24, 1994, beginning at 2:30 p.m., in 628 Dirksen Senate Office Building on S. 2075, to amend the Indian Child Protection and Family Violence Prevention Act to reauthorize and improve programs under the act, and on S. 2074, the Crime Victim Assistance Improvement Act.

Those wishing additional information should contact the Committee on Indian Affairs at 224-2251.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. NUNN. Mr. President, I would like to announce for the information of

the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs will hold hearings on "International Organized Crime and Its Impact on the United States."

This hearing will take place on Wednesday, May 25, 1994, at 9:30 a.m. in room 342 of the Dirksen Senate Office Building. For further information, please contact Eleanore Hill of the subcommittee staff at 224-3721.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for my colleagues and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The purpose of the hearing is to receive testimony on implementation of DOE's alternative fuel vehicle and fleet programs.

The hearing will take place on Thursday, June 16, 1994, at 9:30 a.m. in room SD-366 of the Dirksen Senate Office Building, First and C Street, NE., Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the printed hearing record should send their comments to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510, Attention: Leslie Black Cordes.

For further information, please contact Leslie Black Cordes of the committee staff at 202/224-9607.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Thursday, May 19, 1994, at 9:30 a.m. in executive session, to discuss pending military nominations.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, May 19, beginning at 2 p.m. to conduct a hearing on the risks and regulation of financial derivatives.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee for authority to meet on Thursday, May 19, at 9:30 a.m. for a hearing on: Regulatory Review and Paperwork Reduction Act.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet on May 19, 1994, at 8 a.m., to be reconvened in the afternoon, for an executive session to consider the Health Security Act.

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

SUBCOMMITTEE ON AGRICULTURAL PRODUCTION AND STABILIZATION OF PRICES

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry Subcommittee on Agricultural Production and Stabilization of Prices be allowed to meet during the session of the Senate on Thursday, May 19, 1994, at 10 a.m. in SR-332, on the crop insurance reform.

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

SUBCOMMITTEE ON PUBLIC LANDS NATIONAL PARKS AND FORESTS

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 2 p.m., May 19, 1994, to receive testimony on H.R. 3252, to provide for the conservation, management, or study of certain rivers, parks, trails, and historic sites, and for other purposes; and H.R. 4034, to amend the Urban Park and Recreation Recovery Act of 1978 to authorize grants for the expansion of recreation opportunities for at risk youth in urban areas with a high prevalence of crime, and for other purposes; S. 523, to expand the Fort Necessary National Battlefield, and for other purposes; S. 2089, to authorize the establishment of the Steamtown national historic site, and for other purposes; S. 1652, to amend the National Trails System Act to designate the great western trail for potential addition to the National Trails System, and for other purposes; and S.J. Res. 152, to designate the visitors-center at the Channel Islands National Park, CA, as the "Robert J. Lagomarsino Visitors Center.

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

SUBCOMMITTEE ON SUPERFUND, RECYCLING AND SOLID WASTE MANAGEMENT

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Superfund, Recycling and Solid Waste Management, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Thursday, May 19, beginning at 3 p.m., for the sole purpose of discussing the chairman's Mark for superfund reauthorization legislation.

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

ADDITIONAL STATEMENTS

CONNTREK

• Mr. LIEBERMAN. Mr. President, I rise today before you to acknowledge the young participants of ConnTrek. These students, in grades 4 through 9, spend 1 week in the summer to walk 100 miles across Connecticut to raise money to send children with cancer to Paul Newman's Hole in the Wall Gang Camp.

ConnTrek was founded in 1987 by a small group of middle school children from Tolland who were inspired by the book "A Walk Across America" by Peter Jenkins, which tells the story of a man who traveled on foot across the entire Nation. Motivated by the book, these ambitious sixth graders decided to raise money for charity while following Mr. Jenkins' example.

Among the charity organizations ConnTrek has been able to help in the past are the March of Dimes and the American Cancer Society. In addition, ConnTrek has aided an individual with cancer who had no insurance. For the past 3 years, ConnTrek has contributed to Paul Newman's Hole in the Wall Gang Camp in Ashford, CT.

Through the years, ConnTrek has grown to include children from the towns of Pawcatuck, Tolland, Lebanon, Columbia, South Windsor, East Hampton, and Old Lyme. Each year, the Connecticut Army National Guard provides the 100-mile escort for the children.

ConnTrek has received commendations from several important individuals including President George Bush, Connecticut Governor O'Neill, and Connecticut Governor Weicker. The organization has also been commended by the Congress of the United States and the Connecticut General Assembly.

The children who participate in ConnTrek should be recognized a very special group of youths. By selflessly giving their time and energy in helping others, these students have demonstrated that youths today can make a difference in the world. Thus, it is with great pride that I thank and congratulate the young participants of ConnTrek in their seventh annual walk-a-thon.•

REMARKS MADE BY HON. HECTOR LUIS ACEVEDO

• Mr. SIMON. Mr. President, Hector Luis Acevedo, the mayor of San Juan and the chairman of the National League of Cities [NLC] Task Force on Violence gave an outstanding speech entitled "Ten Considerations on Violence" at the NLC Congressional City Conference in March. Many of the areas he points to as serious concerns—the negative impact of television violence on our society, the interrelationship of poverty and violence, and the

importance of measures to control the proliferation of gun violence in our country—are issues I have worked on for years. I share these concerns and commend him for bringing them to the Nation's attention.

I urge my colleagues to consider the important issues Mayor Acevedo raises and the suggestions he offers in his speech. I ask that the text of his speech be entered into the RECORD.

The remarks follow:

TEN CONSIDERATIONS ON VIOLENCE

INTRODUCTION

Normally when we are going to speak about crime, we call the police. This time we are calling the doctor. As elected officers we have to look for alternatives to solve the problems of our people. Regarding violence in our society in the past we have concentrated our focus in reacting to violence through the criminal justice system, neglecting strategies of violence prevention through the public health sector.[1]

Let's reflect on some vital considerations regarding violence.

1. Learned behavior

"We must understand that violence is not inevitable."[2]

We know that violence is a learned behavior. Most contemporary psychologists agree that aggression is a learned behavior, and thus behavior that can be unlearned.

There is a scientific consensus that aggressive and violent behaviors are learned responses to frustration, that violence can also be learned as an instrument for achieving goals, and that such learning occurs through observation—whether in the family, among peers, somewhere in the neighborhood, or through mass media.[3]

Research on the cycle of violence within the family have shown that children who are physically abused or neglected are more likely than others to abuse their own children, and that children who witness parental violence also are more likely to use physical violence against others.

Because violence is a learned behavior, exposure to violence in the family is a determinant factor on the transmission of violence, whether across generations or within community perimeters.

2. Violence is an American problem

A fundamental starting point in our analytical endeavors must be the recognition that violence is, truly, an American problem, not an international problem. The statistics are relentless, and the tendency is regrettably crystal-clear:

1980, U.N. World Health Organization statistics—the American homicide rate was topped only by that of Guatemala, Thailand, and my own homeland, Puerto Rico—which is a Commonwealth of the United States.

1985, Same source places Puerto Rico first, with a homicide rate of 30.6 per 100,000 for males of all ages, followed by Paraguay with 13.6, and mainland U.S.A. with 12.7.

1986, American Medical Association—comparing homicide rates for young men in developed nations, the U.S. rate of 21.9 per 100,000 young males was between four (4) and seventy three (73) times higher than the homicide rates for young males in any other industrialized nation.

1988, Interpol—The American homicide rate for all races and every age group was 8.4 per 100,000 as compared to slightly over 2.0 per 100,000 in Spain and slightly less than 2.0 per 100,000 in England.

The latest international statistics from the National Center for Health Statistics 1990, and World Health Organization Statistics Annuals 1990 and 1991, are much bleaker—and, a picture being sometimes more eloquent than words, this graph dramatically displays violence as a grave American problem when compared to the rest of the world.

3. Poverty concentration and violence

While undoubtedly, violence is learned behavior, we cannot, must not, lose sight of the structural dimensions of violence. However we might try—and we must try, to re-educate, and to unlearn violent behavior—no long-term changes in values or culture can occur without broad, deep, institutional changes to truly reduce societal inequality.[4]

There are numerous dimensions of poverty related to high rates of violence, including the concentration of poverty, instability in resident population, overcrowding, few or weak neighborhood ties, and family disruption[5]—aggravated, unfortunately yet almost invariably, by a parallel illegal economic system of drug traffic and drug availability . . . what, in a nutshell, Deborah Prothrow-Stith calls the "concentration effects" of living in a neighborhood that is overwhelmingly impoverished.

The poor and minorities are doubly chastised—by poverty itself, with all its inherent harshness, and by the sequence of violence that poverty undoubtedly entails. The Centers for Disease Control—after systematic review of data and research on violence—so concludes, in no uncertain terms, and I quote: "The evidence is consistent and compelling that poor people bear a disproportionate share of . . . violence in our society. Homicide victimization rates consistently have been found to be highest in those parts of cities where poverty is most prevalent. In 1991 the risk of becoming a victim of a nonfatal violent assault in the United States was three times greater for persons from families with incomes below $7,500 than for those with family incomes above $50,000".

Large cities, meaning cities that include "those parts where poverty is most prevalent", together with high population density, high population turnover, and physical characteristics that propitiate criminal activity are, demonstrably, more vulnerable to violence, as shown in graphs relating violence rates by city size.

Poverty, race, ethnicity, and violence, are statistics that are tragically intermeshed:

The lifetime probability of murder victimization was 1 out of 153 for the average American, and 1 out of 28 for a black American—and if a young black man dies, the odds are 1 out of 3 that his death will be due to homicide.

Ethnicity is also an important determinant as shown by mortality data where the overall homicide rate for Hispanic men more than triples the rate for white men—and in younger male groups almost 5 times that of white males.

"The UCR Supplementary Homicide Report discloses that most victims in single offender-single victim homicides are slain by an offender of the same ethnic status."[6]

These sad statistics are summarized in graphs and table accompanying my presentation. However, beware of blind comparisons between white versus black or minority violence, which so often mirror racial politics instead of providing valuable insights.

These comparisons, as has been scientifically demonstrated, do not reflect genetic inferiority or cultural aberrations, but rather the impact of sheer poverty.

As we take up the mission of controlling violence, we must be fully cognizant and powerfully determined to address the many social and economic problems that are yet to be addressed in our country: poverty and its concomitants—poor housing, poor education, joblessness, and a sense of isolation and powerlessness about the future.

4. Gun control, or preventing firearm injuries

We must succeed in reducing violent uses of at least some types of guns, and make sure that those not be replaced with more lethal weapons. We must be aware of the reduced margin of effectiveness of laws regarding guns like the Brady Bill. Over 80 percent of the firearms used in crimes are obtained by theft, or illegal, or unregulated transactions, which means we must disrupt illegal gun markets, block juvenile access to firearms, and progressively persuade society to become less dependent on individual gun ownership.

5. Strategy to jail has not been the solution

Clearly, jails have not been a sufficient response. Today we have more people in prison than ever before—average prison time served per violent crime roughly tripled between 1985 and 1989—and if that punishment were sufficient deterrent, criminal incidence should be declining, yet FBI statistics indicate the opposite.[8]

Preeminent in this urgent search for new analytical tools and strategies is the public health approach to preventing violence. Its primary conviction, based both on previous successful initiatives and on time-series analysis of violence, is that violence is not inevitable, that it can be prevented. With prevention of violence as its target, the public health strategy relies and expounds a renewed determination to apply the scientific method to the solution of social problems, to do so in a multi-disciplinary manner, to interlock diverse government and private entities, and to enlist communities in truly strong grass-roots movements.

6. Public policy in public housing

When the better role models in high-risk communities are penalized with higher-rentals—such as 30% of family income the community becomes destabilized. This policy exacerbates the "concentration effects" of ghetto poverty, provoking an exodus of poor working class families, whose departure removes important role models and important social buffers.

As more affluent and stable populations move out of poverty areas, the communities left behind have lost their most effective role models and institutional leaders. Those remaining behind find themselves ignored or threatened, and younger, "glamorous", and at least temporarily successful, drug dealers, take over and appeal to the very young.

A maximum fixed rent for public housing residents is an urgent, practical, and direct public policy that should be adopted immediately.

7. Role of violence idols

Violence being a learned behavior, children imitate aggressive conduct that they have seen others use to their advantage, whether the observed is seen on TV or in person. TV shows many times project the inhuman traits of violent people—who never change, who never learn their lesson, who never evolve to pro-social attitudes. "It has been reported that in the movie Total Recall we saw 74 deaths, in RoboCop 81, 106 in Rambo III, and 264 dead in Diehard II."[9]

Footnotes at the end of article.

And beyond the influence of the TV violence strategist, and the violent father, stepfather, or transient male figure, and the success and glamour of the neighborhood drug-dealer, are the roles of violence idols. We should have a media campaign on TV and movie theaters neutralizing the romantic view of violence and promoting non-violent values.

8–9. Early intervention and education for life

Because violent behavior is learned early, a key consensus upon which to build violence prevention strategies is early intervention. Whatever scholarly or ideological differences may prevail concerning the causes of violence, or regarding control strategies and dollar investments, there is no dispute regarding the critical character of early intervention. Attorney General Janet Reno has stated "The most formative time of a person's life is in the ages of 0 to 3 when they learn the concept of reward and develop the sense of a conscience and punishment". Within the public health approach, early interventions are considered the most effective interventions in the long run because they shape attitudes, knowledge, and behavior while the subjects are still open to positive influences. A major conclusion of a ten-year study by the Harvard School of Public Health examining what steers inner-city children towards crime, relates to early intervention: "Our rationale for the focus on early childhood is not that we believe that interventions in this period offer a panacea to control violence but rather that it is a period during which the central nervous system changes rapidly and profoundly and during which the attitudes and habits of children are formed".

However, one must be aware that early intervention is not a lifelong vaccine against violence, because of the wide variety of influences that over a lifetime affect every person, thus requiring sustained and reinforced efforts to promote pro-social attitudes and behavior.

It has been demonstrated that violent behavior results from a complex interplay of multiple factors, and progressively there is a conviction that violent behavior may be triggered over multiple points in a life span. Hence, evidence suggests that early intervention must be followed by "boosters" to maintain positive pathways in social conduct. We are, then, speaking of education for life.

We should include integrated conflict-resolution educational programs in schools and communities. We educate for math, reading and writing, we should educate ourselves to solve problems, to confront our anger, peer pressure, and other situations of real life.

10. We need the police

Police, courts, jails, drug treatment on demand, are indispensable tools for combatting violence. A competent criminal investigation system and efficient prosecution of criminals are vital strategies. Community policing goes in the right direction.[10] The certainty or probability of catching a criminal is more important than the amount of time he serves in jail.[11]

PREVENTION STRATEGIES AND RECOMMENDATIONS

Violence, in many of our cities, is the foremost fear, and in those cities—and nationwide—it is the foremost concern and top programmatic priority.

Nationwide, the most systematic and comprehensive efforts to understand and control violence, at this most difficult and complex juncture, are those conducted by the Centers for Disease Control, specifically its Injury Control Division headed by Dr. Mark Rosenberg; the encyclopedic examination of violence conducted by the National Research Council; and President Clinton's inter-agency work group on violence prevention chaired by Peter Edelman, counselor to the Health and Human Services Secretary Donna Shalala.

Panoramically, the key strategies advocated by these most authorized sources include: recommendations for social and cultural changes, innovations and strengthening of health and social services, upgrading the effectiveness of the criminal justice system, and changes in the environment and other physical circumstances that either facilitate or discourage violent acts.

In closing, I wish to underline one additional very strong point of consensus regarding strategies for the control of violence. The complexity of violent behavior, compounded with each community's unique conditions and perceptions, precludes generic prescriptions or uniform formulas. Each city, indeed, each community, must conduct its own fact-finding and analysis to determine which interventions are most promising in their particular setting—and be willing to test, revise, and persevere in this most crucial social responsibility.

We as elected officers have a historic role in promoting the quality of life of our people. Let's go for it.

APPENDIX: OVERVIEW OF POLICY RECOMMENDATIONS

Centers for Disease Control

Decrease the cultural acceptance of violence.

Reduce racial discrimination and the effects of racism.

Reduce gender inequality and support more flexible male role models.

Reduce the consumption of alcohol and other drugs

Teach conflict-resolution skills.

Increase education for family life, family planning and child rearing.

Support families through community-based services.

Remedy problems in the medical recognition of violence, and decrease disincentives for medical personnel to become involved.

Improve treatment for victims of violence—including consequences other than injuries—and decrease financial barriers to care for victims.

Improve the health care system's capacity for identifying the perpetrators of violence, reporting victims of interpersonal violence, and improving cooperation between the health care systems, police departments, and schools.

Focus on prevention and treatment of conditions related to alcohol and drug abuse, and train high risk adolescents, making jobs available for them.

Treat physical assaults among family, intimates, and acquaintances as criminal behavior, and train police and citizen intervention teams to mediate in such disputes.

Improve linkages in police and social services responses to violence.

Establish citizen surveillance and silent-witness programs, facilitate victims' access to legal services, and establish assistance programs for victims and witnesses.

Implement strategies to change environmental factors, including reduction of access to firearms, "defensible space construction", and physical protection or barriers in high risk settings and occupations.

National Research Council

Problem-Solving Initiatives—sustained in 6 specific areas:

Intervening in the biological and psychosocial development of individuals' potentials for violent behavior.

Modifying places, routine activities, and situations that promote violence, with special attention to commercial robberies and high risk situations for sexual violence.

Maximizing the violence reduction effects of police interventions in illegal drug and firearm markets.

Modifying the role of commodities, such as firearms, alcohol and other drugs, in promoting or inhibiting violent events.

Intervening to reduce potentials for violence in bias crimes, gang activities, and community transitions.

Implementing a comprehensive initiative to reduce partner assault.

Improved Statistical Information Systems

Research in Neglected Areas

Multicommunity Longitudinal Studies

White House Inter-Agency Group

Improved anti-violence curricula and mediation training in schools.

Create youth development initiative that connect adolescents to adult mentors and role models, the job market, and year-round academic and recreational opportunities.

Improve intervention and alternative sentencing mechanisms for youth on the brink of serious trouble.

Support community-based efforts to heal racial and cultural divisions and prevent hate crimes.

Strengthen family preservation to prevent family violence.

Support sensible strategies to reduce gun violence.

Enlist news and entertainment media to reexamine, and to deliver anti-violence messages.

Examine more closely the connection between substance abuse and violence.

Develop research to determine which violence prevention strategies work best in which settings.

Assist local law enforcement efforts to protect communities and citizens in their everyday life.

FOOTNOTES

[1] See Koop and Lundberg, *Violence in America: A Public Health Emergency*, JAMA, June 10, 1992, page 3,075.

Mercy, Rosenberg et al, "Public Health Policy for Preventing Violence", *Health Affairs*, Winter 1993.

Rosenberg, O'Carroll, and Powell, "Violence is a Public Health Problem", JAMA, June 10, 1992, page 3,071.

Deborah Prothrow-Stith, "The Epidemic Of Violence and its Impact on the Health Care System", *Henry Ford Hospital Medical Journal*, Vol. 38, Nos. 2 & 3, 1990.

[2] Deborah Prothrow-Stith, *Deadly Consequences*, New York: Harper Perennial, 1991, p. 185.

[3] Albert J. Reiss, Jr. and Jeffrey A. Roth, eds., *Understanding and Preventing Violence*, Washington, D.C.: National Academy Press, 1993, p. 7.

[4] "Numerous studies point to the fact that it is poverty rather than race that makes victims vulnerable to homicide . . . Homicide rates soar in neighborhoods where men have no jobs or job prospects, children are raised without fathers, and social institutions are in disarray." See Prothrow-Smith, p. 17.

[5] "In studies of neighborhood rates of violent crime, measures of the density of multi-unit housing, residential mobility, and the prevalence of disrupted family structures generally accounted for more variation than did measures of poverty and income inequality." See Reiss and Roth, p. 133.

[6] Reiss and Roth, p. 64.

[7] Reiss and Roth, p. 18–19.

[8] Reiss and Roth, p. 6.

[9] Prothrow-Stith, p. 30.

[10] Reiss and Roth, p. 19.

[11] Reiss and Roth, p. 19.●

FACES OF THE HEALTH CARE CRISIS

• Mr. RIEGLE. Mr. President, I rise today in my continuing effort to put a face on the health care crisis in our country. I would like to tell you about the Bawol family of Warren, MI. David Bawol visited one of my State offices earlier this year to share his family's struggles with the high cost of health services without health insurance coverage.

Davis is 50 years old and his wife, Margaret, is 44 years old. Their 19-year-old son, Scott, lives at home with them and is currently looking for a full-time job. David is an auto mechanic by trade, and during his career the service stations and auto repair shops he worked for never offered his family health insurance coverage.

For the past several years, David has been unable to work because he suffers from glaucoma, a degenerative eye condition. His vision deteriorated over time to the point that he was unable to see well enough to work. The glaucoma eventually left him blind in one eye, and partial vision in his other eye was only spared through surgery. Prescription medication now controls the disease from progressing.

When David left his job, his family was forced onto the Federal program Aid for Families With Dependent Children [AFDC], until Margaret was able to find work. While they received AFDC they were covered by Medicaid, which paid for David's surgery, but they lost that insurance when Margaret went to work. David applied for Social Security disability benefits but was denied because he is not considered legally blind. And although he has worked all his adult life, he is too young to be eligible for Medicare.

Working full time as a spot welder at a local shop, Margaret makes about $900 per month to support her family. Margaret's employer does offer health insurance, but Margaret and David cannot afford their required premium share of $160 per month, that amount represents 18 percent of their income.

But the cost of being without insurance is high for the Bawol family. In January of this year, Scott sprained his knee and incurred over $700 in health care bills for the injury. They are making monthly payments to the hospital and physicians to pay off the charges. David must go to the eye doctor every 90 days for checkups to monitor his glaucoma condition. The cost of a single office visit is between $50–$100. In addition, David pays over $50 per month for his prescriptions. Although Margaret is currently healthy, she puts off dental and vision care because they do not have the resources to pay it.

Mr. President, families like the Bawols deserve to have the guarantee of affordable health insurance coverage. When a low-income family cannot afford health insurance, they are forced to take upon themselves the risk of accidents or illness. With health insurance reform, this family would have access to preventive care and would not be liable for unaffordable medical bills in the case of an injury. I will continue to work with the President and my colleagues in the Senate to pass comprehensive health care reform legislation this year.•

C–17 PARACHUTE TESTS SUSPENDED

• Mr. D'AMATO. Mr. President, the contractor wants a bailout, Congress wants to bailout, and now the Army cannot bail out.

I ask that an article from the May 16, 1994, edition of Defense Week by Tony Capaccio entitled, "C–17 Parachute Tests Suspended Due to Army Safety Concern," be printed in the RECORD at the conclusion of my remarks.

The article follows:

C–17 PARACHUTE TESTS SUSPENDED DUE TO ARMY SAFETY CONCERN

(By Tony Capaccio)

The Army's top airborne commander in late March suspended live parachute test jumps from the C–17 after one trooper's nylon canopy tore in two places after brushing the aft fuselage, Defense Week has learned.

The suspension order from 18th Airborne Corps Commander Gen. Henry Shelton remains in effect as C–17 maker McDonnell Douglas Corp., the Army and Air Force continue "diagnostic" flights using dummies to determine both cause and prevention.

The tears showed up during a Feb. 10 jump at Edwards AFB, Calif. The eight-inch and 10-inch rips were the first physical evidence that chutes were grazing against the fuselage during several months of dummy and troops drops, according to an Army official.

The Air Force program office in a statement characterized the contact as resulting in "minor damage to the parachute."

The problems may be a serious blow to the C–17's already uncertain future. The spacious aircraft would literally serve as the 82nd Airborne Division's ride to war from the continental U.S. in a quick deployment, for example, to Panama or Saudi Arabia.

The aircraft has been sold to Congress and the Army for the purported advances it would bring to airborne operations. Significantly, none of the commercial transports the Pentagon is eyeing to possibly replace the C–17 can drop paratroopers.

Aside from its operational impact, the parachute problem has monetary implications. Congress has mandated as one key milestone for releasing procurement funds that the aircraft demonstrate it can drop 70 troopers in one mission.

The paratroop problems are only the latest in a long series of management, production and test performance woes that have dogged the $21.3 billion aircraft program. News of the suspended tests comes as Capitol Hill mulls the C–17's fate during deliberations of the fiscal 1995 defense bill. At immediate issue is whether Congress will approve a proposed Pentagon plan to cap production at 40 aircraft and settle outstanding financial claims with the company.

The House Armed Services Committee two weeks ago cut two aircraft from the Pentagon's six-aircraft request and disapproved the settlement. It has scheduled a hearing for tomorrow to discuss the settlement. Based on the physical evidence, Army testers reviewed video of prior dummy and live jumps. Of 124 live jumps, 27 parachute canopies hit the aircraft's aft fuselage, said Lt. Col. Bud Franklin, the Army's chief development test official at Edwards, in an interview Thursday. Franklin, a paratrooper, has made five C–17 jumps. "We found that 50 percent to 60 percent of the [dummy and live jump] canopies are making contact with the C–17 in the regular [drop] configuration," at 130 knots, with flaps extended 40 degrees and with a three percent to five percent deck angle, he said.

The chute snagged on a "ramp actuator cover seal" located on the fuselage, he said. "That was the first time the Army realized canopies were touching the C–17," Franklin said of the discovery made three months into a scheduled six months of drop tests. "It was a real concern to us."

The trooper whose chute tore landed without incident. He was one of 40 troopers who jumped, 20 from each side of the aircraft. The tear occurred during the last of six live jumps and after completion of six jumps using dummies. No visible damage occurred during those exercises.

"There appears to be some airflow problems around and behind the troop doors," said an Army airborne officer following the tests. "There are just things about the design of the airplane that are different from other airplanes that make parachutes behave differently."

Even though only one parachute was physically damaged during test jumps, it raised a red flag, the airborne official said.

The concern is that it is repeatable," he said. "That was one jumper out of 20. If you extrapolate that into an airborne brigade-sized assault where you've got 2,000 jumpers, the problem gets bigger and an eight-inch gash may be a 'small' tear. Depending where it is on the parachute, it could spread on descent," he said.

Although the rip "got our attention," the Army official said the service has "had concerns for years about the airflow on that airplane for air drop operations."

"The airborne community said it would not commit its troops to jump the C–17," Franklin said of the test suspension. "It didn't make any sense for me to continue until I found out how much contact we were having and was that contact causing damage."

Early flight engineering assessments indicate the chute problem may stem from the highly turbulent vortex created near the jump door by the C–17's unique "blown flap" wing design, said an Army official.

The same flaps allow the aircraft to land on small, austere runways—a key Army operational requirement.

"It turns out that the blown flap creates one hell of a vortex behind it," said an Army official familiar with Shelton's decision. "You can't kill the vortex because that kills another key capability the Army wants. What you want to do is control that vortex and move it out of the way or somehow disrupt it during parachute operations."

"There are all kinds of efforts being poured into this trying to fix it because it's very embarrassing," this official said.

The Air Force C–17 program office in a statement said the canopy contacts are resulting from "aerodynamic flow which 'holds' the parachute close to the aircraft fuselage when the chute is in the process of

being deployed * * * Aircraft attitude or deck angle, flap setting, etc., also influence the airflow and forces applied to the jumper and deployment system."

"Investigations are underway to understand the direction and strength of vortices which cause the canopy and deployment bag separation to 'hug' the aft fuselage," the Air Force said.

Representatives from the Army Safety Center, Natick Research Development and Engineering Center and Airborne and Special Operations Test Directorate visited Edwards last week to review the latest test data.

"Under certain flight conditions we have had no impacts. In other flap settings and flap conditions we've had some impacts," McDonnell Douglas program manager Don Kozlowski told Defense Week, "We are in a diagnostic series of flight tests right now to determine how do we prevent that."

"We are looking at [changing] thrust setting, flap setting," he said. "As you come out the side door * * * as you get out in the air stream and release the chute, you are going to get airflow and we need to study that," Kozlowski said.

"A lot of this, by the way, has been experienced with dummies, not human beings," Kozlowski said. "There is a safety concern. This is a normal development problem. We will solve. We have to convince ourselves and the Army that it is a safe environment to jump from."

That may take a lot of convincing.

Gen. Shelton was alerted to the airborne community's concerns during a March 15 meeting at Fort Bragg, N.C.

Before the suspension, the C–17 testers planned to drop a full load of 102 82nd Airborne Division troopers.

Based on the damaged chute and video review, Airborne and Special Operations Test Directorate director Col. Jeffrey White raised "vehement" objections to continue live testing, according to sources familiar with the meeting.

"Shelton said, 'That's not good,' recalled Franklin. 'We can't be jumping out of airplanes were canopies can contact the fuselage and snag and endanger a guy's life.'"

Shelton expressed his views in a March 18 message to AMC and the airborne community:

"It's obviously a great airplane, long overdue. As you recall at the [March 15 meeting] we discussed the safety certification for a large scale parachute drop from the C–17. I am requesting that the Army Safety Center get involved immediately in the safety certification process [and] that we get a thumbs up from them prior to jumping large numbers of Corps troops. I am confident this can be accomplished within existing timelines and milestones."•

TONY COX'S SPEECH BEFORE THE WASHINGTON METROPOLITAN CLUB

• Mr. SIMON. Mr. President, I would like to express my special thanks to Tony Cox, the chairman and CEO of Showtime Networks, Inc., and the chairman of the National Cable Television Association's Satellite Network Committee. In my many years of working on the issue of television violence, Tony stands out as one of the entertainment industry's most sincere and responsive leaders.

I am especially pleased that the National Cable Television Association, under Tony's direction, has recently hired an independent monitor to analyze and report on the portrayal of violence in television programming. Their selection, MediaScope, is an excellent and credible choice, and I commend the cable industry for what appears to be a strong commitment to improving the quality of television programming.

In addition, I would like to share with my colleagues Tony's recent speech before the Washington Metropolitan Club. His remarks, which outline the cable industry's "Voices Against Violence" initiative, together with the National Cable Television Association's selection of MediaScope as an independent monitor, are indicative of the cable industry's pledge to "do better." I applaud their efforts thus far and look forward to continuing our ongoing dialog on this important issue.

I ask that Mr. Cox's speech be printed in full at this point in the RECORD.

The speech follows:

REMARKS OF WINSTON H. COX, SHOWTIME NETWORKS INC., BEFORE THE WASHINGTON METROPOLITAN CLUB, APRIL 13, 1994

Thank you for inviting me to be with you today. Today I am here to discuss a topic of considerable importance to our society: one that is discussed daily throughout the nation, in Congress, on the news, in classrooms and in living rooms across the country. The topic is violence.

Today there is no greater threat to the well-being of our country than the widespread violence that exists everywhere. When, recently, two more young foreign visitors to Florida were shot dead in their rental car, a British press observer perhaps said it best when he lamented that the decline of America will ultimately be traced to our obsession with guns and violence. President Clinton has recognized the importance of this issue by speaking out in a series of televised Public Service Announcements on the awful impact of violence, especially upon children.

Television is not without its critics, and also not without its responsibilities on this issue. Many people, especially in Washington, are regularly and loudly pointing their finger at television violence as the major cause of the violence found in our society. This is said notwithstanding that, nearly all the television programming and feature films produced in this country are exported to Europe, to Canada, to Japan where violence is really not a major social issue. This is said notwithstanding that, my children for example, have grown up fully exposed to television including the violent shows, have graduated from college, have gotten jobs and are well on their way to becoming responsible productive citizens, seemingly unmotivated towards violent behavior. I suspect a loving family, decent schools and other factors have had more to do with shaping my kids then what they watched on television.

Just yesterday, the Carnegie Corporation released the results of a three year study of American children. This report paints a bleak picture of millions of young children so deprived of medical care, loving supervision and intellectual stimulation that their growth into healthy and responsible adults is threatened. Disintegrating families, proverty, drugs, crime and guns—these are the real issues. But we all know that TV violence is a much easier dragon to slay than the other nightmares I have just listed.

Having made that point, this is not to deny or ignore the role television plays in fostering or preventing violence. After all if television viewing did not influence behavior, then General Motors, Coca Cola, McDonalds and other large companies have been wasting their advertising money all these years. No responsible programmer can deny the influence of television on behavior including violent behavior.

This recognition and concern led cable programmers to commission an independent study of violence in cable originated programming and to adopt a four-point program outlining the industry's position. These efforts continued and culminated with the "Voices Against Violence" initiatives introduced approximately two months ago, copies of which are available for you.

"Voices Against Violence" is a voluntary and comprehensive program developed by the cable programmers which embraces three broad goals to address violence on television. The goals are to:

1. Inform viewers about the levels of violence contained in cable programs, thereby allowing them to exercise appropriate judgment about their own viewing choices and those of their families.

2. Reduce and eliminate the gratuitous use of violence depicted as an easy and convenient solution to human problems.

3. Use the cable industry's own resources to address the broader issue of violence in society through cable programming, educational measures, public service advertising campaigns and public forums.

From these broad objectives, we have developed a series of initiatives or action steps.

Most cable networks have joined together in support of this program and leading industry executives have agreed to chair task forces that will oversee the major parts of the program. Today I would like to update you on the progress we are making on our initiatives.

First, critical viewing workshops, which really teach parents and children how to watch TV, have been held in San Diego and Philadelphia and are scheduled for Wichita and Columbus in May. These workshops, led by media education authorities, help parents, teachers and children learn how to view television more critically, especially as it relates to violence, and to make distinctions between what is real and what is fantasy, or distortion, or myths. Cable in the Classroom, an industry supported program which gives 34 million children access to educational programming on cable television, is the sponsor of these critical viewing workshops.

In addition, cable networks are also using their own programming to educate viewers on the issue of societal violence. MTV is launching a comprehensive anti-violence campaign, including an April 19th forum in which President Clinton will hold a town meeting with 200 young adults. MTV's new campaign is called "Enough is Enough." We are all aware of the tremendous impact of previous MTV campaigns on young viewers, most recently the "Choose or Lose" campaign surrounding the last Presidential election.

This week, The Family Channel is taping a series designed to address crime and violence in small cities and rural communities. Its aim is to get citizens and local organizations to work together to address the issue of violence in society.

Court TV recently initiated a multi-faceted program called "American Violence,

American Justice" that includes education segments about crime and the courts, town meetings and school seminars. These are but a few of the many programs that Timothy Robertson, President & CEO of the Family Channel and Ruth Otte, President of Discovery Network will oversee as heads of the Educational task force.

Second, the cable networks along with the broadcast networks, agreed to Senator Simon's proposal for an independent monitor to report on violence in television programming. A month ago we issued an RFP for the outside monitor and have received an excellent response. The selection process is underway. I am pleased that this past week, the network broadcasters also issued an RFP for an outside monitor indicating their commitment to this plan. I am concerned that two separate efforts by cable and broadcast will not serve the public interest and could undermine the process, so we will continue to work to bring cable and broadcast networks together. I believe the entertainment industry will be ultimately better served by a unified position. Kay Koplovitz, President & CEO of USA Networks will work with me in heading the Outside Monitor task force.

Third, cable networks are devoting significant financial resources to address the broader issue of violence in society through public service advertising campaigns and public forums. President Clinton recently unveiled a set of PSA's urging Americans to stop the violence and calling on them to suggest ways to achieve that goal. In a separate meeting, the President commended the television industry's efforts to date and encouraged us to also become part of the solution. The PSA's are currently running on 32 cable networks since being introduced by the President. Beyond that, cable networks will develop a number of messages and other outreach efforts aimed at reducing violence. HBO Chairman Michael Funchs and Judith McGrath, President of MTV, will head the task force on Outreach Efforts to Reduce Societal Violence.

Fourth, Cable Programmers are developing a violence rating system that will give viewers more information about a program's violent content prior to viewing. This will expand upon the advisories that have been in place for sometime at many networks. We are investing maximum efforts towards responsible scheduling; that is scheduling programs with violent content during hours when children are not expected to be watching. Moreover, the majority of national cable networks already have standards and practices that govern their use of violence in programming. I am pleased to announce that Douglas McCormick, President & CEO of Lifetime Television and Nicholas Davatzes, President & CEO of Arts & Entertainment will head the task force on Ratings, Parental Advisories and Responsible Scheduling.

Fifth, the cable industry is also progressing on the development of viewer discretion technology, or the so-called "V" chip. During the past six weeks, cable industry engineers have held meetings to discuss a cost effective and user friendly technology to be used by viewers to control the availability of violent programming in their homes. More progress is expected on this front in the coming months. Viewer discretion technology and a ratings system go hand in hand. To give parents the ability to shut off a program they deem too violent for children, you must somehow encode or rate the show for the technology to work.

Finally, Joshua Sapan, President of Rainbow Programming Holdings which operates networks such as American Movie Classics and Bravo will head up "Voices Against Violence Week." This special week will feature cable programming dedicated to anti-violence themes and will include initiatives developed with education, law enforcement and civic communities.

Opponents of these initiatives may cry censorship or feel they do not go far enough. I disagree with both. I believe these measures give viewers more information and control so that they can make better informed decisions for themselves and for their families. The Motion Picture Association of America's move rating system has been around for many years, and I would not call that censorship. I do not feel that the "R" rating of a movie infringes upon anyone's right to free speech, however, it does let the viewer know about the movies content. In a 500-channel universe where viewing choices will be plentiful, I think our measures actually liberate programming options rather than censor or limit them. By giving viewers the technological capability shut off undesired programming, there is less need to restrict content. Viewers will be empowered to do it themselves.

I would also caution those feel these initiatives are insufficient or will be ineffective and are ready to seek solutions with legislation or regulation. In the effort to reduce violence on television, care should be taken not to trample on the right of free speech. The First Amendment to the constitution also must not be a victim of violence. The creative community should continue to have the freedom to produce material without fear of government censorship. We believe that a voluntary approach with meaningful efforts by the entire entertainment community, which is what is happening, will yield far better results.

Concluding we recognize the major role television plays in American society and we are taking a more serious look at the way violence is used in our programming through the initiatives I have just outlined. We question whether television violence should be at the top of the national agenda in light of the other societal problems which are the real underpinnings of violence Nevertheless, we believe all sectors of society have an obligation to find solutions to the problem of violence in our society. But this is not a problem that any one of us can solve alone, it will require a continued effort and commitment from all of us in this room, in this City and in this Nation.

Thank you very much.•

TWO HISTORIC EVENTS

• Mr. GRAHAM. Mr. President, I rise today to honor two historic events in the history of Cuba and its struggle for independence. Ninety-two years ago today the Cuban flag was raised for the first time over an independent Cuban nation. To commemorate this great event, Radio Marti broadcast its first words of freedom on May 20, 1985.

These two events provide beacons of hope to the dedicated people of Cuba who continue to strive for democracy and the end to Fidel Castro's communist reign.

The people of Cuba struggled for more than 25 years to gain their freedom from oppression on May 20, 1902. Unfortunately that struggle continues today as the valiant people of Cuba refuse to give up on the dream of democracy and prosperity. These people have lost their right of self-expression, their homes and land, and their loved ones, yet they haven't lost their yearning for freedom.

On this anniversary we remember the first President of Cuba taking office, Thomas Estrada Palma, and we look forward to the next Presidents of Cuba assuming their rightful place. We must remain focused and engaged in our continued efforts to restore freedom to Cuba. We owe our resolve to those who have been imprisoned and tortured in Castro's jails for their unyielding belief in democracy.

Castro continues to this day to attempt to crush the will of a people who refuse to lose their hope. We do them a terrible injustice if we give no less than our best efforts to end Castro's reign.

I am more confident than ever that the sun is setting on the reign of Fidel Castro. He can no longer rely on Russian subsidies to bolster his failed vision. In a changing world where communism has proven a failure, Castro continues to cling to a failed belief. He is a political dinosaur in a new age.

We cannot vacillate in our goals and the mechanisms for achieving those ends. We are in position today to continue to force Castro into Cuban history and the Cuban Democracy Act gives us a blueprint for the effective transition to do this.

A major component of the Cuban Democracy Act is Radio Marti. Today also marks the ninth anniversary of this important tool in informing the Cuban people. Radio Marti's news of the fall of communism in Eastern Europe and Russia provided Cuba with a glimmer of hope that Castro's system would crumble as well. I support this voice of truth and the powerful message it continues to broadcast.

Cuban history has taught us that the battle for freedom is only the first step on the difficult road toward democratic independence.

Castro is waging an aggressive public relations campaign attempting to show his willingness to open up relations. I warn the world, do not be fooled by his cunning attempts to hold on to his totalitarian grip. He continues to use whatever tools necessary to maintain that grip, namely force and more recently political craftiness.

Today's celebration is a day of regret but also a day of hope. As we celebrate Cuban Independence Day, we regret that the Cuban people still find themselves struggling for the basic rights of freedom and democracy.

But on this day, we can once again be proud of a strong people who continue to cling to and die for the high ideals of democracy. Cubans remain true to the hope that one day their struggle will once again result in the liberty they so richly deserve.•

APPLAUD ADMINISTRATION'S REALISTIC VIEW OF ISLAM

• Mr. DECONCINI. Mr. President, I was very encouraged by National Security Advisor Tony Lake's articulation, on May 18, of a new U.S. approach to Islamic movements around the globe. In the wake of communism's worldwide retreat, efforts by some to pose Islam as the new nemesis fail to recognize that the vastly different character of various fundamentalist movements, some of which reflect widely held beliefs which have been expressed democratically. U.S. policymakers have too often distanced themselves from Islamic groups wrongly perceived as being susceptible to anti-Western revolutionary fervor associated with Iranian Shiites.

Mr. President, the world has become much more complicated and dangerous since the end of the cold war, and U.S. foreign policymakers face unprecedented challenges to respond accordingly. Innovative new approaches are necessary, and I believe this new tack is a good example of new thinking which has to become part of our evolving world view. I commend the President and his National Security Advisor for their courage in articulating a policy which is likely to spark controversy. I believe this policy will give the United States far greater influence in important regions where the U.S. was previously dismissed as the "Great Satan."•

AUTHORIZING THE 1994 SPECIAL OLYMPICS TORCH RELAY TO BE RUN THROUGH THE CAPITOL GROUNDS

Mr. FORD. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Concurrent Resolution 236, a concurrent resolution authorizing the running of the Special Olympics Torch Relay through the Capitol grounds just received form the House; that the concurrent resolution be agreed to, and the motion to reconsider be laid upon the table.

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

TECHNICAL CORRECTIONS ACT OF 1994

Mr. FORD. Madam President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1654, a bill to make certain technical corrections.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives.

Resolved, That the bill from the Senate (S. 1654) entitled "An Act to make certain technical corrections", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. NORTHERN CHEYENNE INDIAN RESERVED WATER RIGHTS SETTLEMENT ACT OF 1992.

(a) ENVIRONMENTAL COSTS.—Section 7(e) of the Northern Cheyenne Indian Reserved Water Rights Settlement Act of 1992 (Public Law 102–374, 106 Stat. 1186 et seq.) is amended by adding at the end thereof the following new sentences: "All costs of environmental compliance and mitigation associated with the Compact, including mitigation measures adopted by the Secretary, are the sole responsibility of the United States. All moneys appropriated pursuant to the authorization under this subsection are in addition to amounts appropriated pursuant to the authorization under section 7(b)(1) of this Act, and shall be immediately available.".

(b) AUTHORIZATIONS.—The first sentence of section 4(c) of the Northern Cheyenne Indian Reserved Water Rights Settlement Act of 1992 (Public Law 102–374; 106 Stat. 1186 et seq.) is amended to read as follows: "Except for authorizations contained in subsections 7(b)(1)(A), 7(b)(1)(B) and 7(e), the authorization of appropriations contained in this Act shall not be effective until such time as the Montana water court enters and approves a decree as provided in subsection (d) of this section.".

(c) EFFECTIVE DATE.—The amendments made by this section shall be considered to have taken effect on September 30, 1992.

SEC. 2. SAN CARLOS APACHE TRIBE WATER RIGHTS SETTLEMENT ACT OF 1992.

(a) AMENDMENT.—Section 3704(d) of the San Carlos Apache Tribe Water Rights Settlement Act of 1992 (Public Law 102–575) is amended by deleting "reimbursable" and inserting in lieu thereof "nonreimbursable".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be considered to have taken effect on October 30, 1992.

SEC. 3. TRIBALLY CONTROLLED COMMUNITY COLLEGES.

The part of the text contained under the heading "BUREAU OF INDIAN AFFAIRS", and the subheading "OPERATION OF INDIAN PROGRAMS", in title I of the Department of the Interior and Related Agencies Appropriations Act, 1994, which reads "Provided further, That any funds provided under this head or previously provided for tribally-controlled community colleges which are distributed prior to September 30, 1994 which have been or are being invested or administered in compliance with section 331 of the Higher Education Act shall be deemed to be in compliance for current and future purposes with title III of the Tribally Controlled Community Colleges Assistance Act." is amended by deleting "section 331 of the Higher Education Act" and inserting in lieu thereof "section 332(c)(2)(A) of the Higher Education Act of 1965".

SEC. 4. WHITE EARTH RESERVATION LAND SETTLEMENT ACT OF 1985.

Section 7 of the White Earth Reservation Land Settlement Act of 1985 (25 U.S.C. 331, note) is amended by adding at the end thereof the following:

"(f)(1) The Secretary is authorized to make a one-time deletion from the second list published under subsection (c) or any subsequent list published under subsection (e) of any allotments or interests which the Secretary has determined do not fall within the provisions of subsection (a) or (b) of section 4, or subsection (c) of section 5, or which the Secretary has determined were erroneously included in such list by reason of misdescription or typographical error.

"(2) The Secretary shall publish in the Federal Register notice of deletions made from the second list published under subsection (c) or any subsequent list published under subsection (e).

"(3) The determination made by the Secretary to delete an allotment or interest under paragraph (1) may be judicially reviewed in accordance with chapter 7 of title 5, United States Code, within 90 days after the date on which notice of such determination is published in the Federal Register under paragraph (2). Any legal action challenging such a determination that is not filed within such 90-day period shall be forever barred. Exclusive jurisdiction over any legal action challenging such a determination is vested in the United States District Court for the District of Minnesota.".

SEC. 5. AMENDMENTS.

Section 1(c) of the Act entitled "An Act to establish a reservation for the Confederated Tribes of the Grand Ronde Community of Oregon, and for other purposes", approved September 9, 1988 (102 Stat. 1594), is amended as follows:

(1) delete "9,811.32" and insert in lieu thereof "9,879.65"; and

(2) delete everything after "5 8 17 All 640.00" and insert in lieu thereof the following:

"6	8	1	SW¼SW¼, W½SE¼SW¼	53.78
"6	8	1	S½E½, SE¼SW¼	9.00
"6	7	8	Tax lot 800	5.55
			Total	9,879.65".

Mr. FORD. Madam President, I move that the Senate concur in the House amendments with two further amendments that I now send to the desk on behalf of Senators MCCAIN and INOUYE, and I ask unanimous consent that the amendments be agreed to en bloc, and that the motions to reconsider en bloc be laid upon the table; and, further that any statements relating to the measure appear at the appropriate place in the RECORD as though read.

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

The amendments were agreed to as follows:

AMENDMENT NO. 1736

Mr. FORD offered an amendment No. 1736 for Mr. MCCAIN and Mr. INOUYE.

The amendment is as follows:

(Purpose: To clarify provisions of the Northern Cheyenne Indian Reserved Water Rights Settlement Act of 1992)

On page 1, strike all of Section 1 and insert in lieu thereof the following:

(a) ENVIRONMENTAL COSTS.—Section 7 of the Northern Cheyenne Indian Reserved Water Rights Settlement Act of 1992 (Public Law 102–374, 106 Stat. 1186 et seq.) is amended by adding the following new subsections (f) and (g) and redesignating the succeeding subsections accordingly:

"(f) ENVIRONMENTAL COSTS.—All costs associated with the Tongue River Dam Project for environmental compliance mandated by federal law and fish and wildlife mitigation measures adopted by the Secretary are the sole responsibility of the United States. Funds for such compliance shall be appropriated pursuant to the authorization in subsection (e), and shall be in addition to funds appropriated pursuant to section 7(b)(1) of the Act. The Secretary is authorized to expend not to exceed $625,000 of funds appropriated pursuant to subsection (e) for fish and wildlife mitigation costs associated with Tongue River-Dam construction authorized by the Act, and shall be in addition to funds appropriated pursuant to section 7(b)(1) of the Act.

"(g) REIMBURSEMENT TO STATE.—The Secretary shall reimburse Montana for expendi-

tures for environmental compliance activities, conducted on behalf of the United States prior to enactment of this subsection (g), which the Secretary determines to have been properly conducted and necessary for completion of the Tongue River Dam Project. Subsequent to enactment of this subsection (g), the Secretary may not reimburse Montana for any such environmental compliance activities undertaken without the Secretary's prior approval."

(b) AUTHORIZATIONS.—The first sentence of section 4(c) of the Northern Cheyenne Indian Reserved Water Rights Settlement Act of 1992 (Public Law 102-374; 106 Stat. 1186 et seq.) is amended to read as follows: "Except for authorizations contained in subsections 7(b)(1)(A), 7(B)(1)(B), and the authorization for environmental compliance activities for the Tongue River Dam Project contained in subsection 7(e), the authorization of appropriations contained in this Act shall not be effective until such time as the Montana water court enters and approves a decree as provided in subsection (d) of this section."

(c) EFFECTIVE DATE.—The amendments made by this section shall be considered to have taken effect on September 30, 1992.

AMENDMENT NO. 1737

Mr. FORD offered an amendment No. 1737 for Mr. MCCAIN and Mr. INOUYE.

The amendment is as follows:

(Purpose: To prohibit regulations that classify, enhance, or diminish the privileges and immunities of an Indian tribe relative to other federally recognized Indian tribes, and for other purposes)

At the end of the bill add the following: "Section 16 of the Act of June 18, 1934 (25 U.S.C. 476) is amended by adding at the end of the following new subsections:

"(f) PRIVILEGES AND IMMUNITIES OF INDIAN TRIBES; PROHIBITION ON NEW REGULATIONS.—Departments or agencies of the United States shall not promulgate any regulation or make any decision or determination pursuant to the Act of June 18, 1934, (25 U.S.C. 461 et seq., 48 Stat. 984) as amended, or any other Act of Congress, with respect to a federally recognized Indian tribe that classifies, enhances, or diminishes the privileges and immunities available to the Indian tribe relative to other federally recognized tribes by virtue of their status as Indian tribes.

"(g) PRIVILEGES AND IMMUNITIES OF INDIAN TRIBES; EXISTING REGULATIONS.—Any regulation or administrative decision or determination of a department or agency of the United States that is in existence or effect on the date of enactment of this Act and that classifies, enhances, or diminishes the privileges and immunities available to a federally recognized Indian tribe relative to the privileges and immunities available to other federally recognized tribes by virtue of their status as Indian tribes shall have no force or effect.".

Mr. MCCAIN. Madam President, I am pleased to join the chairman of the Committee on Indian Affairs, Senator INOUYE, in offering an amendment to S. 1654, a bill to make certain technical corrections. The purpose of this amendment is to clarify provisions of the Northern Cheyenne Indian Reserved Water Rights Settlement Act of 1992.

Not long after enactment of the settlement act, representatives of the State of Montana and the Interior Department found themselves in disagreement over their respective responsibilities for costs of compliance with environmental laws and fish and wildlife mitigation under the terms of a water rights compact signed by the State, the tribe, and the Department, and under the language of the settlement act (Public Law 102-374, 106 Stat. 1186 et seq.).

Article VI(C) of the water rights compact states that "The Secretary of the Interior shall comply with all aspects of the National Environmental Policy Act and the Endangered Species Act and other applicable environmental acts and regulations in implementing this Compact". Accordingly, the Congress, in section 7(e) of the settlement act, authorized "such sums as are necessary to carry out all necessary environmental compliance associated with the water rights compact entered into by the Northern Cheyenne Tribe, the State of Montana, and the United States, including mitigation measures adopted by the Secretary".

The centerpiece of the settlement is the Tongue River Dam Project, which includes repairing the dam to cure safety defects and enlarging it to provide additional water for the Northern Cheyenne Tribe. The bulk of the contemplated environmental compliance and fish and wildlife mitigation is associated with this project. However, because funds for the project are authorized under section 7(b) of the settlement act, the Department and Montana were unclear as to what work would be considered funded under that section and what would be funded under section 7(e).

In 1993, the Senate passed S. 1654, which included language intended to clarify the language of the settlement act. Section 1 of S. 1654 was drafted to accomplish three purposes, described in Senate Report 103-191 as to make clear that first, "all costs of environmental compliance and mitigation associated with the compact, including mitigation measures adopted by the Secretary, are the sole responsibility of the United States"; second, "section 7(e) environmental compliance funds are authorized in addition to funds authorized in section 7(b)(1) for the Tongue River Dam Project"; and, third, "section 7(e) funds can be expended prior to the Montana water court's issuance of a settlement decree".

Subsequent to the Senate's action, the administration, while agreeing to sole responsibility for environmental compliance associated with the Tongue River Dam Project, expressed concern that the new language might preclude the Secretary from seeking third party, nontribal cost-sharing for environmental compliance and mitigation for development projects on the Northern Cheyenne Reservation, unrelated to the Tongue River Dam Project, that would use water secured to the tribe under the compact. Efforts to address these concerns while S. 1654 was pending in the House of Representatives failed to produce agreement prior to the House passing the bill and returning it to the Senate.

Subsequently, all parties to the settlement have worked with the staffs of the Committee on Indian Affairs and the House Natural Resource Committee to develop an amendment that would resolve the major issues in disagreement. I am pleased to state that the amendment Chairman INOUYE and I offer today achieves that end.

Our amendment makes clear that the costs associated with the Tongue River Dam Project for environmental compliance mandated by Federal law and fish and wildlife mitigation measures adopted by the Secretary of the Interior are the sole responsibility of the United States.

The amendment limits the amount of money authorized by the settlement act which the Secretary may spend on fish and wildlife mitigation associated with the Tongue River Dam Project to $625,000. It further provides that these funds, as well as funds for compliance with Federal environmental laws, are authorized by section 7(e) and are in addition to funds authorized for the Tongue River Dam Project in section 7(b)(1).

The amendment authorizes the Secretary to reimburse Montana for expenditures of State funds for environmental compliance activities undertaken prior to enactment of the amendment. The Secretary is required to reimburse the State only for those compliance activities that the Secretary determines have been properly conducted and are necessary for completion of the Tongue River Dam Project. Subsequent to enactment of this amendment, the Secretary could not reimburse Montana for environmental compliance activities undertaken without his prior approval.

The amendment also corrects references in section 4(c) of the settlement act to reflect the intent of Congress and the settlement parties that, except for a total of $1,400,000 authorized for the Tongue River Dam Project for fiscal year 1993 and 1994, and the funds authorized under section 7(e) for environmental compliance, no funds could be appropriated for the project until the Montana water court enters and approves a settlement decree.

I would like to emphasize that the amendment neither adds to nor eliminates or reduces any existing authorization of appropriations in the settlement act, nor does it provide any new authorization of appropriations for any purpose.

The amendment leaves intact the language in 7(e) of the settlement authorizing such sums necessary for the Secretary to comply with applicable environmental law associated with implementing the compact. The Secretary can rely on this authority to re-

quest necessary funds in cases such as where the Northern Cheyenne Tribe seeks to use its right to water in Yellowtail Reservoir, or to develop facilities for irrigated agriculture, or to develop coal or other minerals on the reservation. Such requests would necessarily be within the discretion of the Secretary, and of course, the relevant congressional appropriations committees.

I would like to make the point that neither the language of the existing section 7(e) nor the language of the amendment would preclude the Secretary from following existing policy and practice of requiring nontribal third parties involved in development of a tribe's natural resources to contribute to the costs of environmental compliance or fish and wildlife mitigation.

Madam President, this amendment has been reviewed and agreed to by the Montana delegation, the State of Montana, and the leadership of the Northern Cheyenne Tribe. Today we received from the Department of the Interior a letter, cleared by the Office of Management and Budget, expressing the administration's support for the amendment.

The Northern Cheyenne Indian reserved water rights settlement, together with the water rights compact it ratifies, are major accomplishments that reflect great credit on the tribal, State, and Federal representatives who negotiated and assembled them. Having been involved in efforts to achieve several such settlements in my State of Arizona, I can attest to the aggravation and difficulty that the settlement process entails.

I commend all of the parties involved for their good will and cooperation, and join them in the hope and belief that adoption of this amendment, together with the other agreements required by compact and by the settlement act, will clear the way for expedited work on Tongue River Dam and full implementation of the Northern Cheyenne settlement.

Madam President, I am pleased to offer an amendment to S. 1654, a bill to make certain technical corrections. The amendment I am offering will amend section 16 of the Indian Reorganization Act of 1934 [IRA] and it is cosponsored by my good friend, the chairman of the Committee on Indian Affairs, Senator INOUYE.

This amendment is similar to S. 2017, which Senator INOUYE and I introduced on April 14, 1994. The purpose of the amendment is to clarify that section 16 of the Indian Reorganization Act was not intended to authorize the Secretary of the Department of the Interior to create categories of federally recognized Indian tribes. In the past year, the Pascua Yagui Tribe of Arizona has brought to our attention the fact that the Department of the Interior has interpreted section 16 to authorize the Secretary to categorize or classify Indian tribes as being either created or historic. According to the Department, created tribes are only authorized to exercise such powers of self-governance as the Secretary may confer on them.

After careful review, I can find no basis in law or policy for the manner in which section 16 has been interpreted by the Department of the Interior. One of the reasons stated by the Department for distinguishing between created and historic tribes is that the created tribes are new in the sense that they did not exist before they organized under the IRA. At the same time, the Department insists that it cannot tell us which tribes are created and which are historic because this is determined through a case-by-case review.

All of this ignores a few fundamental principles of Federal Indian law and policy. Indian tribes exercise powers of self-governance by reason of their inherent sovereignty and not by virtue of a delegation of authority from the Federal Government. In addition, neither the Congress nor the Secretary can create an Indian tribe where none previously existed. Congress itself cannot create Indian tribes, so there is no authority for the Congress to delegate to the Secretary in this regard. Not only is this simple common sense, it is also the law as enunciated by the Federal courts.

The recognition of an Indian tribe by the Federal Government is just that—the recognition that there is a sovereign entity with governmental authority which predates the U.S. Constitution and with which the Federal Government has established formal relations. Over the years, the Federal Government has extended recognition to Indian tribes through treaties, executive orders, a course of dealing, decisions of the Federal courts, acts of Congress and administrative action. Regardless of the method by which recognition was extended, all Indian tribes enjoy the same relationship with the United States and exercise the same inherent authority. All that section 16 was intended to do was to provide a mechanism for the tribes to interact with other governments in our Federal system in a form familiar to those governments through tribal adoption and Secretarial approval of tribal constitutions for those Indian tribes that choose to employ its provisions.

Clearly the interpretation of section 16 which has been developed by the Department is inconsistent with the principle policies underlying the IRA, which were to stabilize Indian tribe governments and to encourage self-government. These policies have taken on additional vitality in the last 20 years as the Congress has repudiated and repealed the policy of termination and enacted the Indian Self-Determination and Education Assistance Act and the Tribal Self-Governance Demonstration Project. The effect of the Department's interpretation of section 16 has been to destabilize Indian tribal governments and to hinder self-governance of the Department's unilateral and often arbitrary decisions about which powers of self-governance a tribal government can exercise.

Mr. INOUYE. Madam President, will my good friend, the distinguished vice chairman of the Committee on Indian Affairs yield for the purpose of a colloquy on the amendment?

Mr. MCCAIN. I would be pleased to engage in a colloquy on the amendment with the chairman of the Committee on Indian Affairs.

Mr. INOUYE. I thank the Senator. I have reviewed section 16 of the Indian Reorganization Act [IRA] and have reached the conclusion that on its face it does not authorize or require the Secretary to establish classifications between tribes or to categorize them based on their powers of self-governance. As the legal scholar Felix Cohen noted in his 1942 Handbook on Federal Indian Law, the IRA—"had little or no effect upon the substantive powers on tribal self-government vested in the various Indian tribes." I believe that the Federal courts have also consistently construed the IRA to have had no substantive effect on inherent tribal sovereign authority.

Apparently, the Department of the Interior began making this distinction on the basis of whether reservations had been established for those tribes that were removed from their aboriginal homesteads by the Federal Government. Tribes for whom reservations were established in areas to the west of their traditional lands suddenly became created tribes, even though such tribes had existed for hundreds of years prior to the arrival of Europeans on this continent. Strangely, although the Department was apparently making this distinction amongst tribes, it appears that the Department never notified the affected tribes or the Congress of their new status. Had they done so, we would have acted to correct this unauthorized arbitrary and unreasonable differentiation of tribal status long ago.

The amendment which we are offering to section 16 will make it clear that the Indian Reorganization Act does not authorize or require the Secretary to establish classifications between Indian tribes. As my good friend, the Senator from Arizona has noted, the Department cannot even tell us how many Indian tribes have been placed in each classification. As I understand it, our amendment would void any past determination by the Department that an Indian tribe is created and would prohibit any such determinations in the future. Is that also the understanding of the Senator from Arizona?

Mr. McCAIN. The Senator from Hawaii is correct. I would also state that our amendment is intended to prohibit the Secretary or any other Federal official from distinguishing between Indian tribes or classifying them based not only on the IRA but also based on any other Federal law. We have been advised that other agencies of the Federal Government may have developed distinctions or classifications between federally recognized Indian tribes based on information provided to those agencies by the Department of the Interior. In addition, we have been advised that the Secretary of the Interior may have carried these erroneous classifications into decisions authorized by other Federal statutes such as sections 2 and 9 of title 25 of the United States Code. Accordingly, our amendment to section 16 of the IRA is intended to address all instances where such categories or classifications of Indian tribes have been applied and any statutory basis which may have been used to establish, ratify or implement the categories or classifications.

Mr. INOUYE. I thank the Senator. I also believe that our amendment will correct any instance where any federally recognized Indian tribe has been classified as "created" and that it will prohibit such classifications from being imposed or used in the future. Our amendment makes it clear that it is and has always been Federal law and policy that Indian tribes recognized by the Federal Government stand on an equal footing to each other and to the Federal Government. That is, each federally recognized Indian tribe has the same governmental status as other federally recognized tribes by virtue of their status as Indian tribes with a government-to-government relationship with the United States. Each federally recognized Indian tribe is entitled to the same privileges and immunities as other federally recognized tribes and has the right to exercise the same inherent and delegated authorities. This is true without regard to the manner in which the Indian tribe became recognized by the United States or whether it has chosen to organize under the IRA. By enacting this amendment to section 16 of the IRA, we will provide the stability for Indian tribal governments that the Congress thought it was providing 60 years ago when the IRA was enacted. I thank the vice chairman of the Committee on Indian Affairs for his leadership on this matter.

Mr. McCAIN. I thank the chairman of the Committee on Indian Affairs for his assistance on this legislation. I certainly agree with all of his remarks. I would like to add just a few comments. First, our amendment will also remove what appears to be a substantial barrier to the full implementation of the policies of self-determination and self-governance. It is my expectation that the Department will act as promptly as possible after enactment of this amendment to seek out and notify every Indian tribe which has been classified or categorized as "created" that the classification no longer applies and to take any other steps which are necessary to implement the amendment.

Last, Madam President, I want to express my gratitude to the Pasdua Yaqui Tribe of Arizona for bringing this matter to our attention and for providing the leadership necessary to focus the attention of the Congress and other Indian tribal governments on a solution. I would note for my colleagues that the Committee on Indian Affairs has reported H.R. 734 to the Senate for its consideration. This bill would amend the legislation which extended Federal recognition to the Pascua Yaqui Tribe to prohibit the Department of the Interior from classifying the tribe as "created." H.R. 734 also enables the Tribe to complete the process of enrolling its members and authorizes several studies intended to assist the tribe in providing basic services and developing their tribal economy. H.R. 734 will soon be before the Senate and I urge all of my colleagues to support this long overdue legislation.

Mr. BAUCUS. Madam President, the Senate will soon consider S. 1654, technical amendments proposed by the Senate Indian Affairs Committee, which includes technical amendments to the Northern Cheyenne-Montana Water Rights Compact. I urge my colleagues to support this legislation.

The Northern Cheyenne-Montana Water Rights Compact was ratified by the Montana Legislature in June of 1991. Federal legislation ratifying this compact passed the Congress in September of 1992. The compact quantifies the Northern Cheyenne Tribe's water rights and provides for the enlargement and seriously needed repair of the dangerously deteriorated Tongue River Dam in Montana.

Legislation that passed the Congress in 1992 required technical correction to allow the Department of the Interior to reimburse the State of Montana for environmental compliance and fish and wildlife mitigation work associated with the rehabilitation of Tongue River Dam.

The purpose of these amendments is to clarify the relationships and responsibilities among the parties to this compact as they relate to environmental compliance and mitigation. It should be stated that these amendments, like the Northern Cheyenne-Montana compact, are the result of extensive negotiations among the Northern Cheyenne Tribe, the State of Montana and the Federal Government. It is my understanding that all parties have agreed to these technical corrections.

I encourage the parties to continue their efforts to work cooperatively together to implement the compact and allow the Northern Cheyenne Tribe to develop their water resources and to proceed with the critical task of expansion and safety improvement of the Tongue River Dam. I want to thank the able staff of the Senate Indian Affairs Committee for their assistance with this effort. I offer my support for these amendments and encourage my colleagues to do the same.

REDESIGNATION OF FOREST LANDS IN THE STATE OF MONTANA

Mr. FORD. Madam President, I understand that S. 2137 was introduced earlier today. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. FORD. Madam President, I ask that the bill be read for the first time.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 2137) to designate certain National Forest lands in the State of Montana as wilderness, to release other National Forest lands in the State of Montana for multiple use management, and for other purposes.

Mr. FORD. Madam President, I ask for its second reading.

Mr. BROWN. I object.

The PRESIDING OFFICER. Objection is heard.

The bill will receive its second reading on the next legislative day.

ORDERS FOR MONDAY, MAY 23, 1994

Mr. FORD. Madam President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 11:30 a.m., Monday, May 23; that following the Prayer, the Journal of proceedings be deemed approved to date and the time for the two leaders reserved for their use later in the day; that there then be a period for morning business, not to extend beyond 12 noon, with Senators permitted to speak therein for up to 5 minutes each; with Senator MURRAY recognized to speak for up to 15 minutes; that at 12 noon, the Senate proceed to the consideration of Calendar No. 423, H.R. 1933, under the conditions and limitations of a previous unanimous-consent agreement.

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

RECESS UNTIL MONDAY, MAY 23, 1994, AT 11:30 A.M.

Mr. FORD. Madam President, if there is no further business to come before the Senate today, and I see no other Senator seeking recognition, I now ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 8:34 p.m. recessed until Monday, May 23, 1994, at 11:30 a.m.

NOMINATIONS

Executive nominations received by the Senate May 19, 1994:

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

RACHEL WORBY, OF WEST VIRGINIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING SEPTEMBER 3, 1998, VICE ARDIS KRAINIK, TERM EXPIRED.

EXPORT-IMPORT BANK OF THE UNITED STATES

JULIE D. BELAGA, OF CONNECTICUT, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE EXPORT-IMPORT BANK OF THE UNITED STATES FOR THE REMAINDER OF THE TERM EXPIRING JANUARY 20, 1995, VICE CECIL B. THOMPSON.

JULIE D. BELAGA, OF CONNECTICUT, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE EXPORT-IMPORT BANK OF THE UNITED STATES FOR A TERM EXPIRING JANUARY 20, 1999. (REAPPOINTMENT.)

DEPARTMENT OF ENERGY

JOSEPH F. VIVONA, OF NEW JERSEY, TO BE CHIEF FINANCIAL OFFICER, DEPARTMENT OF ENERGY. (NEW POSITION.)

IN THE NAVY

THE FOLLOWING-NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF VICE ADMIRAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

VICE ADM. TIMOTHY W. WRIGHT [redacted]

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF VICE ADMIRAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

REAR ADM. WILLIAM A. EARNER, JR. [redacted]

THE FOLLOWING-NAMED COMMANDER IN THE LINE OF THE NAVY FOR PROMOTION TO THE PERMANENT GRADE OF CAPTAIN, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 628, SUBJECT TO QUALIFICATIONS THEREFORE AS PROVIDED BY LAW:

UNRESTRICTED LINE OFFICER

To be captain

DOUGLAS JAY LAW

THE FOLLOWING-NAMED LIEUTENANT COMMANDERS IN THE LINE OF THE NAVY FOR PROMOTION TO THE PERMANENT GRADE OF COMMANDER, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS THEREFORE AS PROVIDED BY LAW:

UNRESTRICTED LINE OFFICERS

To be commander

DONALD MICHAEL ABRASHOFF
MICHAEL JAMES ADAMS
KURT A. ALBERS
STEPHEN GEORGE ALBERS
JOHN R. ALBISO
KEVIN C. ALBRIGHT
FREDERICK MITCHEL ALEXANDER
TOWNSEND GRIFFISS ALEXANDER
MICHAEL JOSEPH ALFONSO
THEODORE PAUL ALGIRE
MICHAEL ROY ALLEN
PATRICK EUGENE ALLEN
PAUL M. ALLEN
STEVEN PATRICK AMBROSE
JOHN MICHAEL ANDERSEN
BRUCE LEE ANDERSON
PETER ALLEN ANDREASEN
DAVID STEVENS ANGOOD
GEORGE EDWARD ARGERAKE
JOHN JOSEPH ARNOLD
MARK REYNOLDS ARNOLD
THOMAS EDWARD ARNOLD
JOHN LOUIS ASH, JR.
ROBIN LYNN ATKINS
GARY DON ATKINSON
JOSEPH PETER AUCOIN
DONALD E. BABOCK
DAVID ANTHONY BACIOCCO
RICHARD LEE BAINBRIDGE
GEORGE H. BAKER
CRAIG W. BALDWIN
JOE DAN BANKER
DAVID NMN BARANEK
JOHNNIE BAXTER BARFOOT, JR.
BRENT HERRING BARROW
MICHAEL AUSTIN BASS
SARA ANN BATEMAN
MARK L. BATHRICK
KEVIN H. BAXTER
WILLIAM MICHAEL BAXTER
THOMAS MC DOWELL BAYLEY
SCOTT DAVID BEACH
RAY OLIVER BEARD, JR.
DENISE LORRAINE BECHTOL
JEFFREY SCOTT BEEBY
REBECCA JO BEENER
PHILIP GREGORY BEIERL
DALE HAROLD BENSON
ALLAN JEFFREY BERKE
GILBERT LYNN BEVER
DAVID CHARLES BEYRODT,
DOUGLAS TODD BIESEL,
JAMES JOSEPH BIRD,
JOHN LEE BISKADUROS,
STEPHEN PETER BLACK,
MICHAEL JAMES BLANCHET,
JEFFREY ALAN BLOOM,
MATTHEW GERARD BOENSEL,
RONALD EDGAR BOERGER,
MICHAEL JOSEPH BOND,
EDWARD MORRIS BOORDA,
CHARLES W. BOOTH,
JAMES RUNYAN BOOTH,
TIMOTHY LEE BOSILJEVAC,
ROBERT WESLEY BOUGHER,
STEPHEN WILLARD BOURGEOIS,
CHARLES PATRICK BOURNE,
WILLIAM DAVIS BOURNE, JR.,
ROBERT OWEN BOWERS,
PHILLIP OWEN BOYER,
MATTHEW J. BOYNE,
JOE DEAN BRANNAN,
LOREN RICHARD BREMSETH,
MARK R. BREOR,
JEFFREY A. BRIGGS,
JAMES B. BRINKMAN,
BARRY JAMES BROCATO,
STEVEN EADES BROOKS,
JOHN MICHAEL BROWN,
RONALD LEE BROWN,
NERISSA BRUECKBAUER,
ANDRES ARMANDO BRUGAL,
DOUGLAS BRUCE BUCHANAN, JR.,
GERALD W. BUCK,
MICHAEL D. BUDNEY,
SAMUEL SNYDER BUNDRICK, JR.,
KENNETH JAMES BURKER,
BRIAN EDWARD BURLINGAME,
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JAPHET POTENT WOOLSTON,
WALTER JAMES WRIGHT,
SAMUEL RADCLIFFE WRIGLEY,
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JAMES RALSTON WYLLY,
NATALIE KWAI S. YOUNGARANITA,
SARA ANNE ZAK,
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DENNIS KARL CHRISTENSEN
ROBERT ERIC DEAN
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SANDRA KAY BROOKS
JOSEPH BRUCE CALOMENI
CHARLES ROBERT ERBER
MARTIN ROY GREENE
RICHARD KARL JOHNSTON
ALFRED LEDESMA
RICHARD SCOTT LIBBY
PATRICIA ANN MCNALLY
DAVID EDGAR MEADOWS
STEPHEN EDWARD PALUSZEK
CHRISTOPHER L. PARENTE
FRANCIS EDWARD SABLAN
KEVIN POWELL SEAVEY
JOANNE SEXTON

SPECIAL DUTY OFFICERS (INTELLIGENCE)

To be commander

EUGENE ADKINS, JR.
CHARLES ROBERT ARMSTRONG
STEVEN BURNETT ASHBY
WAYNE LYLE BUNG
STEVEN R. CAREY
CHARLES JOSEPH CARSON, JR.
SUSAN M. CHIARAVALLE
NANCY KATHLEEN CLARK
THOMAS CLARK COOL
SAMUEL J. COX
WILLIAM ALAN ELDARD
JAMES RICHARD EVERETT III
GREGORY FRANK GALLARDO
FRANCIS MAX GUTIERREZ, JR.
JOHN DAVID HEARING
ALICE MOBLEY JACOBSON
WILLIAM JOSEPH KLAUBERG, JR.
LENDALL S. KNIGHT
LEONARD WALTER MCKAY
JOHN HOWLETTE MOOT
FREDERICK NATHAN MORGAN
SANTIAGO RICARDO NEVILLE
DONALD ANDREW OLIVIER, JR.
RICHARD JAMES PERA
TERESA WILLIAMS ROBERTS
JOHN ANTHONY SCALI
GARY RAY SCHAFFER
SCOTT MCKINLEY SHUMAN
STEPHEN ERIC SMITH
MARK EVERETT STILLE
DARRELL GENE USSERY
LINDA JOAN VETTER
STEPHEN MARK VETTER
MARK ANTHONY YONCHAK
CHARLES ZINGLER
VIVIAN INGRI ZUMSTEIN

SPECIAL DUTY OFFICERS (PUBLIC AFFAIRS)

To be commander

JOHN MICHAEL ANDREWS
MICHAEL E. BRADY
DAVID BRADLEY KNOX
TERRY LEE MCCREARY
BRUCE EDWARD WILLIAMS

SPECIAL DUTY OFFICERS (OCEANOGRAPHY)

To be commander

MICHAEL ROBERT CLENDENING
DEBRA MARSHALL FORD
PETER WILLIAM FURZE
FRANK WILLIAM GARCIA, JR.
JOHN LOREN HEISHMAN
DAVID WILLIAM JONES
JAMES HOYT KORCAL
MICHAEL ERNEST KREYENHAGEN
DAVID HILTON MCCARREN
PHILIP G. RENAUD
RANDY JAMES SCANLON
KATHY ANN SHIELD
DANIEL JOSEPH SOPER
MICHAEL RAMSEY STEWARD
CHARLES MUNSON WHITE
BRIAN JAMES WILLIAMS

LIMITED DUTY OFFICERS (LINE)

To be commander

WILLIAM GEORGE BAILEY
TEDD LEWIS BARNETT
DAVID A. BELTON
RICHARD HAROLD BERARDI
DANIEL G. BROWN
WILLIAM GLENN BROWN
HARRY DOUGLAS BRYANT
GARY WAYNE BUMGARNER
ROLAND L. CANTIN
WALLACE R. CASTO
SHERWOOD E. COOK
JOHN ALAN COPES
JAMES PAUL DELANEY
BRENT ALAN FERNALD
ANTHONY J. GONZALES
RICHARD WILLIAM HERMAN
JOHN F. HOWE
STEPHEN GEORGE HYMAN
RICK MARTIN JONES
KENNETH EDWARD KARR
DAVID WILLIAM KELCH
WILLIAM DAINE KING
DWIGHT EDWARD LAMONT
HARBOROUGH IRWIN LILL III
PATRICK MICHAEL MCCARTHY
GEORGE GAMEL MCELVEEN, JR.
GERALD DOISS MEDDERS
RICHARD HERBERT MURPHY
JAMES PATRICK NEARY
CHARLES DANIEL PENNINGTON
HENRY D. POMERANZ
DONALD RAY PRICE
LAURENCE WILLIAM REHER III
RAYMOND SCOTT
MIKE THOMPSON
RICHARD HAROLD WATKINS
PAUL D. WILLIAMSON
WILLIAM L. WILSON
WILLIAM DALE ZBAEREN
WILLIAM L. WILSON

CONFIRMATIONS

Executive nominations confirmed by the Senate May 19, 1994:

DEPARTMENT OF DEFENSE

JOSHUA GOTBAUM, OF NEW YORK, TO BE AN ASSISTANT SECRETARY OF DEFENSE.

DEPARTMENT OF TRANSPORTATION

T.R. LAKSHMANAN, OF NEW HAMPSHIRE, TO BE DIRECTOR OF THE BUREAU OF TRANSPORTATION STATISTICS, DEPARTMENT OF TRANSPORTATION, FOR THE TERM OF 4 YEARS EXPIRING JUNE 14, 1996.

FEDERAL COMMUNICATIONS COMMISSION

RACHELLE B. CHONG, OF CALIFORNIA, TO BE A MEMBER OF THE FEDERAL COMMUNICATIONS COMMISSION FOR A TERM OF 5 YEARS FROM JULY 1, 1992.

SUSAN NESS, OF MARYLAND, TO BE A MEMBER OF THE FEDERAL COMMUNICATIONS COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING JUNE 30, 1994.

SUSAN NESS, OF MARYLAND, TO BE A MEMBER OF THE FEDERAL COMMUNICATIONS COMMISSION FOR A TERM OF 5 YEARS FROM JULY 1 1994.

FEDERAL MARITIME COMMISSION

WILLIAM D. HATHAWAY, OF MAINE, TO BE A FEDERAL MARITIME COMMISSIONER FOR THE TERM EXPIRING JUNE 30, 1998.

JOE SCROGGINS, JR., OF FLORIDA, TO BE A FEDERAL MARITIME COMMISSIONER FOR THE REMAINDER OF THE TERM EXPIRING JUNE 30, 1995.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

ARNOLD GREGORY HOLZ, OF MARYLAND, TO BE CHIEF FINANCIAL OFFICER, NATIONAL AERONAUTICS AND SPACE ADMINISTRATION.

COAST GUARD

REAR ADM. ROBERT E. KRAMEK, U.S. COAST GUARD, TO BE COMMANDANT, U.S. COAST GUARD, FOR A TERM OF 4 YEARS WITH THE GRADE OF ADMIRAL WHILE SO SERVING.

THE FOLLOWING OFFICER OF THE U.S. COAST GUARD, TO BE VICE COMMANDANT, U.S. COAST GUARD, WITH THE GRADE OF VICE ADMIRAL WHILE SO SERVING:

REAR ADM. ARTHUR E. HENN

THE FOLLOWING OFFICER OF THE U.S. COAST GUARD, TO BE CHIEF OF STAFF, U.S. COAST GUARD, WITH THE GRADE OF VICE ADMIRAL WHILE SO SERVING:

REAR ADM. KENT H. WILLIAMS

THE FOLLOWING OFFICER OF THE U.S. COAST GUARD, TO BE COMMANDER, ATLANTIC AREA, U.S. COAST GUARD, WITH THE GRADE OF VICE ADMIRAL WHILE SO SERVING:

REAR ADM. JAMES M. LOY

THE FOLLOWING OFFICER OF THE U.S. COAST GUARD, TO BE COMMANDER, PACIFIC AREA, U.S. COAST GUARD, WITH THE GRADE OF VICE ADMIRAL WHILE SO SERVING:

REAR ADM. RICHARD D. HERR

THE FOLLOWING OFFICER OF THE U.S. COAST GUARD RESERVE FOR APPOINTMENT TO THE GRADE OF REAR ADMIRAL:

ROBERT E. SLONCEN

THE FOLLOWING OFFICER OF THE U.S. COAST GUARD RESERVE FOR APPOINTMENT TO THE GRADE OF REAR ADMIRAL (LOWER HALF):

RICHARD W. SCHNEIDER

THE FOLLOWING OFFICERS OF THE U.S. COAST GUARD FOR APPOINTMENT TO THE GRADE OF REAR ADMIRAL:

ROGER T. RUFE, JR. HOWARD B. GEHRING

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

REAR ADMIRAL JOHN C. ALBRIGHT FOR APPOINTMENT IN THE GRADE OF REAR ADMIRAL (LOWER HALF), WHILE SERVING IN A POSITION OF IMPORTANCE AND RESPONSIBILITY AS DIRECTOR, PACIFIC MARINE CENTER, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, UNDER THE PROVISIONS OF TITLE 33, UNITED STATES CODE, SECTION 853U.

COAST GUARD

THE FOLLOWING OFFICES OF THE U.S. COAST GUARD FOR APPOINTMENT TO THE GRADE OF REAR ADMIRAL:

RUDY K. PESCHEL JOHN W. LOCKWOOD

GERALD F. WOOLEVER NORMAN T. SAUNDERS

RICHARD D. HERR JAMES C. CARD

THE FOLLOWING OFFICER OF THE U.S. COAST GUARD TO BE A PERMANENT COMMISSIONED OFFICER IN THE GRADE OF LIEUTENANT COMMANDER IN THE REGULAR COAST GUARD:

JOANNE MCCAFFREY

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

IN THE COAST GUARD, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

COAST GUARD NOMINATIONS BEGINNING CURTIS B. ODOM, AND ENDING EUGENE R. LYTTON, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MARCH 22, 1994.

COAST GUARD NOMINATIONS BEGINNING STEPHEN E. FLYNN, AND ENDING MARYANN P. SMID, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF APRIL 11, 1994.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION NOMINATIONS BEGINNING STEPHEN H. MANZO, AND ENDING LAWRENCE P. CHICCHELLY, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF APRIL 11, 1994.

EXTENSIONS OF REMARKS

IMPROVING DIABETES CARE

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 1994

Mr. TOWNS. Mr. Speaker, all of us recognize the problems Americans with diabetes have in obtaining affordable, quality, health care. This is particularly true for African-Americans, Hispanics, and Native Americans, who are more likely to have diabetes than other Americans and who are underserved by today's health care system.

Mr. Speaker, we also recognize that diabetes is a costly disease, both to those with the disease and to the health care system overall. Two recent studies, the first by the National Institutes of Health [NIH] and the second Lewin-VHI, demonstrate that aggressive and consistent management of the disease significantly enhances the health of the people with diabetes and that improving diabetes care is absolutely necessary if we are to control health care spending.

Mr. Speaker, last year NIH completed the landmark diabetes control and complications trial [DCCT], with the results published in the September 30, 1993, issue of the New England Journal of Medicine. The NIH study demonstrated that tight control of blood sugar levels can significantly reduce the risk and progression of complications associated with diabetes, including blindness, kidney disease, and amputation. Aggressive and consistent management of diabetes is best achieved through blood-sugar control, which includes monitoring blood-sugar levels, exercise, controlled diet, and regular insulin injections with a team of health care providers. Today, few individuals with diabetes receive the aggressive and consistent management found effective in the NIH study.

The Lewin-VHI study revealed that the 5-percent of Americans who have diabetes account for one of every seven health care dollars spent. The study also found that 42 percent of total diabetes health care costs was paid by Medicare and Medicaid—1992. The study's results were published in the April 1994 issue of the Journal of Clinical Endocrinology and Metabolism. The study was sponsored by America's leading diabetes provider, Diabetes Treatment Center of America, which has over 70 diabetes centers in hospitals across the United States.

Mr. Speaker, the NIH study proved that we can improve the lives of people with diabetes though aggressive management of the disease before complications develop. The Lewin-VHI study showed that improving care for people with diabetes is necessary to control overall health care costs. National health care reform must address the problem of Americans who are underserved by the current system and ensure all Americans with diabetes are provided with the kind of health care proven effective by the NIH study.

I respectfully submit an April 13, 1994, Boston Globe column by Tom Oliphant entitled "A case study in the health care: What's right, what's wrong and what's needed" to be included in the CONGRESSIONAL RECORD. The article deftly explains the importance of the NIH and Lewin-VHI studies in the context of national health care reform. I also submit the abstracts of the articles published in the New England Journal of Medicine and the Journal of Clinical Endocrinology and Metabolism.

[From the New England Journal of Medicine, Sept. 30, 1993]

THE EFFECT OF INTENSIVE TREATMENT OF DIABETES ON THE DEVELOPMENT AND PROGRESSION OF LONG-TERM COMPLICATIONS IN INSULIN-DEPENDENT DIABETES MELLITUS

(By The Diabetes Control and Complications Trial Research Group)

Abstract—Background. Long-term microvascular and neurologic complications cause major morbidity and mortality in patients with insulin-dependent diabetes mellitus (IDDM). We examined whether intensive treatment with the goal of maintaining blood glucose concentrations close to the normal range could decrease the frequency and severity of these complications.

Methods. A total of 1441 patients with IDDM—726 with no retinopathy at base line (the primary-prevention cohort) and 715 with mild retinopathy (the secondary-intervention cohort) were randomly assigned to intensive therapy administered either with an external insulin pump or by three or more daily insulin injections and guided by frequent blood glucose monitoring or to conventional therapy with one or two daily insulin injections. The patients were followed for a mean of 6.5 years, and the appearance and progression of retinopathy and other complications were assessed regularly.

Results. In the primary-prevention cohort, intensive therapy reduced the adjusted mean risk for the development of retinopathy by 76 percent (95 percent confidence interval, 62 to 85 percent), as compared with conventional therapy. In the secondary-intervention cohort, intensive therapy slowed the progression of retinopathy by 54 percent (95 percent confidence interval, 39 to 66 percent) and reduced the development of proliferative or severe nonproliferative retinopathy by 47 percent (95 percent confidence interval, 14 to 67 percent). In the two cohorts combined, intensive therapy reduced the occurrence of microalbuminuria (urinary albumin excretion of ≥40 mg per 24 hours) by 39 percent (95 percent confidence interval, 21 to 52 percent), that of albuminuria (urinary albumin excretion of ≥300 mg per 24 hours) by 54 percent (95 percent confidence interval, 19 to 74 percent), and that of clinical neuropathy by 60 percent (95 percent confidence interval, 38 to 74 percent). The chief adverse event associated with intensive therapy was a two-to-threefold increase in severe hypoglycemia.

Conclusions. Intensive therapy effectively delays the onset and slows the progression of diabetic retinopathy, nephropathy, and neuropathy in patients with IDDM. (N Engl J Med 1993:329:977–86.)

[From the Boston Globe, Apr. 13, 1994]

A CASE STUDY IN HEALTH CARE: WHAT'S RIGHT, WHAT'S WRONG, AND WHAT'S NEEDED

(By Thomas Oliphant)

Ann Young and Joyce Psalidas, nearing 40 and first cousins, were each diagnosed with diabetes at age 11 when they were kids in suburban Atlanta.

After more than a quarter-century of more traffic with the country's health care system than most Americans have in a lifetime, they personify what's right with the beast, what's wrong with it and what's needed to change it.

What's right with it is science and medicine and doctors and nurses who have made it possible to control a chronic disease affecting nearly one in 20 Americans.

What's wrong with it is that the best and most efficient care is available only haphazardly, with immense human and financial consequences.

And what's needed—in human as well as economic terms—is private health insurance that covers everyone with basic benefits, including intensive therapy for diabetics.

Over 27 years, Joyce Psalidas' more or less conventional treatment has cost nearly $75,000 and has included 51 days in the hospital and 11 outpatient visits.

Over the same period, Ann Young's treatment has cost barely $40,000 and has involved just five days in the hospital and four outpatient visits.

From first diagnosis, Psalidas had a daily insulin shot and urine test but nonetheless experienced a host of eye and kidney complications. From her first diagnosis, Young visited her doctor more often, had her diet and exercise routine monitored and took insulin more frequently as needed to maintain a more nearly normal blood sugar level.

Young, a nurse, has benefited from comprehensive insurance coverage at work, from her own knowledge and from good luck. Psalidas, who has used more intensive therapy for the last 10 years, has often had to pay out of her pocket (she's an educator) and to scheme her way into studies at research hospitals.

The two women were brought here yesterday by Young's employer, Diabetes Treatment Centers of America, part of American Healthcorp Inc., to make a point that cuts to the core of this year's health care debate.

As the company's CEO, Jim Deal, summed up, "When you improve the quality of care, the cost of care goes down." To make the point just as dramatically, the company released a study it commissioned from Lewin-VHI, the firm whose broader work on the health insurance issue is widely accorded definitive status.

Diabetes is more than the No. 4 killer among diseases, according to the research just published in the Journal of Clinical Endocrinology and Metabolism. The national cost of health care for diabetics in 1992 was a stunning $106.2 billion, more than 60 percent of it in the form of inpatient hospital treatment.

That compares with a total national health care bill of $615.3 billion the same year, less than half of it from hospitals.

In English, this means diabetes is to health care what health care is to the over-all economy; it also means that caring for 4.5 percent of the population produces nearly 15 percent of the costs, more than 40 percent of which are paid through Medicare and Medicaid.

In medicine, it has been shown a zillion times that the more you monitor blood sugar, the more timely the use of medicine and the more aggressive the other aspects of a diabetic's therapy, the less frequent are the complications. And monitoring blood sugar levels is easy.

What a famous study released last year by the National Institutes of Health showed is that when diabetics' blood sugar levels are close to normal, the risk of kidney disease drops by 56 percent, of nerve disease by 60 percent and of eye disease by 76 percent.

Ann Young and Joyce Psalidas are both resourceful women, but Young has also been fortunate, and there is no logical reason why her experience—rather than her cousin's—shouldn't be a model for the country.

Managed care works and it pays. When people don't have good insurance that promotes intelligent care, people suffer, and the country pays through the nose.

Slowly, Congress is summoning the will to marry universal coverage and managed care along President Clinton's outlined lines. The idea that this is controversial is absurd, and Joyce Psalidas is this weeks Exhibit A.

RECOGNITION OF LOIS NELSON

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 1994

Ms. KAPTUR. Mr. Speaker, I rise today to honor an outstanding member of our northwest Ohio community, Lois Nelson. After years of unwaivering and dedicated community service, Lois was named this year to the State of Ohio Senior Citizen's Hall of Fame. The Ohio Senior Citizen's Hall of Fame is an elite body of older Ohioans which includes people like former Ohio Governor, James Rhodes, former Ohio Department of Aging Director Martin Janis, and long-time senior citizen advocate, Toledo vice-mayor and councilwoman-at-large, Eleanor Kahle. The senior citizen hall of famers have contributed far beyond what might be expected of any group of citizens.

I have had the pleasure of knowing Lois for many years: She is a deeply committed woman who gives 110 percent to every one of her numerous activities. As a founding member of the downtown Toledo Building Owners and Managers Association, Lois maintains a constant commitment to the beautification of our city's downtown and works hard at getting Toledoans to recognize our jewel on the river. And her link to the waterways is long. She is a retired member of the U.S. Navy, having the unique distinction of being one of the daring women airplane pilots during World War II and remains involved in naval affairs. Most recently, she tirelessly promoted the christening of a Navy nuclear-powered submarine, as the U.S.S. *Toledo*. It was indeed a proud and emotionally charged moment as we represented our city at the submarine's christening last year as it was launched in Newport News, VA. A year later, Lois still promotes the vessel's link to Toledo by distributing commemorative materials from that event.

Lois' interests extend into social service just as deeply as her professional memberships. She serves as president of the board of directors for the Cordelia Martin Health Center, a federally funded clinic in Toledo. For the past 14 years, Lois has served the local Salvation Army in all facets, and she currently serves as chairperson of the advisory board. She is a skilled leader and has used those talents to organize fundraising activities, which have resulted in the provision of a summer meals program for 32,000 area children.

Lois also serves as secretary for the boards of the Local Initiatives Support Corp., for Neighborhood Revitalization, and Downtown Toledo Vision, Inc., and is a founding member of the Performing Arts Co. of Toledo.

It is apparent to all of us in the greater Toledo area, and now to all Ohioans, that Lois Nelson is a distinguished citizen, for she has given her life to the betterment of all. As she joins the ranks of Ohio's elite corps of senior citizens, I—and all Ohioans—commend her for her spirit, her integrity, her vision, and her service.

SLOVAK SUCCESSES

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 1994

Mr. HOYER. Mr. Speaker, for some months now the Commission on Security and Cooperation in Europe, which I cochair along with Senator DENNIS DECONCINI, has been preparing a series of reports on human rights and democratization in the countries of Eastern Europe and the former Soviet Union. In many respects, these reports stand as an ambitious attempt to evaluate the highly complex and unprecedented process of transformation underway in that region. As such, they have required a far-reaching survey of political, economic, and legal developments and a synthesis of their impact on each country's progress in fulfilling its CSCE human dimension commitments. So far, reports on 22 countries have been finished and a half dozen more reports are in the works.

Last fall, the Commission finished and released its report on Slovakia. Regrettably, the picture it painted was disappointing. Although Slovakia's transition to independence had been peaceful—to the credit of all parties involved—its transition to democracy was troubled.

I am gratified to note that in recent months Slovakia's transition to democracy has picked up speed considerably. Following the establishment of a new coalition government in March, Slovakia's leadership has taken important steps to redress many of the concerns raised in the Commission's report. Compromise legislation on the name of newborns and right of women to names of their own choosing—a matter of particular concern for the Hungarian minority—is moving into place, as is planned legislation permitting bilingual road signs. The resolution of these issues is not only consistent with promises Slovakia made upon joining the Council of Europe, it demonstrates good faith in seeking to fulfill Slovakia's commitments in the CSCE process.

Progress has been achieved in other areas as well, including the completion—along with Hungary—of the first agreements in Eastern Europe designed to settle claims for property seized from Jews between 1939 and 1945. The Slovak Government's plans to return property to Jewish communities demonstrates the considerable efforts being made by the people of Slovakia to come to terms with their past, and to build a democratic future.

Of course, there are other issues raised in the Commission report that have not yet been addressed. I hope that the Government of Slovakia—along with those of Poland, Hungary, and the Czech Republic—will repeal defamation legislation that has the effect of criminalizing mere criticism of the Government or Government officials. Such legislation is inconsistent with these countries' commitments in the CSCE process. Fortunately, the current Slovak Government has clearly signaled its intention to put these anachronisms behind it.

As Slovakia does so, it clears the way for the Government to move on to the important business of developing the independent of Slovakia state's infrastructure, of passing needed legislation in the area of privatization, and of strengthening its ties with the United States and the West.

Mr. Speaker, I will be in Vienna in July for the annual meeting of the CSCE Parliamentary Assembly and, in connection with that trip, plan to visit Bratislava. I look forward to continuing there the dialog that has begun between the Commission and Slovak representatives in Washington and at CSCE meetings and discussing our shared goals and aspirations.

TRIBUTE TO LEONARD MAURICE PEARSON

HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 1994

Mr. CLYBURN. Mr. Speaker, I rise today to pay tribute to an outstanding young man, Leonard Maurice Pearson.

Leonard and his teammates on the Marlboro Boys and Girls Club B league championship basketball team, were recently honored by U.S. Secretary of Education Richard Riley for their academic and athletic achievements.

In spite of a rigorous basketball practice schedule, each team member was required to maintain at least a 3.0 or better grade point average. Leonard surpassed the 3.0 minimum, and has a 3.71-grade point average. He is currently a student at Walker Mill Middle School, where he participates in the Gifted Magnet Program. Additionally, Leonard is a member of the national junior honor society. Next fall, he will matriculate at the renown St. Albans Boys School at the National Cathedral here in Washington.

This week, all across the country, we are remembering the landmark Supreme Court case on May 17, 1954, Brown versus the Board of Education, which struck down public school

segregation. Leonard Pearson is the great-grandson of one of the original plaintiffs, Levi Pearson, of Clarendon County, SC. This week's edition of Newsweek magazine describes the courageous contributions of Levi Pearson and others in the small community of Summerton, as they challenged the status quo of injustice, using the U.S. Constitution as their weapon of defense. Leonard's grandfather, Ferdinand Pearson, is also cited in the Newsweek article as he reflects on the struggle before, during, and after the Brown decision.

As we celebrate the 40th anniversary of Federal efforts to achieve ethnic diversity in our Nation's public schools, we must also embark upon a new era to educate America's children. I trust that we will also renew our interest in the need to provide for their academic, social, and cultural needs.

In honoring Leonard and his teammates, Secretary Riley stated, "Giving our students the best education in the world is a moral imperative and an economic necessity if our Nation is going to continue to prosper. I hope you will continue to set high goals for yourself."

Mr. Speaker, Leonard Maurice Pearson has already achieved high goals and I am sure he will continue to make his family and all of us proud.

TRIBUTE TO DWAYNE O. ANDREAS

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 1994

Mr. SHAW. Mr. Speaker, I rise today to honor Mr. Dwayne O. Andreas on his acceptance of the 1994 Horatio Alger Award. The Alger award "celebrates hard work, not heredity, potential and purpose, not privilege, achievement not aristocracy." These words were framed by Frank Resnik, a past recipient of the award, could have been written to describe Dwayne Andreas.

Mr. Andreas embodies the spirit of excellence found in all the Alger award winners. As the chief executive of the Archer Daniels Midland Corp., he has defined the role of a dynamic, responsible, U.S. company in the global economy. At least three presidents have relied upon and respected Mr. Andreas' business acumen, private enterprise, and management techniques. Needless to say, Mr. Andreas knows how to make things happen.

On the private side, Dwayne Andreas puts his money where his mouth is. He lends not only his name but his own hard work and funds to the causes he believes in. He and his wife and companion of 41 years, Dorothy, devote extraordinary amounts of time to the charitable causes which are meaningful to their lives. I am proud to call Mr. and Mrs. Andreas constituents as well as friends.

SALUTE TO GLADYS J. HERRON

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 1994

Ms. KAPTUR. Mr. Speaker, I rise today to recognize Mrs. Gladys J. Herron who will be honored for 30 years of community service in my district on May 21, 1994. Gladys has been a quiet force for change throughout those years, and our community continues to benefit from her work.

Gladys has been a path breaker in many arenas, both personal and professional. We proudly acknowledge her as the founder of the first African-American School of Cosmetology. She continues in her profession until this day. Currently, she is chairwoman of the Ohio Association of Beauticians Advisory Board. As a senior citizen, she remains active in issues of particular concern to seniors. Her pioneering efforts in this regard led her to become a founding member of the J. Frank Troy Senior Center, which now serves a large number of senior citizens and remains an active neighborhood center, thanks to Gladys' direction.

Long interested in issues of the aging, Gladys was appointed to what was then known as the Ohio Commission on Aging by former Ohio Governor Richard Celeste in 1984. She remained with the Commission through its change into the Ohio Department of Aging until 1992.

Rarely is a community blessed with advocates who devote their lives to public service to improve the quality of life for others. Described as a hard, dedicated, fighter for human rights, Mrs. Herron has led by example by providing numerous volunteer services for the following organizations: Substance Abuse Services, Inc.; charter board member of the Affirmative Action Plan for Construction in Toledo; charter board member of the Lucas County Federal Emergency Management Association; Toledo Public Schools Advisory Council; Blue Cross and Blue Shield Senior Citizen Advisory Council; National Association for the Advancement of Colored People; National Caucus on Black Aging; and the Lucas County Business and Professional Women's Organization. Perhaps her strongest affiliation, however, is with her church. Gladys has dedicated herself to the Third Baptist Church in Toledo, OH, and demonstrates her commitment by serving as chairwoman of its advisory council and as church moderator.

It is citizens like Gladys J. Herron who are the link to bettering the lives of people in communities all across this Nation. Her life and accomplishments represent the value and results of hard work, determination, sacrifice, and commitment.

MEDIA'S ETHICAL MUDDLE

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 1994

Mr. OXLEY. Mr. Speaker, I wish to bring to the attention of Members the following column by James K. Glassman from the business section of yesterday's Washington Post. It would appear that the "ethnic police" in the media have some credibility problems on this issue. Mr. Glassman has done everyone a service by pointing out the media's hypocrisy in its fixation on perceived ethical lapses by others in the private and public sectors.

Again, I recommend Mr. Glassman's column to all my colleagues.

[From the Washington Post, May 18, 1994]

TALK ISN'T CHEAP—AND NEITHER IS JOURNALISTIC CREDIBILITY

(By James K. Glassman)

One of the biggest Big Money games in Washington is played by journalists who give speeches to trade associations and corporations and get paid $2,000 or $5,000 or even $30,000 a pop.

At a time when many of these same journalists are holding business and government figures to increasingly strict ethical standards, they're earning far more money from news sources in an hour than they earn from their own employers in a week.

Dennis Thompson, director of the Program in Ethics and the Professions at Harvard, says that news organizations should follow the lead of other large corporations in adopting tougher conflict-of-interest rules. On speeches, he says, "I would start with a straight ban and then proceed with exceptions."

According to a cover story in the May issue of American Journalism Review, Sam Donaldson of ABC News is said to get $30,000 for a speech; Anna Quindlen of the New York Times, $15,000; Tim Russert of NBC, $10,000; and Howard Fineman of Newsweek, $5,000.

In his book "Media Circus," Washington Post media critic Howard Kurtz reports that The Post's David S. Broder makes as much as $7,500 and William Safire of the New York Times makes $20,000.

It's not unusual for journalists to take money from groups they cover. With health care reform a hot topic for almost everyone in the press, Cokie Roberts of ABC News gave a speech to the Group Health Association of America for a reported $20,000, and CBS's Lesley Stahl received $10,000 to $20,000 from the insurance giant Cigna Corp., according to Jim Warren, media critic and Washington bureau chief of the Chicago Tribune.

The problem, of course, is that some of these groups may expect more for their money than a speech. They may be looking for better treatment in an upcoming news story or special access.

Journalists get indignant at this notion. Warren wrote in March: "One line usually is, 'Oh, there's nobody who thinks that my opinions can be bought.' . . . Baloney. When money changes hands, the relationship between reporter and subject changes."

One consultant, who frequently represents business interests in dealings with the press, told me that giving speech money to journalists is like giving PAC money to members of Congress: "It does buy a relationship. It determines whose calls will be returned." The difference is that PAC money is divulged in public filings.

What makes Alicia Shepard's American Journalism Review article so disturbing is that many moonlighting journalists don't seem to give the ethical issues raised by their lucrative speaking engagements a second thought.

They even claim their own right of privacy when asked to disclose who pays them and how much.

Donaldson refused to confirm his fee for a speech to a consortium of insurance organizations last year. Asked what he earned for a talk, Al Hunt of the Wall Street Journal told Shepard: "I'm not going to disclose it." PBS's Robert MacNeil called his fees "a private matter." And ABC's Catherine Crier said, "I don't need to discuss that."

A few years ago, squawks of protest greeted a proposal that would have required reporters in the Periodical Press Galley of Congress to list the sources and amounts of their outside income.

Contrast these attitudes with what's happening in business, where more and more corporations are setting up ethics offices and enforcing strict conflict-of-interest codes.

"Most companies," says W. Michael Hoffman, executive director of the fast-growing Ethics Officer Association, "have ethics policies that prevent anyone from accepting gifts from suppliers or potential suppliers over a certain amount of money—some say $25, some say no gifts at all."

Hoffman says, "This is probably one of the most sensitive times for conflicts of interest in history." One timely issue for corporations is whether they should do business with firms headed by members of their boards.

And Congress, which banned speaking fees entirely a few years ago, recently voted to prohibit even small gifts and lunches.

But journalism, which has no strong professional organization to set standards, seems to be moving in the opposite direction. Even the simple disclosure of speaking fees is evidently more than most reporters and columnists can bear.

At the very least, newspapers and magazines should print periodic lists of employees and their sources of outside income. Let readers decide if a $5,000 fee from a oil industry is clouding a reporter's judgment. Disclosure on TV is a little tougher but far from impossible.

Some news organizations are tightening their internal rules. The Washington Post won't allow employees to accept money from organizations they cover or from groups that try to influence legislation.

What about me? As editor of Roll Call, A Capitol Hill newspaper, I occasionally made speeches in the $4,000 range. Feeling uneasy, I changed my policy: I took the money, then donated it to charity. After a year, I just stopped giving speeches for money.

Getting off the dole might improve journalism's credibility. A recent Gallup Poll found only 22 percent of Americans rate the honesty and ethical standards of newspaper reporters "very high" or "high"—down from 30 percent in 1981.

Pharmacists have a 65 percent rating, and funeral directors 34 percent. But insurance salesmen score just 10 percent. No wonder they paid Sam Donaldson that $30,000.

TRIBUTE TO THE CITY OF GREENVILLE, MI

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 1994

Mr. CAMP. Mr. Speaker, it is with great pleasure that I rise today to recognize an outstanding city in the State of Michigan. Greenville, MI, is like many cities scattered throughout the United States, but it possesses a unique character all its own. During the week of May 16 to May 21, 1994, the city of Greenville, MI will commemorate 150 years of history by celebrating its sesquicentennial anniversary.

Nestled among the serene Baldwin Lake, the Flat River, and the surrounding beautiful landscape of Michigan, the city of Greenville is rich in historical heritage and tradition. Settled by John and Deborah Green in 1844, the city was originally known as Green's Village. Due to its strategic location, the city experienced rapid growth in industry and population and quickly became a focal point for trade in the region.

Today, the industrial and manufacturing bases owe their roots to the ingenious settlers who were attracted to the Greenville area. These settlers came from across the country and helped Greenville develop a strong logging industry.

As the industrial revolution swept the country, Greenville was leading the way with the development of a large manufacturing base in refrigeration which became part of the Fridigadaire Corp. While expanding industry and trade, Greenville remained committed to agriculture which continues to be important to the local and state economy.

Realizing the importance of education, the city established formal education early in its history by opening the first school in 1845. Displaying a commitment to strong family support, the residents of Greenville began holding church services from the beginning of its settlement.

Greenville has honored itself and the State of Michigan by providing an impeccable example of a growing community. While exceeding in economic excellence, Greenville also provides its residents with the tight knit community feeling of a small town.

Mr. Speaker, Greenville has a colorful history and bright future. Its commitment to the community and its citizens embody the ideals that make this Nation great. I know you will join me in congratulating the citizens of Greenville on their 150th anniversary and wish them well during their sesquicentennial celebration. We hope Greenville will continue to provide the example of strong community spirit for the next 150 years.

TRIBUTE IN HONOR OF RETIREMENT OF REVEREND WILLIAM G. PERDUE AS PASTOR OF THE BAPTIST TEMPLE, SAN ANTONIO, TX

HON. FRANK TEJEDA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 1994

Mr. TEJEDA. Mr. Speaker, I rise today with great respect for one of the truly remarkable leaders in San Antonio, TX: the reverend William G. Perdue. Brother Bill, as he is affectionately known by so many, celebrated his retirement last month as pastor of the Baptist Temple. While we will miss his strength of character and his personal warmth, we celebrate his many successes over the past years and know that his leadership—and that of his wife Charlene—will pass to and inspire the next generation. The entire community expresses its deepest thanks for his labor of love, dedication to community, and devotion to family.

Pastor Perdue and his wife came to San Antonio some 15 years ago, having served in pastorates around the State of Texas since 1957. Their accomplishments speak for themselves, reflecting the Perdues' vision for the future. The Baptist Temple today is larger, more modern, and serves more people in so many important ways because of their hard work and foresight. The church budget has doubled, $2½ million have been spent on upgrading the church's facilities with no long-term indebtedness, and the temple consistently leads in giving. The Baptist Temple serves as a church and community center, responding to the needs of its diverse congregation.

While building up traditional structures, the Perdues have not hesitated to create innovative ministries to meet the challenges of our complex world. The Baptist Temple has developed a retreat ministry in Texas' hill country, and the church owns and operates a 5-acre park in my congressional district. To offer aid to the community it serves, the Perdues have opened the doors of the Baptist Temple to anti-drug and anti-crime organizations reaching out to our youth. In these troubling times, with so many of our young children lost, the Perdues and their church offer guidance and wisdom.

Many have recognized the rare talents of the Perdues. Reverend Perdue has served on numerous Baptist boards in positions of responsibility, including as chairman of the Baptist general convention of Texas' State Missions Commission, chairman of the San Antonio Hispanic Theological Seminary's board of trustees, adjunct professor at the Southwestern Baptist Theological Seminary, steering committee member for the homeless initiative of the United Way, and the list goes on. This litany of service reflects Reverend Perdue's sincere commitment to the Baptist ministry and his community. The Perdues' five children reflect their parents' values of devotion to community and country, having chosen careers in the military, business, law enforcement, and the church.

No one questions that the Perdues have given greatly to their congregrants and to the people of Texas. I would add, Mr. Speaker, that they have contributed to our Nation in the example they have set. In this time, as we search for positive role models, we only need look to the Perdues whose life accomplishments reflect the highest ideals.

CONGRATULATIONS TO ROY BLACK AND POWERS CLAYPOOL ON THEIR SERVICE TO LOCAL 159 IN DECATUR, ILLINOIS

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 1994

Mr. POSHARD. Mr. Speaker, I rise today to honor Roy Black and Powers Claypool for their many years of dedicated service to Laborers' International Union of North America,

Local 159 in Decatur, IL. These two good men, through their roles as union members and leaders, have devoted themselves and their careers to the betterment of working standards and conditions for laborers in central Illinois and across our Nation.

In 1965, Roy Black joined Laborers' Union Local 159, a union in central Illinois whose membership included construction and road workers. After laboring 8 years out in the field, Roy was appointed the union's assistant business agent, and in 1987, Roy became the local union's business representative, the position he holds until the end of this month. As business representative, Roy has maintained working and safety conditions and regulations for local union members. Over the years, Roy has also actively participated in many charitable causes that include the founding of a local food bank and Dollars Against Diabetes. I must also recognize Roy's wife, Darlene, and his three children, who have continuously provided Roy with the support and encouragement that has allowed him to play such an active role in the union for 29 years.

Powers Claypool joined the Laborers' Union in 1947. During Powers' 32 years as a laborer, he held such offices as a member of the executive board, recording secretary, and vice president. In 1979, Powers traded in his hard hat for that of the secretary-treasurer of Local 159. Mr. Claypool held the very important position of secretary-treasurer until March of this year. Like his colleague Roy, Powers has also involved himself with many local charity causes over the years. Powers' wife, Judy, and his three daughters have also provided him with the foundation on which to build a long and successful career.

On behalf of the people of the 19th Congressional District, I would like to congratulate Mr. Roy Black and Mr. Powers Claypool on their retirement from Laborers' International Union, Local 159. Their service and dedication to the union, its members, and the Decatur community will remain an example for all for years to come.

THE 85TH ANNIVERSARY OF THE ITALIAN TRIBUNE

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 1994

Mr. BONIOR. Mr. Speaker, I rise today to commemorate the 85th anniversary of the Italian Tribune. This evening, at the San Marino Club in Troy, MI, a banquet is being held to celebrate the event.

Established in 1909, the Italian Tribune is one of the oldest weekly, now biweekly, Italian newspapers in the United States. The Tribune has chronicled the events and successes of the Italian community for 85 years. The paper continues to serve Italian Americans by promoting and preserving Italian heritage and culture.

While the Italian Tribune publicizes the achievements of Italian Americans, it has always promoted loyalty to the United States. The first issue stated "We will encourage Italians to become citizens of this great American republic." Vincent and Maria Giuliano, the original publishers of the Tribune always proved their loyalty, especially in the 1930's and 1940's.

In 1933, when fascism was spreading through Europe and had sympathizers in the United States, the Italian Tribune published an editorial criticizing the fascists of Italy. The Giuliano's home was bombed. Fortunately, no one was injured and the Tribune survived. Loyal to democracy, both in the United States and Italy, the Italian Tribune was courageous and independent. many advertisers refused to support the paper because of its principled stand against fascism in Italy. The opposition to Italy's Government was viewed as anti-Italian. However, the paper saw through these lean years because it supported a free and democratic Italy, as well as a free America and world.

Today, Edward Baker, the grandson of the Giuliano's, and his wife Marlene carry on the proud tradition of publishing the Italian Tribune. I commend them and their readers for contributing to the rich tapestry of American heritage. I urge my colleagues to join me in commemorating the 85th anniversary of the Italian Tribune. May the next 85 years continue to be successful.

THE INTRODUCTION OF THE INDIAN FEDERAL RECOGNITION ADMINISTRATIVE PROCEDURES ACT OF 1994

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 1994

Mr. RICHARDSON. Mr. Speaker, today I am introducing the Indian Federal Recognition Administrative Procedures Act of 1994. I am pleased to have Representative CRAIG THOMAS of Wyoming as an original cosponsor on this measure. Representative THOMAS and I have worked together on many issues in the Subcommittee on Native American Affairs, and we reached the same conclusion after several hearings on the recognition of Indian tribes. The conclusion is that we need a system to carry out this task.

In 1978, the Secretary of the Interior established an administrative process to determine whether an Indian group should be deemed a "federally recognized Indian tribe" under the laws of the United States. This task is currently carried out by the Branch of Acknowledgement and Research of the BIA which administers the Federal acknowledgement process. However, the main mission of the Bureau of Indian Affairs is to provide services to the 547 federally recognized tribal governments already in existence. The BIA provides these services with limited dollars. Hence, we have handed the responsibility for recognizing new Indian tribes to an agency which has a hard time providing services to existing tribes. Consequently, there is an inherent disincentive to recognize new tribes by the BIA since new tribes would mean a greater strain on an already overstretched budget.

In previous hearings before the Congress, an unfortunate fact has become clear: federally recognized Indian tribes prefer the status quo with regard to the recognition process rather an improved administrative process. In the 16 years the Federal acknowledgement process has been in place, only nine tribes have been recognized. Indian tribes view the BIA and Indian Health Service budgets as two small pies. If more tribes get recognized, the pie slice of every tribe in America gets smaller. The pies never get bigger since BIA and IHS programs are not entitlements. Hence, the politics of Indian country do not favor these unacknowledged groups.

In committee hearings over the last 5 years on the Federal acknowledgement process, I have come to the firm conclusion that this process simply does not work. The FAP process has become an extremely protracted, expensive, and thoroughly frustrating experience for petitioners. Many Indian groups have determined that moving recognition legislation through the Congress is the most expeditious method of obtaining Federal recognition. We have seen a dramatic increase in the number of recognition bills which have been introduced and referred to our committee. Unfortunately, we simply do not have adequate resources to properly consider every recognition petition submitted to the Congress.

The only reasonable solution to this problems is to take this process out of the BIA and establish a Commission to acknowledge Indian tribes. Mr. THOMAS and I have discussed this matter at great length and have jointly authored the bill we introduce today. The bill would establish the Commission on Indian Recognition which would consist of three members appointed by the President. Any Indian group could submit a petition for recognition to the Commission and request that the Commission recognize the group as an Indian tribe under the laws of the United States. The bill establishes uniform administrative procedures to extend recognition to petitioning groups. It provides for clear and consistent standards of administrative review of recognition petitions. The measure provides definitive timelines to expedite the administrative review process, and also provides adequate resources for the Commission and for petitioning tribes.

Mr. Speaker, Mr. THOMAS and I believe that this bill is cost effective for the United States and for groups seeking Federal acknowledgement. I urge my colleagues to support this bill which we intend to hold hearing on next month. We fully intend that this bill will become law this year.

STATEMENT OF HON. CRAIG THOMAS OF WYOMING ON H.R. —: THE INDIAN FEDERAL RECOGNITION ADMINISTRATIVE PROCEDURES ACT OF 1994

HON. CRAIG THOMAS

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 1994

Mr. THOMAS of Wyoming. Mr. Speaker, I am pleased to rise today to cosponsor a bill introduced by Representative BILL RICHARDSON, the Indian Federal Recognition Administrative Procedures Act of 1994.

The question of whether a Native American group constitutes an Indian tribe is one of immense significance in the field of Federal Indian law. Because Congress' power to legislate for the benefit of Indians is limited by the Constitution to Indian tribes, for most Federal purposes it is not enough that an individual simply be an Indian to receive the protections, services, and benefits offered to Indians; rather, the individual must also be a member of an Indian tribe. Though it might seem to the layperson that there is only one kind of Indian tribe, for purposes of American Indian law there are actually two—those that are recognized by the Federal Government and those that are not.

"Recognized" is more than a simple adjective; it is a legal term of art. It means that the government acknowledges as a matter of law that a particular native American group is a tribe by conferring a specific legal status on that group, thus bringing it within Congress' legislative powers. This Federal recognition is no minor step. A formal, political act, it permanently establishes a government-to-government relationship between the United States and the recognized tribe as a "domestic dependant nation," and imposes on the Government a fiduciary trust relationship to the tribe and its members. Concomitantly, it institutionalizes the tribe's quasi-sovereign status, along with all the powers accompanying that status such as the power to tax, and to establish a separate judiciary. Finally, it imposes upon the Secretary of the Interior specific obligations to provide a panoply of benefits and services to the tribe and its members. In other words, unequivocal Federal recognition of tribal status is a prerequisite to receiving the services provided by the Department of the Interior's Bureau of Indian Affairs [BIA], and establishes tribal status for all Federal purposes.

Prior to 1978, recognition took many forms: Acts of Congress, executive orders, administrative decisions, and treaties. However, the process was "sporadic at best * * * plagued with all sorts of pitfalls and a lack of a systematic approach." In the 1970's, the congressionally-established American Indian Policy Review Commission [AIPRC] proposed the formation of a firm legal foundation for the establishment and recognition of tribal relationships with the United States, and the adoption of a "valid and consistent set of factors applied to every Indian tribal group. * * *" Joining the chorus for standardization was the National Congress of American Indians, which called for a "valid and consistent set of criteria applied to every group which petitions for recognition * * * based on ethnological, historical, legal, and political evidence." Senator James Abourezk, AIPRC's chairman, took the issue to the floor of the Senate, and introduced legislation calling for the establishment of an office in the BIA to handle recognition petitions in a uniform way.

In 1978, the Interior Department, after exhaustive consultations with Indian country, established procedures to provide a uniform approach to the recognition process. Called the Federal Acknowledgment Process [FAP], the regulations set forth seven criteria a petitioning group must meet to be deemed a recognized tribe. Under the criteria, based in part on Cohen's model, for a group to be recognized as a tribe it must: (a) establish that it has been identified from historical times as American Indian or aboriginal; (b) establish that a substantial portion of the group inhabits a specific area or lives in a community viewed as * * * Indian; (c) establish that the group has maintained tribal political influence or other authority over its members as an autonomous entity; (d) furnish a copy of the group's present governing document * * * (e) furnish a list of all known members, and show that their descendency from an historic tribe; (f) establish that the membership is composed principally of persons who are not members of any other tribe; (g) establish that the group is not the subject of congressional legislation that has expressly terminated or forbidden the Federal relationship.

The BIA FAP office is staffed by two teams of professionals including historians, genealogists, ethnologists, and anthropologists. These teams do exhaustive research on the petitions they receive, and examine such factors as Indian identity and community, as well as political and cultural cohesiveness. Once a petition is received it is reviewed for any obvious deficiencies. These are noted for the tribe, which is given the opportunity to supply additional material to supplement its petition. The petitions are then placed on active consideration in the order received.

Although theoretically desirable, the FAP is in practice a dismal failure. Since its inception in 1978, the BIA has recognized only 9 groups, and denied recognition to 13. Approximately 101 groups are presently in some stage of the process, a process that can take many years and thousands of dollars to complete. There have been charges of institutional bias against some petitioning groups, as well as a lack of consistency in final FAP decision. The BIA constantly ignores its own time restraints, stringing groups along with promises of "just one more month." Part of their failure is not their fault; they have been historically underfunded and thus understaffed. Still, the process is necrotic.

As a result, a growing number of groups have come to Congress for legislative recognition outside of the FAP process. Legislative recognition replaces the standardized with the arbitrary; historical merits examined by objective and neutral professionals are supplanted by emotional arguments, influential sponsors, and the partisan nature of this institution. The result is a lack of uniformity which dilutes the concept of tribal sovereignty and the government-to-government relationship between the tribes and the United States. In addition, the increasing frequency with which we bypass established administrative processes in favor of the quick-fix of congressional recognition serves to subvert the Federal acknowledgment program by encouraging other groups to do the same.

As the ranking Republican member of the Subcommittee on Native American Affairs, I have participated in several hearings on these recognition bills. At each hearing, both Democrats and Republicans alike stressed the need to do something about fixing the system. We have now finally come to a point to be able to do just that.

Chairman RICHARDSON and I, along with the subcommittee staff, have worked diligently over the past few months to craft legislation to improve the process and make it what it was supposed to be—prompt, accurate, fair, and less burdensome. Our bill makes several important changes. It removes the FAP from the BIA and places it in an independent commission not subject to the political eddies and currents of the Bureau. It provides for set time limits for consideration of petitions, and direct access to Federal court if those deadlines are not met. Most importantly, in my mind, the bill provides for a simplified and expedited process for those groups that can establish descent from a treaty signatory or Indian Reorganization Act-eligible tribe.

The bill still needs some fine tuning, but the chairman and I felt that it was more important to get the ball rolling by introducing the bill now. Any omissions or required additions can be handled at subcommittee markup, after we have heard from Indian country.

I am sure that we will hear some institutional opposition from the BIA to this move—what bureaucracy supports its own dismemberment—but I believe it is vitally important for us to pass this legislation, and pass it in time for it to become law this year. I look forward to working closely with Chairman RICHARDSON toward that end. I hope my colleague will join in supporting it when it comes to the floor.

A BRIEF HISTORY OF ST. PAUL AFRICAN METHODIST EPISCOPAL CHURCH

HON. JACK KINGSTON

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 1994

Mr. KINGSTON. Mr. Speaker, I submit for the RECORD a history of St. Paul African Methodist Episcopal Church of Philadelphia, PA.

The origin of the Saint Paul African Methodist Episcopal Church, Inc. goes back to an incident which took place in November, 1787 in Saint George Methodist Episcopal Church in Philadelphia, Pennsylvania. On this occasion a number of people of African decent, feeling they had been mistreated by white Christians who, during worship service attempted to segregate them to the gallery of the church, withdrew in a body from that church. With Richard Allen as leader, the group at once set out to form an independent church. Thus, the African Methodist Episcopal Church was founded by Bishop Richard Allen. It rejects a policy of exclusiveness. Indeed it was founded by black people and its integrated membership indicates this policy today. It boldly proclaims and practices the ideals as set forth in its motto: "God our Father, Christ our Redeemer, Man our Brother."

Later in 1853 Bishop Henry McNeal Turner, was sent from South Carolina by Bishop Daniel Alexander Payne to organize the African Methodist Episcopal Church in Georgia the first being in Savannah, others later in Atlanta, Columbus, Macon, Waycross and yes—Brunswick. Thus we come to brief life story of this Historic Church and Congregation.

The Saint Paul African Methodist Episcopal Church of Brunswick as it was named was established in 1869. Among the founders were faithful followers who chose as their

minister the Reverend Brooks. Together they diligently and prayerfully set upon the organizing of a well rounded and stimulating church program for the people in Brunswick.

When the store in which the church was originally located was destroyed by a storm the faithful little group moved to a new location in a building which once served as a shoe factory at Union and "H" Street, but this structure too, was destroyed by a storm. With spirits undaunted by the loss of their first two houses of worship, the members continued their trust in God which served as a common bond of strength that led to the building of the present church home on a permanent site at 1520 Wolfe Street near "F" Street, in 1899, where it stands today.;

The destiny of Saint Paul African Methodist Episcopal Church was determined in early years by the ministries of pastors who were committed to the principles of Christ and the A.M.E. Church.

The 36th and present pastor The Reverend Richard Quinn Ward, Sr. was assigned June 7, 1988 by Bishop Frederick Hilborn Talbot. This pastor has distinguished himself from his contemporaries and peers in the development and administration of "Project Restoration." A preservation plan of the historic rehabilitation of St. Paul A.M.E. Church. This will be important not only to its congregation and the city of Brunswick; it will be important to Georgia and Georgia's history. Larry Evans, a historic preservation architect and developed, John Tuten, a local architect and preservationist have agreed to guide the church's historic rehabilitation process.

It is evident that the ministers serving Saint Paul were then and still are great leaders. Therefore, it is our aim to continue to explore new horizons, in both spiritual and secular concerns for the general growth and well being of our city, county, state and our nation, as we continue to serve with 4 churches in Brunswick—Glynn County, 495 churches in Georgia and more than 12,000 churches world-wide.

TRIBUTE TO CLIFF HASKELL

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 1994

Mr. MATSUI. Mr. Speaker, I rise today to pay tribute to Cliff Haskell, a retired firefighter who has devoted more than 20 years of service as executive director of the firefighters Pacific Burn Institute.

Mr. Haskell began his career as a firefighter with the city of Sacramento in 1959. His commitment to victims of burns injuries was the result of one of Sacramento's greatest tragedies.

In 1972, a jet plane attempting to take off crashed into a crowded ice cream parlor killing 26 people, including firefighter Gene Levine and eight members of his family. Shortly after the crash, Mr. Haskell attended a Flame Free Design Conference, where a multidisciplinary approach to the burn problem was presented. It was here that he was inspired to start a burn unit in Sacramento.

Mr. Haskell immediately began several successful fundraising campaigns and proudly formed the Firefighters Pacific Burn Institute in December 1973. The organization's goals were to promote and support burn treatment facilities; support education to hospital, medical, and firefighter personnel; promote fire prevention through public education; promote consumer product safety and work with consumer organizations; provide peer counseling groups to assist burn survivors and their families; and finally to correct and initiate fire and burn accident legislation.

With the collaboration of physicians and the administration at the University of California, Davis Medical Center, it was agreed that a specialized burn treatment facility was needed and should be established at the medical center. The UCDMC Regional Burn Center opened in January 1974.

Through Cliff Haskell's leadership, many groups have helped to fund the ongoing support to the burn center and service programs. The largest group of contributors are firefighters who contribute to the institute through payroll deductions.

Money raised by the burn institute has been used to purchase equipment for the burn center, provide burn team education, distribute prevention materials to the community, sponsor a special summer camp for burn-injured children, support recovery programs for burn survivors, and fund research directed at improving methods of burn treatment.

Mr. Haskell continues to give tirelessly as he donates countless hours as executive director of the Firefighters Pacific Burn Institute. Through his efforts, over $7 million has been raised and given to support the burn center, staff, and patients.

In addition to his work with the center, he has also been an active member of the National Safety Council, the National Fire protection Association, the Sacramento Area Firefighters Local No. 522, the Federated Firefighters of California, the international Association of Firefighters, and the Firefighters Committee to develop CAL/OSHA standards for firefighters.

Mr. Speaker, It is with great pleasure that I ask my colleagues to join me in saluting Mr. Craig Haskell's many landmark contributions to the people of this region. I congratulate him for his outstanding leadership and wish him continued success in all of his future endeavors.

MARYLAND STATE SOCIETY UNITED STATES DAUGHTERS OF 1812 HONORED FOR WORK AT FORT McHENRY

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 1994

Mrs. BENTLEY. Mr. Speaker, my fellow colleagues, I rise today to recognize the efforts of the Maryland Society United States Daughters of 1812. When Americans think of the many historic landmarks celebrating our Nation's military triumphs and defeats, they often picture places like the battlefields of Gettysburg, the U.S.S. Arizona Memorial at Pearl Harbor, and the Alamo. While these monuments are respectable in their own right, often they overshadow the accomplishments of another significant memorial, Fort McHenry, the birthplace of the Star Spangled Banner.

Nearly 180 years ago, Fort McHenry fell under a British Naval attack led by Vice Adm. Alexander Cochrane. The bombardment would last for 25 hours, in which 1,500 to 1,800 shells and rockets were fired. On September 14 at 7 a.m., the British invaders sailed away in defeat as the American soldiers fired the morning gun in victory and hoisted the large flag made by Mary Young Pickersill. It was this grandiose flag, the red, white and blue colors shimmering in glory in the wind with its 15 stars and stripes that inspired Francis Scott Key to write "The Star Spangled Banner", our national anthem.

Throughout the years, the society has supported Fort McHenry with monetary donations, raised funds to plant trees, donated children's books for the library and supported the Fort McHenry Educational Program. Its efforts have contributed to the preservation of this historical site, as well as educating future generations about the fierce bombing the fort endured in the fight for our country's independence and the repulsion of the British naval attack that prevented the capture of Baltimore.

In 1925, Congress made Fort McHenry a national park. Fourteen years later, it was redesignated a national monument and historic shrine, the only park in the country to have this double distinction. Mr. Speaker, my fellow colleagues, I am proud to commend the Maryland State Society United States Daughters of 1812. Their constant attention to the preservation of this beautiful site rightly glorifies the courageous men who fought and died there and reminds us of this hard fought battle for freedom and liberty.

RECOMMENDATIONS OF THE 16TH DISTRICT STUDENT CONGRESSIONAL COUNCIL

HON. RALPH REGULA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 1994

Mr. REGULA. Mr. Speaker, every year I sponsor a student congressional council in the 16th District of Ohio. High school students from several schools are selected to participate and are assigned an issue of national importance to research and debate. Several weeks are spent studying and discussing the topic, concluding with a final vote on specific policy recommendations.

I am always pleased with the program and the impressive ideas and efforts of the bright students who participate in it. Mr. Speaker, I insert their recommendations for addressing the task of reforming our Nation's health care system at this point in the CONGRESSIONAL RECORD:

The Hoover, Fairless, Marlington Plan for Health Care Reform, 1993-94—16th District Student Congressional Council as reported by the Speaker, Paul Pheltz on March 31, 1994.

(Participating high schools: Wooster High School, Fairless High School, Tuslaw High School, Hillsdale High School, R.G. Drage Career Center, Northwestern High School, Marlington High School, Alliance High School, Glenoak High School, West Holmes High School, Minerva High School, Sandy

Valley High School, and Canton South High School.)

Whereas, 39 million Americans have no health care coverage, and whereas, 75% of all Americans are dissatisfied with the Health Care System, and whereas, health care costs are skyrocketing at a rate of 6% per year, be it hereby resolved by the Student Congressional Committee here assembled that The Hoover, Fairless, Marlington Plan for Health Care Reform be passed into law.

1. All employed individuals presently satisfied with their health care coverage as provided by their employer (status quo) are in no way forced to submit to any plan other than their current plan.

2. For all businesses providing satisfactory health care benefits to its employees, tax breaks will be given to those businesses on a sliding scale equal to those services provided and to be determined by SARHC (State Health Care Regulation Agencies).

3. All individuals, be they self-employed, unemployed, or wanting better benefits, are eligible to receive benefits from State Agencies Regulating Health Care. (Three different health care packages will be determined by the National Commission on Health Care Reform.)

4. So as to reduce bureaucracy and excess spending, the agencies of Medicaid, Medicare, FEHBP (Federal Employees Health Benefits Program), and CHAMPUS (Civilian Health & Medical Program of the United States) will be phased out over a three year period and will be provided by the state.

5. To again reduce red tape and standardize a national coverage system, a Standard Health Care Claim Form W1280 will be used by all people when submitting health care claims.

6. The Hoover Plan for Health Care Reform will be funded by: creating a higher tobacco and alcohol tax; having corporations pay an additional 1% payroll tax; eliminating health care benefits to all illegal aliens; having all individuals pay a yearly deductible on all drugs; encouraging all individuals to own a medical savings account; taxing all employer and state packages over the standard as taxable income; and adding a .5% Federal Sales Tax on consumer goods.

7. Let the measures provided in this bill become phased into the American health care system by Jan. 1, 1996.

TRIBUTE TO EVANGELIST CHRISTINE MORRIS

HON. BOBBY L. RUSH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 1994

Mr. RUSH. Mr. Speaker, I rise today to honor Evangelist Christine Morris, pastor of the First Pentecostal Church of God in Chicago on the occasion of her 13th pastoral anniversary.

Pastor Morris was ordained a minister in 1959. She united with the First Pentecostal Church of God under the leadership of the late Bishop James Morris in April 1957. In December 1963, she was united in holy matrimony to Bishop Morris and to this union was born one daughter, Bernice Williams-Fluker.

Evangelist Morris served with distinction as co-pastor of First Pentecostal for 12 years. Upon the passing of Bishop Morris in 1981, she was elevated to pastor. Under her stewardship, First Pentecostal Church of God stands as a beacon light in Chicago. Their efforts at community outreach, providing food assistance programs and visiting the sick and shut-in are commendable.

Born in Oakland, MS, Pastor Morris is a renowned Bible teacher. Through her teachings, she was conferred an honorary doctor of humanities degree from Trinity College in 1991.

Mr. Speaker, Evangelist Christine Morris has dedicated her life to fighting the good fight of faith and preaching the gospel of Jesus Christ. Through her positive ministry many have been healed, blessed, and saved. I am proud to enter these words into the RECORD.

CLEAN CAR INITIATIVE

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 1994

Ms. ESHOO. Mr. Speaker, I rise to inform my colleagues about an important hearing which took place today in the Subcommittee for Technology, Environment and Aviation on the administration's clean car initiative. This hearing outlined the administration's plans to increase the number of nonpolluting vehicles on the road today.

Nonpolluting vehicles recently received a major boost in California from the State's air quality board. The decision of the board to approve the 2-percent mandate for electric vehicles in California by the year 1998 testifies to our State's commitment to clean the air and provide residents and industry access to nonpolluting energy technology.

California has already won a significant edge over Europe and Japan to provide efficient and affordable vehicles in this category. The successful application of this technology will lead to increased economic competitiveness for the automobile industry.

In addition, the mandate had had spin off effects in other States. I learned that at least 12 Northeastern States are looking to the California mandate as a model for meeting their own air quality requirements.

This was an important day for the environment. As shown in California, we are one step closer in our pursuit to ensure an energy-efficient automotive future.

FDA RATES FOOD LION GROCERY STORES EXCELLENT

HON. CHARLIE ROSE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 1994

Mr. ROSE. Mr. Speaker, I want to report to you some good news concerning North Carolina's largest private employer, Food Lion grocery stores. I am pleased to bring to your attention the excellent rating that this company recently received from the Food and Drug Administration.

As you know, the FDA, as part of its oversight of food safety and sanitation, annually evaluates the food industry, including grocery stores, restaurants, and other food-related concerns. The FDA assigns a rating, on a scale from 0 to 100, on various matters relating to food safety and sanitation. Under FDA standards, a score of 90 or above is considered excellent.

The FDA's survey of Food Lion was conducted over an 8-month period and included a random sample of 63 stores in 6 Southeastern States. Food Lion's meat departments received an average score of 95.43; its deli department average 92.90; and its grocery, produce, dry storage, and sales departments averaged 92.60.

Obviously, Food Lion has paid close attention to having the highest possible food safety and sanitation. The employees of this company deserve to be commended for their hard work and success. The FDA report is clear evidence of this.

I hope that this information is of interest to you.

WE NEED FLOW CONTROL LEGISLATION

HON. DAVID MINGE

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 1994

Mr. MINGE. Mr. Speaker, earlier this week the U.S. Supreme Court trashed local flow control laws leaving our towns, cities, and counties helpless in managing their locally generated garbage. Simply put, flow control allows local governments to direct the flow of garbage generated within that locality.

Why is flow control important? And what is the significance of the Supreme Court decision Carbbone versus Clarkstown, NY?

The answer is simple.

The Federal Government required State and local governments to dispose of solid waste in an environmentally sensible fashion—a classic unfunded mandate. It was expected local governments could meet this mandate by building new facilities, charging for their use, and directing the flow of garbage to those facilities.

The Supreme Court ruling—by overturning local ordinances—handicaps responsible solid waste management and undermines the security of as much as $18 billion in outstanding municipal bonds. These bonds were sold to build waste facilities.

Congress must respond by enacting flow control legislation that will give our localities the tools they need to protect our environment, and in turn, to protect our children and our communities. I implore my colleagues—do not leave local governments holding the garbage bag. Learn about the importance of flow control ordinances. Learn how important Federal flow control legislation is to your communities and to the environment.

TRIBUTE TO SEVEN PROFESSIONAL DEDICATED PUBLIC SERVANTS

HON. GARY A. CONDIT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 1994

Mr. CONDIT. Mr. Speaker, I rise today to pay tribute to seven individuals who have dedicated much of their lives to further educational opportunities in my hometown of Ceres, CA. It is with great pride that I recognize Mr. Robert Hedstrom, Mr. LeRoy Kessler, Ms. Mary Jo Peyton, Ms. Cheralyn Phillips, Mr. Paul Pronoitis, Ms. Jean Ricardo, and Ms. Susan Thompson for the commitment to Ceres Unified School District. All of these individuals have worked tirelessly for over 25 years to ensure the children in my hometown receive the education they deserve.

It is too often the case that the long hours logged by public servants, especially those in the field of education, are without proper thanks. These professional employees should be commended for their invaluable contribution to our community. Without a doubt the future of our youth bears greatly on the commitment made daily by these role models. We place in their hands America's most precious resource, our children. On behalf of all the parents and students, whose lives have been enriched by these seven individuals, I want to thank them for all the benefits our communities reap from their efforts.

TRIBUTE TO BILL WILLIAMS

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 1994

Mr. THOMAS of California. Mr. Speaker, I would like to take this opportunity to pay tribute to a constituent in my district, Mr. Bill Williams. Bill Williams is retiring after 37 years as an educator and completing his career as the superintendent of Panama-Buena Vista Union School District.

If a person is to be measured by their accomplishments, then Bill Williams is a man whose rating will place him at the top of the list. Beginning his career as an elementary school teacher he soon became an elementary principal, junior high principal, assistant superintendent and finally as superintendent for first Greenfield, then Taft and finally Panama-Buena Vista Union School District.

During his tenure at Panama-Buena Vista Union District, Bill Williams, among other achievements, led the successful effort to pass a bond issue to finance multipurpose/cafeterias on all school sites where needed and for building other necessary facilities, he initiated the formation of a community facilities district in hopes of passing a bond issue to fund major improvements and some additions to enhance the educational program in the district, he helped to set up an extended day child care program for district students and he was instrumental in initiating the Panama Education Foundation, a non-profit organization to promote financial assistance for district housing of students.

But his outstanding record does not end here. Bill was the past president of Phi Delta Kappa, and region XI of the Association of California School Administrators, he serves on the board of directors for schools legal services, and is a member of the California State University of Bakersfield Advisory Committee for Children's Enrichment programs. Bill is a member of the Bakersfield Rotary Club, active in the Boy Scouts, and a life member of the Parent Teachers Association. Bill and his wife raised four children and have five grandchildren.

This is a record of achievement we can all look to for inspiration. The education community will miss him upon his retirement.

DR. ROBERT GOOD HONORED AS THE MOST PROLIFIC SCIENTIFIC AUTHOR OF OUR TIME

HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 1994

Mr. YOUNG of Florida. Mr. Speaker, many of our Nation's and our world's most respected scientists and medical researchers will gather this weekend in St. Petersburg, FL, to honor their colleague, Dr. Robert A. Good on the 50th anniversary of the publication of this legendary scholar's first scientific paper.

It is an honor for me to not only represent Dr. Good, a distinguished research professor and head of allergy and clinical immunology at the University of South Florida and All Children's Hospital in St. Petersburg, but to call him my friend. He is a friend who has helped educate me on the miraculous breakthroughs that have taken place in the biomedical field during his brilliant professional career. He is also a man who has touched the lives of so many colleagues, students, and patients.

Families throughout the world have reaped the benefits of his years of work. Thousands are alive today because of his research and clinical findings.

This weekend's major scientific conference, entitled "Perspectives in Immunology and Medicine 1944–1994," is a symposium which is the latest in honors this remarkable man has received. He is the recipient of the prestigious Lasker Award, as well as 80 other scientific awards and honorary degrees. He is also the past president of both the American Association of Immunologists and the American Association of Pathologists.

As the most distinguished academic pediatrician of the past decade, perhaps the greatest living recognition of his work is the long list of physicians and other researchers, numbering more than 300, who have studied and trained under Dr. Good and now hold major positions worldwide.

His words and contributions to active laboratory and clinical research and training live on in his more than 40 books and 1,800 scientific published articles.

Though he has had an impact on so many lives, I personally will be forever in Bob Good's debt for his pioneering work in the field of bone marrow transplantation. Thirty years ago he was featured on the cover of Time magazine for performing the first bone marrow transplant. Today, bone marrow transplants occur daily throughout the world and give life to men, women, and children. They are cured of leukemia, cancers, immuno-deficiencies, and countless other blood disorders for which there is no other cure.

Through some divine intervention in 1986, Bob Good and I came together at All Children's Hospital in St. Petersburg with the same goal. That goal was to establish a national registry of volunteers willing to donate their bone marrow to another person in need of life. With his enlightenment on the science of bone marrow transplantation, I learned of the need to establish such a registry to give hope to the families of patients dying from leukemia or countless other disorders because they lacked a matched bone marrow donor. With the support of my colleagues in Congress, we established the National Marrow Donor Program in 1987 and Bob Good was a member of its first board of directors.

Mr. Speaker, my best wishes go out today to Dr. Good and his wife Dr. Noorbibi Day, a world renowned medical researcher in her own right, as they are honored this weekend for their individual and collective achievements in the fields of science and medical research. Dr. Good is a national and international treasure whose work spans generations of medical breakthroughs. The people of St. Petersburg are proud that he has chosen our area to be his home and I will be forever grateful to call him my teacher and friend.

DEDICATION OF THE JOHN A. WILSON BUILDING

HON. ELEANOR HOLMES NORTON

THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 1994

Ms. NORTON. Mr. Speaker, today, one of Washington's historic buildings was joined with one of its favorite sons. The old District Building, cornerstone of the District government, was re-named the John A. Wilson Building after the former chair of the D.C. City Council, who died a year ago today.

John Wilson was a major figure in post-Home Rule Washington. He enjoyed extraordinary respect and love and had unparalleled knowledge of the District of Columbia government. He is missed now more than ever. Because of his significance to local government, I am pleased to place in the RECORD my remarks made at today's dedication of the John A. Wilson Building.

Never has a building been more aptly named than is the name we place on the old District Building today. Few in our time have spent more time or worked harder or made greater contributions in this building and to this city than did John A. Wilson. In renaming the building, however, those of us who knew John well do not fool ourselves. We give this building his name as much to console ourselves as to commemorate John.

We miss him terribly, especially now. He left at the height of his civic usefulness and personal power. He left when he had given us

his all but had more where that came from yet to give.

In a world of specialists in small things, John specialized in the District. He drove himself until he made himself master of its finances and operations. Awesomely knowledgeable, he had a unique command of the District's entire body and the smallest details of its civil organs. Like a stern but wise physician John had an uncanny understanding of how to prevent trouble. His predictions nearly always came true. And if you got in trouble, here was the doctor who would pull you back with a new lease on life.

But if John was a miracle doctor, he was also a master teacher. My old buddy from battles in the south showed me that he had something to teach me about this city. If you listened to John, you inevitably learned. But John told you what you needed to know not what you wanted to hear. For municipal students most comfortable with algebra, John insisted on calculus.

John's extraordinary grasp of the District was matched only by the effectiveness of his leadership. The Wilson style was a legendary component of this unique brand of leadership. Here was a man who knew how to move men and women—or push them, if necessary.

In the process John showed what it meant to love Washington. For him it meant not just bluntness but blunt truth, not just knowledge but total knowledge, not just love, but tough love.

Today, as the District meets great challenges, renaming this building for John must signify our optimism and determination. John never met a District problem he could not solve. That, more than this building, is his legacy.

HONORING THE WEST HAVEN POLICE DEPARTMENT'S EMERALD SOCIETY

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 1994

Ms. DELAURO. Mr. Speaker, I would like to thank our Nation's law enforcement officers for their tireless work. During National Police Week, we recognize the heroic efforts of those who risk their lives to make our neighborhoods safe. On Sunday, the 13th annual National Peace Officers' Memorial Day, with sadness and gratitude, we pay tribute to fallen officers who have sacrificed themselves in the line of duty.

I would like to welcome to Washington the members of the West Haven Police Department's Emerald Society, who have come to honor colleagues from Connecticut and across the country who have died in the line of duty. The Emerald Society's presence demonstrates the level of commitment of our Nation's law enforcement officers, standing by each other as they protect our communities. It is reassuring to know that the dedication of these officers to each other is matched by their service to the people they protect.

In my State of Connecticut, we are all saddened by the death this year of Groton police officer, William Snyder. Last week, he, along with 113 other Connecticut police officers who have died in service since 1880, were remembered in a memorial service in Meriden. The debt we owe these and all of our law enforcement officers is inestimable. For this, the 13th annual National Peace Officer's Memorial Day, let us thank the men and women who strive continually to make our communities safe.

TRIBUTE TO THE CONCORD AREA TRUST FOR COMMUNITY HOUSING

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 1994

Mr. SWETT. Mr. Speaker, I rise today to pay tribute to an outstanding organization from my district, the Concord Area Trust for Community Housing, which recently received the Maxwell Award of Excellence for the production of low-income housing. Concord Area Trust for Community Housing, known throughout Merrimack County and New Hampshire as CATCH, is a community-based group and the only nonprofit housing producer in the capital region. Since its founding in 1990, CATCH has been successful in both renovating and constructing much-needed housing for low-income families.

CATCH's award-winning project is deserving of national recognition. CATCH constructed 26 three-bedroom townhouses for low-income families, three of which were previously homeless. Additionally, CATCH is providing 2 years of training for the residents in budget management, group decisionmaking, property management, and other skills needed for successful homeownership. With the help of grants from both a Federal CDBG grant and support from the Concord Community Housing Investment Pool, a consortium of six local banks formed through CATCH's initiative, CATCH has been able to make a significant contribution to the improvement of its community.

Each year, the Fannie Mae Foundation, recently renamed in honor of former chairman and chief executive David O. Maxwell, recognizes the tireless efforts of nonprofit organizations—like CATCH—which have produced the best examples of low-income housing projects during the 12-month eligibility period. The Fannie Mae Foundation is awarding a grant of $25,000 to CATCH in recognition of the success of its most recent project.

Mr. Speaker, CATCH's hard work and dedication to the less fortunate members of our community is an example to all of us. It is comforting to know that organizations such as CATCH exist to help provide housing and guidance for those citizens who sometimes tend to be forgotten. There are so many people in New Hampshire, in both the private and public sectors, who deserve credit for this award. CATCH's leadership in working with the New Hampshire Housing Finance Authority, its affordable housing fund and the Concord Community Housing Investment Pool demonstrates that public-private partnerships can work effectively to increase access to home ownership.

Mr. Speaker, the Concord Area Trust for Community Housing exemplifies the dedication and promise that is so much needed in our society today. This organization's hard work and dedication to the people of New Hampshire deserves our respect. I ask my colleagues to join me in congratulating CATCH and saluting their efforts as a 1994 Fannie Mae Foundation Maxwell Award recipient.

CONGRESSMAN KILDEE HONORS MARGE MAUL

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 1994

Mr. KILDEE. Mr. Speaker, it is my pleasure to rise before my colleagues in the U.S. House of Representatives to recognize an outstanding volunteer, Mrs. Marge Maul. Mrs. Maul has been president of the Genesee Federation of the Blind since 1983. It is a privilege to know such a dedicated, active, and concerned human being as Mrs. Maul. She has graced the Flint community with over 50 years of diverse and highly valuable volunteer activity, and I am certain that this fine lady's long list of community deeds will continue to grow. Indeed, her disappearance from public service is unimaginable and, if it were to occur, would be an immeasurable loss not only to the thousands of visually impaired persons she has aided throughout her career, but to the entire community which she has so long and so enthusiastically sought to enrich.

In listing Mrs. Maul's various volunteer services, one hardly knows where to begin. During her first 25 years of life as a volunteer, Mrs. Maul dedicated countless hours to the Red Cross, the Children's Ward at Hurley Hospital, and numerous blood programs. She also served the Flint Community Public Schools as a volunteer teacher's assistant and homeroom mother. Further demonstrating her superb organizational and leadership skills, Mrs. Maul founded and led for several years a woman's club at Flint Southwestern High School and a Teen and College Drop-in-Center at Freeman Elementary School. This already active and community conscious woman worked further in her community to improve the safety of her neighborhood as a key organizer for the Red Arrow Neighborhood Watch.

Mr. Speaker, Marge Maul has been legally blind since the age of 7. Her poor vision, rather than handicapping her activities, has increased her desire to service the visually impaired. Beginning as a volunteer receptionist and tour guide for the Genesee Federation of the Blind in 1962, she served many years on the organization's board of directors and is presently in her 11th year of service as president of that superb institution.

Mrs. Maul further expanded her unwavering community service as the director of our Service Center for the Visually Impaired. Dedicating over 1,200 hours a year for 14 years, Mrs. Maul directed volunteer services and further gave her special skills and vast knowledge of community servicing as a liaison for the eye clinic, run by the Flint Downtown Lion's Club. She also served 1 year as a member of the board for the Retired Senior Volunteer programs and 11 years as an active member of the Service Center Board.

Mr. Speaker, this list is far from complete. Marge Maul is without doubt one of the most enthusiastically active and caring individuals I

have ever had the pleasure of knowing. Mrs. Maul has demonstrated time and again her value to the Flint community. She has enriched the quality of life for both those with sight and those without. I am very pleased to have this opportunity to bring to the attention of this body and the Nation the services of this outstanding individual. The many public deeds of Mrs. Maul shall continue to enhance the quality of life for all those within her community, especially the visually impaired.

A TRIBUTE TO KENNETH J. MCGUIRE, SR.

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 1994

Mr. GILMAN. Mr. Speaker, I am pleased to call to the attention of our colleagues the incredible achievement of an outstanding American, who I am proud to report is a resident of Rockland County, in my 20th Congressional District of New York.

Kenneth J. McGuire, Jr., is a veteran of both World War II and the Korean conflict. During the Second World War, he was stationed on board the U.S.S. *Hayter,* a destroyer escort class ship charged with escorting vessels on voyages between the United States and Europe. About 15 years ago, Ken initiated a project single-handedly with the ultimate objective of one day organizing a reunion of the crew of the *Hayter.* Since beginning this project, Ken has worked tirelessly on a full-time basis: Scouring ships records, interviewing known shipmates, and even searching through phone books. A few years ago, Ken McGuire took to the road, touring several Western States in hope of contacting surviving crewmates and urging them to join him in his quest.

Ken McGuire's single-minded determination has paid off: This coming weekend, in Virginia Beach, VA, the crew of the U.S.S. *Hayter* is holding not its first reunion, but in fact its 13th annual reunion. As a result of his efforts, some 75 percent of Ken McGuire's crewmates have as of this date been accounted for. Many widows of *Hayter* crew members also attend, and look forward to receiving copies of "*Hayter's* Highlights", the newsletter Ken McGuire initiated and authors on a bimonthly basis.

Several years ago, Ken McGuire sponsored a joint reunion with crew members from the *Hayter* in conjunction with survivors from the U.S.S. *Davis,* a Navy vessel sunk by an enemy submarine. The *Hayter* crew was instrumental in rescuing most survivors of that sinking from the Atlantic Ocean; accordingly, the joint reunion was a highly emotional and memorable event. Perhaps the most impressive aspect of the reunion, however, is the fact that Ken McGuire arranged for members of the German submarine crew to attend, also.

This weekend, the crew of the *Hayter* commemorates the 50th anniversary of the ship's original commissioning. This reunion is not only a tribute to Ken McGuire, a long-time resident of Monsey in Rockland County. It is also a tribute to his son, Michael F. McGuire, the director of athletics at Sullivan County Community College, also in my 20th Congressional District. Were it up to Ken himself, he would receive no kudos for his efforts above and beyond the call of duty. Mike is so justly proud of his dad that he made a point of asking me to inform the Congress of the truly remarkable accomplishments of his father.

Accordingly, Mr. Speaker, I invite all of our colleagues to join with us in saluting the incredible achievements of the U.S.S. *Hayter* during the Second World War, and the dedicated efforts of Kenneth J. McGuire, Sr., in ascertaining that the brave crew of that gallant ship remains together.

THE ALABAMA LEGISLATIVE COMMISSION ON TOTAL QUALITY GOVERNMENT ACT OF 1994

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 1994

Mr. GINGRICH. Mr. Speaker, as a student of the total quality management philosophy, I would like to share a copy of a recently passed bill by the Alabama State House with my colleagues. I hope they find it as encouraging as I did that we can bring quality management to government services.

A BILL TO ESTABLISH THE ALABAMA LEGISLATIVE COMMISSION ON TOTAL QUALITY GOVERNMENT ACT OF 1994

Be it enacted by the Legislature of Alabama:

Section 1. This act shall be known and may be cited as the "Alabama Legislative Commission on Total Quality Government Act of 1994."

Section 2. The Legislature hereby finds as follows:

(1) The state and federal governments are facing unprecedented demands for government services in a time of proration, national deficit spending, increasing national debt, a highly competitive world economy, and the increasing disillusionment on the part of the public with the ability of the governments to adequately meet the needs.

(2) Citizens want their governments, state and federal, to be more responsive to their needs, by operating at a more personal level with greater efficiency, higher performance, and lower cost.

(3) Total Quality, a structured management approach first used in private industry, has proven to increase profitability and marketshare, decrease costs, increase employee satisfaction, and decrease employee turnover.

(4) Early efforts to implement Total Quality within the federal government have produced favorable results; in fact, it is believed that Total Quality offers one of the greatest hopes for improving government services, managing the diverse demands of Alabama's government, and optimizing the results of state tax dollar expenditures.

(5) The application of Total Quality principles to Alabama government must begin with educating state government officials about Total Quality; there has been no established legislative group to educate the full Legislature and the service and regulatory departments of state government about the principles and application of Total Quality.

(6) There is a need for a legislative commission to examine Total Quality and its' applications to state government.

Section 3. As used in this act, the following words and phrases shall have the following meanings:

(1) COMMISSION. The Alabama Legislative Commission on Total Quality Government established by this act.

(2) CUSTOMER. Any individual, organization, or entity that is a recipient of state government products or services, including any individual, organization, or entity within the government that is a recipient of those products and services.

(3) STATE GOVERNMENT OR GOVERNMENT. All service and regulatory agencies of the State of Alabama.

(4) SUPPLIER. Any individual, organization, or entity that provides products or services to the government, including any individual, organization, or entity within the state government that receives those products or services.

(5) TOTAL QUALITY. A strategic, customer-focused management approach that focuses on continual quality improvement processes, products, and services of an entire organization; the basic principles of Total Quality include:

a. Customer-defined and customer-driven quality.

b. Strong leadership and commitment.

c. Continuous improvement.

d. Actions based on facts, data, and analysis.

e. Large-scale employee involvement and teamwork.

f. Employee reward and recognition.

g. Effective two-way communication between employees and management.

Section 4. There is created the Alabama Legislative Commission on Total Quality to be composed of 15 members appointed as follows: four members appointed by the Governor, to serve an initial term of either one, two, three, or four years; four members appointed by the Presiding Officer of the Senate, to serve an initial term of either one, two, three, or four years; and four members appointed by the Speaker of the House of Representatives, to serve an initial term of either one, two, three, or four years. After the initial terms, all members shall serve four-year terms. The Governor, Presiding Officer of the Senate, and Speaker of the House of Representatives shall serve as ex officio members. Vacancies on the commission shall be filled by the original appointing authority. A member shall not serve more than one term as a commissioner. A chair and vice chair shall be selected from the membership. The chair and vice chair shall serve one-year terms and not be permitted to succeed themselves. The commission shall meet at least bimonthly at the call of the chair at any other time deemed appropriate by the commission. The Clerk of the House of Representatives and the Secretary of the Senate shall furnish such clerical assistance, and the Director of the Legislative Reference Service shall furnish such legal assistance as may be necessary for the work of the commission.

Section 5. The commission shall have the following duties:

(1) Provide for the education of members of the Legislature and state agencies of Alabama about Total Quality, including the basic concepts, potential benefits, and application to state government, among other responsibilities.

(2) Arrange Total Quality presentations for members of the Legislature and host quality meetings between invitees from the Legislature, the executive branch, state, and local governments, private industry, or other rel-

evant parties to discuss the application of Total Quality to government.

(3) Make and transmit to the Governor and the Legislature findings and recommendations regarding the application of Total Quality principles to the organization and continuous operations of state government. These findings and recommendations shall address the continuous improvement of government operations through the promotion of citizen satisfaction, cost-saving, employee satisfaction and service in the government, including:

a. Defining program missions in terms of measurable outcomes, with an emphasis on quality of the service, citizen satisfaction, and result-oriented accountability.

b. Improving department operating systems to improve morale, inspire initiative, maximize productivity and effectiveness, foster teamwork, and rewarding excellence.

c. Recommending procedural changes aimed at employee empowerment.

d. Empowering employees, agencies, and programs in order to reduce costs, simplify processes, and focus responsibility.

e. Promoting the application of state-of-the-art technologies in order to improve efficiency and reduce costs.

f. Developing of mechanisms to promote greater cooperation and coordination in policy-making between the legislative and executive branches, and greater attention to the long term impacts of budgetary and policy decisions.

(4) Sponsoring and participating in periodic forums with various state government customers and suppliers, and provide opportunities for citizens, government employees, and other affected groups to communicate their satisfaction with government services or their recommendation for improvement.

Section 6. The commission shall annually submit a report to the Governor and the Legislature, which shall include:

(1) An outline of the educational strategy of the commission.

(2) A plan for accomplishing the goals of the commission.

(3) A summary of the activities of the commission following its establishment.

(4) A recommendation regarding the application of Total Quality principles to the organization and operation of Alabama state government.

Section 7. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

SYNOPSIS

Under existing law, there is no provision for a commission to study the quality of the services provided by state government.

This bill would establish the Alabama Legislative Commission on Total Quality Government to study and make recommendations to the Governor and Legislature concentrating on a government recipient-focused management approach that specifically focuses on continual quality improvement processes, products, and services provided by state government and by the federal government.

THE HOLOCAUST IN HUNGARY

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 1994

Mr. LANTOS. Mr. Speaker, I bring to my colleagues' attention a most vivid historical account of what Winston Churchill once called "probably the greatest and most horrible crime * * * in the history of the world." "The Politics of Genocide" by Professor Randolph L. Braham is unquestionably the most eloquent and comprehensive study of the Holocaust in Hungary ever produced.

Professor Braham explores the early development of the anti-Jewish movement in Hungary starting immediately following World War I. He discusses at length the Nazi's Hungarian sympathizers who accommodated the resettlement of the Jews. "The Politics of Genocide" brings to life the cruel efficiency with which the encroaching Nazi war machine made its way through the individual villages of Hungary in a matter of months, exterminating everything in its path.

As one who experienced the Holocaust in Hungary first hand, I found myself entranced by the incisive and graphic description that pours out of every chapter. He demonstrates his unparalleled expertise on the history of Hungarian Jewry while exploring many of the important themes that dominated modern Hungarian, Jewish, and German history.

The recently published, revised and enlarged edition, published on the 50th anniversary of the Holocaust, reaches a new level of comprehensiveness that is unlikely ever to be surpassed. Professor Braham has investigated the period through a wide range of archival documents, the contemporaneous press and extensive research which has spanned the globe. He combines an exceptional command of detail and an aggressive style with penetrating observations which will appeal to the historian and layman alike.

This is the writing of contemporary history at its best. As a Congressman, an educator, and as a survivor, I recommend this excellent book to my colleagues without reservation.

DEARBORN HIGH SCHOOL'S 100TH BIRTHDAY

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 1994

Mr. DINGELL. Mr. Speaker, I rise today to commemorate the 100th anniversary of Dearborn High School. A celebration in honor of this historic event will be held on May 22, 1994, in Dearborn, MI.

The first school built on the Monroe and Garrison site was the Public School, completed in 1893. This 1893 school housed all of the children in the district in one of its seven rooms. All the high school students attended classes in one room on the second floor.

The student population rapidly multiplied and the need for an additional school became readily apparent. The Garrison Elementary School opened in 1917 to satisfy this need. The school was later renamed for public school Principal Harry S. Salisbury.

The auditorium-gymnasium and the powerhouse, which provided heat to all the buildings on the block, was attached to the Garrison School in 1921. That same year the school paper, the Orange and Black, and more recently the Observer, began publication. A year later students chose the name "Pioneer" for their excellent yearbook and sports teams.

In 1957, students began occupying the new Dearborn High School, which is currently a 4-year comprehensive high school with almost 1,200 students, and is a source of immense pride to the community.

Dearborn High School boasts an extremely diverse student body which brings richness and understanding to the community. The thousands of graduates that have called Dearborn their alma mater and have made countless contributions, not only to their city and State, but to the Nation. Both the students past and present, and the institution that nurtured them, justify our praise and thanks.

Education is the cornerstone of a successful nation and the compass of our future. One hundred years of tradition and excellence in education is a noteworthy and important achievement richly deserving of our recognition.

STATEMENT BY MAJOR R. OWENS INTRODUCING THE WORK FORCE DIVERSITY PARTNERSHIP ACT OF 1994

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 1994

Mr. OWENS. Mr. Speaker, today, I am introducing the Workforce Diversity Partnership Act of 1994, which addresses the multitude of issues concerning a more diverse labor force by providing grants to organizations to develop educational tools for public and private sector education and training. This legislation would establish within the Department of Labor a grant program to, first, study and address issues relating to cultural diversity in the work force and its impact on economic competitiveness, employment opportunities, advancement, and retention; and, second, encourage partnerships between public and private sector entities to address these issues. This legislation seeks to respond and to provide new resources to deal with this timely issue of diversity, before labor-management relations become overwhelmed with mistrust and nonproductivity.

In an effort to encourage various partnerships and to develop positive conditions which take advantage of the diversity within the American work force, this proposed bill acts as a catalyst to foster the informational resources necessary to ensure a workable environment for all individuals. This is especially so for people of color, caucasian women, and immigrants, who will comprise over 85 percent of the net growth in our Nation's labor force during the 1990's.

It is imperative that employees, managers, administrators, and Government officials be prepared to understand and value diversity, which in turn will improve entrepreneurial opportunity for economic success at a time of growing economic dissatisfaction and intense global competition.

I encourage my colleagues to join me in supporting this legislation. Its enactment will contribute to the development of necessary

tools American business needs for economic survival in an intensely competitive and diverse business world.

H.R.——

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Workforce Diversity Partnership Act of 1994".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the workplace in the United States is becoming the most diverse workplace in the world at a time of growing economic dissatisfaction and intense global competition;

(2) people of color, caucasian women, and immigrants will account for 85 percent of the net growth in our Nation's labor force during the 1990's;

(3) the expectations, characteristics, demands, beliefs, work values, motivating factors, and educational backgrounds of individuals in the workforce are becoming increasingly diverse;

(4) employees, managers, administrators, and government officials are inadequately prepared to deal effectively with increased diversity in the workforce;

(5) increased domestic and international competition requires that business, industry, and government leaders effectively motivate and manage this diverse workforce;

(6) as more parents join the workforce, it has become increasingly difficult for employees to balance the demands of the workplace with the needs of families; and

(7) by understanding and valuing diversity which respects differences, employers emphasize creativity, self initiative, leadership, innovation, and team-work, and thereby improve the working conditions of all individuals in the United States and the chances for economic success.

(b) PURPOSE.—It is the purpose of this Act to establish a grant program within the Department of Labor to—

(1) study and address issues relating to workforce and cultural diversity and their impact on economic competitiveness, employment opportunities, advancement and retention; and

(2) develop collaborative public and private sector education and training materials that address the issues of workforce and cultural diversity.

SEC. 3. ESTABLISHMENT OF WORKFORCE DIVERSITY GRANT PROGRAM.

(a) AUTHORIZATION.—The Secretary of Labor (hereafter in this Act referred to as the "Secretary") is authorized to provide grants to eligible entities described in subsection (b) for the purposes of—

(1) targeting and developing issues relating to workforce and cultural diversity;

(2) developing public and private sector education and training materials that focus on the issues of workforce and cultural diversity;

(3) fostering research, scholarship, innovative curriculum development, development of teaching materials, and other practicable supportive academic activities relating to workforces and cultural diversity;

(4) assisting in the dissemination and transfer of such materials for use in private sector training efforts; and

(5) developing and establishing cooperative higher education-business training programs to assist public and private industry leaders and workers in addressing the issues of workforce and cultural diversity.

(b) ELIGIBLE ENTITIES.—

(1) IN GENERAL.—An institution of higher education in partnership with 1 or more of the organizations described in paragraph (2) shall be eligible to receive a grant under subsection (a).

(2) ORGANIZATIONS.—An organization described in this paragraph is—

(A) a corporation, business, or partnership, whether, for profit or nonprofit;

(B) a labor organization; or

(C) an organization that has a demonstrated interest or expertise in workforce diversity issues.

(3) INSTITUTION OF HIGHER EDUCATION DEFINED.—For purposes of this subsection, the term "institution of higher education" has the meaning given such term by section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

(c) PERIOD OF GRANT.—The provision of payments under a grant under subsection (a) shall not exceed 3 fiscal years and shall be subject to the annual approval of the Secretary and subject to the availability of appropriations for the fiscal year involved to make the payments.

SEC. 4. APPLICATION.

(a) IN GENERAL.—The Secretary may not provide a grant under section 3 to an eligible entity unless the entity submits to the Secretary an application in such form and containing such information as the Secretary may reasonably require.

(b) FACULTY PARTICIPATION.—The Secretary shall encourage eligible entities desiring to receive a grant under section 3 to submit applications that are written by teams of faculty from multiple disciplines, student and academic affairs professionals, or student organizations concerned with multicultural education, or any combination thereof.

SEC. 5. USE OF AMOUNTS.

The Secretary may not provide a grant under section 3 to an eligible entity unless the entity agrees that it will use all amounts received from such grant to establish and carry out a program in accordance with 1 or more of the following guidelines:

(1) The development of instructional material concerning efforts designed to address cultural and workforce diversity issues within the workplace setting.

(2) The development of public and private sector education and training materials that will address the issues of workforce and cultural diversity.

(3) The development of new approaches to workforce diversity issues and scholarship efforts to be integrated within the curriculum of business schools, ethnic and women's studies, engineering schools, social science disciplines, humanities and the arts and sciences. In using grant funds under this paragraph, a grantee may employ approaches to be carried out in conjunction with the corporate education and training programs.

(4) The conduct of research concerning multicultural workplace interactions and team management and business in multicultural and multi-lingual marketplace settings.

(5) The implementation of faculty development programs that focus on research, appropriate learning environments, and pedagogical approaches to teaching multicultural management and work diversity issues.

(6) The development and dissemination of information concerning models for summer precollege business internship programs that aid in integrating the workplace and in giving students a better understanding of the private sector and of workforce diversity issues.

(7) The conduct of forums, workshops, and conferences in which representatives from academic, corporate, government, or other institutions with a demonstrated interest or expertise in workforce diversity will focus on issues, attitudes, and strategies that sensitize managers, employees, faculty, corporate, government, and other leaders and workers to workplace diversity issues.

(8) Any other activities that the Secretary determines to be appropriate to meet the purposes of this Act.

SEC. 6. SELECTION.

(a) CRITERIA FOR SELECTION.—In determining whether to provide a grant under section 3, the Secretary shall take into account—

(1) the extent to which the eligible entity demonstrates the potential to achieve 1 or more of the guidelines described in section 5;

(2) the level of participation and financial commitment of the eligible entity;

(3) the likelihood that the program to be established under section 5 by the eligible entity will foster the creation of increased workforce and cultural diversity awareness programs in other institutional environments;

(4) the likelihood that the program will result in the development and dissemination of national or regional best practices;

(5) the extent to which the program will impact on the international competitiveness of the United States economy; and

(6) such other criteria as the Secretary may prescribe.

ASSESSMENT OF HEALTH CARE REFORM

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 1994

Mr. STUDDS. Mr. Speaker, today I rise to introduce the Health Care Reform Assessment Act of 1994. Whatever health reform plan is ultimately enacted—and I believe we must enact major reforms this year—should include provisions to evaluate its impact on the public. This bill would establish a two-pronged approach to assessing the impact of major health reform changes on the American people.

First, this measure would produce an assessment proposal for health care reform. This assessment proposal would include a detailed framework, using a prospective, longitudinal study design, to assess progress toward our national goals of health care reform. Second, it would perform a baseline assessment of our health care system.

The first provision would direct the Secretary of Health and Human Services to enter into an agreement with the Institute of Medicine of the National Academy of Sciences or another nonprofit, nongovernmental organization or consortium of institutions to study the impact of health care reform legislation at the national, regional, and State level.

Under such an agreement, the Secretary would require the organization to report to the Secretary and Congress within 18 months after enactment with recommendations regarding the following:

First, indicators of national progress toward the goals of health care reform, as determined by the reporting organization. Among the goals to be considered would be security, simplicity, savings, responsibility, quality, choice, and health status.

Second, one or more study designs for assessing the impact of health reforms on these indicators.

Third, study designs that include comparison of different approaches to health care reform, such as single payer and managed competition models, that may be used by various States or regions, as well as approaches that may be used by Federal agencies, such as DOD and VA, and various international approaches.

Fourth, data elements and public and private sources for obtaining data to reflect the indicators.

Fifth, any special requirements or authority necessary to permit access to otherwise confidential data and assure continued confidentiality of such data.

Sixth, approaches for obtaining data that would be useful but are not currently available.

Seventh, approaches to establishing a core set of primary data as part of a national data collection effort that could overlap with the assessment of health care reform.

Eighth, the relationship between Federal, State, and local agencies to gather, report and share information on health care reform and its assessment.

Ninth, the nature, scope, and frequency of reports that would best serve the Secretary and Congress for evaluating health reform efforts.

Tenth, estimates of the overall costs associated with such a study and each of its components.

Eleventh, ways that such a study's findings could be used by various groups, such as patients, providers, insurers, employers, taxpayers, and various Government agencies.

The measure would authorize $1,000,000 for the Secretary to undertake the assessment proposal.

Second, this bill would authorize a baseline assessment of the current status of our health care system. The purpose of this baseline assessment would be to establish a benchmark for assessing the short- and long-term impacts of efforts to reform our health care system at the national, regional, and State levels. Such a baseline assessment is essential for an accurate, prospective assessment of the impact of any major health reform measure.

The Secretary would enter into an agreement with the Institute of Medicine or another nonprofit, nongovernmental organization or consortium of institutions to develop baseline information to measure access to quality and cost of health care and the health status of the American people.

The Secretary would require the organization to conduct a detailed study and report to the Secretary and Congress within 30 months after enactment with information and assessments regarding the following for public and private, institutional and ambulatory, acute and long-term care, physical and mental health services:

First, the levels of access by the public to the full range of health care services.

Second, the levels of quality of care received by the public.

Third, the cost of health care services provided to the public using various measures, such as the cost of services, the cost of treating various conditions and the average and marginal cost of maintaining and improving health.

Fourth, the health status of the public, as a whole and by population subgroups.

The Secretary would be required, to the extent reasonable, to enter into agreements with the same organization to conduct both the assessment proposal and the baseline assessment so as to facilitate maximum cooperation and coordination in the performance of both studies.

The measure would authorize $3,000,000 for the Secretary to conduct the baseline assessment study.

The Institute of Medicine has recommended that an independent organization conduct periodic evaluations of any health reform plan that is ultimately enacted in a manner that would be independent of government regulation or control. This measure would provide for such an independent study. It would provide valuable information on an ongoing basis for residents of Massachusetts and the Nation as to the impact of health care reform on their health and welfare, as well as the financial impact of these changes. The cost of this measure would be minuscule compared with the enormous benefits that could be derived from this essential information.

I urge my colleagues to support this bill.