SENATE—*Thursday, September 29, 1988*

(Legislative day of Monday, September 26, 1988)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by the Honorable ROBERT C. BYRD, a Senator from the State of West Virginia.

The PRESIDING OFFICER. This morning's prayer will be offered by the guest Chaplain, Rabbi Jeffrey A. Wohlberg, Adas Israel Congregation, Washington, DC.

PRAYER

Rabbi Jeffrey A. Wohlberg, Washington, DC, offered the following prayer:

O Lord, we turn to you in prayer. Give us the courage to quarrel—not for petty things but for important ones. Give us the courage to quarrel with the forces in this world that dehumanize society, that profane existence, that separate brother from brother.

But let our quarreling not be destructive, O God. Let it be out of love, not envy, in order to build up, not to break down. Let us quarrel with ignorance; let us quarrel with bigotry; let us quarrel with hopelessness. Let us be counted among those who quarrel with pain, who alleviate it by sharing it.

Let us be among those who are not satisfied with the status quo, who yearn and work for a better world—in outer space and in the inner cities of our land.

May we bring into this world a bit more truth, a little more justice, a bit more sensitivity than there would have been if we had not loved the world enough to quarrel with it out of a vision of what ought to be.

May our prayers and our deeds be pleasing to you, O Lord, whose lover's quarrel with the world to perfect itself is our constant guide and continuing challenge.

We add our personal and collective prayers, Lord, for our astronauts.

May they ascend in peace and return in peace. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, September 29, 1988.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ROBERT C. BYRD, a Senator from the State of West Virginia, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

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

RESERVATION OF THE MAJORITY LEADER'S TIME

The ACTING PRESIDENT pro tempore. Without objection, the time of the majority leader will be reserved.

RECOGNITION OF THE REPUBLICAN LEADER'S DESIGNEE

The ACTING PRESIDENT pro tempore. Under the order, the Chair recognizes the distinguished Senator, Senator STAFFORD, as the designee of the Republican leader.

RESERVATION OF THE REPUBLICAN LEADER'S TIME

Mr. STAFFORD. Mr. President, I ask unanimous consent that the time of the Republican leader be reserved.

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

MORNING BUSINESS

Mr. STAFFORD. Mr. President, under those circumstances, if it is possible to go to morning business, we would like to do so.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to morning business.

Mr. STAFFORD addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Vermont, Mr. STAFFORD, is recognized.

ATMOSPHERIC CONTAMINATION—XIII

Mr. STAFFORD. Mr. President, this is the 13th in a series of atmospheric contamination talks that the Senator from Vermont has been delivering during morning business.

As the temperatures rose in the summer of 1988 in the United States, so did the concentrations of low-level air pollution that we most often call smog.

Because so many air pollutants are invisible, or nearly so, we often fail to notice their presence. In much the same way, we overlook the damages caused by air pollution because those damages are often gradual and subtle.

But, evidence abounds of the air pollution toll that is being taken on the lakes, streams, and forests of both North America and Europe.

Forests are dying here and in Europe. Every major tree species in Europe and Eastern North America is suffering. In a few cases, the losses are visible even to the unskilled viewer.

At the peak of Mount Mitchell in North Carolina, for example, the ground is littered with the skeletons of thousands of acres of dead red spruce and balsam fir.

In other cases, the damage is less visible. For example, 80 million acres of yellow pine have begun to grow at only half their normal rate, while they are dying at twice the rate they were previously.

The Europeans call the circumstance forest death. It is worst in West Germany, where 55 percent of the trees are injured. One-third of the trees in Switzerland are suffering from forest death.

In the United States, foresters and scientists report extensive damage to all species of trees, with the damage bearing strong relationships to the levels of ozone.

Thus, here and abroad, where air pollution levels are high, trees are sick and dying. Where they are low, trees are not.

The same is true of lakes and streams.

Acid pouring into the waters has gradually destroyed their ability to absorb more pollution. The acid dissolves heavy metals such as aluminum, lead and mercury from soils, washing them into lakes and streams where it poisons not only the fish, but also their food—insects, frogs, and microorganisms.

As striped bass have disappeared from lakes, streams, bays, and sounds in the Eastern United States, scientists have isolated two probable causes—water pollution and air pollution.

From the air comes a flood of toxic chemicals. During the spring spawning season, the air pollution also brings with it sudden jumps in acidity and heavy metals that kill the young fish.

The pollution is so potent that it has begun to alter even the soil itself, something most scientists only 5 years

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

ago believed was not possible. Atop Mount Mitchell, the levels of lead in the soil are 150 times higher than they are in cities at sea level.

In Scandanavia, scientists have said that acid rain has turned even the deep soils—those 5 or 6 feet beneath the surface—acid. That is unheard of.

It is virtually impossible to come up with a dollar value on these losses, nor should the economic factor determine whether we should act. Still there have been rough estimates of the cost of this pollution.

For example, the National Acid Precipitation Assessment Program [NAPAP] has estimated ozone damage to agricultural crops at about $1 billion annually in the United States. Other researchers have put the damage to buildings and materials at $5 billion a year.

But setting an economic figure obscures what needs most to be understood—namely, that we are talking about dilute solutions of bleaches, acids, and poisons. If a substance can damage the steel and concrete of structures, think what it can do to the human lung and to trees and crops.

Forests are dying. So are lakes, rivers, and bays. There are some who tell us even the oceans are suffering massive damage. The air in this Nation—and in other parts of the world—is so filled with chemicals and other contaminants that lungs ache and tears flow from eyes.

Yet, there are those who argue that we should wait until scientists have the proof necessary for absolute certainty that air pollution is the cause of each and every one of these afflictions.

But, surely common sense tells us—in overwhelming fashion—that the right thing to do, and the necessary thing to do, is to begin reducing air pollution as much as possible and as fast as possible.

Mr. President, I will be back tomorrow with another discussion of this same problem.

THE NEW ENGLAND REGIONAL OFFICE OF THE ENVIRONMENTAL PROTECTION AGENCY

Mr. STAFFORD. Mr. President, the New England Regional Office of the Environmental Protection Agency has established a reputation as one of the most effective protectors of public health and the environment of all Federal organizations.

One of the reasons for this well-deserved reputation is Michael Deland, the regional administrator of EPA in Boston. Mr. Deland has been a champion of environmental protection through a long series of difficult and controversial issues.

A major element of his strength—and of his success—has been the fact that Mr. Deland has refused to be influenced by politics or by special interests. His guiding star has been protection of the environment.

Portions of the saga of Michael Deland are contained in a news article that appears in the September 28, 1988, issue of the Boston Globe. I ask unanimous consent that the article be printed in the RECORD at this point.

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

[From the Boston Globe, Sept. 28, 1988]

EPA REGIONAL HEAD DRAWS PRAISE FROM BOTH SIDES

(By Larry Tye)

The chief of the Environmental Protection Agency's New England office is not your typical Reagan political appointee.

While the White House was waging war with environmentalists over issues ranging from acid rain to offshore oil drilling, Michael Deland was earning a reputation as their most effective champion in government.

While the administration was wooing business leaders, Deland was blocking developments from Maine to Rhode Island—and was the only prominent public official to endorse a moratorium on growth for Cape Cod.

And while most of President Reagan's appointees are anxious to forge ties with Vice President George Bush, Deland turned down an invitation to introduce Bush at one of the most widely trumpeted events of the campaign—a boat ride on Boston Harbor earlier this month.

"It is ironic that he is a Reagan appointee, but I welcome it," said Douglas Foy, director of the Conservation Law Foundation.

"In addition to being the premiere figure on the environment in government, I believe he is far and away the best regional administrator at EPA nationwide and the best we've ever had in New England," Foy said. "He definitely is in a class by himself."

Not everyone is so adoring. Deland has been immersed in one contentious issue after another during five years as EPA head—and has been especially controversial the last few months.

First he took on the governor of Maine, the state's entire congressional delegation, state legislators and the US Army Corps of Engineers. They supported a $35 million cargo terminal on Sears Island, but he tried to block it on the grounds it would destroy precious wetlands and there was a better site that has already been developed.

Then there was last summer's flap over fish from Boston Harbor's murky waters. An EPA study showed alarming levels of disease among certain species, and Deland warned against eating too much. But fishermen and editorial writers lambasted him for creating undue alarm.

Last month, Deland locked swords with Rhode Island Gov. Edward DiPrete, a fellow Republican and committed conservationist. DiPrete wanted to push ahead with the huge Big River Reservoir to ensure the state has sufficient drinking water: Deland has vowed to veto it because it would destroy 600 acres of wetlands.

About the same time, the EPA boss antagonized powerful developers on Cape Cod by endorsing the moratorium proposed by former US Sen. Paul Tsongas.

Deland's most contentious encounter, however, was when he spoiled Gov. Michael S. Dukakis' triumphant ribbon-cutting for the Boston Harbor cleanup by reminding reporters Dukakis had delayed the cleanup by six years—a move Deland called "the most expensive public policy mistake in the history of New England."

Dukakis and his aides were livid. Instead of celebrating the cleanup, the governor was forced to defend his environmental record, which is far superior to the Reagan administration's.

"A lot of people feel Mike Deland has never missed an opportunity to embarass the governor on his environmental record," said a Dukakis aide, pointing to the battle two years ago over destroying wetlands in Attleboro to build a mall. "There is clear evidence the harbor cleanup is on target and proceeding, but there was Mike Deland once again criticizing us for not moving quickly enough."

Staffers in the EPA Boston office also were upset, feeling Deland had unnecessarily politicized the agency.

In his defense, Deland pointed out he criticized Dukakis' delays in 1986, "well before any presidential electioneering started," and he acknowledged that EPA shares the blame. "I have an obligation to outline the facts as I see them . . . and that is what I was attempting to do on groundbreaking day," he added.

As if to reinforce that point, he rejected Bush's bid to participate in a harbor boat tour. "I feel strongly that the protection of our environment is too important," Deland said. "It transcends partisan politics and neither I nor this regional office should have any role in this campaign."

Hard-fought struggles are nothing new to the 46-year-old Deland.

He served on a US Navy destroyer after graduating from Harvard College in 1963. And his first job out of Boston College Law School was running John McGlennon's vigorous, but unsuccessful, campaign for Congress against Father Robert Drinan, Deland's former law school dean.

He proceeded to work for former University of Massachusetts president Robert Wood. In 1971, he joined EPA as an attorney, becoming chief of the enforcement division, which entailed going after polluters. He then spent seven years working for an environmental consulting firm in Concord.

Deland also sails with his wife and three young children, and last year he won the national championship for his design racing craft.

His toughest battle, however, has been a back problem that first emerged in 1964 when he was in the Navy. The problem has never been clearly defined and he now must use a wheelchair. He has had three operations and says, "happily for some years now it has been a stable situation."

Deland has been controversial at EPA since his first week on the job, when he accused the city of Boston and the powerful Archdiocese of Boston of failing to follow federal safety standards on asbestos in schools.

Since then, his regional office has set national records in tracking down and prosecuting firms polluting the air, water and land.

Deland wins praise even for those he has fought.

Maine Gov. John McKernan Jr., for instance, said, "We just agreed to disagree" on Sears Island. "It's like the view I took when I was in Congress that if I didn't speak up for Maine, no one else would. If he doesn't speak up for the environment, you can't expect the Commerce Department to."

Some say Deland is a likely candidate for the Republican nomination for governor, but he insists, "I simply have not considered it. I have not talked to any of the local Republican officials about it. In fact I've never met Ray Shamie, chairman of the state Republican Party.

"An appointive rather than elective role is the one for me."

Mr. PROXMIRE addressed the Chair.

The PRESIDING OFFICER (Mr. SHELBY). The Senator from Wisconsin is recognized.

WARSAW PACT CONVENTIONAL FORCES ARE NOT SUPERIOR TO NATO

Mr. PROXMIRE. Mr. President, a Brookings scholar has challenged the most common and basic assumption that our military leaders in the Defense Department and the Congress have made about the military threat of the Soviet Union. It has been widely accepted as an absolute, certain, unquestionable fact of life that the Warsaw Pact Convention Military Forces led by the Soviet Union in Europe are superior to the North Atlantic Treaty [NATO] forces. The corrolary fact that the Warsaw Pact has a huge military advantage in conventional combat over the NATO military forces is also considered by most informed Americans to be an established "fact." It is the wholesale acceptance of this Warsaw Pact conventional military superiority that has persuaded many Americans to believe that the Soviets may lead the Warsaw Pact into an invasion of Western Europe that would have a good chance of succeeding, unless NATO is willing to take the critical risk of going nuclear.

Joshua Epstein is the Brookings scholar who takes on this assumption of Warsaw Pact conventional military superiority with a challenging article on the 1988 Defense budget. He makes quite a case. In fact, the case Epstein makes is probably similar to the way Secretary Gorbachev and the Russian military leaders view the situation. Consider the points made by Epstein.

First, NATO has outspent the Warsaw Pact on its military defense every year since 1965. So how can the Warsaw Pact be superior? Are the Communists more efficient? Anyone who argues that spending by the Communist countries is more efficient than spending by the Western democracies should get an argument. Communist efficiency has never been greater than free world efficiency in any endeavor, including the military.

Second, a greater percentage of the spending by NATO than overall Warsaw Pact military spending is directed at Europe proper. This is true because roughly 15 percent of Soviet spending is directed at China.

Epstein argues that the pact's task in an invasion of Western Europe is more costly and more difficult than the NATO task of defending Western Europe. He quotes Clausewitz's principle that "the defensive form of warfare is intrinsically stronger than the offensive." Epstein contends that NATO would have the great advantage of fighting from prepared positions. But the attacking pact forces would have to come into the open and expose themselves to fire in order to advance. Also, he argues that the pact will be forced to fight on unfamiliar terrain. They can be forced to operate in poor tank country. This Senator would disagree with much of this Epstein argument in view of the French experience with their Maginot line in World War II. The French meticulously prepared the Maginot line to force an attacking German Army to run into murderous cross-fire. But what happened? The speed and mobility of the German Panzer tank divisions cut through the "perfect defense" in a few days like a razor-sharp knife through butter. That World War II nightmare haunts the memory of all of us old enough to have lived through World War II.

But Epstein makes other points that are persuasive. He cites the generally superior training and experience of NATO troops compared to Warsaw Pact troops. The flying time and the time for maneuver in mock combat situations for NATO troops sharply exceeds the training of Warsaw Pact forces. And there is no question that the United States allies in Western Europe are much more loyal to their cause than the Soviet allies are to the Warsaw Pact. Epstein cites the far better record of American pilots, with the ratio of 10 enemy planes downed to every American plane lost to Japan; and the even greater ratios of Israeli pilots flying planes produced in NATO countries against planes produced in Warsaw Pact countries in the Middle East war of 1967, the Yom Kippur War of 1973, the Lebanon War in 1982. He charges that the Soviet conventional air threat to Western Europe has been overrated. Without air control, a Warsaw conventional pact attack on Western Europe would have little chance.

Epstein sees the manpower lineup, NATO versus Warsaw Pact in Europe to place 3.8 million military personnel for the pact and only 2.2 million for NATO. Both forces would sharply increase these troops in a few days. Since both sides—in Europe—have the draft and very large reserves; and since the population of the NATO countries is larger than the Warsaw Pact population, the manpower line up would quickly approach equality. West German leaders, for example, say they could triple their 500,000 regular NATO component with 1,500,000 including fully trained reserves in a week.

There is no question that the Soviets have more tanks, more planes, more helicopters, more artillery. But they would get less than enthusiastic support out of their East German, Bulgarian, and Czeck allies and they might be fighting a rear guard action to quell a rebellion by their Romanian, Hungarian, and especially their Polish allies. This would be especially true if the Soviets as expected stationed the troops of these other Eastern European countries on the front line to be used as canon fodder and absorb the losses. The Soviets could quickly lose their manpower advantage. Their troops would certainly go into action with less training. Their weapons would be of generally inferior quality to NATO weapons.

And the Soviets cannot ignore the ultimate reliance that NATO can place on nuclear weapons on the spot, in place, ready-for-use. In spite of the prospect that intermediate nuclear troops may have been removed from Europe, NATO would still have a vast array of tactical nuclear weapons, backed up by short-range nuclear weapons and, of course, the ultimate, doomsday strategic nuclear weapons of the United States, the United Kingdom, and France.

CLEAN AIR COMPROMISE

Mr. BOSCHWITZ. Mr. President, I rise today to express my concerns about the reports I hear of the compromise on acid rain legislation, a compromise, from what I understand of it, which would sacrifice sound environmental and energy policy for parochial interests.

The proposed acid rain compromise that is now being circulated amounts to a welfare program for the oldest and dirtiest powerplants in the country. Furthermore, it will extend the life of these plants for another decade. The compromise does not look at economically attractive alternatives to reduce acid rain, and it raises some troubling environmental concerns. I will not be prepared to accept any time agreement on such a "compromise."

According to news reports and a summary I have received, this proposal would reduce sulfur dioxide by subsidizing scrubbers for 32 of our dirtiest, coal-burning plants. Although this approach may protect coal interests, it will make energy production in this country more inefficient, and it will have negative effects on the environment.

While scrubbers reduce sulfur dioxide emissions, they also reduce the generating efficiency of a plant. Plants with high sulfur dioxide emissions—generally our older, less efficient plants—would receive subsidies under

this compromise to continue producing energy—at even less efficient rates.

This strategy, which deals with acid rain, intensifies other environmental problems, particularly the problem of global warming, the so-called greenhouse effect. While scrubbers can reduce sulfur dioxide emissions, they actually lead to higher emissions of carbon dioxide, one of the principal causes of global warming.

Environmental problems are linked. If we are going to address them responsibly, we cannot aggravate one as we seek to solve another. We cannot accept short-term solutions that add to long-term problems.

This compromise relies far more on political accommodation than it does on sound environmental policy. We are turning the acid rain legislation into a welfare program for our dirtiest plants, and I, for one, will not stand by.

Great strides are being made in the production of energy and in conservation as well. I believe it may be more efficient to invest in energy efficiency than in sulfur dioxide reductions. For example, currently, the Germans produce cement twice as efficiently as we do, and the Japanese produce steel at only half the energy per ton that we use. If we increase our energy efficiency, we will cut our fuel consumption and our emissions.

Mr. President, I intend to return to this subject in greater length. Should this proposed compromise come to the floor for Senate consideration, I believe others will join me in opposition. It is not an acceptable compromise as fashioned, and it is my hope that the Senate will adopt a sounder, more farsighted approach.

THE PRECURSOR OF THE STRATEGIC DEFENSE INITIATIVE

Mr. BOSCHWITZ. Mr. President, many people ask the question, "Will the strategic defense initiative [SDI] work?" Many say "no" and take comfort that there has been an apparent deemphasis recently, at least in the sense that funding requests have been moderated. Well, I am a supporter of the SDI—for much the same reason I will support spending on research on the greenhouse effect and alternative energy sources. People are uncertain if the greenhouse effect is really occurring, but if it is, it is irreversible so we better get out ahead of it. And people are uncertain if SDI will work or if the Russians in their huge SDI Program will find an answer. But if they do, we are in deep, deep trouble—perhaps irreversible as well.

With this in mind, people should remember the fact that an SDI system worked spectacularly in Britian more than 40 years ago. Britain was being mercilessly pounded by German V-1 "buzz bombs." In defending against these rockets, the British could not depend on direct hits by their artillery. Direct hits on these small pilotless missiles would be almost impossible. Enter the SDI-1944 version. The SDI defense was based on a so-called proximity fuse which detonates the artillery shell as it approaches its target. In detonating near the V-1 rocket the exploding artillery shell created a spray of high velocity particles a few of which were far more likely to hit and disable the incoming rockets and this is indeed what happened.

The proximity fuse was developed by American scientists working for the Navy Bureau of Ordnance in the early 1940's. Amazingly, this was accomplished using vacuum tube technology—long before the age of transistors and microchips.

Prior to the invention of the proximity fuse, all shells projectiles were detonated by impact or by a timed fuse. Such fuses had serious limitations—they demanded either direct hits or precise timing. Early in the war, the Navy Bureau of Ordnance began to develop a proximity fuse principally to help naval ships fend off attacking planes. Finding the means for a fuse to gauge the proximity of a target proved immensely difficult. As in SDI, there was debate as to which technologies should be pursued. Photoelectric effect, acoustic, and other means were subjects of experiments, all to no avail. But the Navy forged ahead. It recruited a brilliant team of scientists from the Carnegie Institution and Johns Hopkins University. A laboratory, to be known as the Applied Physics Laboratory of Johns Hopkins, was organized and housed near Washington, in a vacant garage in Silver Spring, MD.

There the scientists devised a means by which a fuse could be activated by an electronic pulse reflected off the target. Such a fuse had to contain a radio transmitting station, a receiver, and a power supply to operate both—all this compressed into a space smaller than a hundred-watt light bulb and able to withstand a force 20 times that of gravity. There were dozens of complications. For example, the transmitter had to be designed so that it would not begin to operate until a certain time after it had been fired. Otherwise the projectile might mistake the ship that had fired it for its target. Yet, in a surprisingly short time, all of the components were developed—including vacuum tubes as small as beans that were tested for shock resistance by dropping them from the top of the Washington Monument without damage.

The Navy used the proximity fuse to great effect against Japanese planes, beginning in 1943. In 1944, the Army used the fuse not only to down German planes, but in howitizer ammunition where it stemmed the German advance toward the River Meuse. General Patton expressed his admiration for this kind of new shell and his relief that our side thought of it first. "The new shell with the funny fuse is devastating," he wrote.

However, the most dramatic application of the fuse came as the British struggled to develop a defensive shield against the German "buzz bomb" and to save their cities from destruction. The dramatic use of the fuse by the British sheds some light on our current debate over SDI. Those who choose to dwell on the technical difficulties we face in developing SDI might do well to consider how difficult the task must have appeared in 1944 and 1945—to hit a small target hurtling through the sky at 350 mph with a flight time of 15-20 minutes to the target and just a moment's notice that it was coming. But yet, the Americans and the British were able to deploy a system very much like SDI in a very short time. There was no time to debate the seriousness of that threat or whether an artillery shell with the proximity fuse would provide an impenetrable shield against the Germans. But by locating the rocket with radar and using the provided radar coordinates to aim, the British were able to stop 100 of the 104 or about 96 percent, of the incoming rockets on the final day the Germans used them, a spectacular result that saved their cities and many thousands of lives.

And in the weeks preceding that final day, they also knocked out of the sky most of the rockets that were shot at them, and that was 44 years ago.

Many scientists considered the obstacles to the proximity fuse insurmountable—but a concentrated effort proved the skeptics wrong as has happened innumerable times in the history of science. A similar commitment to SDI, combined with America's technical sophistication, could make SDI a reality.

To give you an idea of the results achieved by the British with the proximity fuse and perhaps a sense of what is possible under SDI, I draw my colleagues' attention to a passage from Lewis Strauss' autobiography, "Men and Decisions"—pages 140-141:

> The most spectacular success of the proximity fuse, however, was against the German V-1 buzz bomb. Early in 1943, Admiral Wilson Brown, who was an aide to President Roosevelt, had sent Blandy a message which the President had received from Churchill. British intelligence, the Prime Minister said, had heard of a project called "Anthodyd," reported to be a rocket powered by the "aerodynamic thermal duct" (from which presumably the term Athodyd was derived) and that it was to be used as a pilotless aircraft to bomb Britain. "What do your people," the Prime Minister inquired, "think of its feasiblity and the likelihood that it could be made operational?"
>
> Admiral Blandy read the message at a staff meeting of his division heads, and it

was the consensus of opinion that this was most likely more of the "secret weapon" propaganda—weapons invented by Goebels for psychological warfare. Captain Sam Shumaker and I, however, felt that there was a possibility that a self-propelled bomb could be flown across the Channel, riding a radio beam rather than taking a ballistic course. Given the short distance of England from the Continent, this beam could be kept narrow enough for hits on targets as large as cities. Blandy said that he had no objection if we wanted to express our conjectures but "definitely not as the opinion of 'BuOrd.'" This, in some detail, we did. Shumaker even dreamed up a device which nearly paralleled the actual weapon. Intelligence subsequently confirmed the prospective construction of the V-I bomb, and even pin-pointed launching sites.

As a result, we had supply of proximity fuses in England three months before the first "buzz bomb" appeared. The VT-fused antiaircraft shells were distributed to batteries along the channel coast with the expectation that if any of the rounds were duds they would fall into the water and could not be recovered by the Germans. The V-1 buzz bombs came over at about 350 miles per hour, were traced by radar, and the batteries which fired shells with proximity fuses were aimed by means of Army and Navy fire-control systems. The results were spectacular. During the last four weeks of the buzz-bomb campaign 24 percent of the bombs were destroyed in the first week; 46 percent in the second; 67 percent in the third week; and in the final week 79 percent were knocked down. On the last day the Germans used buzz bombs, 104 of them were picked up on the radar screen, of which number only four reached London.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

SCIENCE AND MATH

Mr. REID. Mr. President, recently a report prepared by the Council on Competitiveness, a group comprised of business, labor, and academic leaders interested in promoting U.S. technological excellence, gave a distressing picture of the U.S. students' level of education as compared to those of other developed nations.

For example, let us take calculus. Twelfth grade United States students posted a composite score well below Japan, Hong Kong, England, Finland, Sweden, Canada, Belgium, Israel, and New Zealand.

In chemistry, United States students scored significantly below students in Hungary, Poland and Singapore, not to mention Japan, England, Norway and some other developed nations.

In biology, U.S. performance was the poorest of the 13 countries tested. In 1996, this same council projects, the U.S. college-age students will be one-fourth fewer than in 1984. In a little more than 20 years it is estimated the United States will be 500,000 scientists and engineers short of its needs. The shortage, the council said, extends to teachers. The American Society for Engineering Education surveyed in 1985 indicated that over 20,000 full-time engineering faculty positions in U.S. universities were unfilled. More than half of all assistant professors in engineering under the age of 35 in U.S. universities are foreign born.

Mr. President, certainly these statistics are alarming.

The council had a number of suggestions as to what should and could be done. For example, they suggested that the Federal Government should spend more money for university research in part, of course, through matching grants with the private sector and loans and grants for students interested in science.

It is a sad thing, but in most areas of our higher education system, a student's access to that higher education depends on how much money his or her parents have. We have had a significant cutback in grants and loans in the past few years, which only further ties higher education to family income level. The talents of many middle and lower income young people, and their potential to bring greatness to this society are being systematically wasted due to continued decreases in education grant and loan availability.

In 1983, Senator SIMON, a Member of the House of Representatives, sponsored a bill called the emergency math and science bill. I was proud to be a cosponsor of this bill. It passed the House of Representatives. It suggested a number of incentives for teachers or potential teachers of math and science. For example, the bill established a number of grants that would be available to students of math and science and would provide financial incentives to stay in the teaching profession. Further, it would set up a number of summer workshop programs so that our math and science teachers could update their science and math skills and receive a financial reward for doing so. This would encourage teaching professionals to stay in their chosen field, and not go into the private sector.

There were a number of other programs of merit in the emergency math and science bill.

The problem was that it failed in the Senate.

I have recently spoken to Senator SIMON, and I think it is time that we again address this problem of the low numbers and outdated skill levels of our Nation's math and science teachers. The report released by the Council on Competitiveness, of which I spoke, certainly points to the need for improvement in our system of education.

Improvement in our educational system, particularly in the areas of math and science is well past due.

I think, finally, the council summarized it best by stating that the Government must get its high-technology act together if it is to help the country enhance its international competitiveness. I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

A DRUG BILL

Mr. GRAMM. Mr. President, today is Thursday, September 29. We are nearing the end of the session. There is an election underway. A third of our colleagues are up for election. And yet we stay here day after day whistling music that is not so sweet to the ear as "Dixie." I have become frustrated in this process in that I believe we are not doing the Nation's business.

On all these mandated benefits, I think it is clear that the American people are going to have an opportunity on November 8 to vote on those things. We ought to get on with the Nation's business.

I want to make it clear to my colleagues so I do not appear to be surprising anybody and in that way act in any way that someone might perceive as having been unfair. Unless we get on with the drug bill and do it quickly, I am going to be inclined to take the drug bill that passed the House by an overwhelming margin and make that an amendment and offer it to one of these mandated benefit bills striking all after the enacting clause and substituting the House drug bill.

I think it would be an absolute outrage if we adjourned without dealing with the drug bill. I think it is clear we have work to do. We have to pass a drug bill. We have to pass a technical corrections bill. We have to pass the appropriations bills.

But I believe that a lot of the things we are doing now just simply represent a misallocation of our time. I am eager to get on with the task and I hope, if we are not going to move to the drug bill quickly, that my colleagues are going to be ready to deal with it as an amendment to one of these pending bills.

I yield the floor.

SALUTE TO JIM ABBOTT ON WINNING THE OLYMPIC GOLD MEDAL GAME

Mr. LEVIN. Mr. President, 6 months ago I rose before this body to recognize the accomplishments of an exceptional young man from Michigan. Yesterday, Jim Abbott added a lustrous new chapter to his story. Yesterday, Jim pitched the United States to an Olympic gold medal in baseball.

The last 6 months have been very busy for Jim Abbott. After winning the Sullivan Award as the Nation's top amateur athlete, he was the California Angels' first pick in the amateur draft, and he became the ace of the U.S. Olympic baseball team.

His Olympic coaches and teammates have grown to trust and depend on Jim. During the championship game, with the bases loaded, and, only one out, the U.S. team pinned all their hopes to Jim, depending on him to bring them through that jam to the gold medal. And Jim responded in a superhuman fashion, with the grit, guts, and belief in himself that he has displayed his entire life. He pitched the complete game. He has inspired a generation. He brought home the gold.

Jim Abbott, I salute you, and your teammates, on behalf of Michigan and a grateful nation.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the role.

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

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

EXTENSION OF MORNING BUSINESS UNTIL 12 NOON

Mr. BYRD. Mr. President, I ask unanimous consent that morning business be extended until 12 noon, under the same conditions as heretofore agreed to.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMERICA'S RETURN TO SPACE

Mr. HEFLIN. Mr. President, today is a great day in the life of America's Space Program. As all of my colleagues, the people of the United States, and literally the entire world know, after nerly 3 years of down time and hundreds of changes, redesigns and upgrades to the shuttle system, the U.S. space shuttle *Discovery* blasted off from Cape Canaveral this morning returning America to space.

Today, America has new heroes: commander, Navy Capt. Frederick H. (Rick) Hauck; pilot, Richard O. Covey; and mission specialists, Lt. Col. David C. Hilmers, John M. (Mike) Lounge, and George D. (Pinky) Nelson. While there are our heroes in front of the scenes we have thousands more heroes in behind the scenes. Today's launch is a tribute to their dedication to the program and patriotism to their country.

I want to take this opportunity to congratulate NASA, NASA personnel at all levels, and the industry teams that have worked diligently and endlessly toward this day. They are to be commended for their efforts. Their work has not just been for themselves, for NASA, or for the Congress. Mr. President, their work has been for America. And today, their work for America has succeeded.

I want to especially congratulate J.R. Thompson and the dedicated personnel of Marshall Space Flight Center. Marshall led the redesign efforts of the solid rocket boosters and the management of all of the propulsion elements of the shuttle system. This day is a special tribute to their work and efforts.

It has been nearly 3 years since that tragic accident which destroyed the space shuttle *Challenger* and took the lives of her crew. The numbing tragedy of January 28, 1986, which befell *Challenger* is still fresh in our minds and weighs heavily on our hearts. In remembrance of the seven brave pioneers who lost their lives in that disaster, we must go on. We must improve and continue the vision that they pioneered. To allow the *Challenger* disaster to set us back or dull our mission—their mission—especially now that we have returned to flight, would be to desecrate and belittle their memories.

Mr. President, even before its first launch, the space shuttle captured the imagination of all Americans, symbolizing the possibility of routine space travel. We have come to depend upon the shuttle for the very important duties which only it can perform. The space shuttle has been the cornerstone of the U.S. manned Space Program. During its years of operation, the space shuttle has proven not only to be a marvel of technology, but a work horse capable of a variety of operations not here before possible. While we must have a mixed fleet, the space shuttle offers capabilities that cannot be achieved with today's expendable launch vehicles. For example, it has the ability to retrieve payloads from orbit for reuse; to repair and service satellites in space; to transport to orbit, operate and return space laboratories; to transport materials and equipment to orbit; and to perform rescue missions.

Let us never forget that despite the *Challenger* tragedy, the shuttle's history is a successful one. And as we look at the shuttle's successful history, we are reminded how we have come to depend upon its use. Also, we are preminded of the rich and bountiful resources that space has to offer. For by not exploring the endless bounds of space would, in the long run, constitute in and of itself a tragedy as great as the one we experienced in 1986.

Mr. President, I have spoken on the Senate floor and elsewhere on a great many occasions on behalf of the Space Program. All of my colleagues are aware of how I feel about this great resource. In that regard, I do not intend to take up a lot of my colleagues' time in talking about the benefits of space research and technology.

In my judgment, space is the greatest adventure of our time and any nation that sees itself as a world leader cannot, and must not, ignore it. Space has been important to us in the past and will become increasingly important to us in the future. We use space to ensure our national security, improve our standard of living, and broaden our scientific knowledge. America's Space Program clearly reflects our pioneering heritage, and provides the opportunity for greater economic growth and international cooperation.

How can we not go on? If a nation is to survive, it must turn its eyes, heart, spirit and imagination to the future. While we are resuming manned space flight aboard the space shuttle, we must also set our eyes on new and distant—but attainable—horizons. The key to the peaceful exploration of our Earth and the universe will be new, exciting and visionary scientific missions such as NASA's permanently manned space station—now called *Freedom*, a lunar outpost, probes to the outer planets of the solar system, and manned missions to the red planet of Mars.

As these new and exciting missions are planned, there will be increasing associated costs and risks. The *Challenger* tragedy taught us that there will always be inherent risks involved in the manned exploration of space. It cannot be made risk free—only as safe as possible. As my colleagues surely must realize, the only way to make the manned exploration of space perfectly safe is to not go at all.

Few Americans can say why we must explore space, only that it must be explored. This is not unusual. Most find it difficult to explain why they find certain things more important than others. But on one thing most Americans agree—the United States should lead the world in the exploration of space.

The society which ceases to explore, ceases to evolve. The society which ceases to evolve, stagnates, withers and dies.

The world will look up to us and follow our leadership only if we are there to be seen. It is ambitious; it is exciting; and it is within the American grasp. The risks are high if we do, but the losses are far too great if we do not.

Now, Mr. President, I say to NASA, to the Congress, and most importantly, to the American people, let us move forward; let us not hesitate; for it is America's destiny to explore the end-

less bounds of space. With the resumption of the flights of the space shuttle, America's space program, much like the Firebird, must and will go ever onward to reach new plateaus and new horizons in our eternal quest for the understanding of the cosmos and man's place in it.

Mr. President, we should not be afraid to fulfill the American dream.

Again, I congratulate NASA and the industry teams on this outstanding achievement.

Mr. President, I yield the floor.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I commend the distinguished Senator from Alabama for his eloquent statement. In Mississippi, we are very proud of the fact that we have a facility on the gulf coast that contributes to the body of knowledge and the testing of our rocket engines. The John C. Stennis Space Center was recently dedicated under its new name. It was a day of great celebration and pride in our State. We realize once again the important role that Mississippians are playing in the space program.

Today's successful shuttle launch is an event of which we should all be very proud. Those who work in the facilities in Alabama, in Florida, in Texas, and elsewhere ought to be commended.

I think President Reagan has shown important leadership and perseverance in his continued support of the shuttle program. Dr. Fletcher, head of NASA, and Richard Truly, a native of Mississippi and the Director of the Space Program for NASA, also deserve a great deal of credit.

This is a day when we can all take pride in our country and in the efforts that have been made by so many for the continued progress of our Space Program.

I again thank the Senator from Alabama for his remarks and for his leadership in this effort.

Mr. HEFLIN. Mr. President, I see that the Chair is now occupied by Senator RICHARD SHELBY, of Alabama, and I know he will make remarks on the Space Program when he gets out of the Chair.

He has been a great stalwart in the Space Program, as has been Senator COCHRAN and Senator BREAUX and Senator JOHNSON. I also want to give credit to Senator GARN of Utah for his outstanding support. He, of course, is one who has been in space and I don't believe anyone in the Senate have been as steady in his support for space as he has. Senator JOHN GLENN is one Senator who, of course, has been in space. There are a lot of us here in the Senate who have been in orbit but not in activities in regards to space.

This is a great day for America and a great day for America's Space Program. Dr. Fletcher took over NASA in the wake of the *Challenger* disaster and has done a great job. I commend him for his activities and his leadership in the space agency. As we all know, there are many, many more who have done so much to make this day possible.

This is a great day for America. It is a great day for the world and it is a great day for the exploration of the universe. Space is our greatest adventure, and it is one that I hope the U.S. Senate and the Congress and future Presidents will support.

I think there is much that can be accomplished in the space station which will allow us to have a permanent laboratory in space. In my judgment, a permanent laboratory in space will lead us to finding a cure for cancer and many, many diseases previously thought to be incurable. Space technology has so many great potentials. We cannot afford to not take advantage of the opportunities that lie in space.

I hope that this return to space will inspire the American people, will cause Members of Congress to support the Space Program in a manner more so than we have in the past and let us move forward in the many ways that space offers to improve the quality of life on Earth.

The Space Program has meant so much in so many different ways in improving the quality of life of all American citizens. I can look now and see in the rural farmhouse in America a satellite dish, and that satellite dish is bringing great enjoyment to the inhabitants of rural America. This is only one of the great many things that space technology can bring us.

I firmly believe that the Space Program will bring forth to the American people far more benefits than we can ever imagine today. I thank the Chair.

1988 OCTOBER QUARTERLY AND 12-DAY PREGENERAL ELECTION REPORTS

Mr. BYRD. Mr. President, the mailing and filing dates of the October quarterly and the 12-day pregeneral election reports required by the Federal Election Campaign Act, as amended, are Saturday, October 15, 1988, and Thursday, October 27, 1988, respectively. All principal campaign committees supporting Senate candidates in the 1988 races must file their reports with the Senate Office of Public Records, 232 Hart Building, Washington, DC, 20510-7116. You may wish to advise your campaign committee personnel of this requirement.

The Public Record Office will be open from 10 a.m. until 4 p.m. on Saturday, October 15, and from 8 a.m. until 9 p.m. on Thursday, October 27, for the purpose of receiving these filings. In general, reports will be available 24 hours after receipt. For further information, please do not hesitate to contact the Office of Public Records on (202) 224-0322.

IT'S TIME TO GIVE THE ELEPHANT A CHANCE

Mr. DOLE. Mr. President, there was a column by Courtland Milloy in the Washington Post of September 18, which I think will make compelling reading for Senators on both sides of the aisle.

I ask unanimous consent to put the text of the column—entitled "It's Time To Give the Elephant a Chance"—in the RECORD at this point.

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

IT'S TIME TO GIVE THE ELEPHANT A CHANCE

(By Courtland Milloy)

As far as the politics of black Americans are concerned, the Congressional Black Caucus' "legislative weekend," which ended yesterday, represents the continuation of a stubborn and of late, fruitless, allegiance of black people to the Democratic Party dating to Franklin D. Roosevelt.

All of the caucus members are Democrats. Their agenda is essentially the Democratic platform, plank for plank, with emphasis on civil rights and other charity programs of nebulous long-term value.

It seems to me that the time has come to bury, quietly and quickly, this paternalistic approach to the welfare of black people and go with the entrepreneurial ideas of the Republican Party.

It's not just because of the way the Democratic Party leadership has treated Jesse Jackson, either. I am simply tired of black leaders advocating the same old approaches, always seeming like they are begging for a handout if not bartering for crumbs from some kind of economic pie in the sky.

Look at us over the past week, financially unable to throw our own parties. I say down with galas and reception made possible by guilt money from cigarette manufacturers and liquor distillers.

This is no time to party, anyway.

Instead, black people should be about shaking off their plantation and welfare mentalities. Black people should be about building confidence, self-esteem and savings accounts.

Yet, black people behave as if wealth is for whites only. Many say silly things like, "I just want enough money to be comfortable," and mean it. They act like they don't want to be rich—and that is because they do not understand how money works in a capitalistic society.

Republicans understand money. Some groups divide their political contributions between both parties because they refuse to lose no matter who is in the White House.

Listen to Joshua Smith, the black millionaire president of the Rockville-based Maxima Corp.:

"There is something that I rarely hear black preachers and black politicians talk about that I hear white people talk about all the time. It's called business. Economics," he told a group of black politicians and preachers gathered at a "political summit" at the Shiloh Baptist Church in Northwest Washington yesterday. "We don't talk

about economics. We talk politics. Yet politics without economics is lunatics."

Smith noted that at the Urban League Convention last year, only one of 50 workshops was devoted to economics. Of roughly the same number held at this year's Congressional Black Caucus braintrusts, there only two workshops—one called "Doing Business With the Federal Government" and the other "Minority Financial Institutions and Opportunities."

This is not nearly enough attention, given the reality that misunderstanding money is the greatest obstacle to black advancement in this country. It is the root of our education, housing, employment and drug problems.

Why, asked Smith, does black America—which earns $250 billion a year—own only about one-tenth of one percent of the assets in this country?

"It makes no sense that a people with the combined resources of the eighth or ninth largest country in the world, has no assets."

Something else makes no sense, either.

"We are the only ethnic group in America in which 90 to 95 percent of its people will vote for anybody in that 'other' party regardless of whether their policies will help us or not," he said.

There are, Smith said, five major factors in an election: organization, finance, issues, candidates and votes.

"Blacks have the votes," he noted, "but that is last on the list. And until we get our organization and finances together, that's where we'll stay."

The time has come for black people to drive a stake through the demon of Democratic paternalism that saps our will. At least some of us must begin to assert ourselves economically, begin to pool and transform our resources like all other prosperous people have done.

This requires an attitude change and, frankly, it is the Republican Party that embodies it. The evidence is irrefutable: This warped, one-party loyalty is failing black people miserably. During the past eight years, we were left out in the cold.

The way black people are losing economic ground, there is not much time—say about six weeks before the November elections—for us to act, or risk losing it all.

Mr. DOLE. The main thrust of the column is a suggestion that I and other Republicans around the country have been making for a long time: that black Americans, in their own interest, ought to consider supporting the Republican Party—the party whose policies offer the best opportunities for economic and social development for all Americans, regardless of color.

The column also cites some very interesting views expressed by a prominent black businessman in the Washington area, Joshua Smith—president of the Maxima Corp., Rockville, MD. Among other things, Mr. Smith points out that black Americans—whose aggregate annual income is in excess of $250 billion—own only about one-tenth of 1 percent of the assets of this country; a situation Mr. Smith attributes in part to the fact that black political and religious leaders spend too much time pursuing political "causes," and too little time working to improve the economic status and power of the black community.

Mr. Milloy and Mr. Smith come to the same bottom-line conclusion: economic power will bring political power; and the Republican Party offers the best chance to enhance the economic power of black Americans.

Mr. President, I say again, Senators on both sides of the aisle should read this column. It will be sobering reading for Democrats; and hopeful reading for Republicans.

But let me say to my colleagues on this side of the aisle, too: we must work for, and deserve, the support of black Americans—if we are to win that support. We must be genuinely open to their involvement; we must really welcome them in leadership roles; we must pay serious attention to their views and needs. If we do that, we can expect more and more black Americans to come to the same, very sound conclusion reached by Mr. Milloy and Mr. Smith.

BICENTENNIAL MINUTE

OCTOBER 3, 1913: CARTOONS IN THE CONGRESSIONAL RECORD

Mr. DOLE. Mr. President, 76 years ago this week, readers of the October 3, 1913, CONGRESSIONAL RECORD must have been surprised to discover two political cartoons illustrating a reprinted article by South Carolina Senator Benjamin Tillman. Since its establishment in 1873, the CONGRESSIONAL RECORD had maintained an austere and unillustrated format.

In the early years of the twentieth century an occasional chart, or outline map would appear—but never a political cartoon.

Senator Tillman had drawn the cartoons in 1896 to accompany an article, entitled "The Money Power", in which he attacked Wall Street interests for preying on the Nation's farmers. Tillman's purpose in reprinting the article was to demonstrate that many of the predictions he had made as a freshman Senator had come true.

Each of his drawings depicted an "Allegorical Cow", shown standing astride a map of the United States. As described in an accompanying caption, the first cow is shown facing west, "feeding on the produce of the farmers of the West and South, while her golden milk is drawn by the * * * speculators in Wall Street."

A second drawing depicted an eastward-facing cow. Its caption explains:

In this cartoon Senator Tillman shows the result of the attempt of the farmers to turn the big cow around to let her feed on income tax in the East while they should milk her in the West and South. But the cow * * * was not a reversible cow. As soon as she tried to feed on income tax, the Supreme court seized her by the throat as a reminder that she must do her eating exclusively in the agricultural regions.

Although Tillman had routinely obtained the Senate's unanimous consent for publication of these cartoons, several Senators later announced they would have objected to his request had they known of it. Today, a statute forbids insertion in the RECORD of maps, diagrams, or illustrations without approval by the Joint Committee on Printing.

CHARLESTON'S PRIDE BECOMES AMERICA'S PRIDE

Mr. HOLLINGS. Mr. President, in the wake of last night's resounding victory of the U.S. women's basketball team over Yugoslavia, winning a gold medal for the United States, it is time to add the name Katrina McClain to the honor list along side the names Joyner-Kersee, Lewis, Griffith Joyner, Louganis, and our other Olympic heroes.

Of course, we in South Carolina have known about Katrina McClain's extraordinary talent for a number of years now. At St. Andrews High School in Charleston, she displayed dazzling skills as a forward, winning selection to Parade Magazine's All-American Girl's High School Team and leading St. Andrews to an undefeated season and the State AAA Championship in 1983. More recently, as an undergraduate at the University of Georgia, she has played a dominant role on the women's basketball team as the leading scorer, the leading rebounder; the player with the highest free-throw percentage and most blocked shots.

Mr. President, at the Seoul Olympics this week, the pride of Charleston has become the pride of America. Katrina McClain has set an inspiring example not just of raw talent, but of discipline and determination and character. I'm sure that Edward and Sara McClain, are very very proud of their daughter's achievements. Today, all of America shares that pride. Katrina is a role model for all of our daughters—a sterling example of our very best.

Mr. President, I know that the entire Senate joins me in saluting the gold-medal victory of the our women's basketball team, and in congratulating Katrina McClain for her brilliant performance. We wish her a safe trip home.

COACH KAY YOW: NORTH CAROLINA IS PROUD OF HER

Mr. HELMS. Mr. President, this is a proud day for the State of North Carolina and, specifically, for two North Carolina natives. Last night the U.S. Women's Basketball team won the gold medal by defeating Yugoslavia, 77-70.

To move into the gold medal game, the Americans defeated the U.S.S.R., 102-88. The United States defeated the Soviets at the 1987 World Champi-

onships and the Goodwill games in Moscow.

Mr. President, the U.S. team is coached by Kay Yow, head coach of the North Carolina State Lady Wolfpack. One of the assistant coaches is Susan Yow, Kay's sister. Susan is head coach of women's basketball at Drake University. I am proud of the Yow sisters.

Mr. President, Kay Yow grew up in Gibsonville, NC. She was graduated from Gibsonville High School in 1960. She received a bachelor of science degree in English from East Carolina University in 1964. Six years later, she earned a master's degree in physical education from University of North Carolina in Greensboro. Coach Yow showed early promise to greatness in basketball by scoring a school record of 52 points in one game, which has never been broken. She has gone on to attain a 430-151 won/loss record and 20 of 22 winning seasons. She has been at N.C. State for 13 years.

While at N.C. State her teams have won three Atlantic Coast Conference Championships and appeared in six NCAA tournaments. What is more outstanding is that Coach Yow's players have a 95-percent graduation record. Kay Yow has received, this year, the prestigious Carol Eckman Award, which is awarded by the members of the Women's Basketball Coaches Association. This award is presented to an active coach who best demonstrates sportsmanship, honesty, courage, ethical behavior, dedication to purpose and a commitment to the student-athlete.

Mr. President, a recent release from North Carolina State's athletic department stated:

> Coach Yow's life is coaching and helping people. She's tireless in efforts to promote women's basketball all over the world. She's held in the highest esteem by all who know her. And she is revered by her past and present players.

One of Coach Yow's personal triumphs has been her recovery from major cancer surgery. She has shown great courage and determination.

When she was chosen to coach the women's Olympic Basketball Team, Kay Yow said:

> This summer I will represent the greatest country in the world as the United States Olympic Women's Basketball coach. I'm a patriotic person and I'm truly honored to have a chance to represent this country at the highest level of amateur sports, the Olympics. I welcome the challenge to coach for the Gold. And the chance to coach for all Americans.

Mr. President, Coach Yow is truly a woman of excellence. The people of North Carolina and of the United States commend her for her strong leadership with our young Olympians and with American youth. I am very proud of her.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

RECESS

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 1 p.m. today.

There being no objection, at 11:59 a.m., the Senate recessed until 12:59 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. SANFORD).

RECESS

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 30 minutes.

There being no objection, at 1 p.m., the Senate recessed until 1:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. SANFORD).

PARENTAL AND TEMPORARY MEDICAL LEAVE

Mr. BYRD. Mr. President, I ask that the pending business be laid down.

The PRESIDING OFFICER. The clerk will report the pending business.

The legislative clerk read as follows:

> A bill (S. 2488) to grant employees parental and temporary medical leave under certain circumstances, and for other purposes.

The Senate resumed consideration of the bill.

Mr. BYRD. Mr. President, I ask unanimous consent to proceed for 10 minutes.

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

Mr. BYRD. Mr. President, I ask that that request be vitiated.

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

Mr. KARNES. Mr. President, I am strongly opposed to the pending legislation, S. 2488, which would mandate that all employers with 20 or more employees provide unpaid family and short-term disability leave. This bill would also guarantee that any employee taking such leave be able to return to his former or an equivalent position, with equivalent pay, benefits, and working conditions, at the end of the leave period. Employees would be permitted 10 weeks of unpaid leave upon the birth, adoption, or serious illness of a child, and 13 weeks for personal or family illness. Under the bill an employer must continue health benefits for workers on leave on the same basis as if the employees were on the job working.

Mr. President, granting parental and medical leave to employees is an admirable idea. It is the kind of benefit that many employers have incorporated into the package of benefits they provide to their work force.

According to a U.S. Chamber of Commerce survey of 1,000 firms in 1986, 77 percent of U.S. businesses already provide parental leave benefits to their employees. While such benefits may vary from company to company, many businessmen realize that to be competitive in the job market, they must offer parental leave to workers. According to the chamber of commerce report, 61 percent of the businesses cited recruitment and retention as the principal reasons why they offer parental leave.

It is one thing for businesses to decide to offer a cafeteria plan of benefits, including parental leave, to the employees. It is quite another for the Federal Government to dictate what benefits an employer must offer and to whom and under what conditions. This is what S. 2488 would do, Mr. President, and I hope the Senate will reject this radical proposal.

If the Government forces an employer to provide a particular benefit, it may necessitate the removal or reduction of another benefit. When employers are allowed to offer a selection of specific benefits, the individual employee can choose the kind of benefit most suitable to his or her needs and can thus personalize his or her own benefit package. These flexible benefit programs, which have become increasingly popular in the workplace, would be constrained by the kind of Government intervention resulting from S. 2488.

Benefits should be tailored to the needs of the individual business and its employees, not to the inflexible demands of Government.

Many employees neither need nor desire parental leave, so the mandated benefit would be inherently discriminatory to those workers. In that chamber of commerce survey I spoke of earlier, of the 23 percent of firms lacking parental leave policies, more than two-thirds indicated that their employees preferred other benefits. To dictate coverage of parental or family leave would force employees to take this benefit instead of some other. A working couple that chooses to put off having children or single workers or older couples who have already raised families would be forced to forego higher pay or a better pension plan or some other benefit more accommodating to their needs. Moreover, mandated parental leave is the kind of benefit that would be used for the most part by highly paid, two-earner couples, not low-income workers, or single parents, self-employed persons, or men whose

wives are full-time homemakers and mothers.

Thus, S. 2488 would effectively discriminate against these other employees by mandating a yuppie benefit that would only be used by a limited number of workers.

Although there is a GAO report estimating that the cost of parental leave legislation to employers having 20 or more workers would be less than $194 million annually, the total costs to small business from mandated leave are inestimable. This mandate would be especially costly for businesses which employ a majority of women since, as a practical matter, more women than men would receive the benefits.

Small businesses do not usually have the funds necessary to retrain a new employee while the permanent employee takes leave. For the small employer to be compelled to carry double health and medical during the leave period for both the employee on leave and the temporary replacement employee, and then to have to provide unemployment insurance for the temporary employee who is let go when the permanent employee returns to work would create a heavy burden on the small company. Having an employee take intermittent leave, when medically necessary, to take care of a child with a serious health condition, will be an administrative nightmare and could create serious operational problems for an employer.

Small businesses do not always have the capacity to provide the same or "equivalent" position to the employee who returns from taking leave. Employers certainly will be hard pressed to afford the legal costs of defending a discrimination action filed by a disgruntled employee, and the large assessment of damages if they lose the lawsuit, in the event they make a good-faith effort but fail to provide the same or "equivalent" job to the returning employee. There is also no protection in the bill against a legal action brought by a temporary employee who challenges his or her displacement.

What S. 2488 does, in effect, is to impose by Federal mandate the benefit policies of America's largest companies on small businesses, without any consideration as to whether the little businessman can afford such a proposal. It is not surprising, therefore, that the issue of parental leave was one of the priority concerns contained in the report issued by the 1986 White House Conference on Small Business. The 1,800 delegates representing small businesses across the country voted overwhelmingly to recommend that Congress reject parental leave legislation. Incidentally, more than 600 delegates attending that conference were business women, and they opposed parental leave legislation by a wide majority.

Presumably women employees would be the major beneficiaries of S. 2488. Yet is likely that businesses, large and small, would be wary of hiring young women in the child-bearing years, if S. 2488 becomes law. In fact, this legislation could turn back the clock on working women, by promoting discrimination against them.

There are a host of other reasons why mandated leave legislation should be rejected. S. 2488 proposes a radical departure from traditional labor law, in that it firmly injects the Federal Government into the private operations of the workplace and the heretofore voluntary arrangements between employers and employees. If it becomes law, employers will effectively lose management control. Employees will be granted by the Congress an absolute legal right to decide a matter normally left to management determination or the bargaining process—namely, the right to say when to take leave and for how long and when to return to the job and whether to allow the worker to assume the same or equivalent job at the end of extended leave—regardless of the impact of such a decision on the operation of the business.

An employer who interferes with the employee's right to leave can be assessed monetary damages equal to four times the amount of wages and benefits lost by an employee—punitive damages which are unprecedented and contrary to the remedial purpose of other Federal labor statutes.

Moreover, the employer is legally required to continue all health benefits while an employee is on leave. On the other hand, employees are not held accountable if they decide ultimately not to return to work at the end of their leave period.

Mr. President, I agree with Secretary of Labor Ann McLaughlin, who, in a letter advising us of the administration's strong opposition to this legislation, stated:

> S. 2488 * * * would interfere with privately negotiated agreements between workers and employers and would impose rigidity on arrangements between employers and employees. This legislation runs counter to our Nation's critical need to increase competitiveness and to ensure a climate which fosters greater flexibility to meet the challenges for working men and women in the year 2000 and beyond.

My office has received a great deal of mail on this legislation. An overwhelming majority of Nebraskans are adamantly opposed to mandated parental and medical leave. Many correspondents cannot understand how the Congress could even contemplate such radical proposals. I find myself in total agreement with my constituents. I cannot only assume that the leaders of organized labor and of pro-ERA groups are trying to get Congress to mandate what they have been unable to achieve on their own, for there is no groundswell of popular support for this legislation.

One group of Nebraskans that is especially concerned about S. 2488 are our educators, who believe this legislation would be detrimental to our schoolchildren and to the operation of local school districts. Virtually all local districts have parental and medical leave policies—many more generous to employees than that provided in S. 2488—all of them tailored to the needs and interests of the classroom. Their concern is this legislation would cause considerable disruption to student learning.

A school must be able to minimize the classroom disruptions that occur when a teacher takes leave. A district or a principal should be able to require that extended leave be taken only at certain times and for certain blocks of school time, such as during or at the end of a grading period, a semester or a school year. They must be able to count on a teacher returning from leave at the beginning of this period. School districts and school boards have developed flexible policies that accommodate both the family and personal interests of teachers and the requirements of the school system and the student body. S. 2488 would destroy that balance by, in effect, giving prior consideration and greater weight to employees' rights over students' needs.

Let me illustrate. When a specially qualified teacher takes leave, especially outside the regular school-year semester cycle, it is difficult, if not impossible, for the school to find a competent substitute. The scarcity of qualified educators, especially personnel with specialized skills and training, is particularly acute in rural and remote areas. If S. 2488 becomes law, many school districts would be unable to meet their legal and educational responsibilities under Public Law 94-142 if they could not find qualified substitutes.

Similarly, if a special teacher decides to return from extended leave just prior to the end of a semester, as he could under this bill, the normal educational process would be interrupted at the critical point for review, final examinations, and grade evaluations, based on the semester's work. Student learning would inevitably suffer from such a practice. The solution to these problems could be extremely expensive to many school systems, especially in many parts of Nebraska and rural America.

Let me quote from the letter I received from the National School Boards Association urging me to oppose this bill:

> School districts make every effort to reasonably accommodate employees' requests

for occasional parental leave or intermittent leave for medical reasons. However, the bill removes the ability of school officials to balance the frequency and/or timing of such requests against the local school district's primary responsibility for the education of students. * * * The focus of our objections to the legislation is educational, but the financial impact cannot be ignored. To the extent that this Federal mandate does impose new costs on local school districts, we object to the cost coming from the local tax base. The local tax base must fund locally determined priorities that improve education, rather than funding Federal priorities—especially when they will have a negative impact on learning.

Mr. President, S. 2488 is the sort of ill-considered legislative proposal that we had in mind when Senator COCHRAN of Mississippi introduced, and I became principal cosponsor of S. 2775. This bill would create the Commission on American Family and Employment, which would conduct a comprehensive study of various proposed mandated benefits and their impact of on the economy and on our ability to compete effectively in the international marketplace. The Commission would report its findings before the Congress takes action on pending legislation.

Mr. President, I am confident that if this Commission were in existence, we could have spared the Congress and the Nation the trouble and the expense of this misbegotten effort to dictate choices for employees and employers concerning the nature and extent of benefit packages available in the American workplace.

SENATE SCHEDULE

Mr. BYRD. Mr. President, I merely want to put a kind of timeframe on my holding the floor.

I would like to inquire of the distinguished Republican leader, inasmuch as there was a conference: The Republican leader indicated on yesterday that he wanted to talk with his colleagues today at around 11 o'clock, and I did not bring the Senate in until a given hour, so as to accommodate the Republican leader. He has had an opportunity to talk with his colleagues.

First, I inquire if there is a possibility of reaching an agreement on parental leave, the legislation that is before us, whereby we could have a vote on final passage either today or tomorrow or Monday, whatever, with no further amendments. Barring that, would there be a possibility of getting a time agreement at this time on that bill that would preclude any nongermane and/or nonrelevant amendments, thus allowing only amendments that are germane or relevant to the substance of the parental leave bill, and could we enumerate those, perhaps, and lay them out, and cut off all other amendments, so that we would know that we were working toward a final vote on that bill within today or the next day or so, without having various and sundry nongermane, nonrelevant amendments thereto?

Mr. DOLE. Mr. President, I say to the majority leader that the short answer would be "no" to each of the above.

However, I would add that we had a good, spirited conference; and I think the bottom line is that there are a number of Members on our side who do not feel that, in its present form, we should pass the parental leave bill, and they would like to continue to offer amendments, germane and nongermane amendments, including the House-passed drug bill. They would like to offer that to the parental leave bill, and perhaps a $4 minimum wage, with a training wage, to the parental leave bill.

The bottom line was that they did not want any restrictions on amendments. There are, I think, 10 or 15 amendments that are both relevant and germane.

So I do not have good news for the majority leader in that regard.

Mr. BYRD. Well, the Republican leader is frank and candid and to the point, and I admire him for that. He has had his conference, and he is reflecting the discussions that went on in the conference. I want to express my appreciation for his having had the meeting and for having brought the matter before his colleauges.

He is in much the same situation that I am in from time to time. I try to move in the direction of a consensus on my side. I have nothing but great respect and high regard for the Republican leader in what he has just said.

Mr. DOLE. Mr. President, will the Senator yield on one other matter, which is of interest to both sides? That is the technical corrections measure.

Senator PACKWOOD, the ranking Republican on the Finance Committee, did indicate that he felt that, even though we might not get a unanimous-consent agreement, in working with Senator BAUCUS he felt that maybe in a couple of days we could complete action on a technical corrections bill. That is an important piece of legislation.

So that did emerge from our conference. Nothing says that we can do it in 2 days. Tax bills sometimes are hard to shut down.

Senator BAUCUS is on the floor, and I know that he and Senator PACKWOOD and members of their staffs and people from the Treasury have been working on amendments. So that is a possibility.

I guess the priority on our side would be to move on drug legislation. If there was any consensus—it was a sort of raucous caucus—it was moving on drug legislation.

Mr. BYRD. Mr. President, let me say that I want very much to have a parental leave bill. I have had a great deal of pressure from various individuals and groups to do something on day care as well—on day care legislation. Of course, I have many pressures to bring up other measures as well.

I want to see action on the measure that is before us. We have already had opportunities to deal with minimum wage. The distinguished Republican leader mentioned minimum wage, indicating that there may be some on his side who would like to go back to that subject, and it may be that there would be no way to avoid going back to it. What they are really talking about, Mr. President, with all due respect to the Republican leader, is the subminimum wage.

We had minimum wage before the Senate for 5 days. We had two cloture votes, and our friends across the aisle voted against cloture. So we went on to something else, because we read the handwriting on the wall.

Before we go out, I would like very much to do the tax technical amendments. That measure contains some parts that are very important to all of us—to my State of West Virginia and to the States of other Senators. I am speaking as a Senator from West Virginia now. My colleague, Mr. ROCKEFELLER, is on the Finance Committee. So both West Virginia Senators are on the floor at this time.

That bill is important to our State. I want to do something on that. I want to act on that measure before we go home.

I am going to do everything I can to bring about action on this measure before we go out sine die.

The drug bill is something that we are all ready to do on this side of the aisle. We have a bipartisan bill. It was worked on by able Senators from both sides of the aisle who spent a great deal of time on it. Senators MOYNIHAN and NUNN on this side and Senator RUDMAN on the other side led a bipartisan working group on the drug bill. They came up with a package that is a bipartisan package, and it is my full intention to act on that if at all possible before we adjourn sine die.

The appropriations bills are well on their way to final enactment by or before midnight this coming Friday.

I would suggest to all Senators, if I may have their attention, that we ought to arrange our schedules to be here until midnight tomorrow night in order to beat that fiscal year deadline on the appropriations bills.

The welfare reform conference report is ready to go, and Senator MOYNIHAN is ready to do that this afternoon. Also, this afternoon, some of us, Senator DOLE and I and others on both sides of the Hill, will be meeting with the President from France, President Mitterrand.

We cannot be in late tonight. I believe I mentioned that to the distinguished Republican leader. We on our side of the aisle have a rendezvous with destiny tonight.

And when we get back next week, after working tomorrow—I hope we will not have to be in Saturday—we will be tackling these measures. We may have late sessions next week. If we can finish by next Friday or Saturday a week, I would like to do that.

If we are not able to finish these items that we have talked about—both the Republican leader and I have addressed our remarks to them—if we are not able to finish all of them we have to be back the next week. We cannot come back on Monday because that is Columbus Day and I have already indicated that the Senate would not be in session on Columbus Day. Senator DOLE, Senator MOYNIHAN, and others have important engagements on Columbus Day and we have to keep those.

All right. That brings me to this: Could we in the meantime be addressing ourselves off the floor and among our colleagues toward the tax bill and the drug bill to see if we can reduce the list of amendments to a bare minimum? We might be able to enter into an agreement as the days go on that will allow us to do the tax bill with only an agreed-upon list of amendments, say, X number on that side, X number on our side, the X being five or less, and on the drug bill perhaps the same or with X being one or less or two or less, so that as we get into the final days we will deal with these extremely important legislative measures, deal with them in time to get them to conference. We have to keep that in mind. We have to go to conference with the House on these measures before we can go out, but if we can dispose of them, get them off this floor, get them into conference and then while we are waiting on the conferences we can do other things and in the final analysis expedite the completion of our work and hasten the adjournment sine die.

Does this strike a welcome chord in the great heart of my friend across the aisle whose heart is as stout as the Irish oak and as pure as the Lakes of Killarney?

Mr. DOLE. The part that strikes my heart is getting out of here on October 8. That is the only thing I remember, but I think to do that each side is going to have to make some concessions, which would lead me to hope that if that is a possibility, and I really believe it is, that would be a great stimulant and incentive to some on this side. I must say that when our caucus started this morning, that was the bottom line—get out on October 8. By the time we finished, we had some say, "Oh, we are better off just to stay here."

So it went up and down. But I think most of us, obviously, want to do the work that needs to be done, that is, the appropriations bills, hopefully by midnight tomorrow night.

We really do not believe that much is being gained from this debate on parental leave. It is very important legislation. Do not misunderstand me. Now, if we are going to add child care, somehow that will fill out the labor agenda, the political agenda. I am not certain what it does for the public interests.

So, if there is a determination that we do the technical corrections and the drug bill and, of course, all the appropriations and other things we can agree on, then I believe we could probably make some progress.

But I understood the majority leader might be compelled to try some other way to keep parental leave and day care before the Senate. I am not sure I could get consent, if there were cloture filed, for example, that we go on to something else, but if we had some indication that October 8 was doable if we cooperated, obviously, and everybody cooperated, then that would be a real possibility.

Mr. BYRD. I thank my leader on the other side of the aisle. I believe that is a possibility.

MOTION TO RECOMMIT WITH INSTRUCTIONS

Mr. President, it is obvious that I will not be able to get any kind of time agreement on the parental leave bill.

So I am going to make a motion to recommit with instructions.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes a motion. He moves to recommit the bill to the Committee on Labor and Human Resources with instructions to report back forthwith with the following amendment: Strike all after the enacting clause and insert in lieu thereof the following:

Mr. BYRD. Mr. President, I ask unanimous consent that further reading be dispensed with.

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

The motion is as follows:

Mr. President I move to recommit the bill S. 2488 to the Committee on Labor and Human Resources with instructions to report back forthwith with the following amendment,

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Parental and Medical Leave Act of 1988".

(b) TABLE OF CONTENTS.—

TITLE I—GENERAL REQUIREMENTS FOR PARENTAL LEAVE AND MEDICAL LEAVE

SEC. 101. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the number of two-parent households in which both parents work and the number of single-parent households in which the single parent works are increasing significantly;

(2) it is important for the development of children and the family unit that fathers and mothers be able to participate in early child rearing and the care of children who have serious health conditions;

(3) the lack of employment policies to accommodate working parents forces many individuals to choose between job security and parenting;

(4) there is inadequate job security for employees who have serious health conditions that prevent the employees from working for temporary periods;

(5) due to the nature of the roles of men and women in our society, the primary responsibility for family caretaking often falls on women, and such responsibility affects their working lives more than it affects the working lives of men; and

(6) employment standards that apply to one gender only have serious potential for encouraging employers to discriminate against employees and applicants for employment who are of that gender.

(b) PURPOSES.—It is the purpose of this Act—

(1) to balance the demands of the workplace with the needs of families;

(2) to promote the economic security and stability of families;

(3) to entitle employees to take reasonable leave for medical reasons, for the birth or adoption of a child, and for the care of a child who has a serious health condition;

(4) to accomplish such purposes in a manner which accommodates the legitimate interests of employers;

(5) to accomplish such purposes in a manner which, consistent with the Equal Protection Clause of the Fourteenth Amendment, minimizes the potential for

employment discrimination on the basis of sex by ensuring generally that leave is available for eligible medical reasons (including maternity-related disability) and for compelling family reasons, on a gender-neutral basis; and

(6) to promote the goal of equal employment opportunity for women and men, pursuant to such clause.

SEC. 102. DEFINITIONS.

As used in this title:

(1) COMMERCE.—The terms "commerce" and "industry or activity affecting commerce" mean any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce, including "commerce" and any activity or industry "affecting commerce" within the meaning of the Labor Management Relations Act, 1947 (29 U.S.C 141 et seq.).

(2) EMPLOY.—The term "employ" has the same meaning given the term in section 3(g) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(g)).

(3) EMPLOYEE.—

(A) IN GENERAL.—The term "employee" means an individual that is included under the definition of such term in section 3(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)) who has been employed by the employer with respect to whom benefits are sought under this Act for at least—

(i) 900 hours of service during the previous 12-month period; and

(ii) 12 months.

"(B) EXCLUSION.—The term "employee" does not include any Federal officer or employee covered under subchapter III of chapter 63 of title 5, United States Code (as added by title II of this Act).

(4) EMPLOYER.—The term "employer"—

(A) means any person engaged in commerce or in any industry or activity affecting commerce who employs 20 or more employees at any one worksite for each working day during each of 20 or more calendar workweeks in the current or preceding calendar year;

(B) includes—

(i) any person who acts directly or indirectly in the interest of an employer to one or more employees; and

(ii) any successor in interest of such an employer; and

(C) includes any public agency, as defined in section 3(x) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(x)).

(5) EMPLOYMENT BENEFITS.—The term "employment benefits" means all benefits provided or made available to employees by an employer, including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions, regardless of whether the benefits are provided by a policy or practice of an employer or by an employee benefit plan as defined in section 3(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(1)).

(6) HEALTH CARE PROVIDER.—The term "health care provider" means—

(A) any person licensed under Federal, State, or local law to provide health care services, or

(B) any other person determined by the Secretary to be capable of providing health care services.

(7) PERSON.—The term "person" has the same meaning given the term in section 3(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(a)).

(8) REDUCED LEAVE SCHEDULE.—The term "reduced leave schedule" means leave scheduled for fewer than the usual number of hours of an employee per workweek or hours per workday.

(9) SECRETARY.—The term "Secretary" means the Secretary of Labor.

(10) SERIOUS HEALTH CONDITION.—The term "serious health condition" means an illness, injury, impairment, or physical or mental condition that involves—

(A) inpatient care in a hospital, hospice, or residential medical care facility; or

(B) continuing treatment or continuing supervision by a health care provider.

(11) SON OR DAUGHTER.—The term "son or daughter" means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a de facto parent, who is—

(A) under 18 years of age; or

(B) 18 years of age or older and incapable of self-care because of a mental or physical disability.

(12) STATE.—The term "State" has the same meaning given the term in section 3(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(c)).

SEC. 103. PARENTAL LEAVE REQUIREMENT.

(a) IN GENERAL.—

(1) ENTITLEMENT TO LEAVE.—An employee shall be entitled, subject to section 105, to 10 workweeks of parental leave during any 24-month period—

(A) as the result of the birth of a son or daughter of the employee;

(B) as the result of the placement, for adoption or foster care, of a son or daughter with the employee; or

(C) in order to care for the employee's son or daughter who has a serious health condition.

(2) EXPIRATION OF ENTITLEMENT.—The entitlement to leave under paragraphs (1)(A) and (1)(B) shall expire at the end of the 12-month period beginning on the date of such birth or placement.

(3) INTERMITTENT LEAVE.—In the case of a son or daughter who has a serious health condition, such leave may be taken intermittently when medically necessary, subject to subsection (e).

(b) REDUCED LEAVE.—On agreement between the employer and the employee, leave under this section may be taken on a reduced leave schedule, however, such reduced leave schedule shall not result in a reduction in the total amount of leave to which the employee is entitled.

(c) UNPAID LEAVE PERMITTED.—Except as provided in subsection (d), leave granted under subsection (a) may consist of unpaid leave.

(d) RELATIONSHIP TO PAID LEAVE.—

(1) UNPAID LEAVE.—If an employer provides paid parental leave for fewer than 10 work-weeks, the additional weeks of leave added to attain the 10 work-week total may be unpaid.

(2) SUBSTITUTION OF PAID LEAVE.—An employee or employer may elect to substitute any of the employee's accrued paid vacation leave, personal leave, or other appropriate paid leave for any part of the 10-week period.

(e) FORESEEABLE LEAVE.—

(1) REQUIREMENT OF NOTICE.—In any case in which the necessity for leave under this section is foreseeable based on an expected birth or adoption, the employee shall provide the employer with prior notice of such expected birth or adoption in a manner which is reasonable and practicable.

(2) DUTIES OF EMPLOYEE.—In any case in which the necessity for leave under this section is foreseeable based on planned medical treatment or supervision, the employee shall—

(A) make a reasonable effort to schedule the treatment or supervision so as not to disrupt unduly the operations of the employer, subject to the approval of the health care provider of the employee's son or daughter; and

(B) provide the employer with prior notice of the treatment or supervision in a manner which is reasonable and practicable.

(3) REGULATIONS.—The Secretary shall promulgate regulations under section 108(a) that define the term "reasonable and practicable" for purposes of paragraphs (1) and (2)(B).

(f) SPOUSES EMPLOYED BY THE SAME EMPLOYER.—In any case in which a husband and wife entitled to parental leave under this section are employed by the same employer, the aggregate number of workweeks of parental leave to which both may be entitled may be limited to 10 workweeks during any 24-month period, if such leave is taken under subparagraph (A) or (B) of subsection (a)(1).

SEC. 104. TEMPORARY MEDICAL LEAVE REQUIREMENT.

(a) IN GENERAL.—

(1) ENTITLEMENT TO LEAVE.—Any employee who, as the result of a serious health condition, becomes unable to perform the functions of the position of the employee, shall be entitled to temporary medical leave, subject to section 105.

(2) PERIOD OF ENTITLEMENT.—The entitlement under paragraph (1) shall continue for as long as the employee is unable to perform the functions, except that the leave shall not exceed 13 workweeks during any 12-month period.

(3) INTERMITTENT LEAVE.—Leave taken under this subsection may be taken intermittently when medically necessary, subject to subsection (d).

(b) UNPAID LEAVE PERMITTED.—Except as provided in subsection (c), leave granted under subsection (a) may consist of unpaid leave.

(c) RELATIONSHIP TO PAID LEAVE.—

(1) IN GENERAL.—If an employer provides paid temporary medical leave or paid sick leave for fewer than 13 weeks, the additional weeks of leave added to attain the 13-week total may be unpaid.

(2) SUBSTITUTION OF PAID LEAVE.—An employee or employer may elect to substitute the employee's accrued paid vacation leave, sick leave, or other appropriate paid leave for any part of the 13-week period, except that nothing in this Act shall require an employer to provide paid sick leave or paid medical leave in any situation in which such employer would not normally provide any such paid leave.

(d) FORESEEABLE LEAVE.—

(1) DUTIES OF EMPLOYEE.—In any case in which the necessity for leave under this section is foreseeable based on planned medical treatment or supervision, the employee shall—

(A) make a reasonable effort to schedule the treatment or supervision so as not to disrupt unduly the operations of the employer, subject to the approval of the employee's health care provider, and

(B) provide the employer with prior notice of the treatment or supervision in a manner which is reasonable and practicable.

(2) REGULATIONS.—The Secretary shall promulgate regulations under section 108(a) that define the term "reasonable and practicable" for purposes of paragraph (1).

SEC. 105. CERTIFICATION.

(a) IN GENERAL.—An employer may require that a claim for parental leave under section 103(a)(1)(C), or temporary medical leave under section 104, be supported by certification issued by the health care provider of the son, daughter, or employee, whichever is appropriate. The employee shall provide a copy of such certification to the employer.

(b) SUFFICIENT CERTIFICATION.—The certification shall be considered sufficient if it states—

(1) the date on which the serious health condition commenced;

(2) the probable duration of the condition;

(3) the appropriate medical facts within the knowledge of the provider regarding the condition; and

(4)(A) for purposes of leave under section 104, a statement that the employee is unable to perform the functions of the employee's position; and

(B) for purposes of leave under section 103(a)(1)(C), an estimate of the amount of time that the employee is needed to care for the son or daughter.

(c) SECOND OPINION.—

(1) IN GENERAL.—In any case in which the employer has reason to doubt the validity of the certification provided under subsection (a), the employer may require, at its own expense, that the employee obtain the opinion of a second health care provider designated or approved by the employer concerning the information certified under subsection (b).

(2) LIMITATION.—Any health care provider designated or approved under paragraph (1) may not be employed on a regular basis by the employer.

(d) RESOLUTION OF CONFLICTING OPINIONS.—

(1) IN GENERAL.—In any case in which the second opinion described in subsection (c) differs from the original certification provided under subsection (a), the employer may require, at its own expense, that the employee obtain the opinion of a third health care provider designated or approved jointly by the employer and the employee concerning the information certified under subsection (b).

(2) FINALITY.—The opinion of the third health care provider concerning the information certified under subsection (b) shall be considered to be final and shall be binding on the employer and the employee.

(e) SUBSEQUENT RECERTIFICATION.—The employer may require that the employee obtain subsequent recertifications on a reasonable basis.

SEC. 106. EMPLOYMENT AND BENEFITS PROTECTION.

(a) RESTORATION TO POSITION.—

(1) IN GENERAL.—Any employee who takes leave under section 103 or 104 for its intended purpose shall be entitled, on return from the leave—

(A) to be restored by the employer to the position of employment held by the employee when the leave commenced; or

(B) to be restored to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.

(2) LOSS OF BENEFITS.—The taking of leave under this title shall not result in the loss of any employment benefit accrued before the date on which the leave commenced.

(3) LIMITATIONS.—Except as provided in subsection (b), nothing in this section shall be considered to entitle any restored employee to—

(A) the accrual of any seniority or employment benefits during any period of leave; or

(B) any right, benefit, or position of employment other than that to which the employee was entitled to on the date the leave was commenced.

(4) CERTIFICATION.—As a condition to restoration under paragraph (1), the employer may have a policy that requires each employee to receive certification from the employee's health care provider that the employee is able to resume work.

(5) CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit an employer from requiring an employee on leave under section 103 or 104 to periodically report to the employer on the employee's status and intention to return to work.

(b) MAINTENANCE OF HEALTH BENEFITS.—During any period an employee takes leave under section 103 or 104, the employer shall maintain coverage under any group health plan (as defined in section 162(i)(3) of the Internal Revenue Code of 1954) for the duration of such leave at the level and under the conditions coverage would have been provided if the employee had continued in employment continuously from the date the employee commenced the leave until the date the employee is restored under subsection (a).

SEC. 107. PROHIBITED ACTS.

(a) INTERFERENCE WITH RIGHTS.—

(1) EXERCISE OF RIGHTS.—It shall be unlawful for any employer to interfere with, restrain, or deny the exercise of or the attempt to exercise, any right provided under this title.

(2) DISCRIMINATION.—It shall be unlawful for any employer to discharge or in any other manner discriminate against any individual for opposing any practice made unlawful by this title.

(b) INTERFERENCE WITH PROCEEDINGS OR INQUIRIES.—It shall be unlawful for any person to discharge or in any other manner discriminate against any individual because the individual—

(1) has filed any charge, or has instituted or caused to be instituted any proceeding, under or related to this title;

(2) has given or is about to give any information in connection with any inquiry or proceeding relating to any right provided under this title; or

(3) has testified or is about to testify in any inquiry or proceeding relating to any right provided under this title.

SEC. 108. ADMINISTRATIVE ENFORCEMENT.

(a) IN GENERAL.—The Secretary shall issue such rules and regulations as are necessary to carry out this section, including rules and regulations concerning service of complaints, notice of hearings, answers and amendments to complaints, and copies of orders and records of proceedings.

(b) CHARGES.—

(1) FILING.—Any person alleging an act that violates this title may file a charge respecting the violation with the Secretary. Charges shall be in such form and contain such information as the Secretary shall require by regulation.

(2) NOTIFICATION.—Not later than 15 days after the Secretary receives notice of a charge under paragraph (1), the Secretary shall—

(A) serve a notice of the charge on the person charged with the violation; and

(B) inform such person and the charging party as to the rights and procedures provided under this title.

(3) TIME OF FILING.—A charge may not be filed later than 1 year after the date of the last event constituting the alleged violation.

(c) PROCESS ON NOTICE OF A CHARGE.—Investigation; Complaint.—

(1) INVESTIGATION.—Within the 60-day period after the Secretary receives any charge, the Secretary shall investigate the charge and issue a complaint based on the charge or dismiss the charge.

(2) COMPLAINT BASED ON CHARGE.—If the Secretary determines that there is a reasonable basis for the charge, the Secretary shall issue a complaint based on the charge and promptly notify the charging party and the respondent as to the issuance.

(3) DISMISSAL.—If the Secretary determines that there is no reasonable basis for the charge, the Secretary shall dismiss the charge and promptly notify the charging party and the respondent as to the dismissal.

(4) SETTLEMENT AGREEMENTS.—

(A) WITH CHARGING PARTY.—The charging party and the respondent may enter into a settlement agreement concerning the violation alleged in the charge before any determination is reached by the Secretary under this subsection. To be effective such an agreement must be determined by the Secretary to be consistent with the purposes of this title.

(B) WITH SECRETARY.—On the issuance of a complaint, the Secretary and the respondent may enter into a settlement agreement concerning a violation alleged in the complaint. Any such settlement may not be entered into over the objection of the charging party, unless the Secretary determines that the settlement provides a full remedy for the charging party.

(5) CIVIL ACTIONS.—If, at the end of the 60-day period referred to in paragraph (1), the Secretary—

(A) has not issued a complaint under paragraph (2);

(B) has dismissed the charge under paragraph (3); or

(C) has not approved or entered into a settlement agreement under subparagraph (A) or (B) of paragraph (4);

the charging party may elect to bring a civil action under section 109.

(6) COMPLAINT AND RELIEF ON SECRETARY'S INITIATIVE.—

(A) ISSUANCE.—The Secretary may issue and serve a complaint alleging a violation of this title on the basis of information and evidence gathered as a result of an investigation initiated by the Secretary pursuant to section 110.

(B) RELIEF.—

(i) IN GENERAL.—On issuance of a complaint, the Secretary shall have the power to petition the United States district court for the district in which the violation is alleged to have occurred, or in which the respondent resides or transacts business, for appropriate temporary relief or a restraining order.

(ii) NOTICE.—On the filing of any such petition, the court shall cause notice of the petition to be served on the respondent.

(iii) TYPE OF RELIEF.—The court shall have jurisdiction to grant to the Secretary such temporary relief or restraining order as the court considers just and proper.

(d) RIGHTS OF PARTIES.—

(1) SERVICE OF COMPLAINT.—In any case in which a complaint is issued under subsection (c), the Secretary shall, not later than 10 days after the date on which the complaint is issued, cause to be served on the respondent a copy of the complaint.

(2) PARTIES TO COMPLAINT.—Any person filing a charge alleging a violation of this title may elect to be a party to any complaint filed by the Secretary alleging the violation. The election must be made before the commencement of a hearing.

(3) CIVIL ACTION.—The failure of the Secretary to comply in a timely manner with any obligation assigned to the Secretary under this title shall entitle the charging party to elect, at the time of such failure, to bring a civil action under section 109.

(e) CONDUCT OF HEARING.—

(1) PROSECUTION BY SECRETARY.—The Secretary shall prosecute any complaint issued under subsection (c).

(2) HEARING.—An administrative law judge shall conduct a hearing on the record with respect to a complaint issued under this title. The hearing shall be conducted in accordance with sections 554, 555, and 556 of title 5, United States Code, and shall be commenced within 60 days after the issuance of the complaint, unless the judge, in the judge's discretion, determines that the purposes of this Act would best be furthered by commencement of the action after the expiration of such period.

(f) FINDINGS AND CONCLUSIONS.—

(1) IN GENERAL.—After a hearing is conducted under this section, the administrative law judge shall promptly make findings of fact and conclusions of law, and, if appropriate, issue an order for relief as provided in section 111.

(2) NOTIFICATION CONCERNING DELAY.—The administrative law judge shall inform the parties, in writing, of the reason for any delay in making the findings and conclusions if the findings and conclusions are not made within 60 days after the conclusion of the hearing.

(g) FINALITY OF DECISION; REVIEW.—

(1) FINALITY.—The decision and order of the administrative law judge shall become the final decision and order of the Secretary unless, on appeal by an aggrieved party taken not later than 30 days after the action, the Secretary modifies or vacates the decision, in which case the decision of the Secretary shall be the final decision.

(2) REVIEW.—Not later than 60 days after the entry of the final order of the Secretary under paragraph (1), any person aggrieved by the final order may obtain a review of the order in the United States court of appeals for the circuit in which the violation is alleged to have occurred or in which the employer resides or transacts business.

(3) JURISDICTION.—On the filing of the record with the court, the jurisdiction of the court shall be exclusive and its judgment shall be final, except that the same shall be subject to review by the Supreme Court of the United States on writ of certiorari or certification as provided in section 1254 of title 28, United States Code.

(h) COURT ENFORCEMENT OF ADMINISTRATIVE ORDERS.—

(1) POWER OF SECRETARY.—If a respondent does not appeal an order of the Secretary under subsection (g)(2), the Secretary may petition the United States district court for the district in which the violation is alleged to have occurred, or in which the respondent resides or transacts business, for the enforcement of the order of the Secretary, by filing in the court a written petition praying that the order be enforced.

(2) JURISDICTION.—On the filing of the petition, the court shall have jurisdiction to make and enter a decree enforcing the order of the Secretary. In the proceeding, the order of the Secretary shall not be subject to review.

(3) DECREE OF ENFORCEMENT.—If, on appeal of an order under subsection (g)(2), the United States court of appeals does not reverse or modify the order, the court shall have the jurisdiction to make and enter a decree enforcing the order of the Secretary.

SEC. 109. ENFORCEMENT BY CIVIL ACTION.

(a) RIGHT TO BRING CIVIL ACTION.—

(1) IN GENERAL.—Subject to the limitations in this section, an employee or the Secretary may bring a civil action against any employer to enforce the provisions of this title in any appropriate court of the United States or in any State court of competent jurisdiction.

(2) NO CHARGE FILED.—Subject to paragraph (3), a civil action may be commenced under this subsection without regard to whether a charge has been filed under section 108(b).

(3) LIMITATIONS.—No civil action may be commenced under paragraph (1) if the Secretary—

(A) has approved, or has failed to disapprove, a settlement agreement under section 108(c)(4), in which case no civil action may be filed under this subsection if the action is based on a violation alleged in the charge and resolved by the agreement; or

(B) has issued a complaint under section 108(c)(2) or 108(c)(6), in which case no civil action may be filed under this subsection if the action is based on a violation alleged in the complaint.

(4) TO ENFORCE SETTLEMENT AGREEMENTS.—Notwithstanding paragraph (3)(A), a civil action may be commenced to enforce the terms of any such settlement agreement.

(5) TIMING OF COMMENCEMENT OF CIVIL ACTION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), no civil action may be commenced more than 1 year after the date on which the alleged violation occurred.

(B) EXCEPTION.—In any case in which—

(i) a timely charge is filed under section 108(b); and

(ii) the failure of the Secretary to issue a complaint or enter into a settlement agreement based on the charge (as provided under section 108(c)(4)) occurs more than 11 months after the date on which any alleged violation occurred,

the employee may commence a civil action not more than 30 days after the date on which the employee is notified of the failure.

(6) AGENCIES.—The Secretary may not bring a civil action against any agency of the United States.

(b) VENUE.—An action brought under subsection (a) in a district court of the United States may be brought—

(1) in any appropriate judicial district under section 1391 of title 28, United States Code; or

(2) in the judicial district in the State in which—

(A) the employment records relevant to the violation are maintained and administered; or

(B) the aggrieved person worked or would have worked but for the alleged violation.

(c) NOTIFICATION OF THE SECRETARY; RIGHT TO INTERVENE.—A copy of the complaint in any action brought by an employee under subsection (a) shall be served on the Secretary by certified mail. The Secretary shall have the right to intervene in a civil action brought by an employee under subsection (a).

(d) ATTORNEYS FOR THE SECRETARY.—In any civil action brought under subsection (a), attorneys appointed by the Secretary may appear for and represent the Secretary, except that the Attorney General and the Solicitor General shall conduct any litigation in the Supreme Court.

SEC. 110. INVESTIGATIVE AUTHORITY.

(a) IN GENERAL.—To ensure compliance with the provisions of this title, or any regulation or order issued under this title, subject to subsection (c), the Secretary shall have the investigative authority provided under section 11(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(a)).

(b) OBLIGATION TO KEEP AND PRESERVE RECORDS.—An employer shall keep and preserve records in accordance with section 11(c) of such Act, and in accordance with regulations issued by the Secretary.

(c) REQUIRED SUBMISSIONS GENERALLY LIMITED TO AN ANNUAL BASIS.—The Secretary may not under this section require any employer or any plan, fund, or program to submit to the Secretary any books or records more than once in any 12-month period, unless the Secretary has reasonable cause to believe there may exist a violation of this title or any regulation or order issued pursuant to this title, or is investigating a charge brought pursuant to section 108.

(d) SUBPOENA POWERS, ETC.—For purposes of any investigation conducted under this section, the Secretary shall have the subpoena authority provided under section 9 of the Fair Labor Standards Act of 1938 (29 U.S.C. 209).

(e) DISSEMINATION OF INFORMATION.—The Secretary may make available to any person substantially affected by any matter that is the subject of an investigation under this section, and to any department or agency of the United States, information concerning any matter that may be the subject of the investigation.

SEC. 111. RELIEF.

(a) INJUNCTIVE RELIEF.—

(1) CEASE AND DESIST.—On finding a violation under section 108 by a person, an administrative law judge shall issue an order requiring the person to cease and desist from any act or practice that violates this title.

(2) INJUNCTIONS.—In any civil action brought under section 109, a court may grant as relief any permanent or temporary injunction, temporary restraining order, or other equitable relief as the court considers appropriate.

(b) MONETARY DAMAGES.—

(1) IN GENERAL.—Any employer that violates this title shall be liable to the injured party in an amount equal to—

(A) any wages, salary, employment benefits, or other compensation denied or lost to the employee by reason of the violation, plus interest on the total monetary damages calculated at the prevailing rate; and

(B) an additional amount equal to the greater of—

(i) the amount determined under subparagraph (A), as liquidated damages; or

(ii) the amount of consequential damages but not to exceed three times the amount determined under subparagraph (A).

(2) GOOD FAITH.—If an employer who has violated this title proves to the satisfaction of the court that the act or omission which violated this title was in good faith and that the employer had reasonable grounds for believing that the act or omission was not a violation of this title, the court may, in its discretion, reduce the amount of the liability or penalty provided for under this sub-

section to the amount determined under paragraph (1)(A).

(c) ATTORNEYS' FEES.—A prevailing party (other than the United States) may be awarded a reasonable attorneys' fee as part of the costs, in addition to any relief awarded. The United States shall be liable for costs in the same manner as a private person.

(d) LIMITATION.—Damages awarded under subsection (b) may not accrue from a date more than 2 years before the date on which a charge is filed under section 108(b) or a civil action is brought under section 109.

SEC. 112. NOTICE.

(a) IN GENERAL.—Each employer shall post and keep posted, in conspicuous places on the premises of the employer where notices to employees and applicants for employment are customarily posted, a notice, approved by the Secretary, setting forth excerpts from, or summaries of, the pertinent provisions of this title and information pertaining to the filing of a charge.

(b) PENALTY.—Any employer who willfully violates this section shall be fined not more than $100 for each separate offense.

TITLE II—PARENTAL LEAVE AND TEMPORARY MEDICAL LEAVE FOR CIVIL SERVICE EMPLOYEES

SEC. 201. PARENTAL LEAVE AND TEMPORARY MEDICAL LEAVE.

(a) IN GENERAL.—(1) Chapter 63 of title 5, United States Code, is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER III—PARENTAL LEAVE AND TEMPORARY MEDICAL LEAVE

"§ 6331. Definitions

"For purposes of this subchapter:

"(1) 'employee' means—

"(A) an employee as defined by section 6301(2) of this title (excluding an individual employed by the government of the District of Columbia); and

"(B) an individual under clause (v) or (ix) of such section;

who has been employed for at least 12 months and completed at least 900 hours of service during the previous 12-month period.

"(2) 'serious health condition' means an illness, injury, impairment, or physical or mental condition that involves—

"(A) inpatient care in a hospital, hospice, or residential medical care facility; or

"(B) continuing treatment, or continuing supervision, by a health care provider; and

"(3) 'son or daughter' means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a de facto parent, who is—

"(A) under 18 years of age; or

"(B) 18 years of age or older and incapable of self-care because of a mental or physical disability.

"§ 6332. Parental leave requirement

"(a)(1) An employee shall be entitled, subject to section 6334, to 10 workweeks of parental leave during any 24-month period—

"(A) as the result of the birth of a son or daughter of the employee;

"(B) as the result of the placement, for adoption or foster care, of a son or daughter with the employee; or

"(C) in order to care for the employee's son or daughter who has a serious health condition.

"(2) The entitlement to leave under paragraphs (1)(A) and (1)(B) shall expire at the end of the 12-month period beginning on the date of such birth or placement.

"(3) In the case of a son or daughter who has a serious health condition, such leave may be taken intermittently when medically necessary, subject to subsection (e).

"(b) On agreement between the employing agency and the employee, leave under this section may be taken on a reduced leave schedule, however, such reduced leave schedule shall not result in a reduction in the total amount of leave to which the employee is entitled.

"(c) Except as provided in subsection (d), leave granted under subsection (a) may consist of unpaid leave.

"(d)(1) If an employing agency provides paid parental leave for fewer than 10 workweeks, the additional weeks of leave added to attain the 10 work-week total may be unpaid.

"(2) An employee or employing agency may elect to substitute any of the employee's accrued paid vacation leave, personal leave, or other appropriate paid leave for any part of the 10-week period.

"(e)(1) In any case in which the necessity for leave under this section is foreseeable based on an expected birth or adoption, the employee shall provide the employing agency with prior notice of such expected birth or adoption in a manner which is reasonable and practicable.

"(2) In any case in which the necessity for leave under this section is foreseeable based on planned medical treatment or supervision, the employee shall—

"(A) make a reasonable effort to schedule the treatment or supervision so as not to disrupt unduly the operations of the employing agency, subject to the approval of the health care provider of the employee's son or daughter; and

"(B) provide the employing agency with prior notice of the treatment or supervision in a manner which is reasonable and practicable.

"(3) The Director of the Office of Personnel Management shall promulgate regulations that define the term 'reasonable and practicable' for purposes of paragraphs (1) and (2)(B).

"§ 6333. Temporary medical leave requirement

"(a)(1) Any employee who, as the result of a serious health condition, becomes unable to perform the functions of the position of the employee, shall be entitled to temporary medical leave, subject to section 6334.

"(2) The entitlement under paragraph (1) shall continue for as long as the employee is unable to perform the functions, except that the leave shall not exceed 13 administrative workweeks of the employee during any 12-month period.

"(3) Leave taken under this subsection may be taken intermittently when medically necessary, subject to subsection (d).

"(b) Except as provided in subsection (c), leave granted under subsection (a) may consist of unpaid leave.

"(c)(1) If an employing agency provides paid temporary medical leave or paid sick leave for fewer than 13 weeks, the additional weeks of leave added to attain the 13-week total may be unpaid.

"(2) An employee or employing agency may elect to substitute the employee's accrued paid vacation leave, sick leave, or other appropriate paid leave for any part of the 13-week period, except that nothing in this Act shall require an employing agency to provide paid sick leave or paid medical leave in any situation in which such employing agency would not normally provide any such paid leave.

"(d)(1) In any case in which the necessity for leave under this section is foreseeable based on planned medical treatment or supervision, the employee shall—

"(A) make a reasonable effort to schedule the treatment or supervision so as not to disrupt unduly the operations of the employing agency, subject to the approval of the employee's health care provider, and

"(B) provide the employing agency with prior notice of the treatment or supervision in a manner which is reasonable and practicable.

"(2) The Director of the Office of Personnel Management shall promulgate regulations that define the term 'reasonable and practicable' for purposes of paragraph (1).

"§ 6334. Certification

"(a) An employing agency may require that a claim for parental leave under section 6332(a)(10)(C), or temporary medical leave under section 6333, be supported by certification issued by the health care provider of the son, daughter, or employee, whichever is appropriate. The employee shall provide a copy of such certification to the employing agency.

"(b) The certification shall be considered sufficient if it states—

"(1) the date on which the serious health condition commenced;

"(2) the probable duration of the condition;

"(3) the appropriate medical facts within the knowledge of the provider regarding the condition; and

"(4)(A) for purposes of leave under section 6333, a statement that the employee is unable to perform the functions of the employee's position; and

"(B) for purposes of leave under section 6332(a)(1)(C), an estimate of the amount of time that the employee is needed to care for the son or daughter.

"(c)(1) In any case in which the employing agency has reason to doubt the validity of the certification provided under subsection (a), the employing agency may require, at its expense, that the employee obtain the opinion of a second health care provider designated or approved by the employing agency concerning the information certified under subsection (b).

"(2) Any health care provider designated or approved under paragraph (1) may not be employed on a regular basis by the employing agency.

"(d)(1) In any case in which the second opinion described in subsection (c) differs from the original certification provided under subsection (a), the employing agency may require, at its expense, that the employee obtain the opinion of a third health care provider designated or approved jointly by the employing agency and the employee concerning the information certified under subsection (b).

"(2) The opinion of the third health care provider concerning the information certified under subsection (b) shall be considered to be final and shall be binding on the employing agency and the employee.

"(e) The employing agency may require that the employee obtain subsequent recertifications on a reasonable basis.

"§ 6335. Job protection

"An employee who uses leave under section 6332 or 6333 of this title shall be entitled shall be entitled, on return from the leave—

"(1) to be restored to the position of employment held by the employee when the leave commenced; or

"(2) to be restored to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.

"§ 6336. Prohibition of coercion

"(a) An employee may not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any other employee for the purpose of interfering with the exercise of the rights of the employee under this subchapter.

"(b) For the purpose of this section, 'intimidate, threaten, or coerce' includes promising to confer or conferring any benefit (such as appointment, promotion, or compensation), or taking or threatening to take any reprisal (such as deprivation of appointment, promotion, or compensation).

"§ 6337. Health insurance

"An employee enrolled in a health benefits plan under chapter 89 of this title who is placed in a leave status under section 6332 or 6333 of this title may elect to continue the health benefits enrollment of the employee while in leave status and arrange to pay into the Employees Health Benefits Fund (described in section 8909 of this title), through the employing agency of the employee, the appropriate employee contributions.

"§ 6338. Regulations

"The Office of Personnel Management shall prescribe regulations necessary for the administration of this subchapter. The regulations prescribed under this subchapter shall be consistent with the regulations prescribed by the Secretary of Labor under title I of the Parental and Medical Leave Act of 1988.".

(2) The table of contents for chapter 63 of title 5, United States Code, is amended by adding at the end thereof the following:

"SUBCHAPTER III—PARENTAL LEAVE AND TEMPORARY MEDICAL LEAVE

"6331. Definitions.
"6332. Parental leave requirement.
"6333. Temporary medical leave requirement.
"6334. Certification.
"6335. Job protection.
"6336. Prohibition of coercion.
"6337. Health insurance.
"6338. Regulations.".

(b) EMPLOYEES PAID FROM NONAPPROPRIATED FUNDS.—Section 2105(c)(1) of title 5, United States Code, is amended by striking out "53" and inserting in lieu thereof "53, subchapter III of chapter 63,".

TITLE III—COMMISSION ON PARENTAL AND MEDICAL LEAVE

SEC. 301. ESTABLISHMENT.

(a) ESTABLISHMENT.—There is established a Commission to be known as the Commission on Parental and Medical Leave (hereinafter in this title referred to as the "Commission").

SEC. 302. DUTIES.

The Commission shall—

(1) conduct a comprehensive study of—

(A) existing and proposed policies relating to parental leave and temporary medical leave; and

(B) the potential costs, benefits, and impact on productivity of such policies on employers;

(2) to the extent practicable, include in the study of parental leave and temporary medical leave policies required under subsection (1)(A), a review of all studies of existing and proposed methods designed to provide workers with full or partial salary replacement or other income protection during periods of parental leave and temporary medical leave that are consistent with the legitimate business interests of employers;

(3) within 2 years after the date on which the Commission first meets, submit a report to Congress that outlines the findings of the Commission.

SEC. 303. MEMBERSHIP.

(a) COMPOSITION.—

(1) APPOINTMENTS.—The Commission shall be composed of 12 voting members and 2 ex-officio members appointed not more than 60 days after the date of the enactment of this Act as follows:

(A) One Senator shall be appointed by the majority leader of the Senate, and one Senator shall be appointed by the minority leader of the Senate.

(B) One member of the House of Representatives shall be appointed by the Speaker of the House of Representatives, and one member of the House of Representatives shall be appointed by the minority leader of the House of Representatives.

(C)(i) Two members each shall be appointed by—

(I) the Speaker of the House of Representatives,

(II) the majority leader of the Senate,

(III) the minority leader of the House of Representatives, and

(IV) the minority leader of the Senate.

(ii) Such members shall be appointed by virtue of demonstrated expertise in relevant family, temporary disability, and labor-management issues and shall include representatives of employers.

(2) EX-OFFICIO MEMBERS.—The Secretary of Health and Human Services and the Secretary of Labor shall serve on the Commission as nonvoting ex-officio members.

(b) VACANCIES.—Any vacancy on the Commission shall be filled in the same manner in which the original appointment was made.

(c) CHAIRPERSON AND VICE CHAIRPERSON.—The Commission shall elect a chairperson and a vice chairperson from among the members of the Commission.

(d) QUORUM.—Eight members of the Commission shall constitute a quorum for all purposes, except that a lesser number may constitute a quorum for the purpose of holding hearings.

SEC. 304. COMPENSATION.

(a) PAY.—Members of the Commission shall serve without compensation.

(b) TRAVEL EXPENSES.—Members of the Commission shall be allowed reasonable travel expenses, including a per diem allowance, in accordance with section 5703 of title 5, United States Code, while performing duties of the Commission.

SEC. 305. POWERS.

(a) MEETINGS.—The Commission shall first meet not more than 30 days after the date on which all members are appointed. The Commission shall meet thereafter on the call of the chairperson or a majority of the members.

(b) HEARINGS AND SESSIONS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before the Commission.

(c) ACCESS TO INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable the Commission to carry out this Act. On the request of the chairperson or vice chairperson of the Commission, the head of the agency shall furnish the information to the Commission.

(d) EXECUTIVE DIRECTOR.—The Commission may appoint an Executive Director from the personnel of any Federal agency to assist the Commission in carrying out the duties of the Commission.

(e) USE OF SERVICES AND FACILITIES.—On the request of the Commission, the head of any Federal agency may make available to the Commission any of the facilities and services of the agency.

(f) PERSONNEL FROM OTHER AGENCIES.—On the request of the Commission, the head of any Federal agency may detail any of the personnel of the agency to assist the Commission in carrying out the duties of the Commission.

SEC. 306. TERMINATION.

The Commission shall terminate 30 days after the date of the submission of the final report of the Commission to Congress.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. EFFECT ON OTHER LAWS.

(a) FEDERAL AND STATE ANTIDISCRIMINATION LAWS.—Nothing in this Act shall be construed to modify or affect any Federal or State law prohibiting discrimination on the basis of race, religion, color, national origin, sex, age, or handicapped status.

(b) STATE AND LOCAL LAWS.—Nothing in this Act shall be construed to supersede any provision of any State or local law that provides greater employee parental or medical leave rights than the rights established under this Act.

SEC. 402. EFFECT ON EXISTING EMPLOYMENT BENEFITS.

(a) MORE PROTECTIVE.—Nothing in this Act shall be construed to diminish the obligation of an employer to comply with any collective-bargaining agreement or any employment benefit program or plan that provides greater parental and medical leave rights to employees than the rights provided under this Act.

(b) LESS PROTECTIVE.—The rights provided to employees under this Act may not be diminished by any collective-bargaining agreement or any employment benefit program or plan.

SEC. 403. ENCOURAGEMENT OF MORE GENEROUS LEAVE POLICIES.

Nothing in this Act shall be construed to discourage employers from adopting or retaining leave policies more generous than any policies that comply with the requirements under this Act.

SEC. 404. REGULATIONS.

Not later than 60 days after the date of enactment of this Act, the Secretary shall prescribe such regulations as are necessary to carry out title I.

SEC. 405. EFFECTIVE DATES.

(a) ADVISORY COMMISSION.—Title III shall become effective on the date of enactment of this Act.

(b) OTHER TITLES.—

(1) IN GENERAL.—Except as provided in paragraph (2), titles I, II, and IV shall take effect 6 months after the date of the enactment of this Act.

(2) COLLECTIVE BARGAINING AGREEMENTS.—In the case of a collective bargaining agreement in effect on the effective date described in paragraph (1), title I shall apply on the earlier of—

(A) the date of the termination of such agreement, or

(B) the date which occurs 12 months after the date of the enactment of this Act.

Notwithstanding any other provision of this Act, the term "employer" means any person engaged in commerce or in any industry affecting commerce who employs 50 or more employees at any one worksite for each working day during each of 19 or more calendar workweeks in the current or preceding calendar year; and includes:

"(i) any person who acts directly or indirectly in the interest of an employer to one or more employees;

"(ii) any successor in interest of such an employer; and

"(iii) any public agency, as defined in section 3(x) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(x)): and

notwithstanding any other provision of this act, the period of entitlement described in Sec. 104 (a)(2) of this act shall not exceed 10 workweeks during any 12-month period; and notwithstanding any other provision of this act, the entitlement under paragraph (a)(2), in "Sec. 6333" entitled "Temporary Medical Leave Requirement" contained in Sec. 201 of this act shall not exceed 10 administrative workweeks of the employee during any 12-month period.

[Corrected version will appear on pages 26653-26658.]

TITLE V—CHILD PORNOGRAPHY AND OBSCENITY

SEC. 501. SHORT TITLE.

This title may be cited as the "Child Protection and Obscenity Enforcement Act of 1988".

Subtitle A—Child Pornography

SEC. 511. AMENDMENTS TO EXISTING OFFENSES.

(a) SEXUAL EXPLOITATION OF CHILDREN.—Paragraph (2) of subsection 2251(c) of title 18, United States Code, is amended by inserting "by any means including by computer" after "interstate or foreign commerce" both places it appears.

(b) MATERIAL INVOLVING SEXUAL EXPLOITATION OF CHILDREN.—Subsection 2252(a) of title 18, United States Code, is amended by inserting "by any means including by computer" after "interstate or foreign commerce" each place it appears.

(c) DEFINITION.—Section 2256 of title 18, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (4);

(2) by striking out the period at the end of paragraph (5) and inserting in lieu thereof: "; and"; and

(3) by adding at the end the following:

"(6) 'computer' has the meaning given that term in section 1030 of this title.".

SEC. 512. SELLING OR BUYING OF CHILDREN.

(a) IN GENERAL.—Chapter 110 of title 18, United States Code, is amended by inserting after section 2251 the following:

"§ 2251A. Selling or buying of children

"(a) Any parent, legal guardian, or other person having custody or control of a minor who sells or otherwise transfers custody or control of such minor, or offers to sell or otherwise transfer custody of such minor either—

"(1) with knowledge that, as a consequence of the sale or transfer, the minor will be portrayed in a visual depiction engaging in, or assisting another person to engage in, sexually explicit conduct; or

"(2) with intent to promote either—

"(A) the engaging in of sexually explicit conduct by such minor for the purpose of producing any visual depiction of such conduct; or

"(B) the rendering of assistance by the minor to any other person to engage in sexually explicit conduct for the purpose of producing any visual depiction of such conduct;

shall be punished by imprisonment for not less than 20 years or for life and by a fine under this title, if any of the circumstances described in subsection (c) of this section exist.

"(b) Whoever purchases or otherwise obtains custody or control of a minor, or offers to purchase or otherwise obtain custody or control of a minor either—

"(1) with knowledge that, as a consequence of the purchase or obtaining of custody, the minor will be portrayed in a visual depiction engaging in, or assisting another person to engage in, sexually explicit conduct; or

"(2) with intent to promote either—

"(A) the engaging in of sexually explicit conduct by such minor for the purpose of producing any visual depiction of such conduct; or

"(B) the rendering of assistance by the minor to any other person to engage in sexually explicit conduct for the purpose of producing any visual depiction of such conduct;

shall be punished by imprisonment for not less than 20 years or for life and by a fine under this title, if any of the circumstances described in subsection (c) of this section exist.

"(c) The circumstances referred to in subsections (a) and (b) are that—

"(1) in the course of the conduct described in such subsections the minor or the actor traveled in or was transported in interstate or foreign commerce;

"(2) any offer described in such subsections was communicated or transported in interstate or foreign commerce by any means including by computer or mail; or

"(3) the conduct described in such subsections took place in any territory or possession of the United States.".

(b) DEFINITION.—Section 2256 of title 18, United States Code, as amended by section 201 of this Act, is further amended—

(1) by striking out "and" at the end of paragraph (5);

(2) by striking out the period at the end of paragraph (6) and inserting "; and" in lieu thereof; and

(3) by adding at the end the following:

"(7) 'custody or control' includes temporary supervision over or responsibility for a minor whether legally or illegally obtained.".

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 110 of title 18, United States Code, is amended by inserting after the item relating to section 2251 the following:

"2251A. Selling or buying of children.".

SEC. 513. RECORD KEEPING REQUIREMENTS.

(a) IN GENERAL.—Chapter 110 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 2257. Record keeping requirements

"(a) Whoever produces any book, magazine, periodical, film, videotape, or other matter which—

"(1) contains one or more visual depictions made after February 6, 1978 of actual sexually explicit conduct; and

"(2) is produced in whole or in part with materials which have been shipped in interstate or foreign commerce, or is shipped or transported or is intended for shipment or transportation in interstate or foreign commerce;

shall create and maintain individually identifiable records pertaining to every performer portrayed in such a visual depiction.

"(b) Any person to whom subsection (a) applies shall, with respect to every performer portrayed in a visual depiction of actual sexually explicit conduct—

"(1) ascertain, by examination of an identification document containing such information, the performer's name and date of birth, and require the performer to provide such other indicia of his or her identity as may be prescribed by regulations;

"(2) ascertain any name, other than the performer's present and correct name, ever used by the performer including maiden name, alias, nickname, stage, or professional name; and

"(3) record in the records required by subsection (a) the information required by paragraphs (1) and (2) of this subsection and such other identifying information as may be prescribed by regulation.

"(c) Any person to whom subsection (a) applies shall maintain the records required by this section at his business premises, or at such other place as the Attorney General may by regulation prescribe and shall make such records available to the Attorney General for inspection at all reasonable times.

"(d)(1) No information or evidence obtained from records required to be created or maintained by this section shall, except as provided in paragraphs (2) and (3), be used, directly or indirectly, as evidence against any person with respect to any violation of law.

"(2) Paragraph (1) of this subsection shall not preclude the use of such information or evidence in a prosecution or other action for a violation of any applicable provision of law with respect to the furnishing of false information.

"(3) In a prosecution of any person to whom subsection (a) applies for an offense in violation of subsection 2251(a) of this title which has as an element the production of a visual depiction of a minor engaging in or assisting another person to engage in sexually explicit conduct and in which that element is sought to be established by showing that a performer within the meaning of this section is a minor—

"(A) proof that the person failed to comply with the provisions of subsection (a) or (b) of this section concerning the creation and maintenance of records, or a regulation issued pursuant thereto, shall raise a rebuttable presumption that such performer was a minor; and

"(B) proof that the person failed to comply with the provisions of subsection (e) of this section concerning the statement required by that subsection shall raise the rebuttable presumption that every performer in the matter was a minor.

"(e)(1) Any person to whom subsection (a) applies shall cause to be affixed to every copy of any matter described in paragraph (1) of subsection (a) of this section, in such manner and in such form as the Attorney General shall by regulations prescribe, a statement describing where the records required by this section with respect to all performers depicted in that copy of the matter may be located.

"(2) If the person to whom subsection (a) of this section applies is an organization the statement required by this subsection shall include the name, title, and business address of the individual employed by such organi-

zation responsible for maintaining the records required by this section.

"(3) In any prosecution of a person for an offense in violation of section 2252 of this title which has as an element the transporting, mailing, or distribution of a visual depiction involving the use of a minor engaging in sexually explicit conduct, and in which that element is sought to be established by a showing that a performer within the meaning of this section is a minor, proof that the matter in which the visual depiction is contained did not contain the statement required by this section shall raise a rebuttable presumption that such performer was a minor.

"(f) The Attorney General shall issue appropriate regulations to carry out this section.

"(g) As used in this section—

"(1) the term 'actual sexually explicit conduct' means actual but not simulated conduct as defined in subparagraphs (A) through (E) of paragraph (2) of section 2256 of this title;

"(2) 'identification document' has the meaning given that term in subsection 1028(d) of this title;

"(3) the term 'produces' means to produce, manufacture, or publish and includes the duplication, reproduction, or reissuing of any material; and

"(4) the term 'performer' includes any person portrayed in a visual depiction engaging in, or assisting another person to engage in, actual sexually explicit conduct.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 110 of title 18, United States Code, is amended by adding after the item relating to section 2256 the following:

"2257. Record keeping requirements.".

(c) EFFECTIVE DATE.—Section 2257 of title 18, United States Code, as added by this section shall take effect 180 days after the date of the enactment of this Act except—

(1) the Attorney General shall prepare the initial set of regulations required or authorized by section 2257 within 90 days of the date of the enactment of this Act; and

(2) subsection (e) of section 2257 of this title and of any regulation issued pursuant thereto shall take effect 270 days after the date of the enactment of this Act.

SEC. 514. R.I.C.O. AMENDMENT.

Subsection 1961(1)(B) of title 18, United States Code, is amended by inserting after "section 1957 (relating to engaging in monetary transactions in property derived from specified unlawful activity)" the following: "sections 2251 through 2252 (relating to sexual exploitation of children),".

Subtitle B—Obscenity

SEC. 521. RECEIPT OR POSSESSION FOR SALE; PRESUMPTIONS FOR CHAPTER 71.

(a) RECEIPT OR POSSESSION FOR SALE.—Chapter 71 of title 18, United States Code, is amended by inserting after section 1465 the following:

"§ 1466. Receipt or possession of obscene matter for sale or distribution

"(a) Whoever is engaged in the business of selling or transferring books, magazines, pictures, papers, films, videotapes, or phonograph or other audio recordings, and knowingly receives or possesses with intent to distribute any obscene book, magazine, picture, paper, film, videotape, or phonograph or other audio recording, which has been shipped or transported in interstate or foreign commerce, shall be punished by imprisonment for not more than 5 years or by a fine under this title, or both.

"(b) As used in this subsection, the term 'engaged in the business' means that the person who sells or transfers or offers to sell or transfer books, magazines, pictures, papers, films, videotapes, or phonograph or other audio recordings, devotes time, attention, or labor to such activities, as a regular course of trade or business, with the objective of earning a profit, although it is not necessary that the person make a profit or that the selling or transferring or offering to sell or transfer such material be the person's sole or principal business or source of income. The offering for sale of or to transfer, at one time, two or more copies of any obscene publication, or two or more of any obscene article, or a combined total of five or more such publications and articles, shall create a rebuttable presumption that the person so offering them is 'engaged in the business' as defined in subsection (b).

"(c) In a prosecution for a violation of this section, it shall be an affirmative defense, on which the defendant has the burden of persuasion by a preponderance of the evidence, that the person—

"(1) ordered or received the obscene matter without examining the matter in advance;

"(2) did not in fact offer the matter for sale, or transfer or offer to transfer it to another person other than the sender; and

"(3) possessed the material less than 21 days.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 71 of title 18, United States Code, is amended by adding after the item relating to section 1465 the following:

"1466. Receipt or possession of obscene matter for sale or distribution.

"1467. Criminal forfeiture.".

(c) USE OF FACILITY OF COMMERCE.—The first paragraph of section 1465 of title 18, United States Code, is amended by inserting after the word distribution: ", or knowingly travels in interstate commerce, or uses a facility or means of commerce for the purpose of interstate or foreign sale or distribution of,".

(d) DISTRIBUTION OF PROCEEDS.—Section 1465 of title 18, United States Code, is amended by inserting "or the proceeds from the sale thereof" after "character,".

(e) PRESUMPTIONS.—Chapter 71 of title 18, United States Code, as amended by subsection (a) of this section and by section 302, is further amended by adding at the end the following:

"§ 1469. Presumptions

"(a) In any prosecution under this chapter in which an element of the offense is that the matter in question was transported, shipped, or carried in interstate commerce, proof, by either circumstantial or direct evidence, that such matter was produced or manufactured in one State and is subsequently located in another State shall raise a rebuttable presumption that such matter was transported, shipped, or carried in interstate commerce.

"(b) In any prosecution under this chapter in which an element of the offense is that the matter in question was transported, shipped, or carried in foreign commerce, proof, by either circumstantial or direct evidence, that such matter was produced or manufactured outside of the United States and is subsequently located in the United States shall raise a rebuttable presumption that such matter was transported, shipped, or carried in foreign commerce.".

(f) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 71 of title 18, United States Code, is amended by adding after the item relating to section 1468 the following:

"1469. Presumptions.".

SEC. 522. FORFEITURE IN OBSCENITY CASES.

(a) IN GENERAL.—Chapter 71 of title 18, United States Code, is amended by adding at the end the following:

"§ 1467. Criminal forfeiture

"(a) PROPERTY SUBJECT TO CRIMINAL FORFEITURE.—A person who is convicted of an offense involving obscene material under this chapter shall forfeit to the United States such person's interest in—

"(1) any obscene material produced, transported, mailed, shipped or received in violation of this chapter;

"(2) any property, real or personal, constituting or traceable to gross profits or other proceeds obtained from such offense; and

"(3) any property, real or personal, used or intended to be used to commit or to promote the commission of such offense. A forfeiture under this subparagraph shall be authorized only by the Attorney General, the Deputy Attorney General, the Associate Attorney General, or the Assistant Attorney General or the Acting Assistant Attorney General in the Criminal Division.

"(b) THIRD PARTY TRANSFERS.—All right, title, and interest in property described in subsection (a) of this section vests in the United States upon the commission of the act giving rise to forfeiture under this section. Any such property that is subsequently transferred to a person other than the defendant may be the subject of a special verdict of forfeiture and thereafter shall be ordered forfeited to the United States, unless the transferee establishes in a hearing pursuant to subsection (m) of this section that he is a bona fide purchaser for value of such property who at the time of purchase was reasonably without cause to believe that the property was subject to forfeiture under this section.

"(c) PROTECTIVE ORDERS.—(1) Upon application of the United States, the court may enter a restraining order or injunction, require the execution of a satisfactory performance bond, or take any other action to preserve the availability of property described in subsection (a) of this section for forfeiture under this section—

"(A) upon the filing of an indictment or information charging a violation of this chapter for which criminal forfeiture may be ordered under this section and alleging that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section; or

"(B) prior to the filing of such an indictment or information, if, after notice to persons appearing to have an interest in the property and opportunity for a hearing, the court determines that—

"(i) there is a substantial probability that the United States will prevail on the issue of forfeiture and that failure to enter the order will result in the property being destroyed, removed from the jurisdiction of the court, or otherwise made unavailable for forfeiture; and

"(ii) the need to preserve the availability of the property through the entry of the requested order outweighs the hardship on any party against whom the order is to be entered;

except that an order entered under subparagraph (B) shall be effective for not more than 90 days, unless extended by the court

for good cause shown or unless an indictment or information described in subparagraph (A) has been filed.

"(2) A temporary restraining order under this subsection may be entered upon application of the United States without notice or opportunity for a hearing when an information or indictment has not yet been filed with respect to the property, if the United States demonstrates that there is probable cause to believe that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section and that provision of notice will jeopardize the availability of the property for forfeiture. Such a temporary order shall expire not more than 10 days after the date on which it is entered, unless extended for good cause shown or unless the party against whom it is entered consents to an extension for a longer period. A hearing requested concerning an order entered under this paragraph shall be held at the earliest possible time and prior to the expiration of the temporary order.

"(3) The court may receive and consider, at a hearing held pursuant to this subsection, evidence and information that would be inadmissible under the Federal Rules of Evidence.

"(d) WARRANT OF SEIZURE.—The Government may request the issuance of a warrant authorizing the seizure of property subject to forfeiture under this section in the same manner as provided for a search warrant. If the court determines that there is probable cause to believe that the property to be seized would, in the event of conviction, be subject to forfeiture and that an order under subsection (c) of this section may not be sufficient to assure the availability of the property for forfeiture, the court shall issue a warrant authorizing the seizure of such property.

"(e) ORDER OF FORFEITURE.—The court shall order forfeiture of property referred to in subsection (a) if the trier of fact determines, beyond a reasonable doubt, that such property is subject to forfeiture.

"(f) EXECUTION.—Upon entry of an order of forfeiture under this section, the court shall authorize the Attorney General to seize all property ordered forfeited upon such terms and conditions as the court shall deem proper. Following entry of an order declaring the property forfeited, the court may, upon application of the United States, enter such appropriate restraining orders or injunctions, require the execution of satisfactory performance bonds, appoint receivers, conservators, appraisers, accountants, or trustees, or take any other action to protect the interest of the United States in the property ordered forfeited. Any income accruing to or derived from property ordered forfeited under this section may be used to offset ordinary and necessary expenses to the property which are required by law, or which are necessary to protect the interests of the United States or third parties.

"(g) DISPOSITION OF PROPERTY.—Following the seizure of property ordered forfeited under this section, the Attorney General shall destroy or retain for official use any property described in paragraph (1) of subsection (a) and shall direct the disposition of any property described in paragraph (2) of subsection (a) by sale or any other commercially feasible means, making due provision for the rights of any innocent persons. Any property right or interest not exercisable by, or transferable for value to, the United States shall expire and shall not revert to the defendant, nor shall the defendant or any person acting in concert with him or on his behalf be eligible to purchase forfeited property at any sale held by the United States. Upon application of a person, other than the defendant or person acting in concert with him or on his behalf, the court may restrain or stay the sale or disposition of the property pending the conclusion of any appeal of the criminal case giving rise to the forfeiture, if the applicant demonstrates that proceeding with the sale or disposition of the property will result in irreparable injury, harm, or loss to him.

"(h) AUTHORITY OF ATTORNEY GENERAL.—With respect to property ordered forfeited under this section, the Attorney General is authorized to—

"(1) grant petitions for mitigation or remission of forfeiture, restore forfeited property to victims of a violation of this chapter, or take any other action to protect the rights of innocent persons which is in the interest of justice and which is not inconsistent with the provisions of this section;

"(2) comprise claims arising under this section;

"(3) award compensation to persons providing information resulting in a forfeiture under this section;

"(4) direct the disposition by the United States, in accordance with the provisions of section 1616, title 19, United States Code, of all property ordered forfeited under this section by public sale or any other commercially feasible means, making due provision for the rights of innocent persons; and

"(5) take appropriate measures necessary to safeguard and maintain property ordered forfeited under this section pending its disposition.

"(i) APPLICABILITY OF CIVIL FORFEITURE PROVISIONS.—Except to the extent that they are inconsistent with the provisions of this section, the provisions of section 1468(d) of this title (18 U.S.C. 1468(d)) shall apply to a criminal forfeiture under this section.

"(j) BAR ON INTERVENTION.—Except as provided in subsection (m) of this section, no party claiming an interest in property subject to forfeiture under this section may—

"(1) intervene in a trial or appeal of a criminal case involving the forfeiture of such property under this section; or

"(2) commence an action at law or equity against the United States concerning the validity of his alleged interest in the property subsequent to the filing of an indictment or information alleging that the property is subject to forfeiture under this section.

"(k) JURISDICTION TO ENTER ORDERS.—The district courts of the United States shall have jurisdiction to enter orders as provided in this section without regard to the location of any property which may be subject to forfeiture under this section or which has been ordered forfeited under this section.

"(l) DEPOSITIONS.—In order to facilitate the identification and location of property declared forfeited and to facilitate the disposition of petitions for remission or mitigation of forfeiture, after the entry of an order declaring property forfeited to the United States, the court may, upon application of the United States, order that the testimony of any witness relating to the property forfeited be taken by deposition and that any designated book, paper, document, record, recording, or other material not privileged be produced at the same time and place, in the same manner as provided for the taking of depositions under Rule 15 of the Federal Rules of Criminal Procedure.

"(m) THIRD PARTY INTERESTS.—(1) Following the entry of an order of forfeiture under this section, the United States shall publish notice of the order and of its intent to dispose of the property in such manner as the Attorney General may direct. The Government may also, to the extent practicable, provide direct written notice to any person known to have alleged an interest in the property that is the subject of the order of forfeiture as a substitute for published notice as to those persons so notified.

SEC. 524. COMMUNICATIONS ACT AMENDMENT.

Section 223(b) of the Communications Act of 1934 (47 U.S.C. 223(b)) is amended to read as follows:

"(b)(1)(A) Whoever knowingly—

"(i) in the District of Columbia or in interstate or foreign communication, by means of telephone, makes (directly or by recording device) any obscene communication for commercial purposes to any person, regardless of whether the maker of such communication placed the call; or

"(ii) permits any telephone facility under such person's control to be used for an activity prohibited by clause (i);

shall be fined in accordance with title 18 of the United States Code, or imprisoned not more than two years, or both.

"(2)(A) Whoever knowingly—

"(i) in the District of Columbia or in interstate or foreign communication, by means of telephone, makes (directly or by recording device) any indecent communication for commercial purposes to any person, regardless of whether the maker of such communication placed the call; or

"(ii) permits any telephone facility under such person's control to be used for an activity prohibited by clause (i),

shall be fined not more than $50,000 or imprisoned not more than six months, or both.".

SEC. 525. ELECTRONIC SURVEILLANCE.

Subsection (1) of section 2516 of title 18, United States Code, is amended by redesignating paragraphs (i) and (j) as (j) and (k), respectively, and by adding a new paragraph (i) as follows:

"(i) any felony violation of chapter 71 (relating to obscenity) of this title;".

SEC. 526. POSSESSION AND SALE OF OBSCENE MATTERS IN FEDERAL JURISDICTION OR ON FEDERAL PROPERTY.

(a) IN GENERAL.—Chapter 71 of title 18, United States Code, is amended by inserting before section 1461 the following:

"§ 1460. Possession and sale of obscene matter on Federal property

"(a) Whoever, either—

"(1) in the special maritime and territorial jurisdiction of the United States, or on any land or building owned by, leased to, or otherwise used by or under the control of the Government of the United States; or

"(2) in the Indian country as defined in section 1151 of this title,

knowingly sells or possesses with intent to sell an obscene visual depiction or a visual depiction of a minor engaging in or assisting another person to engage in sexually explicit conduct, shall be punished by a fine in accordance with the provisions of this title or imprisoned for not more than 2 years, or both.

"(b) Except as provided in subsection (c), whoever, in an area described in subparagraph (1) or (2) of subsection (a) knowingly possesses an obscene visual depiction or a visual depiction of a minor engaging in or assisting another person to engage in sexually explicit conduct shall be punished by imprisonment for not more than 6 months

or a fine of not more than $5,000 for an individual or $10,000 for a person other than an individual, or both.

"(c) Subsection (b) shall not apply in the case of a person who possesses an obscene visual depiction in any place where such person lives or resides.

"(d) For the purposes of this section—

"(1) the term 'visual depiction' includes undeveloped film and videotape but does not include mere words; and

"(2) the terms 'minor' and 'sexually explicit conduct' have the meaning given those terms in chapter 110 of this title.

"(e) In a prosecution for a violation of this section involving an obscene visual depiction, it shall be an affirmative defense, on which the defendant has the burden of persuasion by a preponderance of the evidence, that the person—

"(1) ordered or received the obscene matter without examining the matter in advance;

"(2) did not in fact offer the matter for sale, or transfer or offer to transfer it to another person other than the sender; and

"(3) possessed the material less than 21 days.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 71 of title 18, United States Code, is amended by adding before the item relating to section 1461 the following:

"1460. Possession and sale of obscene matter on Federal property.".

SEC. 527. CIVIL FORFEITURE.

(a) IN GENERAL.—Chapter 71 of title 18, United States Code, is amended by adding the following new section at the end thereof:

"§ 1470. Civil forfeiture

"(a) PROPERTY SUBJECT TO CIVIL FORFEITURE.—The following property shall be subject to forfeiture by the United States:

"(1) Any material that has been adjudged obscene in any criminal case, Federal or State, that is produced, transported, mailed, shipped, or received in violation of this chapter.

"(2) Any property, real or personal, constituting or traceable to gross profits or other proceeds obtained from a violation of this chapter involving material that has been adjudged obscene in any criminal case, State or Federal, except that no property shall be forfeited under this paragraph, to the extent of the interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner.

"(b) SEIZURE PURSUANT TO SUPPLEMENTAL RULES FOR CERTAIN ADMIRALTY AND MARITIME CLAIMS.—Any property subject to forfeiture to the United States under this section may be seized by the Attorney General upon process issued pursuant to the Supplemental Rules for Certain Admiralty and Maritime Claims by any district court of the United States having jurisdiction over the property, except that seizure without such process may be made when the seizure is pursuant to a search under a search warrant. The government may request the issuance of a warrant authorizing the seizure of property subject to forfeiture under this section in the same manner as provided for a search warrant under the Federal Rules of Criminal Procedure.

"(c) CUSTODY OF ATTORNEY GENERAL.—Property taken or detained under this section shall not be repleviable, but shall be deemed to be in the custody of the Attorney General, subject only to the orders and decrees of the court or the official having jurisdiction thereof. Whenever property is seized under any of the provisions of this subchapter, the Attorney General may—

"(1) place the property under seal;

"(2) remove the property to a place designated by him; or

"(3) require that the General Services Administration take custody of the property and remove it, if practicable, to an appropriate location for disposition in accordance with law.

"(d) OTHER LAWS AND PROCEEDINGS APPLICABLE.—All provisions of the customs laws relating to the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws, the disposition of such property or the proceeds from the sale thereof, the remission or mitigation of such forfeitures, and the compromise of claims, shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under this section, insofar as applicable and not inconsistent with the provisions of this section, except that such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this section by such officers, agents, or other persons as may be authorized or designated for that purpose by the Attorney General or the Postal Service, except to the extent that such duties arise from seizures and forfeitures effected by any customs officer.

"(e) APPLICABILITY OF CERTAIN SECTIONS.—Sections 1606, 1607, 1608, 1609, 1613, 1614, 1617, and 1618 of title 19 shall not apply with respect to obscene material subject to forfeiture under subsection (a)(1) of this section.

"(f) DISPOSITION OF FORFEITED PROPERTY.—Whenever property is forfeited under this section the Attorney General shall destroy or retain for official use any article described in paragraph (1) of subsection (a), and with respect to property described in paragraphs (2) and (3) of subsection (a) may—

"(1) retain the property for official use or transfer the custody or ownership of any forfeited property to a Federal, State, or local agency pursuant to section 1616 of title 19;

"(2) sell any forfeited property which is not required to be destroyed by law and which is not harmful to the public; or

"(3) require that the General Services Administration take custody of the property and dispose of it in accordance with law.

The Attorney General shall ensure the equitable transfer pursuant to paragraph (1) of any forfeited property to the appropriate State or local law enforcement agency so as to reflect generally the contribution of any such agency participating directly in any of the acts which led to the seizure or forfeiture of such property. A decision by the Attorney General pursuant to paragraph (1) shall not be subject to judicial review. The Attorney General shall forward to the Treasurer of the United States for deposit in accordance with section 524(c) of title 28 the proceeds from any sale under paragraph (2) and any moneys forfeited under this subchapter.

"(g) TITLE TO PROPERTY.—All right, title, and interest in property described in subsection (a) of this section shall vest in the United States upon commission of the act giving rise to forfeiture under this section.

"(h) STAY OF PROCEEDINGS.—The filing of an indictment or information alleging a violation of this chapter which is also related to a civil forfeiture proceeding under this section shall, upon motion of the United States and for good cause shown, stay the civil forfeiture proceeding.

"(i) VENUE.—In addition to the venue provided for in section 1395 of title 28 or any other provision of law, in the case of property of a defendant charged with a violation that is the basis for forfeiture of the property under this section, a proceeding for forfeiture under this section may be brought in the judicial district in which the defendant owning such property is found or in the judicial district in which the criminal prosecution is brought.".

(b) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 71 of title 18, United States Code, is amended by inserting after the item relating to section 1469 the following:

"1470. Civil forfeiture.".

(c) REPEAL.—The last paragraph of section 1465 of title 18, United States Code, is repealed.

SEC. 528. CIVIL FINES.

Chapter 71 of title 18, United States Code, is amended by inserting at the end the following new section:

"Section 1471. Civil fines.

"(a) Whoever produces, transports, mails, ships or receives any article that has been adjudged obscene in any state or federal criminal case shall be subject to a civil penalty of—

"(1) for a first violation, not more than $10,000;

"(2) for a second violation, not more than $50,000; and

"(3) for a third or subsequent violation, not more than $250,000 in the case of an individual, or $500,000 in the case of an organization.

"(b) An action to recover a fine imposable under subsection (a) shall be brought in the name of the United States. The Attorney General may commence such a civil action in the district court in any district where the violation occurs. Such an action must be commenced within 5 years of the violation. The Attorney General may compromise, modify, or remit with or without condition any civil penalty imposed under this section.

"(c) In any civil action under this section, the defendant shall have a right to a trial by jury, and the government shall have the burden of proof, by a preponderance of the evidence, that the article is obscene under the standards of the community in which the trial takes place."

SEC. 529. SEVERABILITY.

If any of the provisions of this Act are found invalid, such finding shall not affect the validity or effect of the remaining provisions thereof.

TITLE V—CHILD CARE PROVISIONS

SEC. 501. SHORT TITLE.

This title may be cited as the "Act for Better Child Care Services of 1988".

SEC. 502. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the number of children living in homes where both parents work, or living in homes with a single parent who works, has increased dramatically over the last decade;

(2) the availability of quality child care is critical to the self-sufficiency and independence of millions of American families, including the growing number of mothers

with young children who work out of economic necessity;

(3) high quality child care programs can strengthen our society by providing young children with the foundation on which to learn the basic skills necessary to be productive workers;

(4) the years from birth to age 6 are a critical period in the development of a young child;

(5) a significant number of parents do not have a real choice as they seek adequate child care for their young children because of limited incomes, insufficient State child care standards, and the inadequate supply of child care services in their community;

(6) high quality early childhood development programs provided during such period are cost effective because such programs can reduce the chances of juvenile delinquency and adolescent pregnancy and can improve the likelihood that children will finish high school and become employed;

(7) the number of quality child care arrangements falls far short of the number required for children in need of child care services;

(8) the rapid growth of participation in the labor force by mothers of children under the age of 1 has resulted in a critical shortage of quality child care arrangements for infants and toddlers;

(9) the lack of available child care services results in many preschool and school-age children being left without adequate supervision for significant parts of the day;

(10) many working parents who are unable to afford adequate child care services do not receive adequate financial assistance for such services from employers or public sources;

(11) because of the lack of affordable child care, a large number of parents are not able to work or to seek the training or education they need to become self sufficient;

(12) making adequate child care services available for parents who are employed, seeking employment, or seeking to develop employment skills promotes and strengthens the well-being of families and the national economy;

(13) the payment of the exceptionally low salaries to child care workers adversely affects the quality of child care services by making it difficult to retain qualified staff;

(14) several factors result in the shortage of quality child care options for children and parents, including—

(A) the inability of parents to pay for child care services;

(B) the lack of up-to-date information on child care services;

(C) the lack of training opportunities for staff in child care programs;

(D) the high rate of staff turnover in child care facilities; and

(E) the wide differences among the States in child care licensing and enforcement policies; and

(15) improved coordination of child care services will help to promote the most efficient use of child care resources.

(b) PURPOSES.—The purposes of this subtitle are—

(1) to build on and to strengthen the role of the family by seeking to ensure that parents are not forced by lack of available programs or financial resources to place a child in an unsafe or unhealthy child care facility or arrangement;

(2) to promote the availability and diversity of quality child care services to expand child care options available to all families who need such services;

(3) to provide assistance to families whose financial resources are not sufficient to enable such families to pay the full cost of necessary child care services;

(4) to lessen the chances that children will be left to fend for themselves for significant parts of the day;

(5) to improve the productivity of parents in the labor force by lessening the stresses related to the absence of adequate child care services;

(6) to provide assistance to States to improve the quality of, and coordination among, child care programs;

(7) to increase the opportunities for attracting and retaining qualified staff in the field of child care to provide high quality child care services to children; and

(8) to strengthen the competitiveness of the United States by providing young children with a sound early childhood development experience.

SEC. 503. DEFINITIONS.

As used in this subtitle:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of Child Care appointed under section 514(a).

(2) CAREGIVER.—The term "caregiver" means an individual who provides a service directly to an eligible child on a person-to-person basis.

(3) CENTER-BASED CHILD CARE PROVIDER.—The term "center-based child care provider" means a child care provider that provides child care services in a nonresidential facility.

(4) CHILD CARE CERTIFICATE.—The term "child care certificate" means a certificate that is issued by the State to parents who may use such certificate only as payment for child care services for an eligible child and that provides to an eligible child care provider a right to reimbursement for such services at the same rate charged by that provider for comparable services to children whose parents are not eligible for certificates under this subtitle or for child care assistance under any other Federal or State program.

(5) COMMUNITY-BASED ORGANIZATION.—The term "community-based organization" has the meaning given such term by section 4(5) of the Job Training and Partnership Act (29 U.S.C. 1503(5)).

(6) ELEMENTARY SCHOOL.—The term "elementary school" means a day or residential school that provides elementary education, as determined under State law.

(7) ELIGIBLE CHILD.—The term "eligible child" means an individual—

(A) who is less than 16 years of age;

(B) whose family income does not exceed 100 percent of the State median income for a family of the same size; and

(C) who—

(i) resides with a parent or parents who are working, seeking employment, or enrolled in a job training or educational program; or

(ii) is receiving, or needs to receive, protective services and resides with a parent or parents not described in clause (i).

(8) ELIGIBLE CHILD CARE PROVIDER.—The term "eligible child care provider" means a center-based child care provider, a group home child care provider, a family child care provider, or other provider of child care services for compensation that—

(A) is licensed or regulated under State law;

(B) satisfies—

(i) the Federal requirements, except as provided in subparagraph (C); and

(ii) the State and local requirements;

applicable to the child care services it provides; and

(C) after the expiration of the 4-year period beginning on the date the Secretary establishes minimum child care standards under section 517(e)(2), complies with such standards that are applicable to the child care services it provides.

(9) FAMILY CHILD CARE PROVIDER.—The term "family child care provider" means 1 individual who provides child care services for fewer than 24 hours per day, as the sole caregiver, and in the private residence of such individual.

(10) FAMILY SUPPORT SERVICES.—The term "family support services" means services that assist parents by providing support in parenting and by linking parents with community resources and with other parents.

(11) FULL-WORKING-DAY.—The term "full-working-day" means at least 10 hours per day.

(12) GROUP HOME CHILD CARE PROVIDER.—The term "group home child care provider" means 2 or more individuals who jointly provide child care services for fewer than 24 hours per day and in a private residence.

(13) HANDICAPPING CONDITION.—The term "handicapping condition" means any condition set forth in section 602(a)(1) of the Education of the Handicapped Act (20 U.S.C. 1401(a)(1)) or section 672(1) of the Education of the Handicapped Act (20 U.S.C. 1471(a)).

(14) INDIAN TRIBE.—The term "Indian tribe" has the meaning given it in section 4(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(b)).

(15) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" has the meaning given such term in section 481(a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1088(a)(1)), except that with respect to a tribally controlled community college such term has the meaning given it in section 2(a)(5) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801(a)(5)).

(16) LEAD AGENCY.—The term "lead agency" means the agency designated under section 506(a).

(17) LOCAL EDUCATIONAL AGENCY.—The term "local educational agency" has the meaning given that term in section 198(a)(10) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2854(a)(10)).

(18) PARENT.—The term "parent" includes a legal guardian or other person standing in loco parentis.

(19) SCHOOL-AGE CHILD CARE SERVICES.—The term "school-age child care services" means child care services that are—

"(A) provided during such times of the school day when regular instructional services are not in session; and

"(B) not intended as an extension of or replacement for the regular academic program, but are intended to provide an environment which enhances the social, emotional, and recreational development of children of school age;

(20) SECONDARY SCHOOL.—The term "secondary school" means a day or residential school which provides secondary education, as determined under State law.

(21) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services unless the context specifies otherwise.

(22) SCHOOL FACILITIES.—The term "school facilities" means classrooms and related facilities used to provide education.

(23) SLIDING FEE SCALE.—The term "sliding fee scale" means a system of cost sharing between the State and a family based on income and size of the family with the very low income families having to pay no cost.

(24) STATE.—The term "State" means any of the several States, the District of Columbia, the Virgin Islands of the United States, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, or Palau.

(25) UNIT OF GENERAL PURPOSE LOCAL GOVERNMENT.—The term "unit of general purpose local government" means any city, county, town, township, parish, village, a combination of such general purpose political subdivisions including those in two or more States, or other general purpose political subdivisions of a State.

(26) TRIBAL ORGANIZATION.—The term "tribal organization" has the meaning given it in section 4(c) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(c)).

(27) TRIBALLY CONTROLLED COMMUNITY COLLEGE.—The term "tribally controlled community college" has the meaning given it in section 2(a)(4) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801(a)(4)).

SEC. 504. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—To carry out this subtitle, other than section 521, there are authorized to be appropriated $2,500,000,000 for the fiscal year 1990 and such sums as may be necessary in each of the fiscal years 1991 through 1994.

SEC. 505. AMOUNTS RESERVED; ALLOTMENTS.

(a) AMOUNTS RESERVED.—

(1) TERRITORIES AND POSSESSIONS.—The Secretary shall reserve not to exceed one half of 1 percent of the amount appropriated under section 504(a) in each fiscal year for payments to Guam, American Samoa, the Virgin Islands of the United States, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, and Palau, to be allotted in accordance with their respective needs.

(2) INDIANS.—The Secretary shall reserve an amount, not less than 1.5 percent and not more than 3 percent of the amount appropriated under section 504(a) in each fiscal year, to carry out subsection (c) regarding Indian children.

(b) STATE ALLOTMENT.—

(1) GENERAL RULE.—From the remainder of the sums appropriated under section 504(a) for each fiscal year, the Secretary shall allot to each State (excluding jurisdictions referred to in subsection (a)(1)) an amount equal to the sum of—

(A) an amount that bears the same ratio to 50 percent of such remainder as the product of the young child factor of the State and the allotment percentage bears to the sum of the corresponding products for all States; and

(B) an amount that bears the same ratio to 50 percent of such remainder as the product of the school lunch factor of the State and the allotment percentage bears to the sum of the corresponding products for all the States.

(2) YOUNG CHILD FACTOR.—The term "young child factor" means the ratio of the number of children in the State who are less than 5 years of age to the number of children in all the States who are less than 5 years of age.

(3) SCHOOL LUNCH FACTOR.—The term "school lunch factor" means the ratio of the number of children in the State who are receiving free or reduced price lunches under the school lunch program established under the National School Lunch Act (42 U.S.C. 1751 et seq.) to the number of children in all the States who are receiving free or reduced price lunches under such program.

(4) ALLOTMENT PERCENTAGE.—

(A) IN GENERAL.—The allotment percentage for a State is determined by dividing—

(i) the per capita income of all individuals in the United States; by

(ii) the per capita income of all individuals in the State.

(B) LIMITATIONS.—If a sum determined under subparagraph (A)—

(i) exceeds 1.2, then the allotment percentage of that State shall be considered to be 1.2; and

(ii) is less that 0.8, then the allotment percentage of the State shall be considered to be 0.8.

(C) PER CAPITA INCOME.—For purposes of subparagraph (A), per capita income shall be—

(i) determined at 2-year intervals;

(ii) applied for the 2-year period beginning on October 1 of the first fiscal year beginning on the date such determination is made; and

(iii) equal to the average of the annual per capita incomes for the most recent period of 3 consecutive years for which satisfactory data are available from the Department of Commerce at the time such determination is made.

(c) PAYMENTS FOR THE BENEFIT OF INDIAN CHILDREN.—

(1) TRIBAL ORGANIZATIONS.—From the funds reserved under subsection (a)(2), the Secretary may, upon the application of a Indian tribe or tribal organization enter into a contract with, or make a grant to such Indian tribe or tribal organization for a period of 3 years, subject to satisfactory performance, to plan and carry out programs and activities that are consistent with this subtitle. Such contract or grant shall be subject to the terms and conditions of section 102 of the Indian Self-Determination Act (25 U.S.C. 450f) and shall be conducted in accordance with sections 4, 5, and 6 of the Act of April 16, 1934 (48 Stat. 596; 25 U.S.C. 655-657), that are relevant to such programs and activities.

(2) INDIAN RESERVATIONS.—In the case of an Indian tribe in a State other than the States of Oklahoma, Alaska, and California, such programs and activities shall be carried out on the Indian reservation for the benefit of Indian children.

(3) STANDARDS.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall establish, through the application process, standards applicable to child care services provided under such programs and activities. For purposes of establishing such standards, the Secretary shall take into consideration—

(i) the codes, regulations, and cultural factors of the Indian tribe involved, as expressed by such tribe or the tribal organization that represents such tribe; and

(ii) the State licensing and regulatory requirements applicable to child care services provided in the State in which such program and activities are carried out.

(B) APPLICATION.—

(i) RULE.—Except as provided in clause (ii), after the Secretary establishes minimum child care standards under section 517(e)(2), such minimum standards shall apply with respect to child care services provided under such programs and activities.

(ii) WAIVERS AND MODIFICATIONS.—The Secretary may waive or modify, for a period not to exceed 5 years beginning on the date such minimum standards are established, any of such minimum standards that would limit the capacity of an Indian tribe or tribal organization to receive funds under this subtitle if the Secretary determines that there is a reasonable expectation that each of such standards requested to be waived will be met by the applicant by the end of the period for which the waiver is requested.

(4) AVAILABILITY OF STATE CHILD CARE SERVICES.—For the purpose of determining whether to approve an application for a contract or grant under this subsection, the Secretary shall take into consideration the availability of child care services provided in accordance with this subtitle by the State in which the applicant proposes to carry out a program to provide child care services.

(5) RULE OF CONSTRUCTION.—This subsection shall not be construed—

(A) to limit the eligibility of any individual to participate in any program carried out with assistance received under this subtitle by a State; or

(B) to modify any requirement imposed on a State by any provision of this subtitle.

(6) COORDINATION.—To the maximum extent practicable, the applicant for a grant or contract under this subsection and the State in which the applicant is located shall coordinate with each other their respective child care programs and activities, including child care programs and activities carried out with assistance received under this subtitle.

(d) DATA AND INFORMATION.—The Secretary shall obtain from each appropriate Federal agency, the most recent data and information necessary to determine the allotments provided for in subsection (b).

(e) REALLOTMENTS.—

(1) IN GENERAL.—Any portion of the allotment under subsection (b) to a State that the Secretary determines is not required to carry out a State plan approved under section 507(d), in the period for which the allotment is made available, shall be reallotted by the Secretary to other States in proportion to the original allotments to the other States.

(2) LIMITATIONS.—

(A) REDUCTION.—The amount of any reallotment to which a State is entitled to under paragraph (1) shall be reduced to the extent that it exceeds the amount that the Secretary estimates will be used in the State to carry out a State plan approved under section 507(d).

(B) REALLOTMENTS.—The amount of such reduction shall be similarly reallotted among States for which no reduction in an allotment or reallotment is required by this subsection.

(3) AMOUNTS REALLOTTED.—For purposes of any other section of this subtitle, any amount reallotted to a State under this subsection shall be considered to be part of the allotment made under subsection (b) to the State.

(f) DEFINITION.—For the purposes of this section, the term "State" means any of the several 50 States, the District of Columbia, or the Commonwealth of Puerto Rico.

SEC. 506. LEAD AGENCY.

(a) DESIGNATION.—The chief executive officer of a State desiring to participate in the program authorized by this subtitle shall

designate, in an application submitted to the Secretary under section 507(a), an appropriate State agency that meets the requirements of subsection (b) to act as the lead agency.

(b) REQUIREMENTS.—

(1) ADMINISTRATION OF FUNDS.—The lead agency shall have the capacity to administer the funds provided under this subtitle to support programs and services authorized under this subtitle and to oversee the plan submitted under section 507(b).

(2) COORDINATION.—The lead agency shall have the capacity to coordinate the services for which assistance is provided under this subtitle with the services of other State and local agencies involved in providing services to children.

(3) ESTABLISHMENT OF POLICIES.—The lead agency shall have the authority to establish policies and procedures for developing and implementing interagency agreements with other agencies of the State to carry out the purposes of this subtitle.

(c) DUTIES.—The lead agency shall—

(1) assess child care needs and resources in the State, and assess the effectiveness of existing child care services and services for which assistance is provided under this subtitle or under other laws, in meeting such needs;

(2) develop a plan designed to meet the need for child care services in the State for eligible children, including infants, preschool children, and school-age children, giving special attention to meeting the needs for services for low-income children, migrant children, children with a handicapping condition, foster children, children in need of protective services, children of adolescent parents who need child care to remain in school, and children with limited English-language proficiency;

(3) develop, in consultation with the State advisory committee on child care established under section 511, the State plan submitted to the Secretary under section 507(b);

(4) hold hearings, in cooperation with such State advisory committee on child care, annually in each region of the State in order to provide to the public an opportunity to comment on the provision of child care services in the State under the proposed State plan;

(5) make such periodic reports to the Secretary as the Secretary may by rule require;

(6) coordinate the provision of services under this subtitle with—

(A) other child care programs and services, and with educational programs, for which assistance is provided under any State, local, or other Federal law, including the State Dependent Care Development Grants Act (42 U.S.C. 9871 et seq.); and

(B) other appropriate services, including social, health, mental health, protective, and nutrition services, available to eligible children under other Federal, State, and local programs; and

(7) identify resource and referral programs for particular geographical areas in the State that meet the requirements of section 512.

SEC. 507. APPLICATION AND PLAN.

(a) APPLICATION.—To be eligible to receive assistance under this subtitle, a State shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require by rule.

(b) PLAN.—The application of a State submitted under subsection (a) shall include an assurance that the State will comply with the requirements of this subtitle and a State plan that is designed to be implemented during a 4-year period and that meets the requirements of subsection (c).

(c) REQUIREMENTS OF A PLAN.—

(1) LEAD AGENCY.—The plan shall identify the lead agency designated in accordance with section 506(a).

(2) ADVISORY BODIES.—The plan shall demonstrate that the State will establish in accordance with section 511 a State advisory committee on child care.

(3) POLICIES AND PROCEDURES.—The plan shall set forth policies and procedures designed to ensure all of the following:

(A) That—

(i) all providers of child care services for which assistance is provided under this subtitle comply with all licensing and regulatory requirements (including registration requirements) applicable under State and local law; and

(ii) such requirements are imposed and enforced by the State uniformly on all child care providers that provide child care services under similar child care arrangements.

This subparagraph shall not be construed to prohibit a State from imposing more stringent standards or requirements on child care providers who provide services for which assistance is provided under this subtitle and who also receive State funds under any other law to provide child care services under a contract or other arrangement with the State.

(B) That procedures will be established to ensure that child care providers receiving assistance under this subtitle or under other publicly-assisted child care programs comply with the minimum child care standards established under section 517(e)(2) after the expiration of the 5-year period beginning on the date the Secretary establishes such standards, and comply with all applicable State and local licensing and regulatory requirements (including registration requirements).

(C) That the State will not—

(i) reduce the categories of child care providers licensed or regulated by the State on the date of enactment of this subtitle; or

(ii) reduce the level of standards applicable to child care services provided in the State and to the matters specified in sections 513(a) and 517(d), even if such standards exceed the minimum standards established under section 517(e)(2) by the Secretary unless the State demonstrates, to the satisfaction of both the Secretary and the State advisory committee on child care established under section 511, that the reduction is based on positive developmental practice.

(D) That funds received under this subtitle by the State will be used only to supplement, not to supplant, the amount of Federal, State, and local funds expended for the support of child care services and related programs in the State, except that States may use existing expenditures in support of child care services to satisfy the State matching requirement under section 516(b).

(E) That for each fiscal year the State will use an amount not to exceed 10 percent of the amount of funds received under section 505 by the State for such fiscal year to administer the State plan.

(F) That the State will pay funds under this subtitle to eligible child care providers in a timely fashion to ensure the continuity of child care services to eligible children.

(G) That resource and referral agencies will be made available to families in all regions of the State.

(H) That each eligible child care provider who provides services for which assistance is provided under paragraph (4)—

(i) provides services to children of families with very low income, taking into account family size;

(ii) after the expiration of the 4-year period beginning on the date the Secretary establishes minimum child care standards under section 517(e)(2), complies with such standards except as provided in clause (iv);

(iii) if such eligible child care provider is regulated by a State educational agency that—

(I) administers any State law applicable to child care services;

(II) develops child care standards that meet or exceed the minimum standards established under section 517(e)(2) and the State licensing or regulatory requirements (including registration requirements); and

(III) enforces the standards described in subclause (II) that are developed by such agency, using policies and practices that meet or exceed the requirements specified in subparagraphs (A) through (K) of paragraph (11);

complies with the standards described in subclause (II) that are developed by such agency; and

(iv) complies with the State plan and the requirements of this subtitle.

(I) That child care services for which assistance is provided under paragraph (4) are available to children with a handicapping condition.

(J) That State regulations will be issued governing the provision of school-age child care services if the State does not already have such regulations.

(K) That child care providers in the State are encouraged to develop personnel policies that include compensated time for staff undergoing training required under this subtitle.

(L) Encourage the payment of adequate salaries and other compensation—

(i) to full and part-time staff of child care providers who provide child care services for which assistance is provided under paragraph (4);

(ii) to the extent practicable, to such staff in other major Federal and State child care programs; and

(iii) to other child care personnel, at the option of the State.

(M) That child care services for which assistance is provided under paragraph (4) are available for an adequate number of hours and days to serve the needs of parents of eligible children, including parents who work nontraditional hours.

(4) CHILD CARE SERVICES.—The plan shall provide that—

(A) subject to subparagraph (B), the State will use at least 70 percent of the amount allotted to the State in any fiscal year to provide child care services that meet the requirements of this subtitle to eligible children in the State on a sliding fee scale basis and using funding methods provided for in section 508(a)(1), with priority being given for services to children of families with very low family incomes, taking into consideration the size of the family; and

(B) the State will use at least 10 percent of the funds reserved for the purposes specified in subparagraph (A) in any fiscal year to provide for the extension of part-day programs as described in section 508(b).

(5) ACTIVITIES TO IMPROVE THE QUALITY OF CHILD CARE.—The plan shall provide that the State will use not more than 10 percent of

the amount allotted to it in any fiscal year to do each of the following:

(A) Provide financial assistance, pursuant to procedures established under the State Dependent Care Development Grants Act (42 U.S.C. 9801 note), to private nonprofit organizations or public organizations (including units of general purpose local government) that meet the requirements of section 512 for the development, establishment, expansion, operation, and coordination of resource and referral programs specifically related to child care.

(B) Improve the monitoring of compliance with, and enforcement of, the licensing and regulatory requirements (including registration requirements) of the State.

(C) Provide training, technical assistance, and scholarship assistance in accordance with the requirements of subsections (b), (c), and (d) of section 513.

(D) Ensure that adequate salaries and other compensation are paid to full- and part-time staff who provide child care services for which assistance is provided under paragraph (4).

(6) ACTIVITIES TO INCREASE THE AVAILABILITY OF CHILD CARE.—The plan shall provide that the State will use not more than 10 percent of the amount allotted to it in any fiscal year for any of the following activities, together with an assurance that the State will give priority to the activities described in subparagraphs (A) and (B):

(A) Making grants and low interest loans to family child care providers and nonprofit child care providers to help such providers pay the cost of—

(i) establishing child care programs; and

(ii) making renovations and improvements in existing facilities to be used to carry out such programs.

(B) Making grants and low-interest loans to child care providers to assist such providers in meeting Federal, State, and local child care standards, giving priority to providers receiving assistance under this subtitle or under other publicly assisted child care programs and which serve children of families that have very low incomes.

(C) Providing assistance for the establishment and operation of after school child care programs.

(D) Making grants or loans to fund the start up costs of employer sponsored child care programs.

(E) Providing assistance for the temporary care of children who are sick and unable to attend child care programs in which such children are enrolled.

(F) Providing assistance for the establishment and operation of child care programs for homeless children.

(G) Providing assistance to link child care programs with programs designed to assist the elderly.

(H)(i) Establishing and administering a revolving loan fund from which any person desiring to make capital improvements to the principal residence of such person (within the meaning of section 1034 of the Internal Revenue Code of 1986) may obtain a loan in order to become a licensed family child care provider, pursuant to State and local law, and to comply with the minimum standards applicable to such providers as established under section 517(e)(2).

(ii) To permit the use of funds provided under this subtitle for the activity described in clause (i), the State shall set forth procedures and guidelines to carry out the purposes of such clause, including procedures—

(I) that provide assurances that only applicants who obtain a license for the operation of a child care facility in accordance with the provisions of State and local law and who will meet the minimum standards applicable to family child care services established under section 517(e)(2), benefit from loans made available pursuant to the provisions of clause (i);

(II) to assure that the revolving fund will be administered by the State and will provide loans to qualified applicants, pursuant to the terms and conditions established by such State, in an amount, determined by such State, that is not in excess of $1,500;

(III) to assure that funds used to carry out the purpose of clause (i) are transferred to such fund to provide capital for making loans;

(IV) to assure that interest and principal payments on loans and any other moneys, property, or assets derived from any action concerning such funds are deposited into such fund;

(V) to assure that all loans, expenses, and payments pursuant to the operation of the revolving loan fund are paid from such fund;

(VI) to assure that loans made from such fund are made to qualified applicants to enable such applicants to make capital improvements so that such applicant may obtain a State or local family child care provider license and so that such applicant may meet the minimum standards applicable to such providers established under section 517(e)(2); and

(VII) that specify how such revolving loan fund will continue to be financed in subsequent years, such as through contributions by the State or by some other entity.

(7) DISTRIBUTION OF FUNDS.—The plan shall provide that funds will be distributed—

(A) to a variety of types of child care providers in each community, including center-based child care providers, group home child care providers, and family child care providers; and

(B) equitably among child care providers to provide child care services in rural and urban areas.

(8) REIMBURSEMENTS.—The plan shall provide that for child care services for which assistance is provided under this subtitle, an eligible child care provider shall have a right to reimbursement at the same rate charged by that provider for comparable services to children of comparable ages and special needs whose parents are not eligible for certificates under this subtitle or for child care assistance under any other Federal or State program.

(9) PRIORITY.—The plan shall provide that priority will be given, in distributing funds in the State, to child care providers that—

(A) in providing child care services assisted by such funds, will give priority to eligible children of families with very low income;

(B) to the maximum extent feasible, provide child care services to a reasonable mix of children, including children from different socioeconomic backgrounds and children with a handicapping condition;

(C) provide opportunities for parent involvement in all aspects of providing such services; and

(D) to the maximum extent feasible, offer family support services.

(10) SLIDING FEE SCALE.—The plan shall provide for the establishment of a sliding fee scale that requires cost sharing based on the services provided to and the income of the families (adjusted for family size) of eligible children who receive services for which assistance is provided under this subtitle.

(11) PARENTAL INVOLVEMENT.—The plan shall establish procedures for parental involvement in State and local planning, monitoring, and evaluation of child care programs and services in the State.

(12) ENFORCEMENT OF LICENSING AND OTHER REGULATORY REQUIREMENTS (INCLUDING REGISTRATION REQUIREMENTS).—The plan shall provide that the State, not later than 4 years after the date of enactment of this subtitle, shall have in effect enforcement policies and practices that will be applicable to all licensed or regulated child care providers (including child care providers required to register) in the State, including policies and practices that—

(A) require personnel who perform inspection functions with respect to licensed or regulated child care services to have or receive training in health and safety, child abuse prevention and detection, program management, and relevant law enforcement;

(B) to the maximum extent feasible, have personnel requirements to ensure that individuals who are hired as licensing inspectors are qualified to inspect and have inspection responsibility exclusively for children's services;

(C) require—

(i) personnel who perform inspection functions with respect to licensed or regulated child care services to make not less than 1 unannounced inspection of each center-based child care provider and each group home child care provider in the State annually; and

(ii) personnel who perform inspection functions with respect to licensed or regulated child care services to make unannounced inspections annually of not less than 20 percent of licensed and regulated family child care providers in the State;

(D) require licensed or regulated child care providers (including registered child care providers) in the State—

(i) to have written policies and program goals and to make a copy of such policies and goals available to parents; and

(ii) to provide parents with unlimited access to their children and to providers caring for their children, during normal hours of operation of such providers and whenever children of such parents are in the care of such providers;

(E) implement a procedure to address complaints that will provide a reasonable opportunity for a parent, or child care provider, that is adversely affected or aggrieved by a decision of the lead agency or any program assisted under this subtitle, to be heard by the State;

(F) prohibit the operator of a child care facility to take any action against an employee of such operator that would adversely affect the employment, or terms or conditions of employment, of such employee because such employee communicates a failure of such operator to comply with any applicable licensing or regulatory requirement;

(G) implement a consumer education program designed to inform parents and the general public about licensing requirements, complaint procedures, and policies and practices required by this paragraph;

(H) require a child care provider to post, on the premises where child care services are provided, the telephone number of the appropriate licensing or regulatory agency that parents may call regarding a failure of such provider to comply with any applicable licensing or regulatory requirement; and

(I) require the State to maintain a record of parental complaints and to make information regarding substantiated parental complaints available to the public on request.

(13) DATA COLLECTION.—The plan shall provide for the establishment of procedures for data collection by the State designed to show—

(A) by race, sex, ethnic origin, handicapping condition, and family income, how the child care needs of families in the State are being fulfilled, including information on—

(i) the number of children being assisted with funds provided under this subtitle, and under other State and Federal child care and preschool programs;

(ii) the type and number of child care programs, child care providers, caregivers, and support personnel located in the State;

(iii) the regional cost of child care; and

(iv) such other information as the Secretary considers necessary to establish how funds provided under this subtitle are being used;

(B) the extent to which the availability of child care has been increased; and

(C) how the purposes of this subtitle and the objectives of the State set forth in the State plan are being met, including efforts to improve the quality, availability, and accessibility of child care;

and shall provide that data collected by the State under this paragraph shall be submitted to the Secretary.

(d) APPROVAL OF APPLICATION.—The Secretary shall approve an application that satisfies the requirements of this section.

(e) SPECIAL RULE.—In carrying out the provisions of this section, the Secretary shall approve any application with respect to the activities described in the plan submitted under paragraph (5) of subsection (c), if the Secretary determines that the State is making reasonable progress in carrying out the activities which are described in subparagraphs (A) and (D) of paragraph (5).

SEC. 508. SPECIAL RULES FOR USE OF STATE ALLOTMENTS.

(a) FUNDING OF CHILD CARE SERVICES.—

(1) IN GENERAL.—The child care services referred to in section 507(c)(4) that are to be provided out of the allotment to a State, shall be provided—

(A) by contracts with or grants to eligible child care providers who agree to provide such services directly to eligible children;

(B) by grants to units of general purpose local government that agree to enter into contracts with eligible child care providers who agree to provide such services directly to eligible children; or

(C) by distributing child care certificates to parents of eligible children under such terms as the Secretary may prescribe to enable the recipients of such certificates to purchase child care services from eligible child care providers.

(2) LIMITATION ON CERTIFICATES.—Child care certificates authorized by paragraph (1)(C) may be issued by a State only if a resource and referral program carried out by an organization that meets the requirements of section 512 is available to help parents locate child care services made available by eligible child care providers.

(3) NO ENTITLEMENT TO CONTRACT OR GRANT.—Nothing in this subtitle shall be construed to entitle any child care provider or recipient of a child care certificate to any contract, grant or benefit, or to limit the right of any State to impose additional limitations or conditions on contracts or grants funded under this subtitle.

(b) PART-DAY PROGRAMS.—

(1) IN GENERAL.—At least 10 percent of the funds available for activities under section 507(c)(4)(A) shall be used by the State to enable child care providers to extend the hours of operation of the part-day programs described in paragraph (2) to provide full-working-day child care services throughout the year, in order to meet the needs of parents of eligible children.

(2) ELIGIBLE PROGRAMS.—As used in paragraph (1), the term "part-day programs" means—

(A) programs of schools and nonprofit child care providers (including community-based organizations) receiving State or local funds designated for preschool;

(B) programs established under the Head Start Act (42 U.S.C. 9831 et seq.);

(C) preschool programs for which assistance is provided under chapter 1 of the Education Consolidation and Improvement Act of 1981 (20 U.S.C. 3801 et seq.); and

(D) preschool programs for children with a handicapping condition.

(c) FACILITIES.—

(1) NEW FACILITIES.—No financial assistance provided under this subtitle shall be expended for the construction of a new facility.

(2) EXISTING FACILITIES.—No financial assistance provided under this subtitle shall be expended to renovate or repair any facility unless—

(A) the child care provider that receives such financial assistance agrees—

(i) in the case of a grant, to repay to the Secretary or the State, as the case may be, the amount that bears the same ratio to the amount of such grant as the value of the renovation or repair, as of the date such provider ceases to provide child care services in such facility in accordance with this subtitle, bears to the original value of the renovation or repair; and

(ii) in the case of a loan, to repay immediately to the Secretary or the State, as the case may be, the principal amount of such loan outstanding and any interest accrued, as of the date such provider ceases to provide child care services in such facility in accordance with this subtitle;

if such provider does not provide child care services in such facility in accordance with this subtitle throughout the useful life of the renovation or repair; and

(B) if such provider is a sectarian agency or organization, the renovation or repair is necessary to bring such facility into compliance with health and safety requirements imposed by this subtitle.

SEC. 509. PLANNING GRANTS.

(a) IN GENERAL.—A State desiring to participate in the programs authorized by this subtitle that cannot fully satisfy the requirements of the State plan under section 507(b) without financial assistance may, in the first year that the State participates in the programs, apply to the Secretary for a planning grant.

(b) AUTHORIZATION.—The Secretary is authorized to make a planning grant to a State described in subsection (a) if the Secretary determines that—

(1) the grant would enable the State to fully satisfy the requirements of a State plan under section 507(b); and

(2) the State will apply, for the remainder of the allotment that the State is entitled to receive for such fiscal year.

(c) AMOUNT OF GRANT.—A grant made to a State under this section shall not exceed 1 percent of the total allotment that the State would qualify to receive in the fiscal year involved if the State fully satisfied the requirements of section 507.

(d) LIMITATION ON ADMINISTRATIVE COSTS.—A grant made under this section shall be considered to be expended for administrative costs by the State for purposes of determining the compliance by the State with the limitation on administrative costs imposed by section 507(c)(3)(E).

SEC. 510. CONTINUING ELIGIBILITY OF STATES.

A State shall be ineligible for assistance under this subtitle after the expiration of the 4-year period beginning on the date the Secretary establishes minimum child care standards under section 517(e)(2) unless the State demonstrates to the satisfaction of the Secretary that—

(1) all child care providers required to be licensed and regulated in the State—

(A) are so licensed and regulated; and

(B) are subject to the enforcement provisions referred to in the State plan; and

(2) all such providers who are receiving assistance under this subtitle or under other publicly-assisted child care programs—

(A) satisfy the requirements of subparagraphs (A) and (B) of paragraph (1); and

(B) satisfy the minimum child care standards established by the Secretary under section 517(e)(2) of this subtitle.

SEC. 511. STATE ADVISORY COMMITTEE ON CHILD CARE.

(a) ESTABLISHMENT.—The chief executive officer of a State participating in the program authorized by this subtitle shall—

(1) establish a State advisory committee on child care (hereinafter in this section referred to as the "committee") to assist the lead agency in carrying out the responsibilities of the lead agency under this subtitle; and

(2) appoint the members of the committee.

(b) COMPOSITION.—The State committee shall be composed of not fewer than 21 and not more than 30 members who shall include—

(1) at least 1 representative of the lead agency designated under section 506(a);

(2) 1 representative of each of—

(A) the State departments of—

(i) human resources or social services;

(ii) education;

(iii) economic development; and

(iv) health; and

(B) other State agencies having responsibility for the regulation, funding, or provision of child care services in the State;

(3) at least 1 representative of providers of different types of child care services, including caregivers and directors;

(4) at least 1 representative of early childhood development experts;

(5) at least 1 representative of school districts and teachers involved in the provision of child care services and preschool programs;

(6) at least 1 representative of resource and referral programs;

(7) 1 pediatrician;

(8) 1 representative of a citizen group concerned with child care;

(9) at least 1 representative of an organization representing child care employees;

(10) at least 1 representative of the Head Start agencies in the State;

(11) parents of children receiving, or in need of, child care services, including at least 2 parents whose children are receiving or are in need of subsidized child care services;

(12) 1 representative of specialists concerned with children who have a handicapping condition;

(13) 1 representative of individuals engaged in business;

(14) 1 representative of fire marshals and building inspectors;

(15) 1 representative of child protective services; and

(16) 1 representative of units of general purpose local government.

(c) FUNCTIONS.—The committee shall—

(1) advise the lead agency on child care policies;

(2) provide the lead agency with information necessary to coordinate the provision of child care services in the State;

(3) otherwise assist the lead agency in carrying out the functions assigned to the lead agency under section 506(c);

(4) review and evaluate child services for which assistance is provided under this subtitle or under State law, in meeting the objectives of the State plan and the purposes of this subtitle;

(5) make recommendations on the development of State child care standards and policies;

(6) participate in the regional public hearings required under section 506(c)(5); and

(7) perform other functions to improve the quantity and quality of child care services in the State.

(d) MEETINGS AND HEARINGS.—

(1) IN GENERAL.—Not later than 30 days after the beginning of each fiscal year, the committee shall meet and establish the time, place, and manner of future meetings of the committee.

(2) MINIMUM NUMBER OF HEARINGS.—The committee shall have at least 2 public hearings each year at which the public shall be given an opportunity to express views concerning the administration and operation of the State plan.

(e) USE OF EXISTING COMMITTEES.—To the extent that a State has established a broadly representative State advisory group, prior to the date of enactment of this subtitle, that is comparable to the advisory committee described in this section and focused exclusively on child care and early childhood development programs, such State shall be considered to be in compliance with subsections (a) through (c).

(f) SUBCOMMITTEE ON LICENSING.—

(1) COMPOSITION.—The committee shall have a subcommittee on licensing (hereinafter in this section referred to as the "subcommittee") that shall be composed of the members appointed under paragraphs (2)(A)(iv), (3), (6), (7), (11), (14), and (15) of subsection (b).

(2) FUNCTIONS.—

(A) REVIEW OF LICENSING AUTHORITY.—The subcommittee shall review the law applicable to, and the licensing requirements and the policies of, each licensing agency that regulates child care services and programs in the State unless the State has reviewed such law, requirements, and policies in the 4-year period ending on the date of the establishment of the committee under subsection (a).

(B) REPORT.—Not later than 1 year after establishment of the committee under subsection (a), the subcommittee shall prepare and submit to the chief executive officer of the State involved a report.

(C) CONTENTS OF REPORT.—A report prepared under subparagraph (B) shall contain—

(i) an analysis of information on child care services provided by center-based child care providers, group home child care providers, and family child care providers;

(ii) a detailed statement of the findings and recommendations that result from the subcommittee review under subparagraph (A), including a description of the current status of child care licensing, regulating, monitoring, and enforcement in the State;

(iii) a detailed statement identifying and describing the deficiencies in the existing licensing, regulating, and monitoring programs of the State involved, including an assessment of the adequacy of staff to carry out such programs effectively, and recommendations to correct such deficiencies or to improve such programs; and

(iv) comments on the minimum child care standards established by the Secretary under section 517(e)(2).

(3) RECEIPT OF REPORT BY THE CHIEF EXECUTIVE OFFICER OF THE STATE.—Not later than 60 days after receiving the report from the subcommittee, the chief executive officer of the State shall transmit such report to the Secretary with—

(A) the comments of the chief executive officer of the State; and

(B) a plan for correcting deficiencies in, or improving the licensing, regulating, and monitoring, of the child care services and programs referred to in paragraph (2)(A).

(4) TERMINATION OF ASSISTANCE.—None of the funds received under this subtitle may be used to carry out any activity under this section occurring more than 90 days after the State submits a report required by subsection (d).

(g) SERVICES AND PERSONNEL.—

(1) AUTHORITY.—The lead agency is authorized to provide the services of such personnel, and to contract for such other services as may be necessary, to enable the committee and the subcommittee to carry out their functions under this subtitle.

(2) REIMBURSEMENT.—Members of the committee shall be reimbursed, in accordance with standards established by the Secretary, for necessary expenses incurred by such members in carrying out the functions of the committee and the subcommittee.

(3) SUFFICIENCY OF FUNDS.—The Secretary shall ensure that sufficient funds are made available, from funds available for the administration of the State plan, to the committee and the subcommittee to carry out the requirements of this section.

SEC. 512. RESOURCE AND REFERRAL PROGRAMS.

(a) ELIGIBILITY FOR ASSISTANCE.—Each State receiving funds under this subtitle shall, pursuant to section 507(c)(5)(A), make grants to or enter into contracts with private nonprofit organizations or public organizations (including units of general purpose local government), as resource and referral agencies to ensure that resource and referral services are available to families in all geographical areas in the State.

(b) FUNDING.—Organizations that receive assistance under subsection (a) shall carry out resource and referral programs—

(1) to identify all types of existing child care services, including services provided by individual family child care providers and by child care providers who provide child care services to children with a handicapping condition;

(2) to provide to interested parents information and referral regarding such services, including the availability of public funds to obtain such services;

(3) to provide or arrange for the provision of information, training, and technical assistance to existing and potential child care providers and to others (including businesses) concerned with the availability of child care services; and

(4) to provide information on the demand for and supply of child care services located in a community.

(c) REQUIREMENTS.—To be eligible for assistance as a resource and referral agency under subsection (a), an organization shall—

(1) have or acquire a database of information on child care services in the State or in a particular geographical area that the organization continually updates, including child care services provided in centers, group home child care settings, nursery schools, and family child care settings;

(2) have the capability to provide resource and referral services in a particular geographical area;

(3) be able to provide parents with information to assist them in identifying quality child care services;

(4) to the maximum extent practicable, notify all eligible child care providers in such area of the functions it performs and solicit such providers to request to be listed to receive referrals made by such organization; and

(5) otherwise comply with regulations promulgated by the State in accordance with subsection (d).

(d) LIMITATION ON INFORMATION.—In carrying out this section, an organization receiving assistance under subsection (a) as a resource and referral agency shall not provide information concerning any child care program or services which are not in compliance with the laws of the State and localities in which such services are provided.

SEC. 513. TRAINING AND TECHNICAL ASSISTANCE.

(a) MINIMUM REQUIREMENT.—A State receiving funds under this subtitle shall require, not later than 2 years after the date of the enactment of this subtitle, that all employed or self-employed individuals who provide licensed or regulated child care services (including registered child care services) in a State complete at least 40 hours of training over a 2-year period in areas appropriate to the provision of child care services, including training in health and safety, nutrition, first aid, the recognition of communicable diseases, child abuse detection and prevention, and the needs of special populations of children.

(b) GRANTS AND CONTRACTS FOR TRAINING AND TECHNICAL ASSISTANCE.—

(1) GRANTS AND CONTRACTS.—The State shall make grants to, and enter into contracts with State agencies, units of general purpose local government, institutions of higher education, and nonprofit organizations (including resource and referral organizations, child care food program sponsors, and family child care associations, as appropriate) to develop and carry out child care training and technical assistance programs under which preservice and continuing inservice training is provided to eligible child care providers, including family child care providers, and the staff of such providers including teachers, administrative personnel, and staff of resource and referral programs involved in providing child care services in the State.

(2) ELIGIBILITY REQUIREMENTS FOR GRANTS AND CONTRACTS RELATING TO TRAINING FOR FAMILY CHILD CARE PROVIDERS.—To be eligible to receive a grant or enter into a contract for a training and technical assistance program for family child care providers under paragraph (1), a nonprofit organization shall—

(A) recruit and train family child care providers, including providers with the capacity to provide night-time and emergency child care services;

(B) operate resource centers to make developmentally appropriate curriculum materials available to family child care providers;

(C) provide grants to family child care providers for the purchase of moderate cost equipment to be used to provide child care services; and

(D) operate a system of substitute caregivers.

(3) ELIGIBILITY REQUIREMENTS FOR GRANTS AND CONTRACTS RELATING TO TECHNICAL ASSISTANCE.—To be eligible to receive a grant, or enter into a contract under subsection (b) to provide technical assistance, an agency, organization, or institution shall agree to furnish technical assistance to child care providers to assist such providers—

(A) in understanding and complying with local regulations and relevant tax and other policies;

(B) in meeting State licensing, regulatory, and other requirements (including registration) pertaining to family child care providers.

(c) SCHOLARSHIP ASSISTANCE.—The State shall provide scholarship assistance to—

(1) individuals who seek a nationally recognized child development associate credential for center-based or family child care and whose income does not exceed the poverty line (as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) by more than 50 percent, in amounts sufficient to cover the costs involved in securing such credential; and

(2) caregivers who seek to obtain the training referred to in subsection (a) and whose income does not exceed such poverty line.

(d) CLEARINGHOUSE.—The State shall establish in the lead agency a clearinghouse to collect and disseminate training materials to resource and referral agencies and child care providers throughout the State.

SEC. 514. FEDERAL ADMINISTRATION OF CHILD CARE.

(a) ADMINISTRATOR OF CHILD CARE.—There is hereby established in the Department of Health and Human Services the position of Administrator of Child Care (hereinafter in this section referred to as the "Administrator"). The Secretary shall appoint an individual to serve as the Administrator at the pleasure of the Secretary.

(b) DUTIES.—The Administrator shall—

(1) coordinate all activities of the Department of Health and Human Services relating to child care, and coordinate such activities with similar activities of other Federal entities;

(2) annually collect and publish State child care standards, including periodic modifications to such standards;

(3) evaluate activities carried out with funds provided under this subtitle;

(4) act as a clearinghouse to collect and disseminate materials that relate to—

(A) the matters required by section 513(b)(1) to be addressed by training required by section 513 to be provided; and

(B) studies that relate to the salaries paid to individuals employed to provide child care services; and

(5) provide technical assistance to assist States to carry out this subtitle.

SEC. 515. FEDERAL ENFORCEMENT.

(a) REVIEW OF COMPLIANCE WITH STATE PLAN.—The Secretary shall review and monitor State compliance with this subtitle and the plan approved under section 507(d) for the State.

(b) NONCOMPLIANCE.—

(1) IN GENERAL.—If the Secretary, after reasonable notice and opportunity for a hearing to a State, finds that—

(A) there has been a failure by the State to comply substantially with any provision or any requirements set forth in the plan approved under section 507(d) for the State; or

(B) in the operation of any program or project for which assistance is provided under this subtitle there is a failure by the State to comply substantially with any provision of this subtitle;

the Secretary shall notify the State of the finding and that no further payments may be made to such State under this subtitle (or, in the case of noncompliance in the operation of a program or activity, that no further payments to the State will be made with respect to such program or activity) until the Secretary is satisfied that there is no longer any such failure to comply or that the noncompliance will be promptly corrected.

(2) ADDITIONAL SANCTIONS.—In the case of a finding of noncompliance made pursuant to this paragraph (1), the Secretary may, in addition to imposing the sanctions described in such paragraph, impose other appropriate sanctions, including recoupment of money improperly expended for purposes prohibited or not authorized by this subtitle, and disqualification from the receipt of financial assistance under this subtitle.

(3) NOTICE.—The notice required under paragraph (1) shall include a specific identification of any additional sanction being imposed under paragraph (2).

(c) ISSUANCE OF RULES.—The Secretary shall establish by rule procedures for—

(1) receiving, processing, and determining the validity of complaints concerning any failure of a State to comply with the State plan or any requirement of this subtitle; and

(2) imposing sanctions under this section.

SEC. 516. PAYMENTS.

(a) IN GENERAL.—

(1) AMOUNT OF PAYMENT.—Each State that—

(A) has an application approved by the Secretary under section 507(d); and

(B) demonstrates to the satisfaction of the Secretary that it will provide from non-Federal sources the State share of the aggregate amount to be expended by the State under the State plan for the fiscal year for which it requests a grant;

shall receive a payment under this section for such fiscal year in an amount (not to exceed its allotment under section 505 for such fiscal year) equal to the Federal share of the aggregate amount to be expended by the State under the State plan for such fiscal year.

(2) FEDERAL SHARE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Federal share for each fiscal year shall be 80 percent.

(B) EXCEPTION.—If a State makes the demonstration specified in section 510 throughout a fiscal year for which it requests a grant, then the Federal share shall be 85 percent.

(3) STATE SHARE.—The State share equals 100 percent minus the Federal share.

(4) LIMITATION.—A State may not require any private provider of child care services that receives or seeks funds made available under this subtitle to contribute in cash or in kind to the State contribution required by this subsection.

(b) METHOD OF PAYMENT.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary may make payments to a State in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

(2) LIMITATION.—The Secretary may not make such payments in a manner that prevents the State from complying with the requirement specified in section 507(c)(3)(F).

(c) SPENDING OF FUNDS BY STATE.—Payments to a State from the allotment under section 505 for any fiscal year may be expended by the State in that fiscal year or in the succeeding fiscal year.

SEC. 517. NATIONAL ADVISORY COMMITTEE ON CHILD CARE STANDARDS.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—In order to improve the quality of child care services, the Secretary shall establish, not later than 60 days after the date of the enactment of this subtitle, a National Advisory Committee on Child Care Standards (hereinafter in this section referred to as the "Committee"), the members of which shall be appointed from among representatives of—

(A) the chief executive officers of the several States;

(B) State legislatures;

(C) local governments;

(D) businesses;

(E) State individuals responsible for regulating the insurance industry within the State;

(F) religious institutions;

(G) persons who carry out different types of child care programs;

(H) persons who carry out resource and referral programs;

(I) child care and early childhood development specialists;

(J) early childhood education specialists;

(K) individuals who have expertise in pediatric health care, handicapping conditions, and related fields;

(L) organizations representing child care employees;

(M) individuals who have experience in the regulation of child care services; and

(N) parents who have been actively involved in community child care programs.

(2) APPOINTMENT OF MEMBERS.—The Committee shall be composed of 15 members of which—

(A) 5 members shall be appointed by the President;

(B) 3 members shall be appointed by the majority leader of the Senate;

(C) 2 members shall be appointed by the minority leader of the Senate;

(D) 3 members shall be appointed by the Speaker of the House of Representatives; and

(E) 2 members shall be appointed by the minority leader of the House of Representatives.

(3) CHAIRMAN.—The President shall appoint a chairman from among the members of the Committee.

(4) VACANCIES.—A vacancy occurring on the Committee shall be filled in the same manner as that in which the original appointment was made.

(b) PERSONNEL, REIMBURSEMENT, AND OVERSIGHT.—

(1) PERSONNEL.—The Secretary shall make available to the Committee office facilities, personnel who are familiar with child devel-

opment and with developing and implementing regulatory requirements, technical assistance, and funds as are necessary to enable the Committee to carry out effectively its functions.

(2) REIMBURSEMENT.—

(A) COMPENSATION.—Members of the Committee who are not regular full-time employees of the United States Government shall, while attending meetings and conferences of the Committee or otherwise engaged in the business of the Committee (including traveltime), be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding the rate specified at the time of such service under GS-18 of the General Schedule established under section 5332 of title 5, United States Code.

(B) EXPENSES.—While away from their homes or regular places of business on the business of the Committee, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(3) OVERSIGHT.—The Secretary shall ensure that the Committee is established and operated in accordance with the Federal Advisory Committee Act (5 U.S.C. App.).

(c) FUNCTIONS.—The Committee shall—

(1) review Federal policies with respect to child care services and such other data as the Committee may deem appropriate;

(2) not later than 180 days after the date on which a majority of the members of the Committee are first appointed, submit to the Secretary proposed minimum standards described in subsection (d) for child care services, taking into account the different needs of infants, toddlers, preschool and school-age children; and

(3) develop and make available to lead agencies, for distribution to resource and referral agencies in the State, model requirements for resource and referral agencies.

(d) MINIMUM CHILD CARE STANDARDS.—The proposed child care standards submitted pursuant to subsection (c)(2) shall be minimum standards and shall consist of only the following:

(1) CENTER-BASED CHILD CARE SERVICES.—Such standards submitted with respect to child care services provided by center-based child care providers shall be limited to—

(A) group size limits in terms of the number of caregivers and the number and ages of children;

(B) the maximum appropriate child-staff ratios;

(C) qualifications and background of child care personnel;

(D) health and safety requirements for children and caregivers; and

(E) parental involvement in licensed and regulated child care services.

The standards described in subparagraphs (A) and (B) shall reflect the median standards for all States (using for States which apply separate standards to publicly-assisted programs the most comprehensive or stringent of such standards) as of the date of enactment of this subtitle.

(2) FAMILY CHILD CARE SERVICES.—Such standards submitted with respect to child care services provided by family child care providers shall be limited to—

(A) the maximum number of children for which child care services may be provided and the total number of infants for which child care services may be provided;

(B) the minimum age for caregivers; and

(C) health and safety requirements for children and caregivers.

(3) GROUP HOME CHILD CARE SERVICES.—Such standards submitted with respect to child care services provided by group home child care providers shall be limited to the matters specified in paragraphs (1)(B) and (2).

(4) LIMITATION.—The Committee shall not submit any standard under subsection (c)(2) that is less or more rigorous than the least or most rigorous standard that exists in all States at the time of the submission of such recommendation.

(e) CONSIDERATION AND ESTABLISHMENT OF STANDARDS.—

(1) NOTICE OF PROPOSED RULEMAKING.—Not later than 90 days after receiving the recommendations of the committee, the Secretary shall—

(A) publish in the Federal Register—

(i) a notice of proposed rulemaking concerning the minimum standards proposed under subsection (d) to the Secretary; and

(ii) such proposed minimum standards for public comment for a period of at least 60 days; and

(B) distribute such proposed minimum standards to each lead agency and each State subcommittee on licensing for comment.

(2) ESTABLISHMENT OF MINIMUM CHILD CARE STANDARDS.—

(A) ISSUANCE OF RULES.—The Secretary shall, in consultation with the committee—

(i) take into consideration any comments received by the Secretary with respect to the standards proposed under subsection (d); and

(ii) not later than 180 days after publication of such standards, shall issue rules establishing minimum child care standards for purposes of this subtitle. Such standards shall include the nutrition requirements issued, and revised from time to time, under section 17(g)(1) of the National School Lunch Act (42 U.S.C. 1766(g)(1)).

(B) AMENDING STANDARDS.—The Secretary may amend any standard first established under subparagraph (A), except that such standard may not be modified, by amendment or otherwise, to make such standard less comprehensive or less stringent than it is when first established.

(C) EXTENDED PERIOD FOR COMMENT.—If the Committee recommends a standard under subsection (c)(2) that no State has a requirement concerning, as of the time that such standard is recommended, the Secretary shall provide an additional 30 days during which States may submit comments concerning such standard.

(3) ADDITIONAL COMMENTS.—The National Committee may submit to the Secretary and to the Congress such additional comments on the minimum child care standards established under paragraph (2) as the National Committee considers appropriate.

(f) VARIANCES.—

(1) TIME FOR COMPLIANCE WITH STANDARDS.—Not later than the end of the 4-year period referred to in section 510, States shall comply with the standards established under this section.

(2) EXCEPTION.—At the expiration of the 4-year period referred to in paragraph (1) the chief executive officer, in consultation with the State advisory committee, may submit a request to the Secretary for a 1 year variance from the requirements of one or more particular standards.

(3) REQUIREMENTS.—A request for a variance under this subsection shall include—

(A) a statement by the chief executive officer of the State of any steps taken to implement the relevant standards in the State within the 4-year period;

(B) the specific reasons for the submission of the variance request; and

(C) a detailed plan that outlines the additional procedures and resources to be used to come into compliance with the standards at the end of the variance period.

(4) PERIOD OF VARIANCE.—A variance granted by the Secretary shall be for a 1-year period and may be renewed at the discretion of the Secretary for an additional 1-year period if requested by the State.

(g) TERMINATION OF COMMITTEE.—The National Committee shall cease to exist 90 days after the date the Secretary establishes minimum child care standards under subsection (e)(3).

SEC. 518. LIMITATIONS ON USE OF FINANCIAL ASSISTANCE FOR CERTAIN PURPOSES.

(a) SECTARIAN PURPOSES AND ACTIVITIES.—No financial assistance provided under this subtitle shall be expended for any sectarian purpose or activity, including sectarian worship and instruction.

(b) TUITION.—With regard to services provided to students enrolled in grades 1 through 12, no financial assistance provided under this subtitle shall be expended for—

(1) any services provided to such students during the regular school day;

(2) any services for which such students receive academic credit toward graduation; or

(3) any instructional services which supplant or duplicate the academic program of any public or private school.

SEC. 519. NONDISCRIMINATION.

(a) FEDERAL FINANCIAL ASSISTANCE.—Any financial assistance provided under this subtitle, including a loan, grant, or child care certificate, shall constitute Federal financial assistance for purposes of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title IX of the Education Amendments of 1972 (20 U.S.C. 1681, et seq.), the Rehabilitation Act of 1973 (29 U.S.C. 794 et seq.), the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), and the regulations issued thereunder.

(b) RELIGIOUS DISCRIMINATION.—A child care provider may not discriminate against any child on the basis of religion in providing child care services in return for a fee paid, reimbursement received, or certificate redeemed, in whole or in part with financial assistance provided under this subtitle.

SEC. 520. PRESERVATION OF PARENTAL RIGHTS AND RESPONSIBILITIES.

Nothing in this subtitle shall be construed or applied in any manner to infringe upon or usurp the moral and legal rights and responsibilities of parents or legal guardians.

Mr. BYRD. Mr. President, I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3309

Mr. BYRD. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

Mr. DOLE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOLE. It is possible to have that entire amendment read?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOLE. I thought I would not ask for that. It will take a while.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 3309.

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

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. I do not intend to object. I wonder if the majority leader just might indicate what the two amendments generally do.

Mr. BYRD. Yes.

The two amendments are child care amendments.

Mr. DOLE. The so-called ABC bill?

Mr. BYRD. Yes.

Mr. DODD. Yes.

Mr. DOLE. That is a terrible bill, but no reflection on the Senator from Connecticut.

It would be child care plus the parental care in its present form.

Mr. BYRD. Yes. The bill that would be reported back forthwith if the Senate were to vote for this motion to instruct would be the parental leave legislation as it is at the moment before the Senate, with the remaining committee amendment agreed to, and the committee amendment, as amended, would be a part of the text. We would include, of course, child pornography and it would also have child care as part of the text if the Senate were to vote favorably on the motion.

Mr. DOLE. Do I understand it requires the committee to agree to an amendment?

Mr. BYRD. Yes, the committee would report back forthwith with the committee amendment on parental leave agreed to. There is only one remaining committee amendment that would be agreed to.

That would be a part of the text of the bill as reported back. In addition to that, the amendments that have been agreed to would be a part of the text which would include child pornography. And as part of the text would be the child care amendments. And then that text would be open to amendments in the first and second degrees.

Mr. DOLE. And the motion to recommit is debatable?

Mr. BYRD. The motion to recommit is debatable.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Reserving the right to object. I just wanted to make certain it would be debatable. I assume there will be some on our side that would want to at least express themselves on the motion to recommit. It might be that we could reach some agreement that we could do welfare reform and then——

Mr. BYRD. Once I get these in place, I would like to take up the conference report on welfare reform, which is a privileged matter and which we would have no difficulty going to and there is a 2-hour limitation on that. I would like to dispose of that this afternoon. It would be my intention to go to that immediately or at such time as the leader does not wish to discuss this matter further—and if there are other Senators who would wish to discuss this matter further we could take a few minutes—but I would like to go then to the welfare reform conference report which is under a time limitation and dispose of it within the 2-hour period.

Mr. DOLE. Mr. President, further reserving the right to object, I would ask the Chair if the Senate can order the committee to agree to a committee amendment or can only the Senate make that determination?

The PRESIDING OFFICER. Please repeat the question.

Mr. DOLE. The question is whether or not the Senate can order the committee to agree to a committee amendment.

The PRESIDING OFFICER. If the motion passes, the Senate is indeed ordering the committee to report it out with the amendment pending.

Mr. DOLE. But not agreed to?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOLE. Mr. President, further reserving the right to object, and I shall not object, and I say this with all respect. What we have now is a total political agenda coming from the other side. We tried minimum wage for a day or two and then we tried parental leave for a day or two, and now there is one thing left out and that is child care, and so we are going to try that for a day or two.

And I do not believe anybody really in their heart feels that it is going to go anywhere.

It would seem to me that if we do have any hopes of finishing our business—doing the drug bill, which is very important to millions and millions of Americans; doing technical corrections, which is important to millions of Americans; and I know a lot of farmers are concerned about the diesel tax and the heifer tax and things of that kind. I am afraid what may happen, we may find ourselves debating the motion to recomit or be back on this bill or cloture—I understand the majority leader may file cloture—eating up 2 or 3 days of time we could be spending on issues that affect the public interest, not the political interest.

So I hope that we could dispose of this whole package. We have had a good debate. I think there is a great deal of merit in working out some kind of parental leave and I think there is a great deal of merit in working on some increase in the minimum wage. I think both candidates for President have indicated that, and both have indicated a great desire to do something in the area of child care. I believe that, if you asked the candidates, they would agree with that and also agree we should not do it this year.

But I understand the majority leader has the majority. He has the prior right of recognition. He is certainly within his rights. I will not object, but I would move to table at the appropriate time and get a vote and see whether we want to carry on this charade or whether we want to get on with other business.

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

Mr. BYRD. The request which was not objected to was that further reading of the amendment be dispensed with?

The PRESIDING OFFICER. To dispense with the reading of the amendment.

The amendment is as follows:

Strike all after "Human Resources" and insert in lieu thereof the following: "with instructions to report back forthwith with the following amendment,".

Strike all after the exacting clause and insert in lieu there of the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Parental and Medical Leave Act of 1988".

(b) TABLE OF CONTENTS.—

TITLE I—GENERAL REQUIREMENTS FOR PARENTAL LEAVE AND MEDICAL LEAVE

SEC. 101. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the number of two-parent households in which both parents work and the number of single-parent households in which the single parent works are increasing significantly;

(2) it is important for the development of children and the family unit that fathers and mothers be able to participate in early child rearing and the care of children who have serious health conditions;

(3) the lack of employment policies to accommodate working parents forces many individuals to choose between job security and parenting;

(4) there is inadequate job security for employees who have serious health conditions that prevent the employees from working for temporary periods;

(5) due to the nature of the roles of men and women in our society, the primary responsibility for family caretaking often falls on women, and such responsibility affects their working lives more than it affects the working lives of men; and

(6) employment standards that apply to one gender only have serious potential for encouraging employers to discriminate against employees and applicants for employment who are of that gender.

(b) PURPOSES.—It is the purpose of this Act—

(1) to balance the demands of the workplace with the needs of families;

(2) to promote the economic security and stability of families;

(3) to entitle employees to take reasonable leave for medical reasons, for the birth or adoption of a child, and for the care of a child who has a serious health condition;

(4) to accomplish such purposes in a manner which accommodates the legitimate interests of employers;

(5) to accomplish such purposes in a manner which, consistent with the Equal Protection Clause of the Fourteenth Amendment, minimizes the potential for employment discrimination on the basis of sex by ensuring generally that leave is available for eligible medical reasons (including maternity-related disability) and for compelling family reasons, on a gender-neutral basis; and

(6) to promote the goal of equal employment opportunity for women and men, pursuant to such clause.

SEC. 102. DEFINITIONS.

As used in this title:

(1) COMMERCE.—The terms "commerce" and "industry or activity affecting commerce" mean any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce, including "commerce" and any activity or industry "affecting commerce" within the meaning of the Labor Management Relations Act, 1947 (29 U.S.C. 141 et seq.).

(2) EMPLOY.—The term "employ" has the same meaning given the term in section 3(g) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(g)).

(3) EMPLOYEE.—

(A) IN GENERAL.—The term "employee" means an individual that is included under the definition of such term in section 3(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)) who has been employed by the employer with respect to whom benefits are sought under this Act for at least—

(i) 900 hours of service during the previous 12-month period; and

(ii) 12 months.

"(B) EXCLUSION.—The term "employee" does not include any Federal officer or employee covered under subchapter III of chapter 63 of title 5, United States Code (as added by title II of this Act).

(4) EMPLOYER.—The term "employer"—

(A) means any person engaged in commerce or in any industry or activity affecting commerce who employs 20 or more employees at any one worksite for each working day during each of 20 or more calendar workweeks in the current or preceding calendar year;

(B) includes—

(i) any person who acts directly or indirectly in the interest of an employer to one or more employees; and

(ii) any successor in interest of such an employer; and

(C) includes any public agency, as defined in section 3(x) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(x)).

(5) EMPLOYMENT BENEFITS.—The term "employment benefits" means all benefits provided or made available to employees by an employer, including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions, regardless of whether the benefits are provided by a policy or practice of an employer or by an employee benefit plan as defined in section 3(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(1)).

(6) HEALTH CARE PROVIDER.—The term "health care provider" means—

(A) any person licensed under Federal, State, or local law to provide health care services, or

(B) any other person determined by the Secretary to be capable of providing health care services.

(7) PERSON.—The term "person" has the same meaning given the term in section 3(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(a)).

(8) REDUCED LEAVE SCHEDULE.—The term "reduced leave schedule" means leave scheduled for fewer than the usual number of hours of an employee per workweek or hours per workday.

(9) SECRETARY.—The term "Secretary" means the Secretary of Labor.

(10) SERIOUS HEALTH CONDITION.—The term "serious health condition" means an illness, injury, impairment, or physical or mental condition that involves—

(A) inpatient care in a hospital, hospice, or residential medical care facility; or

(B) continuing treatment or continuing supervision by a health care provider.

(11) SON OR DAUGHTER.—The term "son or daughter" means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a de facto parent, who is—

(A) under 18 years of age; or

(B) 18 years of age or older and incapable of self-care because of a mental or physical disability.

(12) STATE.—The term "State" has the same meaning given the term in section 3(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(c)).

SEC. 103. PARENTAL LEAVE REQUIREMENT.

(a) IN GENERAL.—

(1) ENTITLEMENT TO LEAVE.—An employee shall be entitled, subject to section 105, to 10 workweeks of parental leave during any 24-month period—

(A) as the result of the birth of a son or daughter of the employee;

(B) as the result of the placement, for adoption or foster care, of a son or daughter with the employee; or

(C) in order to care for the employee's son or daughter who has a serious health condition.

(2) EXPIRATION OF ENTITLEMENT.—The entitlement to leave under paragraphs (1)(A) and (1)(B) shall expire at the end of the 12-month period beginning on the date of such birth or placement.

(3) INTERMITTENT LEAVE.—In the case of a son or daughter who has a serious health condition, such leave may be taken intermittently when medically necessary, subject to subsection (e).

(b) REDUCED LEAVE.—On agreement between the employer and the employee, leave under this section may be taken on a reduced leave schedule, however, such reduced leave schedule shall not result in a reduction in the total amount of leave to which the employee is entitled.

(c) UNPAID LEAVE PERMITTED.—Except as provided in subsection (d), leave granted under subsection (a) may consist of unpaid leave.

(d) RELATIONSHIP TO PAID LEAVE.—

(1) UNPAID LEAVE.—If an employer provides paid parental leave for fewer than 10 work-weeks, the additional weeks of leave added to attain the 10 work-week total may be unpaid.

(2) SUBSTITUTION OF PAID LEAVE.—An employee or employer may elect to substitute any of the employee's accrued paid vacation leave, personal leave, or other appropriate paid leave for any part of the 10-week period.

(e) FORESEEABLE LEAVE.—

(1) REQUIREMENT OF NOTICE.—In any case in which the necessity for leave under this section is foreseeable based on an expected birth or adoption, the employee shall provide the employer with prior notice of such expected birth or adoption in a manner which is reasonable and practicable.

(2) DUTIES OF EMPLOYEE.—In any case in which the necessity for leave under this section is foreseeable based on planned medical treatment or supervision, the employee shall—

(A) make a reasonable effort to schedule the treatment or supervision so as not to disrupt unduly the operations of the employer, subject to the approval of the health care provider of the employee's son or daughter; and

(B) provide the employer with prior notice of the treatment or supervision in a manner which is reasonable and practicable.

(3) REGULATIONS.—The Secretary shall promulgate regulations under section 108(a) that define the term "reasonable and practicable" for purposes of paragraphs (1) and (2)(B).

(f) SPOUSES EMPLOYED BY THE SAME EMPLOYER.—In any case in which a husband and wife entitled to parental leave under this section are employed by the same employer, the aggregate number of workweeks of parental leave to which both may be entitled may be limited to 10 workweeks during any 24-month period, if such leave is taken under subparagraph (A) or (B) of subsection (a)(1).

SEC. 104. TEMPORARY MEDICAL LEAVE REQUIREMENT.

(a) IN GENERAL.—

(1) ENTITLEMENT TO LEAVE.—Any employee who, as the result of a serious health condition, becomes unable to perform the functions of the position of the employee, shall

be entitled to temporary medical leave, subject to section 105.

(2) PERIOD OF ENTITLEMENT.—The entitlement under paragraph (1) shall continue for as long as the employee is unable to perform the functions, except that the leave shall not exceed 13 workweeks during any 12-month period.

(3) INTERMITTENT LEAVE.—Leave taken under this subsection may be taken intermittently when medically necessary, subject to subsection (d).

(b) UNPAID LEAVE PERMITTED.—Except as provided in subsection (c), leave granted under subsection (a) may consist of unpaid leave.

(c) RELATIONSHIP TO PAID LEAVE.—

(1) IN GENERAL.—If an employer provides paid temporary medical leave or paid sick leave for fewer than 13 weeks, the additional weeks of leave added to attain the 13-week total may be unpaid.

(2) SUBSTITUTION OF PAID LEAVE.—An employee or employer may elect to substitute the employee's accrued paid vacation leave, sick leave, or other appropriate paid leave for any part of the 13-week period, except that nothing in this Act shall require an employer to provide paid sick leave or paid medical leave in any situation in which such employer would not normally provide any such paid leave.

(d) FORESEEABLE LEAVE.—

(1) DUTIES OF EMPLOYEE.—In any case in which the necessity for leave under this section is foreseeable based on planned medical treatment or supervision, the employee shall—

(A) make a reasonable effort to schedule the treatment or supervision so as not to disrupt unduly the operations of the employer, subject to the approval of the employee's health care provider, and

(B) provide the employer with prior notice of the treatment or supervision in a manner which is reasonable and practicable.

(2) REGULATIONS.—The Secretary shall promulgate regulations under section 108(a) that define the term "reasonable and practicable" for purposes of paragraph (1).

SEC. 105. CERTIFICATION.

(a) IN GENERAL.—An employer may require that a claim for parental leave under section 103(a)(1)(C), or temporary medical leave under section 104, be supported by certification issued by the health care provider of the son, daughter, or employee, whichever is appropriate. The employee shall provide a copy of such certification to the employer.

(b) SUFFICIENT CERTIFICATION.—The certification shall be considered sufficient if it states—

(1) the date on which the serious health condition commenced;

(2) the probable duration of the condition;

(3) the appropriate medical facts within the knowledge of the provider regarding the condition; and

(4)(A) for purposes of leave under section 104, a statement that the employee is unable to perform the functions of the employee's position; and

(B) for purposes of leave under section 103(a)(1)(C), an estimate of the amount of time that the employee is needed to care for the son or daughter.

(c) SECOND OPINION.—

(1) IN GENERAL.—In any case in which the employer has reason to doubt the validity of the certification provided under subsection (a), the employer may require, at its own expense, that the employee obtain the opinion of a second health care provider designated or approved by the employer concerning the information certified under subsection (b).

(2) LIMITATION.—Any health care provider designated or approved under paragraph (1) may not be employed on a regular basis by the employer.

(d) RESOLUTION OF CONFLICTING OPINIONS.—

(1) IN GENERAL.—In any case in which the second opinion described in subsection (c) differs from the original certification provided under subsection (a), the employer may require, at its own expense, that the employee obtain the opinion of a third health care provider designated or approved jointly by the employer and the employee concerning the information certified under subsection (b).

(2) FINALITY.—The opinion of the third health care provider concerning the information certified under subsection (b) shall be considered to be final and shall be binding on the employer and the employee.

(e) SUBSEQUENT RECERTIFICATION.—The employer may require that the employee obtain subsequent recertifications on a reasonable basis.

SEC. 106. EMPLOYMENT AND BENEFITS PROTECTION.

(a) RESTORATION TO POSITION.—

(1) IN GENERAL.—Any employee who takes leave under section 103 or 104 for its intended purpose shall be entitled, on return from the leave—

(A) to be restored by the employer to the position of employment held by the employee when the leave commenced; or

(B) to be restored to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.

(2) LOSS OF BENEFITS.—The taking of leave under this title shall not result in the loss of any employment benefit accrued before the date on which the leave commenced.

(3) LIMITATIONS.—Except as provided in subsection (b), nothing in this section shall be considered to entitle any restored employee to—

(A) the accrual of any seniority or employment benefits during any period of leave; or

(B) any right, benefit, or position of employment other than that to which the employee was entitled to on the date the leave was commenced.

(4) CERTIFICATION.—As a condition to restoration under paragraph (1), the employer may have a policy that requires each employee to receive certification from the employee's health care provider that the employee is able to resume work.

(5) CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit an employer from requiring an employee on leave under section 103 or 104 to periodically report to the employer on the employee's status and intention to return to work.

(b) MAINTENANCE OF HEALTH BENEFITS.—During any period an employee takes leave under section 103 or 104, the employer shall maintain coverage under any group health plan (as defined in section 162(i)(3) of the Internal Revenue Code of 1954) for the duration of such leave at the level and under the conditions coverage would have been provided if the employee had continued in employment continuously from the date the employee commenced the leave until the date the employee is restored under subsection (a).

SEC. 107. PROHIBITED ACTS.

(a) INTERFERENCE WITH RIGHTS.—

(1) EXERCISE OF RIGHTS.—It shall be unlawful for any employer to interfere with, restrain, or deny the exercise of or the attempt to exercise, any right provided under this title.

(2) DISCRIMINATION.—It shall be unlawful for any employer to discharge or in any other manner discriminate against any individual for opposing any practice made unlawful by this title.

(b) INTERFERENCE WITH PROCEEDINGS OR INQUIRIES.—It shall be unlawful for any person to discharge or in any other manner discriminate against any individual because the individual—

(1) has filed any charge, or has instituted or caused to be instituted any proceeding, under or related to this title;

(2) has given or is about to give any information in connection with any inquiry or proceeding relating to any right provided under this title; or

(3) has testified or is about to testify in any inquiry or proceeding relating to any right provided under this title.

SEC. 108. ADMINISTRATIVE ENFORCEMENT.

(a) IN GENERAL.—The Secretary shall issue such rules and regulations as are necessary to carry out this section, including rules and regulations concerning service of complaints, notice of hearings, answers and amendments to complaints, and copies of orders and records of proceedings.

(b) CHARGES.—

(1) FILING.—Any person alleging an act that violates this title may file a charge respecting the violation with the Secretary. Charges shall be in such form and contain such information as the Secretary shall require by regulation.

(2) NOTIFICATION.—Not later than 15 days after the Secretary receives notice of a charge under paragraph (1), the Secretary shall—

(A) serve a notice of the charge on the person charged with the violation; and

(B) inform such person and the charging party as to the rights and procedures provided under this title.

(3) TIME OF FILING.—A charge may not be filed later than 1 year after the date of the last event constituting the alleged violation.

(c) PROCESS ON NOTICE OF A CHARGE.—Investigation; Complaint.—

(1) INVESTIGATION.—Within the 60-day period after the Secretary receives any charge, the Secretary shall investigate the charge and issue a complaint based on the charge or dismiss the charge.

(2) COMPLAINT BASED ON CHARGE.—If the Secretary determines that there is a reasonable basis for the charge, the Secretary shall issue a complaint based on the charge and promptly notify the charging party and the respondent as to the issuance.

(3) DISMISSAL.—If the Secretary determines that there is no reasonable basis for the charge, the Secretary shall dismiss the charge and promptly notify the charging party and the respondent as to the dismissal.

(4) SETTLEMENT AGREEMENTS.—

(A) WITH CHARGING PARTY.—The charging party and the respondent may enter into a settlement agreement concerning the violation alleged in the charge before any determination is reached by the Secretary under this subsection. To be effective such an agreement must be determined by the Secretary to be consistent with the purposes of this title.

(B) WITH SECRETARY.—On the issuance of a complaint, the Secretary and the respondent may enter into a settlement agreement concerning a violation alleged in the com-

plaint. Any such settlement may not be entered into over the objection of the charging party, unless the Secretary determines that the settlement provides a full remedy for the charging party.

(5) CIVIL ACTIONS.—If, at the end of the 60-day period referred to in paragraph (1), the Secretary—

(A) has not issued a complaint under paragraph (2);

(B) has dismissed the charge under paragraph (3); or

(C) has not approved or entered into a settlement agreement under subparagraph (A) or (B) of paragraph (4);

the charging party may elect to bring a civil action under section 109.

(6) COMPLAINT AND RELIEF ON SECRETARY'S INITIATIVE.—

(A) ISSUANCE.—The Secretary may issue and serve a complaint alleging a violation of this title on the basis of information and evidence gathered as a result of an investigation initiated by the Secretary pursuant to section 110.

(B) RELIEF.—

(i) IN GENERAL.—On issuance of a complaint, the Secretary shall have the power to petition the United States district court for the district in which the violation is alleged to have occurred, or in which the respondent resides or transacts business, for appropriate temporary relief or a restraining order.

(ii) NOTICE.—On the filing of any such petition, the court shall cause notice of the petition to be served on the respondent.

(iii) TYPE OF RELIEF.—The court shall have jurisdiction to grant to the Secretary such temporary relief or restraining order as the court considers just and proper.

(d) RIGHTS OF PARTIES.—

(1) SERVICE OF COMPLAINT.—In any case in which a complaint is issued under subsection (c), the Secretary shall, not later than 10 days after the date on which the complaint is issued, cause to be served on the respondent a copy of the complaint.

(2) PARTIES TO COMPLAINT.—Any person filing a charge alleging a violation of this title may elect to be a party to any complaint filed by the Secretary alleging the violation. The election must be made before the commencement of a hearing.

(3) CIVIL ACTION.—The failure of the Secretary to comply in a timely manner with any obligation assigned to the Secretary under this title shall entitle the charging party to elect, at the time of such failure, to bring a civil action under section 109.

(e) CONDUCT OF HEARING.—

(1) PROSECUTION BY SECRETARY.—The Secretary shall prosecute any complaint issued under subsection (c).

(2) HEARING.—An administrative law judge shall conduct a hearing on the record with respect to a complaint issued under this title. The hearing shall be conducted in accordance with sections 554, 555, and 556 of title 5, United States Code, and shall be commenced within 60 days after the issuance of the complaint, unless the judge, in the judge's discretion, determines that the purposes of this Act would best be furthered by commencement of the action after the expiration of such period.

(f) FINDINGS AND CONCLUSIONS.—

(1) IN GENERAL.—After a hearing is conducted under this section, the administrative law judge shall promptly make findings of fact and conclusions of law, and, if appropriate, issue an order for relief as provided in section 111.

(2) NOTIFICATION CONCERNING DELAY.—The administrative law judge shall inform the parties, in writing, of the reason for any delay in making the findings and conclusions if the findings and conclusions are not made within 60 days after the conclusion of the hearing.

(g) FINALITY OF DECISION; REVIEW.—

(1) FINALITY.—The decision and order of the administrative law judge shall become the final decision and order of the Secretary unless, on appeal by an aggrieved party taken not later than 30 days after the action, the Secretary modifies or vacates the decision, in which case the decision of the Secretary shall be the final decision.

(2) REVIEW.—Not later than 60 days after the entry of the final order of the Secretary under paragraph (1), any person aggrieved by the final order may obtain a review of the order in the United States court of appeals for the circuit in which the violation is alleged to have occurred or in which the employer resides or transacts business.

(3) JURISDICTION.—On the filing of the record with the court, the jurisdiction of the court shall be exclusive and its judgment shall be final, except that the same shall be subject to review by the Supreme Court of the United States on writ of certiorari or certification as provided in section 1254 of title 28, United States Code.

(h) COURT ENFORCEMENT OF ADMINISTRATIVE ORDERS.—

(1) POWER OF SECRETARY.—If a respondent does not appeal an order of the Secretary under subsection (g)(2), the Secretary may petition the United States district court for the district in which the violation is alleged to have occurred, or in which the respondent resides or transacts business, for the enforcement of the order of the Secretary, by filing in the court a written petition praying that the order be enforced.

(2) JURISDICTION.—On the filing of the petition, the court shall have jurisdiction to make and enter a decree enforcing the order of the Secretary. In the proceeding, the order of the Secretary shall not be subject to review.

(3) DECREE OF ENFORCEMENT.—If, on appeal of an order under subsection (g)(2), the United States court of appeals does not reverse or modify the order, the court shall have the jurisdiction to make and enter a decree enforcing the order of the Secretary.

SEC. 109. ENFORCEMENT BY CIVIL ACTION.

(a) RIGHT TO BRING CIVIL ACTION.—

(1) IN GENERAL.—Subject to the limitations in this section, an employee or the Secretary may bring a civil action against any employer to enforce the provisions of this title in any appropriate court of the United States or in any State court of competent jurisdiction.

(2) NO CHARGE FILED.—Subject to paragraph (3), a civil action may be commenced under this subsection without regard to whether a charge has been filed under section 108(b).

(3) LIMITATIONS.—No civil action may be commenced under paragraph (1) if the Secretary—

(A) has approved, or has failed to disapprove, a settlement agreement under section 108(c)(4), in which case no civil action may be filed under this subsection if the action is based on a violation alleged in the charge and resolved by the agreement; or

(B) has issued a complaint under section 108(c)(2) or 108(c)(6), in which case no civil action may be filed under this subsection if the action is based on a violation alleged in the complaint.

(4) TO ENFORCE SETTLEMENT AGREEMENTS.—Notwithstanding paragraph (3)(A), a civil action may be commenced to enforce the terms of any such settlement agreement.

(5) TIMING OF COMMENCEMENT OF CIVIL ACTION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), no civil action may be commenced more than 1 year after the date on which the alleged violation occurred.

(B) EXCEPTION.—In any case in which—

(i) a timely charge is filed under section 108(b); and

(ii) the failure of the Secretary to issue a complaint or enter into a settlement agreement based on the charge (as provided under section 108(c)(4)) occurs more than 11 months after the date on which any alleged violation occurred,

the employee may commence a civil action not more than 30 days after the date on which the employee is notified of the failure.

(6) AGENCIES.—The Secretary may not bring a civil action against any agency of the United States.

(b) VENUE.—An action brought under subsection (a) in a district court of the United States may be brought—

(1) in any appropriate judicial district under section 1391 of title 28, United States Code; or

(2) in the judicial district in the State in which—

(A) the employment records relevant to the violation are maintained and administered; or

(B) the aggrieved person worked or would have worked but for the alleged violation.

(c) NOTIFICATION OF THE SECRETARY; RIGHT TO INTERVENE.—A copy of the complaint in any action brought by an employee under subsection (a) shall be served on the Secretary by certified mail. The Secretary shall have the right to intervene in a civil action brought by an employee under subsection (a).

(d) ATTORNEYS FOR THE SECRETARY.—In any civil action brought under subsection (a), attorneys appointed by the Secretary may appear for and represent the Secretary, except that the Attorney General and the Solicitor General shall conduct any litigation in the Supreme Court.

SEC. 110. INVESTIGATIVE AUTHORITY.

(a) IN GENERAL.—To ensure compliance with the provisions of this title, or any regulation or order issued under this title, subject to subsection (c), the Secretary shall have the investigative authority provided under section 11(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(a)).

(b) OBLIGATION TO KEEP AND PRESERVE RECORDS.—An employer shall keep and preserve records in accordance with section 11(c) of such Act, and in accordance with regulations issued by the Secretary.

(c) REQUIRED SUBMISSIONS GENERALLY LIMITED TO AN ANNUAL BASIS.—The Secretary may not under this section require any employer or any plan, fund, or program to submit to the Secretary any books or records more than once in any 12-month period, unless the Secretary has reasonable cause to believe there may exist a violation of this title or any regulation or order issued pursuant to this title, or is investigating a charge brought pursuant to section 108.

(d) SUBPOENA POWERS, ETC.—For purposes of any investigation conducted under this section, the Secretary shall have the subpoena authority provided under section 9 of the Fair Labor Standards Act of 1938 (29 U.S.C. 209).

(e) DISSEMINATION OF INFORMATION.—The Secretary may make available to any person substantially affected by any matter that is the subject of an investigation under this section, and to any department or agency of the United States, information concerning any matter that may be the subject of the investigation.

SEC. 111. RELIEF.

(a) INJUNCTIVE RELIEF.—

(1) CEASE AND DESIST.—On finding a violation under section 108 by a person, an administrative law judge shall issue an order requiring the person to cease and desist from any act or practice that violates this title.

(2) INJUNCTIONS.—In any civil action brought under section 109, a court may grant as relief any permanent or temporary injunction, temporary restraining order, or other equitable relief as the court considers appropriate.

(b) MONETARY DAMAGES.—

(1) IN GENERAL.—Any employer that violates this title shall be liable to the injured party in an amount equal to—

(A) any wages, salary, employment benefits, or other compensation denied or lost to the employee by reason of the violation, plus interest on the total monetary damages calculated at the prevailing rate; and

(B) an additional amount equal to the greater of—

(i) the amount determined under subparagraph (A), as liquidated damages; or

(ii) the amount of consequential damages but not to exceed three times the amount determined under subparagraph (A).

(2) GOOD FAITH.—If an employer who has violated this title proves to the satisfaction of the court that the act or omission which violated this title was in good faith and that the employer had reasonable grounds for believing that the act or omission was not a violation of this title, the court may, in its discretion, reduce the amount of the liability or penalty provided for under this subsection to the amount determined under paragraph (1)(A).

(c) ATTORNEYS' FEES.—A prevailing party (other than the United States) may be awarded a reasonable attorneys' fee as part of the costs, in addition to any relief awarded. The United States shall be liable for costs in the same manner as a private person.

(d) LIMITATION.—Damages awarded under subsection (b) may not accrue from a date more than 2 years before the date on which a charge is filed under section 108(b) or a civil action is brought under section 109.

SEC. 112. NOTICE.

(a) IN GENERAL.—Each employer shall post and keep posted, in conspicuous places on the premises of the employer where notices to employees and applicants for employment are customarily posted, a notice, approved by the Secretary, setting forth excerpts from, or summaries of, the pertinent provisions of this title and information pertaining to the filing of a charge.

(b) PENALTY.—Any employer who willfully violates this section shall be fined not more than $100 for each separate offense.

TITLE II—PARENTAL LEAVE AND TEMPORARY MEDICAL LEAVE FOR CIVIL SERVICE EMPLOYEES

SEC. 201. PARENTAL LEAVE AND TEMPORARY MEDICAL LEAVE.

(a) IN GENERAL.—(1) Chapter 63 of title 5, United States Code, is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER III—PARENTAL LEAVE AND TEMPORARY MEDICAL LEAVE

"§ 6331. Definitions

"For purposes of this subchapter:

"(1) 'employee' means—

"(A) an employee as defined by section 6301(2) of this title (excluding an individual employed by the government of the District of Columbia); and

"(B) an individual under clause (v) or (ix) of such section;

who has been employed for at least 12 months and completed at least 900 hours of service during the previous 12-month period.

"(2) 'serious health condition' means an illness, injury, impairment, or physical or mental condition that involves—

"(A) inpatient care in a hospital, hospice, or residential medical care facility; or

"(B) continuing treatment, or continuing supervision, by a health care provider; and

"(3) 'son or daughter' means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a de facto parent, who is—

"(A) under 18 years of age; or

"(B) 18 years of age or older and incapable of self-care because of a mental or physical disability.

"§ 6332. Parental leave requirement

"(a)(1) An employee shall be entitled, subject to section 6334, to 10 workweeks of parental leave during any 24-month period—

"(A) as the result of the birth of a son or daughter of the employee;

"(B) as the result of the placement, for adoption or foster care, of a son or daughter with the employee; or

"(C) in order to care for the employee's son or daughter who has a serious health condition.

"(2) The entitlement to leave under paragraphs (1)(A) and (1)(B) shall expire at the end of the 12-month period beginning on the date of such birth or placement.

"(3) In the case of a son or daughter who has a serious health condition, such leave may be taken intermittently when medically necessary, subject to subsection (e).

"(b) On agreement between the employing agency and the employee, leave under this section may be taken on a reduced leave schedule, however, such reduced leave schedule shall not result in a reduction in the total amount of leave to which the employee is entitled.

"(c) Except as provided in subsection (d), leave granted under subsection (a) may consist of unpaid leave.

"(d)(1) If an employing agency provides paid parental leave for fewer than 10 workweeks, the additional weeks of leave added to attain the 10 work-week total may be unpaid.

"(2) An employee or employing agency may elect to substitute any of the employee's accrued paid vacation leave, personal leave, or other appropriate paid leave for any part of the 10-week period.

"(e)(1) In any case in which the necessity for leave under this section is foreseeable based on an expected birth or adoption, the employee shall provide the employing agency with prior notice of such expected birth or adoption in a manner which is reasonable and practicable.

"(2) In any case in which the necessity for leave under this section is foreseeable based on planned medical treatment or supervision, the employee shall—

"(A) make a reasonable effort to schedule the treatment or supervision so as not to disrupt unduly the operations of the employing agency, subject to the approval of the health care provider of the employee's son or daughter; and

"(B) provide the employing agency with prior notice of the treatment or supervision in a manner which is reasonable and practicable.

"(3) The Director of the Office of Personnel Management shall promulgate regulations that define the term 'reasonable and practicable' for purposes of paragraphs (1) and (2)(B).

"§ 6333. Temporary medical leave requirement

"(a)(1) Any employee who, as the result of a serious health condition, becomes unable to perform the functions of the position of the employee, shall be entitled to temporary medical leave, subject to section 6334.

"(2) The entitlement under paragraph (1) shall continue for as long as the employee is unable to perform the functions, except that the leave shall not exceed 13 administrative workweeks of the employee during any 12-month period.

"(3) Leave taken under this subsection may be taken intermittently when medically necessary, subject to subsection (d).

"(b) Except as provided in subsection (c), leave granted under subsection (a) may consist of unpaid leave.

"(c)(1) If an employing agency provides paid temporary medical leave or paid sick leave for fewer than 13 weeks, the additional weeks of leave added to attain the 13-week total may be unpaid.

"(2) An employee or employing agency may elect to substitute the employee's accrued paid vacation leave, sick leave, or other appropriate paid leave for any part of the 13-week period, except that nothing in this Act shall require an employing agency to provide paid sick leave or paid medical leave in any situation in which such employing agency would not normally provide any such paid leave.

"(d)(1) In any case in which the necessity for leave under this section is foreseeable based on planned medical treatment or supervision, the employee shall—

"(A) make a reasonable effort to schedule the treatment or supervision so as not to disrupt unduly the operations of the employing agency, subject to the approval of the health care provider, and

"(B) provide the employing agency with prior notice of the treatment or supervision in a manner which is reasonable and practicable.

"(2) The Director of the Office of Personnel Management shall promulgate regulations that define the term "reasonable and practicable" for purposes of paragraph (1).

"§ 6334. Certification

"(a) An employing agency may require that a claim for parental leave under section 6332(a)(10)(C), or temporary medical leave under section 6333, be supported by certification issued by the health care provider of the son, daughter, or employee, whichever is appropriate. The employee shall provide a copy of such certification to the employing agency.

"(b) The certification shall be considered sufficient if it states—

"(1) the date on which the serious health condition commenced;

"(2) the probable duration of the condition;

"(3) the appropriate medical facts within the knowledge of the provider regarding the condition; and

"(4)(A) for purposes of leave under section 6333, a statement that the employee is unable to perform the functions of the employee's position; and

"(B) for purposes of leave under section 6332(a)(1)(C), an estimate of the amount of time that the employee is needed to care for the son or daughter.

"(c)(1) In any case in which the employing agency has reason to doubt the validity of the certification provided under subsection (a), the employing agency may require, at its expense, that the employee obtain the opinion of a second health care provider designated or approved by the employing agency concerning the information certified under subsection (b).

"(2) Any health care provider designated or approved under paragraph (1) may not be employed on a regular basis by the employing agency.

"(d)(1) In any case in which the second opinion described in subsection (c) differs from the original certification provided under subsection (a), the employing agency may require, at its expense, that the employee obtain the opinion of a third health care provider designated or approved jointly by the employing agency and the employee concerning the information certified under subsection (b).

"(2) The opinion of the third health care provider concerning the information certified under subsection (b) shall be considered to be final and shall be binding on the employing agency and the employee.

"(e) The employing agency may require that the employee obtain subsequent recertifications on a reasonable basis.

"§ 6335. Job protection

"An employee who uses leave under section 6332 or 6333 of this title shall be entitled shall be entitled, on return from the leave—

"(1) to be restored to the position of employment held by the employee when the leave commenced; or

"(2) to be restored to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.

"§ 6336. Prohibition of coercion

"(a) An employee may not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any other employee for the purpose of interfering with the exercise of the rights of the employee under this subchapter.

"(b) For the purpose of this section, 'intimidate, threaten, or coerce' includes promising to confer or conferring any benefit (such as appointment, promotion, or compensation), or taking or threatening to take any reprisal (such as deprivation of appointment, promotion, or compensation).

"§ 6337. Health insurance

"An employee enrolled in a health benefits plan under chapter 89 of this title who is placed in a leave status under section 6332 or 6333 of this title may elect to continue the health benefits enrollment of the employee while in leave status and arrange to pay into the Employees Health Benefits Fund (described in section 8909 of this title), through the employing agency of the employee, the appropriate employee contributions.

"§ 6338. Regulations

"The Office of Personnel Management shall prescribe regulations necessary for the administration of this subchapter. The regulations prescribed under this subchapter shall be consistent with the regulations prescribed by the Secretary of Labor under title I of the Parental and Medical Leave Act of 1988.".

(2) The table of contents for chapter 63 of title 5, United States Code, is amended by adding at the end thereof the following:

"SUBCHAPTER III—PARENTAL LEAVE AND TEMPORARY MEDICAL LEAVE

"6331. Definitions.
"6332. Parental leave requirement.
"6333. Temporary medical leave requirement.
"6334. Certification.
"6335. Job protection.
"6336. Prohibition of coercion.
"6337. Health insurance.
"6338. Regulations.".

(b) EMPLOYEES PAID FROM NONAPPROPRIATED FUNDS.—Section 2105(c)(1) of title 5, United States Code, is amended by striking out "53" and inserting in lieu thereof "53, subchapter III of chapter 63,".

TITLE III—COMMISSION ON PARENTAL AND MEDICAL LEAVE

SEC. 301. ESTABLISHMENT.

(a) ESTABLISHMENT.—There is established a Commission to be known as the Commission on Parental and Medical Leave (hereinafter in this title referred to as the "Commission").

SEC. 302. DUTIES.

The Commission shall—

(1) conduct a comprehensive study of—

(A) existing and proposed policies relating to parental leave and temporary medical leave; and

(B) the potential costs, benefits, and impact on productivity of such policies on employers;

(2) to the extent practicable, include in the study of parental leave and temporary medical leave policies required under subsection (1)(A), a review of all studies of existing and proposed methods designed to provide workers with full or partial salary replacement or other income protection during periods of parental leave and temporary medical leave that are consistent with the legitimate business interests of employers;

(3) within 2 years after the date on which the Commission first meets, submit a report to Congress that outlines the findings of the Commission.

SEC. 303. MEMBERSHIP.

(a) COMPOSITION.—

(1) APPOINTMENTS.—The Commission shall be composed of 12 voting members and 2 ex-officio members appointed not more than 60 days after the date of the enactment of this Act as follows:

(A) One Senator shall be appointed by the majority leader of the Senate, and one Senator shall be appointed by the minority leader of the Senate.

(B) One member of the House of Representatives shall be appointed by the Speaker of the House of Representatives, and one member of the House of Representatives shall be appointed by the minority leader of the House of Representatives.

(C)(i) Two members each shall be appointed by—

(I) the Speaker of the House of Representatives,

(II) the majority leader of the Senate,

(III) the minority leader of the House of Representatives, and

(IV) the minority leader of the Senate.

(ii) Such members shall be appointed by virtue of demonstrated expertise in relevant family, temporary disability, and labor-management issues and shall include representatives of employers.

(2) EX-OFFICIO MEMBERS.—The Secretary of Health and Human Services and the Secretary of Labor shall serve on the Commission as nonvoting ex-officio members.

(b) VACANCIES.—Any vacancy on the Commission shall be filled in the same manner in which the original appointment was made.

(c) CHAIRPERSON AND VICE CHAIRPERSON.—The Commission shall elect a chairperson and a vice chairperson from among the members of the Commission.

(d) QUORUM.—Eight members of the Commission shall constitute a quorum for all purposes, except that a lesser number may constitute a quorum for the purpose of holding hearings.

SEC. 304. COMPENSATION.

(a) PAY.—Members of the Commission shall serve without compensation.

(b) TRAVEL EXPENSES.—Members of the Commission shall be allowed reasonable travel expenses, including a per diem allowance, in accordance with section 5703 of title 5, United States Code, while performing duties of the Commission.

SEC. 305. POWERS.

(a) MEETINGS.—The Commission shall first meet not more than 30 days after the date on which all members are appointed. The Commission shall meet thereafter on the call of the chairperson or a majority of the members.

(b) HEARINGS AND SESSIONS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before the Commission.

(c) ACCESS TO INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable the Commission to carry out this Act. On the request of the chairperson or vice chairperson of the Commission, the head of the agency shall furnish the information to the Commission.

(d) EXECUTIVE DIRECTOR.—The Commission may appoint an Executive Director from the personnel of any Federal agency to assist the Commission in carrying out the duties of the Commission.

(e) USE OF SERVICES AND FACILITIES.—On the request of the Commission, the head of any Federal agency may make available to the Commission any of the facilities and services of the agency.

(f) PERSONNEL FROM OTHER AGENCIES.—On the request of the Commission, the head of any Federal agency may detail any of the personnel of the agency to assist the Commission in carrying out the duties of the Commission.

SEC. 306. TERMINATION.

The Commission shall terminate 30 days after the date of the submission of the final report of the Commission to Congress.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. EFFECT ON OTHER LAWS.

(a) FEDERAL AND STATE ANTIDISCRIMINATION LAWS.—Nothing in this Act shall be construed to modify or affect any Federal or State law prohibiting discrimination on the basis of race, religion, color, national origin, sex, age, or handicapped status.

(b) STATE AND LOCAL LAWS.—Nothing in this Act shall be construed to supersede any provision of any State or local law that pro-

vides greater employee parental or medical leave rights than the rights established under this Act.

SEC. 402. EFFECT ON EXISTING EMPLOYMENT BENEFITS.

(a) MORE PROTECTIVE.—Nothing in this Act shall be construed to diminish the obligation of an employer to comply with any collective-bargaining agreement or any employment benefit program or plan that provides greater parental and medical leave rights to employees than the rights provided under this Act.

(b) LESS PROTECTIVE.—The rights provided to employees under this Act may not be diminished by any collective-bargaining agreement or any employment benefit program or plan.

SEC. 403. ENCOURAGEMENT OF MORE GENEROUS LEAVE POLICIES.

Nothing in this Act shall be construed to discourage employers from adopting or retaining leave policies more generous than any policies that comply with the requirements under this Act.

SEC. 404. REGULATIONS.

Not later than 60 days after the date of enactment of this Act, the Secretary shall prescribe such regulations as are necessary to carry out title I.

SEC. 405. EFFECTIVE DATES.

(a) ADVISORY COMMISSION.—Title III shall become effective on the date of enactment of this Act.

(b) OTHER TITLES.—

(1) IN GENERAL.—Except as provided in paragraph (2), titles I, II, and IV shall take effect 6 months after the date of the enactment of this Act.

(2) COLLECTIVE BARGAINING AGREEMENTS.—In the case of a collective bargaining agreement in effect on the effective date described in paragraph (1), title I shall apply on the earlier of—

(A) the date of the termination of such agreement, or

(B) the date which occurs 12 months after the date of the enactment of this Act.

Notwithstanding any other provision of this Act, the term "employer" means any person engaged in commerce or in any industry affecting commerce who employs 50 or more employees at any one worksite for each working day during each of 19 or more calendar workweeks in the current or preceding calendar year; and includes:

"(i) any person who acts directly or indirectly in the interest of an employer to one or more employees;

"(ii) any successor in interest of such an employer; and

"(iii) any public agency, as defined in section 3(x) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(x)): and

notwithstanding any other provision of this act, the period of entitlement described in Sec. 104 (a)(2) of this act shall not exceed 10 workweeks during any 12-month period; and notwithstanding any other provision of this act, the entitlement under paragraph (a)(2), in "Sec. 6333" entitled "Temporary Medical Leave Requirement" contained in Sec. 201 of this act shall not exceed 10 administrative workweeks of the employee during any 12-month period.

[Corrected version will appear on pages 26653-26658.]

TITLE V—CHILD PORNOGRAPHY AND OBSCENITY

SEC. 501. SHORT TITLE.

This title may be cited as the "Child Protection and Obscenity Enforcement Act of 1988".

Subtitle A—Child Pornography

SEC. 511. AMENDMENTS TO EXISTING OFFENSES.

(a) SEXUAL EXPLOITATION OF CHILDREN.—Paragraph (2) of subsection 2251(c) of title 18, United States Code, is amended by inserting "by any means including by computer" after "interstate or foreign commerce" both places it appears.

(b) MATERIAL INVOLVING SEXUAL EXPLOITATION OF CHILDREN.—Subsection 2252(a) of title 18, United States Code, is amended by inserting "by any means including by computer" after "interstate or foreign commerce" each place it appears.

(c) DEFINITION.—Section 2256 of title 18, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (4);

(2) by striking out the period at the end of paragraph (5) and inserting in lieu thereof: "; and"; and

(3) by adding at the end the following:

"(6) 'computer' has the meaning given that term in section 1030 of this title.".

SEC. 512. SELLING OR BUYING OF CHILDREN.

(a) IN GENERAL.—Chapter 110 of title 18, United States Code, is amended by inserting after section 2251 the following:

"§ 2251A. Selling or buying of children

"(a) Any parent, legal guardian, or other person having custody or control of a minor who sells or otherwise transfers custody or control of such minor, or offers to sell or otherwise transfer custody of such minor either—

"(1) with knowledge that, as a consequence of the sale or transfer, the minor will be portrayed in a visual depiction engaging in, or assisting another person to engage in, sexually explicit conduct; or

"(2) with intent to promote either—

"(A) the engaging in of sexually explicit conduct by such minor for the purpose of producing any visual depiction of such conduct; or

"(B) the rendering of assistance by the minor to any other person to engage in sexually explicit conduct for the purpose of producing any visual depiction of such conduct;

shall be punished by imprisonment for not less than 20 years or for life and by a fine under this title, if any of the circumstances described in subsection (c) of this section exist.

"(b) Whoever purchases or otherwise obtains custody or control of a minor, or offers to purchase or otherwise obtain custody or control of a minor either—

"(1) with knowledge that, as a consequence of the purchase or obtaining of custody, the minor will be portrayed in a visual depiction engaging in, or assisting another person to engage in, sexually explicit conduct; or

"(2) with intent to promote either—

"(A) the engaging in of sexually explicit conduct by such minor for the purpose of producing any visual depiction of such conduct; or

"(B) the rendering of assistance by the minor to any other person to engage in sexually explicit conduct for the purpose of producing any visual depiction of such conduct;

shall be punished by imprisonment for not less than 20 years or for life and by a fine under this title, if any of the circumstances described in subsection (c) of this section exist.

"(c) The circumstances referred to in subsections (a) and (b) are that—

"(1) in the course of the conduct described in such subsections the minor or the actor traveled in or was transported in interstate or foreign commerce;

"(2) any offer described in such subsections was communicated or transported in interstate or foreign commerce by any means including by computer or mail; or

"(3) the conduct described in such subsections took place in any territory or possession of the United States.".

(b) DEFINITION.—Section 2256 of title 18, United States Code, as amended by section 201 of this Act, is further amended—

(1) by striking out "and" at the end of paragraph (5);

(2) by striking out the period at the end of paragraph (6) and inserting "; and" in lieu thereof; and

(3) by adding at the end the following:

"(7) 'custody or control' includes temporary supervision over or responsibility for a minor whether legally or illegally obtained.".

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 110 of title 18, United States Code, is amended by inserting after the item relating to section 2251 the following:

"2251A. Selling or buying of children.".

SEC. 513. RECORD KEEPING REQUIREMENTS.

(a) IN GENERAL.—Chapter 110 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 2257. Record keeping requirements

"(a) Whoever produces any book, magazine, periodical, film, videotape, or other matter which—

"(1) contains one or more visual depictions made after February 6, 1978 of actual sexually explicit conduct; and

"(2) is produced in whole or in part with materials which have been shipped in interstate or foreign commerce, or is shipped or transported or is intended for shipment or transportation in interstate or foreign commerce;

shall create and maintain individually identifiable records pertaining to every performer portrayed in such a visual depiction.

"(b) Any person to whom subsection (a) applies shall, with respect to every performer portrayed in a visual depiction of actual sexually explicit conduct—

"(1) ascertain, by examination of an identification document containing such information, the performer's name and date of birth, and require the performer to provide such other indicia of his or her identity as may be prescribed by regulations;

"(2) ascertain any name, other than the performer's present and correct name, ever used by the performer including maiden name, alias, nickname, stage, or professional name; and

"(3) record in the records required by subsection (a) the information required by paragraphs (1) and (2) of this subsection and such other identifying information as may be prescribed by regulation.

"(c) Any person to whom subsection (a) applies shall maintain the records required by this section at his business premises, or at such other place as the Attorney General may by regulation prescribe and shall make such records available to the Attorney General for inspection at all reasonable times.

"(d)(1) No information or evidence obtained from records required to be created or maintained by this section shall, except as provided in paragraphs (2) and (3), be used, directly or indirectly, as evidence

against any person with respect to any violation of law.

"(2) Paragraph (1) of this subsection shall not preclude the use of such information or evidence in a prosecution or other action for a violation of any applicable provision of law with respect to the furnishing of false information.

"(3) In a prosecution of any person to whom subsection (a) applies for an offense in violation of subsection 2251(a) of this title which has as an element the production of a visual depiction of a minor engaging in or assisting another person to engage in sexually explicit conduct and in which that element is sought to be established by showing that a performer within the meaning of this section is a minor—

"(A) proof that the person failed to comply with the provisions of subsection (a) or (b) of this section concerning the creation and maintenance of records, or a regulation issued pursuant thereto, shall raise a rebuttable presumption that such performer was a minor; and

"(B) proof that the person failed to comply with the provisions of subsection (e) of this section concerning the statement required by that subsection shall raise the rebuttable presumption that every performer in the matter was a minor.

"(e)(1) Any person to whom subsection (a) applies shall cause to be affixed to every copy of any matter described in paragraph (1) of subsection (a) of this section, in such manner and in such form as the Attorney General shall by regulations prescribe, a statement describing where the records required by this section with respect to all performers depicted in that copy of the matter may be located.

"(2) If the person to whom subsection (a) of this section applies is an organization the statement required by this subsection shall include the name, title, and business address of the individual employed by such organization responsible for maintaining the records required by this section.

"(3) In any prosecution of a person for an offense in violation of section 2252 of this title which has as an element the transporting, mailing, or distribution of a visual depiction involving the use of a minor engaging in sexually explicit conduct, and in which that element is sought to be established by a showing that a performer within the meaning of this section is a minor, proof that the matter in which the visual depiction is contained did not contain the statement required by this section shall raise a rebuttable presumption that such performer was a minor.

"(f) The Attorney General shall issue appropriate regulations to carry out this section.

"(g) As used in this section—

"(1) the term 'actual sexually explicit conduct' means actual but not simulated conduct as defined in subparagraphs (A) through (E) of paragraph (2) of section 2256 of this title;

"(2) 'identification document' has the meaning given that term in subsection 1028(d) of this title;

"(3) the term 'produces' means to produce, manufacture, or publish and includes the duplication, reproduction, or reissuing of any material; and

"(4) the term 'performer' includes any person portrayed in a visual depiction engaging in, or assisting another person to engage in, actual sexually explicit conduct.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 110 of title 18, United States Code, is amended by adding after the item relating to section 2256 the following:

"2257. Record keeping requirements.".

(c) EFFECTIVE DATE.—Section 2257 of title 18, United States Code, as added by this section shall take effect 180 days after the date of the enactment of this Act except—

(1) the Attorney General shall prepare the initial set of regulations required or authorized by section 2257 within 90 days of the date of the enactment of this Act; and

(2) subsection (e) of section 2257 of this title and of any regulation issued pursuant thereto shall take effect 270 days after the date of the enactment of this Act.

SEC. 514. R.I.C.O. AMENDMENT.

Subsection 1961(1)(B) of title 18, United States Code, is amended by inserting after "section 1957 (relating to engaging in monetary transactions in property derived from specified unlawful activity)" the following: "sections 2251 through 2252 (relating to sexual exploitation of children),".

Subtitle B—Obscenity

SEC. 521. RECEIPT OR POSSESSION FOR SALE; PRESUMPTIONS FOR CHAPTER 71.

(a) RECEIPT OR POSSESSION FOR SALE.—Chapter 71 of title 18, United States Code, is amended by inserting after section 1465 the following:

"§ 1466. Receipt or possession of obscene matter for sale or distribution

"(a) Whoever is engaged in the business of selling or transferring books, magazines, pictures, papers, films, videotapes, or phonograph or other audio recordings, and knowingly receives or possesses with intent to distribute any obscene book, magazine, picture, paper, film, videotape, or phonograph or other audio recording, which has been shipped or transported in interstate or foreign commerce, shall be punished by imprisonment for not more than 5 years or by a fine under this title, or both.

"(b) As used in this subsection, the term 'engaged in the business' means that the person who sells or transfers or offers to sell or transfer books, magazines, pictures, papers, films, videotapes, or phonograph or other audio recordings, devotes time, attention, or labor to such activities, as a regular course of trade or business, with the objective of earning a profit, although it is not necessary that the person make a profit or that the selling or transferring or offering to sell or transfer such material be the person's sole or principal business or source of income. The offering for sale of or to transfer, at one time, two or more copies of any obscene publication, or two or more of any obscene article, or a combined total of five or more such publications and articles, shall create a rebuttable presumption that the person so offering them is 'engaged in the business' as defined in subsection (b).

"(c) In a prosecution for a violation of this section, it shall be an affirmative defense, on which the defendant has the burden of persuasion by a preponderance of the evidence, that the person—

"(1) ordered or received the obscene matter without examining the matter in advance;

"(2) did not in fact offer the matter for sale, or transfer or offer to transfer it to another person other than the sender; and

"(3) possessed the material less than 21 days.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 71 of title 18, United States Code, is amended by adding after the item relating to section 1465 the following:

"1466. Receipt or possession of obscene matter for sale or distribution.

"1467. Criminal forfeiture.".

(c) USE OF FACILITY OF COMMERCE.—The first paragraph of section 1465 of title 18, United States Code, is amended by inserting after the word distribution: ", or knowingly travels in interstate commerce, or uses a facility or means of commerce for the purpose of interstate or foreign sale or distribution of,".

(d) DISTRIBUTION OF PROCEEDS.—Section 1465 of title 18, United States Code, is amended by inserting "or the proceeds from the sale thereof" after "character,".

(e) PRESUMPTIONS.—Chapter 71 of title 18, United States Code, as amended by subsection (a) of this section and by section 302, is further amended by adding at the end the following:

"§ 1469. Presumptions

"(a) In any prosecution under this chapter in which an element of the offense is that the matter in question was transported, shipped, or carried in interstate commerce, proof, by either circumstantial or direct evidence, that such matter was produced or manufactured in one State and is subsequently located in another State shall raise a rebuttable presumption that such matter was transported, shipped, or carried in interstate commerce.

"(b) In any prosecution under this chapter in which an element of the offense is that the matter in question was transported, shipped, or carried in foreign commerce, proof, by either circumstantial or direct evidence, that such matter was produced or manufactured outside of the United States and is subsequently located in the United States shall raise a rebuttable presumption that such matter was transported, shipped, or carried in foreign commerce.".

(f) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 71 of title 18, United States Code, is amended by adding after the item relating to section 1468 the following:

"1469. Presumptions.".

SEC. 522. FORFEITURE IN OBSCENITY CASES.

(a) IN GENERAL.—Chapter 71 of title 18, United States Code, is amended by adding at the end the following:

"§ 1467. Criminal forfeiture

"(a) PROPERTY SUBJECT TO CRIMINAL FORFEITURE.—A person who is convicted of an offense involving obscene material under this chapter shall forfeit to the United States such person's interest in—

"(1) any obscene material produced, transported, mailed, shipped or received in violation of this chapter;

"(2) any property, real or personal, constituting or traceable to gross profits or other proceeds obtained from such offense; and

"(3) any property, real or personal, used or intended to be used to commit or to promote the commission of such offense. A forfeiture under this subparagraph shall be authorized only by the Attorney General, the Deputy Attorney General, the Associate Attorney General, or the Assistant Attorney General or the Acting Assistant Attorney General in the Criminal Division.

"(b) THIRD PARTY TRANSFERS.—All right, title, and interest in property described in subsection (a) of this section vests in the United States upon the commission of the act giving rise to forfeiture under this section. Any such property that is subsequent-

ly transferred to a person other than the defendant may be the subject of a special verdict of forfeiture and thereafter shall be ordered forfeited to the United States, unless the transferee establishes in a hearing pursuant to subsection (m) of this section that he is a bona fide purchaser for value of such property who at the time of purchase was reasonably without cause to believe that the property was subject to forfeiture under this section.

"(c) PROTECTIVE ORDERS.—(1) Upon application of the United States, the court may enter a restraining order or injunction, require the execution of a satisfactory performance bond, or take any other action to preserve the availability of property described in subsection (a) of this section for forfeiture under this section—

"(A) upon the filing of an indictment or information charging a violation of this chapter for which criminal forfeiture may be ordered under this section and alleging that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section; or

"(B) prior to the filing of such an indictment or information, if, after notice to persons appearing to have an interest in the property and opportunity for a hearing, the court determines that—

"(i) there is a substantial probability that the United States will prevail on the issue of forfeiture and that failure to enter the order will result in the property being destroyed, removed from the jurisdiction of the court, or otherwise made unavailable for forfeiture; and

"(ii) the need to preserve the availability of the property through the entry of the requested order outweighs the hardship on any party against whom the order is to be entered;

except that an order entered under subparagraph (B) shall be effective for not more than 90 days, unless extended by the court for good cause shown or unless an indictment or information described in subparagraph (A) has been filed.

"(2) A temporary restraining order under this subsection may be entered upon application of the United States without notice or opportunity for a hearing when an information or indictment has not yet been filed with respect to the property, if the United States demonstrates that there is probable cause to believe that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section and that provision of notice will jeopardize the availability of the property for forfeiture. Such a temporary order shall expire not more than 10 days after the date on which it is entered, unless extended for good cause shown or unless the party against whom it is entered consents to an extension for a longer period. A hearing requested concerning an order entered under this paragraph shall be held at the earliest possible time and prior to the expiration of the temporary order.

"(3) The court may receive and consider, at a hearing held pursuant to this subsection, evidence and information that would be inadmissible under the Federal Rules of Evidence.

"(d) WARRANT OF SEIZURE.—The Government may request the issuance of a warrant authorizing the seizure of property subject to forfeiture under this section in the same manner as provided for a search warrant. If the court determines that there is probable cause to believe that the property to be seized would, in the event of conviction, be subject to forfeiture and that an order under subsection (c) of this section may not be sufficient to assure the availability of the property for forfeiture, the court shall issue a warrant authorizing the seizure of such property.

"(e) ORDER OF FORFEITURE.—The court shall order forfeiture of property referred to in subsection (a) if the trier of fact determines, beyond a reasonable doubt, that such property is subject to forfeiture.

"(f) EXECUTION.—Upon entry of an order of forfeiture under this section, the court shall authorize the Attorney General to seize all property ordered forfeited upon such terms and conditions as the court shall deem proper. Following entry of an order declaring the property forfeited, the court may, upon application of the United States, enter such appropriate restraining orders or injunctions, require the execution of satisfactory performance bonds, appoint receivers, conservators, appraisers, accountants, or trustees, or take any other action to protect the interest of the United States in the property ordered forfeited. Any income accruing to or derived from property ordered forfeited under this section may be used to offset ordinary and necessary expenses to the property which are required by law, or which are necessary to protect the interests of the United States or third parties.

"(g) DISPOSITION OF PROPERTY.—Following the seizure of property ordered forfeited under this section, the Attorney General shall destroy or retain for official use any property described in paragraph (1) of subsection (a) and shall direct the disposition of any property described in paragraph (2) of subsection (a) by sale or any other commercially feasible means, making due provision for the rights of any innocent persons. Any property right or interest not exercisable by, or transferable for value to, the United States shall expire and shall not revert to the defendant, nor shall the defendant or any person acting in concert with him or on his behalf be eligible to purchase forfeited property at any sale held by the United States. Upon application of a person, other than the defendant or person acting in concert with him or on his behalf, the court may restrain or stay the sale or disposition of the property pending the conclusion of any appeal of the criminal case giving rise to the forfeiture, if the applicant demonstrates that proceeding with the sale or disposition of the property will result in irreparable injury, harm, or loss to him.

"(h) AUTHORITY OF ATTORNEY GENERAL.—With respect to property ordered forfeited under this section, the Attorney General is authorized to—

"(1) grant petitions for mitigation or remission of forfeiture, restore forfeited property to victims of a violation of this chapter, or take any other action to protect the rights of innocent persons which is in the interest of justice and which is not inconsistent with the provisions of this section;

"(2) comprise claims arising under this section;

"(3) award compensation to persons providing information resulting in a forfeiture under this section;

"(4) direct the disposition by the United States, in accordance with the provisions of section 1616, title 19, United States Code, of all property ordered forfeited under this section by public sale or any other commercially feasible means, making due provision for the rights of innocent persons; and

"(5) take appropriate measures necessary to safeguard and maintain property ordered forfeited under this section pending its disposition.

"(i) APPLICABILITY OF CIVIL FORFEITURE PROVISIONS.—Except to the extent that they are inconsistent with the provisions of this section, the provisions of section 1468(d) of this title (18 U.S.C. 1468(d)) shall apply to a criminal forfeiture under this section.

"(j) BAR ON INTERVENTION.—Except as provided in subsection (m) of this section, no party claiming an interest in property subject to forfeiture under this section may—

"(1) intervene in a trial or appeal of a criminal case involving the forfeiture of such property under this section; or

"(2) commence an action at law or equity against the United States concerning the validity of his alleged interest in the property subsequent to the filing of an indictment or information alleging that the property is subject to forfeiture under this section.

"(k) JURISDICTION TO ENTER ORDERS.—The district courts of the United States shall have jurisdiction to enter orders as provided in this section without regard to the location of any property which may be subject to forfeiture under this section or which has been ordered forfeited under this section.

"(l) DEPOSITIONS.—In order to facilitate the identification and location of property declared forfeited and to facilitate the disposition of petitions for remission or mitigation of forfeiture, after the entry of an order declaring property forfeited to the United States, the court may, upon application of the United States, order that the testimony of any witness relating to the property forfeited be taken by deposition and that any designated book, paper, document, record, recording, or other material not privileged be produced at the same time and place, in the same manner as provided for the taking of depositions under Rule 15 of the Federal Rules of Criminal Procedure.

"(m) THIRD PARTY INTERESTS.—(1) Following the entry of an order of forfeiture under this section, the United States shall publish notice of the order and of its intent to dispose of the property in such manner as the Attorney General may direct. The Government may also, to the extent practicable, provide direct written notice to any person known to have alleged an interest in the property that is the subject of the order of forfeiture as a substitute for published notice as to those persons so notified.

SEC. 524. COMMUNICATIONS ACT AMENDMENT.

Section 223(b) of the Communications Act of 1934 (47 U.S.C. 223(b)) is amended to read as follows:

"(b)(1)(A) Whoever knowingly—

"(i) in the District of Columbia or in interstate or foreign communication, by means of telephone, makes (directly or by recording device) any obscene communication for commercial purposes to any person, regardless of whether the maker of such communication placed the call; or

"(ii) permits any telephone facility under such person's control to be used for an activity prohibited by clause (i);

shall be fined in accordance with title 18 of the United States Code, or imprisoned not more than two years, or both.

"(2)(A) Whoever knowingly—

"(i) in the District of Columbia or in interstate or foreign communication, by means of telephone, makes (directly or by recording device) any indecent communication for commercial purposes to any person, regardless of whether the maker of such communication placed the call; or

"(ii) permits any telephone facility under such person's control to be used for an activity prohibited by clause (i),

shall be fined not more than $50,000 or imprisoned not more than six months, or both.".

SEC. 525. ELECTRONIC SURVEILLANCE.

Subsection (1) of section 2516 of title 18, United States Code, is amended by redesignating paragraphs (i) and (j) as (j) and (k), respectively, and by adding a new paragraph (i) as follows:

"(i) any felony violation of chapter 71 (relating to obscenity) of this title;".

SEC. 526. POSSESSION AND SALE OF OBSCENE MATTERS IN FEDERAL JURISDICTION OR ON FEDERAL PROPERTY.

(a) IN GENERAL.—Chapter 71 of title 18, United States Code, is amended by inserting before section 1461 the following:

"§ 1460. Possession and sale of obscene matter on Federal property

"(a) Whoever, either—

"(1) in the special maritime and territorial jurisdiction of the United States, or on any land or building owned by, leased to, or otherwise used by or under the control of the Government of the United States; or

"(2) in the Indian country as defined in section 1151 of this title,

knowingly sells or possesses with intent to sell an obscene visual depiction or a visual depiction of a minor engaging in or assisting another person to engage in sexually explicit conduct, shall be punished by a fine in accordance with the provisions of this title or imprisoned for not more than 2 years, or both.

"(b) Except as provided in subsection (c), whoever, in an area described in subparagraph (1) or (2) of subsection (a) knowingly possesses an obscene visual depiction or a visual depiction of a minor engaging in or assisting another person to engage in sexually explicit conduct shall be punished by imprisonment for not more than 6 months or a fine of not more than $5,000 for an individual or $10,000 for a person other than an individual, or both.

"(c) Subsection (b) shall not apply in the case of a person who possesses an obscene visual depiction in any place where such person lives or resides.

"(d) For the purposes of this section—

"(1) the term 'visual depiction' includes undeveloped film and videotape but does not include mere words; and

"(2) the terms 'minor' and 'sexually explicit conduct' have the meaning given those terms in chapter 110 of this title.

"(e) In a prosecution for a violation of this section involving an obscene visual depiction, it shall be an affirmative defense, on which the defendant has the burden of persuasion by a preponderance of the evidence, that the person—

"(1) ordered or received the obscene matter without examining the matter in advance;

"(2) did not in fact offer the matter for sale, or transfer or offer to transfer it to another person other than the sender; and

"(3) possessed the material less than 21 days.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 71 of title 18, United States Code, is amended by adding before the item relating to section 1461 the following:

"1460. Possession and sale of obscene matter on Federal property.".

SEC. 527. CIVIL FORFEITURE.

(a) IN GENERAL.—Chapter 71 of title 18, United States Code, is amended by adding the following new section at the end thereof:

"§ 1470. Civil forfeiture

"(a) PROPERTY SUBJECT TO CIVIL FORFEITURE.—The following property shall be subject to forfeiture by the United States:

"(1) Any material that has been adjudged obscene in any criminal case, Federal or State, that is produced, transported, mailed, shipped, or received in violation of this chapter.

"(2) Any property, real or personal, constituting or traceable to gross profits or other proceeds obtained from a violation of this chapter involving material that has been adjudged obscene in any criminal case, State or Federal, except that no property shall be forfeited under this paragraph, to the extent of the interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner.

"(b) SEIZURE PURSUANT TO SUPPLEMENTAL RULES FOR CERTAIN ADMIRALTY AND MARITIME CLAIMS.—Any property subject to forfeiture to the United States under this section may be seized by the Attorney General upon process issued pursuant to the Supplemental Rules for Certain Admiralty and Maritime Claims by any district court of the United States having jurisdiction over the property, except that seizure without such process may be made when the seizure is pursuant to a search under a search warrant. The government may request the issuance of a warrant authorizing the seizure of property subject to forfeiture under this section in the same manner as provided for a search warrant under the Federal Rules of Criminal Procedure.

"(c) CUSTODY OF ATTORNEY GENERAL.—Property taken or detained under this section shall not be repleviable, but shall be deemed to be in the custody of the Attorney General, subject only to the orders and decrees of the court or the official having jurisdiction thereof. Whenever property is seized under any of the provisions of this subchapter, the Attorney General may—

"(1) place the property under seal;

"(2) remove the property to a place designated by him; or

"(3) require that the General Services Administration take custody of the property and remove it, if practicable, to an appropriate location for disposition in accordance with law.

"(d) OTHER LAWS AND PROCEEDINGS APPLICABLE.—All provisions of the customs laws relating to the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws, the disposition of such property or the proceeds from the sale thereof, the remission or mitigation of such forfeitures, and the compromise of claims, shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under this section, insofar as applicable and not inconsistent with the provisions of this section, except that such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this section by such officers, agents, or other persons as may be authorized or designated for that purpose by the Attorney General or the Postal Service, except to the extent that such duties arise from seizures and forfeitures effected by any customs officer.

"(e) APPLICABILITY OF CERTAIN SECTIONS.—Sections 1606, 1607, 1608, 1609, 1613, 1614, 1617, and 1618 of title 19 shall not apply with respect to obscene material subject to forfeiture under subsection (a)(1) of this section.

"(f) DISPOSITION OF FORFEITED PROPERTY.—Whenever property is forfeited under this section the Attorney General shall destroy or retain for official use any article described in paragraph (1) of subsection (a), and with respect to property described in paragraphs (2) and (3) of subsection (a) may—

"(1) retain the property for official use or transfer the custody or ownership of any forfeited property to a Federal, State, or local agency pursuant to section 1616 of title 19;

"(2) sell any forfeited property which is not required to be destroyed by law and which is not harmful to the public; or

"(3) require that the General Services Administration take custody of the property and dispose of it in accordance with law.

The Attorney General shall ensure the equitable transfer pursuant to paragraph (1) of any forfeited property to the appropriate State or local law enforcement agency so as to reflect generally the contribution of any such agency participating directly in any of the acts which led to the seizure or forfeiture of such property. A decision by the Attorney General pursuant to paragraph (1) shall not be subject to judicial review. The Attorney General shall forward to the Treasurer of the United States for deposit in accordance with section 524(c) of title 28 the proceeds from any sale under paragraph (2) and any moneys forfeited under this subchapter.

"(g) TITLE TO PROPERTY.—All right, title, and interest in property described in subsection (a) of this section shall vest in the United States upon commission of the act giving rise to forfeiture under this section.

"(h) STAY OF PROCEEDINGS.—The filing of an indictment or information alleging a violation of this chapter which is also related to a civil forfeiture proceeding under this section shall, upon motion of the United States and for good cause shown, stay the civil forfeiture proceeding.

"(i) VENUE.—In addition to the venue provided for in section 1395 of title 28 or any other provision of law, in the case of property of a defendant charged with a violation that is the basis for forfeiture of the property under this section, a proceeding for forfeiture under this section may be brought in the judicial district in which the defendant owning such property is found or in the judicial district in which the criminal prosecution is brought.".

(b) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 71 of title 18, United States Code, is amended by inserting after the item relating to section 1469 the following:

"1470. Civil forfeiture.".

(c) REPEAL.—The last paragraph of section 1465 of title 18, United States Code, is repealed.

§ 528. CIVIL FINES.

Chapter 71 of title 18, United States Code, is amended by inserting at the end the following new section:

"Section 1471. Civil fines.

"(a) Whoever produces, transports, mails, ships or receives any article that has been adjudged obscene in any state or federal

criminal case shall be subject to a civil penalty of—

"(1) for a first violation, not more than $10,000;

"(2) for a second violation, not more than $50,000; and

"(3) for a third or subsequent violation, not more than $250,000 in the case of an individual, or $500,000 in the case of an organization.

"(b) An action to recover a fine imposable under subsection (a) shall be brought in the name of the United States. The Attorney General may commence such a civil action in the district court in any district where the violation occurs. Such an action must be commenced within 5 years of the violation. The Attorney General may compromise, modify, or remit with or without condition any civil penalty imposed under this section.

"(c) In any civil action under this section, the defendant shall have a right to a trial by jury, and the government shall have the burden of proof, by a preponderance of the evidence, that the article is obscene under the standards of the community in which the trial takes place."

SEC. 529. SEVERABILITY.

If any of the provisions of this Act are found invalid, such finding shall not affect the validity or effect of the remaining provisions thereof.

TITLE V—CHILD CARE PROVISIONS

SEC. 501. SHORT TITLE.

This title may be cited as the "Act for Better Child Care Services of 1988".

SEC. 502. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the number of children living in homes where both parents work, or living in homes with a single parent who works, has increased dramatically over the last decade;

(2) the availability of quality child care is critical to the self-sufficiency and independence of millions of American families, including the growing number of mothers with young children who work out of economic necessity;

(3) high quality child care programs can strengthen our society by providing young children with the foundation on which to learn the basic skills necessary to be productive workers;

(4) the years from birth to age 6 are a critical period in the development of a young child;

(5) a significant number of parents do not have a real choice as they seek adequate child care for their young children because of limited incomes, insufficient State child care standards, and the inadequate supply of child care services in their community;

(6) high quality early childhood development programs provided during such period are cost effective because such programs can reduce the chances of juvenile delinquency and adolescent pregnancy and can improve the likelihood that children will finish high school and become employed;

(7) the number of quality child care arrangements falls far short of the number required for children in need of child care services;

(8) the rapid growth of participation in the labor force by mothers of children under the age of 1 has resulted in a critical shortage of quality child care arrangements for infants and toddlers;

(9) the lack of available child care services results in many preschool and school-age children being left without adequate supervision for significant parts of the day;

(10) many working parents who are unable to afford adequate child care services do not receive adequate financial assistance for such services from employers or public sources;

(11) because of the lack of affordable child care, a large number of parents are not able to work or to seek the training or education they need to become self sufficient;

(12) making adequate child care services available for parents who are employed, seeking employment, or seeking to develop employment skills promotes and strengthens the well-being of families and the national economy;

(13) the payment of the exceptionally low salaries to child care workers adversely affects the quality of child care services by making it difficult to retain qualified staff;

(14) several factors result in the shortage of quality child care options for children and parents, including—

(A) the inability of parents to pay for child care services;

(B) the lack of up-to-date information on child care services;

(C) the lack of training opportunities for staff in child care programs;

(D) the high rate of staff turnover in child care facilities; and

(E) the wide differences among the States in child care licensing and enforcement policies; and

(15) improved coordination of child care services will help to promote the most efficient use of child care resources.

(b) PURPOSES.—The purposes of this subtitle are—

(1) to build on and to strengthen the role of the family by seeking to ensure that parents are not forced by lack of available programs or financial resources to place a child in an unsafe or unhealthy child care facility or arrangement;

(2) to promote the availability and diversity of quality child care services to expand child care options available to all families who need such services;

(3) to provide assistance to families whose financial resources are not sufficient to enable such families to pay the full cost of necessary child care services;

(4) to lessen the chances that children will be left to fend for themselves for significant parts of the day;

(5) to improve the productivity of parents in the labor force by lessening the stresses related to the absence of adequate child care services;

(6) to provide assistance to States to improve the quality of, and coordination among, child care programs;

(7) to increase the opportunities for attracting and retaining qualified staff in the field of child care to provide high quality child care services to children; and

(8) to strengthen the competitiveness of the United States by providing young children with a sound early childhood development experience.

SEC. 503. DEFINITIONS.

As used in this subtitle:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of Child Care appointed under section 514(a).

(2) CAREGIVER.—The term "caregiver" means an individual who provides a service directly to an eligible child on a person-to-person basis.

(3) CENTER-BASED CHILD CARE PROVIDER.—The term "center-based child care provider" means a child care provider that provides child care services in a nonresidential facility.

(4) CHILD CARE CERTIFICATE.—The term "child care certificate" means a certificate that is issued by the State to parents who may use such certificate only as payment for child care services for an eligible child and that provides to an eligible child care provider a right to reimbursement for such services at the same rate charged by that provider for comparable services to children whose parents are not eligible for certificates under this subtitle or for child care assistance under any other Federal or State program.

(5) COMMUNITY-BASED ORGANIZATION.—The term "community-based organization" has the meaning given such term by section 4(5) of the Job Training and Partnership Act (29 U.S.C. 1503(5)).

(6) ELEMENTARY SCHOOL.—The term "elementary school" means a day or residential school that provides elementary education, as determined under State law.

(7) ELIGIBLE CHILD.—The term "eligible child" means an individual—

(A) who is less than 16 years of age;

(B) whose family income does not exceed 100 percent of the State median income for a family of the same size; and

(C) who—

(i) resides with a parent or parents who are working, seeking employment, or enrolled in a job training or educational program; or

(ii) is receiving, or needs to receive, protective services and resides with a parent or parents not described in clause (i).

(8) ELIGIBLE CHILD CARE PROVIDER.—The term "eligible child care provider" means a center-based child care provider, a group home child care provider, a family child care provider, or other provider of child care services for compensation that—

(A) is licensed or regulated under State law;

(B) satisfies—

(i) the Federal requirements, except as provided in subparagraph (C); and

(ii) the State and local requirements;

applicable to the child care services it provides; and

(C) after the expiration of the 4-year period beginning on the date the Secretary establishes minimum child care standards under section 517(e)(2), complies with such standards that are applicable to the child care services it provides.

(9) FAMILY CHILD CARE PROVIDER.—The term "family child care provider" means 1 individual who provides child care services for fewer than 24 hours per day, as the sole caregiver, and in the private residence of such individual.

(10) FAMILY SUPPORT SERVICES.—The term "family support services" means services that assist parents by providing support in parenting and by linking parents with community resources and with other parents.

(11) FULL-WORKING-DAY.—The term "full-working-day" means at least 10 hours per day.

(12) GROUP HOME CHILD CARE PROVIDER.—The term "group home child care provider" means 2 or more individuals who jointly provide child care services for fewer than 24 hours per day and in a private residence.

(13) HANDICAPPING CONDITION.—The term "handicapping condition" means any condition set forth in section 602(a)(1) of the Education of the Handicapped Act (20 U.S.C. 1401(a)(1)) or section 672(1) of the Education of the Handicapped Act (20 U.S.C. 1471(a)).

(14) INDIAN TRIBE.—The term "Indian tribe" has the meaning given it in section 4(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(b)).

(15) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" has the meaning given such term in section 481(a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1088(a)(1)), except that with respect to a tribally controlled community college such term has the meaning given it in section 2(a)(5) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801(a)(5)).

(16) LEAD AGENCY.—The term "lead agency" means the agency designated under section 506(a).

(17) LOCAL EDUCATIONAL AGENCY.—The term "local educational agency" has the meaning given that term in section 198(a)(10) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2854(a)(10)).

(18) PARENT.—The term "parent" includes a legal guardian or other person standing in loco parentis.

(19) SCHOOL-AGE CHILD CARE SERVICES.—The term "school-age child care services" means child care services that are—

"(A) provided during such times of the school day when regular instructional services are not in session; and

"(B) not intended as an extension of or replacement for the regular academic program, but are intended to provide an environment which enhances the social, emotional, and recreational development of children of school age;

(20) SECONDARY SCHOOL.—The term "secondary school" means a day or residential school which provides secondary education, as determined under State law.

(21) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services unless the context specifies otherwise.

(22) SCHOOL FACILITIES.—The term "school facilities" means classrooms and related facilities used to provide education.

(23) SLIDING FEE SCALE.—The term "sliding fee scale" means a system of cost sharing between the State and a family based on income and size of the family with the very low income families having to pay no cost.

(24) STATE.—The term "State" means any of the several States, the District of Columbia, the Virgin Islands of the United States, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, or Palau.

(25) UNIT OF GENERAL PURPOSE LOCAL GOVERNMENT.—The term "unit of general purpose local government" means any city, county, town, township, parish, village, a combination of such general purpose political subdivisions including those in two or more States, or other general purpose political subdivisions of a State.

(26) TRIBAL ORGANIZATION.—The term "tribal organization" has the meaning given it in section 4(c) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(c)).

(27) TRIBALLY CONTROLLED COMMUNITY COLLEGE.—The term "tribally controlled community college" has the meaning given it in section 2(a)(4) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801(a)(4)).

SEC. 504. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—To carry out this subtitle, other than section 521, there are authorized to be appropriated $2,500,000,000 for the fiscal year 1990 and such sums as may be necessary in each of the fiscal years 1991 through 1994.

SEC. 505. AMOUNTS RESERVED; ALLOTMENTS.

(a) AMOUNTS RESERVED.—

(1) TERRITORIES AND POSSESSIONS.—The Secretary shall reserve not to exceed one half of 1 percent of the amount appropriated under section 504(a) in each fiscal year for payments to Guam, American Samoa, the Virgin Islands of the United States, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, and Palau, to be allotted in accordance with their respective needs.

(2) INDIANS.—The Secretary shall reserve an amount, not less than 1.5 percent and not more than 3 percent of the amount appropriated under section 504(a) in each fiscal year, to carry out subsection (c) regarding Indian children.

(b) STATE ALLOTMENT.—

(1) GENERAL RULE.—From the remainder of the sums appropriated under section 504(a) for each fiscal year, the Secretary shall allot to each State (excluding jurisdictions referred to in subsection (a)(1)) an amount equal to the sum of—

(A) an amount that bears the same ratio to 50 percent of such remainder as the product of the young child factor of the State and the allotment percentage bears to the sum of the corresponding products for all States; and

(B) an amount that bears the same ratio to 50 percent of such remainder as the product of the school lunch factor of the State and the allotment percentage bears to the sum of the corresponding products for all the States.

(2) YOUNG CHILD FACTOR.—The term "young child factor" means the ratio of the number of children in the State who are less than 5 years of age to the number of children in all the States who are less than 5 years of age.

(3) SCHOOL LUNCH FACTOR.—The term "school lunch factor" means the ratio of the number of children in the State who are receiving free or reduced price lunches under the school lunch program established under the National School Lunch Act (42 U.S.C. 1751 et seq.) to the number of children in all the States who are receiving free or reduced price lunches under such program.

(4) ALLOTMENT PERCENTAGE.—

(A) IN GENERAL.—The allotment percentage for a State is determined by dividing—

(i) the per capita income of all individuals in the United States; by

(ii) the per capita income of all individuals in the State.

(B) LIMITATIONS.—If a sum determined under subparagraph (A)—

(i) exceeds 1.2, then the allotment percentage of that State shall be considered to be 1.2; and

(ii) is less that 0.8, then the allotment percentage of the State shall be considered to be 0.8.

(C) PER CAPITA INCOME.—For purposes of subparagraph (A), per capita income shall be—

(i) determined at 2-year intervals;

(ii) applied for the 2-year period beginning on October 1 of the first fiscal year beginning on the date such determination is made; and

(iii) equal to the average of the annual per capita incomes for the most recent period of 3 consecutive years for which satisfactory data are available from the Department of Commerce at the time such determination is made.

(c) PAYMENTS FOR THE BENEFIT OF INDIAN CHILDREN.—

(1) TRIBAL ORGANIZATIONS.—From the funds reserved under subsection (a)(2), the Secretary may, upon the application of an Indian tribe or tribal organization enter into a contract with, or make a grant to such Indian tribe or tribal organization for a period of 3 years, subject to satisfactory performance, to plan and carry out programs and activities that are consistent with this subtitle. Such contract or grant shall be subject to the terms and conditions of section 102 of the Indian Self-Determination Act (25 U.S.C. 450f) and shall be conducted in accordance with sections 4, 5, and 6 of the Act of April 16, 1934 (48 Stat. 596; 25 U.S.C. 655-657), that are relevant to such programs and activities.

(2) INDIAN RESERVATIONS.—In the case of an Indian tribe in a State other than the States of Oklahoma, Alaska, and California, such programs and activities shall be carried out on the Indian reservation for the benefit of Indian children.

(3) STANDARDS.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall establish, through the application process, standards applicable to child care services provided under such programs and activities. For purposes of establishing such standards, the Secretary shall take into consideration—

(i) the codes, regulations, and cultural factors of the Indian tribe involved, as expressed by such tribe or the tribal organization that represents such tribe; and

(ii) the State licensing and regulatory requirements applicable to child care services provided in the State in which such program and activities are carried out.

(B) APPLICATION.—

(i) RULE.—Except as provided in clause (ii), after the Secretary establishes minimum child care standards under section 517(e)(2), such minimum standards shall apply with respect to child care services provided under such programs and activities.

(ii) WAIVERS AND MODIFICATIONS.—The Secretary may waive or modify, for a period not to exceed 5 years beginning on the date such minimum standards are established, any of such minimum standards that would limit the capacity of an Indian tribe or tribal organization to receive funds under this subtitle if the Secretary determines that there is a reasonable expectation that each of such standards requested to be waived will be met by the applicant by the end of the period for which the waiver is requested.

(4) AVAILABILITY OF STATE CHILD CARE SERVICES.—For the purpose of determining whether to approve an application for a contract or grant under this subsection, the Secretary shall take into consideration the availability of child care services provided in accordance with this subtitle by the State in which the applicant proposes to carry out a program to provide child care services.

(5) RULE OF CONSTRUCTION.—This subsection shall not be construed—

(A) to limit the eligibility of any individual to participate in any program carried out with assistance received under this subtitle by a State; or

(B) to modify any requirement imposed on a State by any provision of this subtitle.

(6) COORDINATION.—To the maximum extent practicable, the applicant for a grant or contract under this subsection and the State in which the applicant is located shall

coordinate with each other their respective child care programs and activities, including child care programs and activities carried out with assistance received under this subtitle.

(d) DATA AND INFORMATION.—The Secretary shall obtain from each appropriate Federal agency, the most recent data and information necessary to determine the allotments provided for in subsection (b).

(e) REALLOTMENTS.—

(1) IN GENERAL.—Any portion of the allotment under subsection (b) to a State that the Secretary determines is not required to carry out a State plan approved under section 507(d), in the period for which the allotment is made available, shall be reallotted by the Secretary to other States in proportion to the original allotments to the other States.

(2) LIMITATIONS.—

(A) REDUCTION.—The amount of any reallotment to which a State is entitled to under paragraph (1) shall be reduced to the extent that it exceeds the amount that the Secretary estimates will be used in the State to carry out a State plan approved under section 507(d).

(B) REALLOTMENTS.—The amount of such reduction shall be similarly reallotted among States for which no reduction in an allotment or reallotment is required by this subsection.

(3) AMOUNTS REALLOTTED.—For purposes of any other section of this subtitle, any amount reallotted to a State under this subsection shall be considered to be part of the allotment made under subsection (b) to the State.

(f) DEFINITION.—For the purposes of this section, the term "State" means any of the several 50 States, the District of Columbia, or the Commonwealth of Puerto Rico.

SEC. 506. LEAD AGENCY.

(a) DESIGNATION.—The chief executive officer of a State desiring to participate in the program authorized by this subtitle shall designate, in an application submitted to the Secretary under section 507(a), an appropriate State agency that meets the requirements of subsection (b) to act as the lead agency.

(b) REQUIREMENTS.—

(1) ADMINISTRATION OF FUNDS.—The lead agency shall have the capacity to administer the funds provided under this subtitle to support programs and services authorized under this subtitle and to oversee the plan submitted under section 507(b).

(2) COORDINATION.—The lead agency shall have the capacity to coordinate the services for which assistance is provided under this subtitle with the services of other State and local agencies involved in providing services to children.

(3) ESTABLISHMENT OF POLICIES.—The lead agency shall have the authority to establish policies and procedures for developing and implementing interagency agreements with other agencies of the State to carry out the purposes of this subtitle.

(c) DUTIES.—The lead agency shall—

(1) assess child care needs and resources in the State, and assess the effectiveness of existing child care services and services for which assistance is provided under this subtitle or under other laws, in meeting such needs;

(2) develop a plan designed to meet the need for child care services in the State for eligible children, including infants, preschool children, and school-age children, giving special attention to meeting the needs for services for low-income children, migrant children, children with a handicapping condition, foster children, children in need of protective services, children of adolescent parents who need child care to remain in school, and children with limited English-language proficiency;

(3) develop, in consultation with the State advisory committee on child care established under section 511, the State plan submitted to the Secretary under section 507(b);

(4) hold hearings, in cooperation with such State advisory committee on child care, annually in each region of the State in order to provide to the public an opportunity to comment on the provision of child care services in the State under the proposed State plan;

(5) make such periodic reports to the Secretary as the Secretary may by rule require;

(6) coordinate the provision of services under this subtitle with—

(A) other child care programs and services, and with educational programs, for which assistance is provided under any State, local, or other Federal law, including the State Dependent Care Development Grants Act (42 U.S.C. 9871 et seq.); and

(B) other appropriate services, including social, health, mental health, protective, and nutrition services, available to eligible children under other Federal, State, and local programs; and

(7) identify resource and referral programs for particular geographical areas in the State that meet the requirements of section 512.

SEC. 507. APPLICATION AND PLAN.

(a) APPLICATION.—To be eligible to receive assistance under this subtitle, a State shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require by rule.

(b) PLAN.—The application of a State submitted under subsection (a) shall include an assurance that the State will comply with the requirements of this subtitle and a State plan that is designed to be implemented during a 4-year period and that meets the requirements of subsection (c).

(c) REQUIREMENTS OF A PLAN.—

(1) LEAD AGENCY.—The plan shall identify the lead agency designated in accordance with section 506(a).

(2) ADVISORY BODIES.—The plan shall demonstrate that the State will establish in accordance with section 511 a State advisory committee on child care.

(3) POLICIES AND PROCEDURES.—The plan shall set forth policies and procedures designed to ensure all of the following:

(A) That—

(i) all providers of child care services for which assistance is provided under this subtitle comply with all licensing and regulatory requirements (including registration requirements) applicable under State and local law; and

(ii) such requirements are imposed and enforced by the State uniformly on all child care providers that provide child care services under similar child care arrangements.

This subparagraph shall not be construed to prohibit a State from imposing more stringent standards or requirements on child care providers who provide services for which assistance is provided under this subtitle and who also receive State funds under any other law to provide child care services under a contract or other arrangement with the State.

(B) That procedures will be established to ensure that child care providers receiving assistance under this subtitle or under other publicly-assisted child care programs comply with the minimum child care standards established under section 517(e)(2) after the expiration of the 5-year period beginning on the date the Secretary establishes such standards, and comply with all applicable State and local licensing and regulatory requirements (including registration requirements).

(C) That the State will not—

(i) reduce the categories of child care providers licensed or regulated by the State on the date of enactment of this subtitle; or

(ii) reduce the level of standards applicable to child care services provided in the State and to the matters specified in sections 513(a) and 517(d), even if such standards exceed the minimum standards established under section 517(e)(2) by the Secretary unless the State demonstrates, to the satisfaction of both the Secretary and the State advisory committee on child care established under section 511, that the reduction is based on positive developmental practice.

(D) That funds received under this subtitle by the State will be used only to supplement, not to supplant, the amount of Federal, State, and local funds expended for the support of child care services and related programs in the State, except that States may use existing expenditures in support of child care services to satisfy the State matching requirement under section 516(b).

(E) That for each fiscal year the State will use an amount not to exceed 10 percent of the amount of funds received under section 505 by the State for such fiscal year to administer the State plan.

(F) That the State will pay funds under this subtitle to eligible child care providers in a timely fashion to ensure the continuity of child care services to eligible children.

(G) That resource and referral agencies will be made available to families in all regions of the State.

(H) That each eligible child care provider who provides services for which assistance is provided under paragraph (4)—

(i) provides services to children of families with very low income, taking into account family size;

(ii) after the expiration of the 4-year period beginning on the date the Secretary establishes minimum child care standards under section 517(e)(2), complies with such standards except as provided in clause (iv);

(iii) if such eligible child care provider is regulated by a State educational agency that—

(I) administers any State law applicable to child care services;

(II) develops child care standards that meet or exceed the minimum standards established under section 517(e)(2) and the State licensing or regulatory requirements (including registration requirements); and

(III) enforces the standards described in subclause (II) that are developed by such agency, using policies and practices that meet or exceed the requirements specified in subparagraphs (A) through (K) of paragraph (11);

complies with the standards described in subclause (II) that are developed by such agency; and

(iv) complies with the State plan and the requirements of this subtitle.

(I) That child care services for which assistance is provided under paragraph (4) are available to children with a handicapping condition.

(J) That State regulations will be issued governing the provision of school-age child care services if the State does not already have such regulations.

(K) That child care providers in the State are encouraged to develop personnel policies that include compensated time for staff undergoing training required under this subtitle.

(L) Encourage the payment of adequate salaries and other compensation—

(i) to full and part-time staff of child care providers who provide child care services for which assistance is provided under paragraph (4);

(ii) to the extent practicable, to such staff in other major Federal and State child care programs; and

(iii) to other child care personnel, at the option of the State.

(M) That child care services for which assistance is provided under paragraph (4) are available for an adequate number of hours and days to serve the needs of parents of eligible children, including parents who work nontraditional hours.

(4) CHILD CARE SERVICES.—The plan shall provide that—

(A) subject to subparagraph (B), the State will use at least 70 percent of the amount allotted to the State in any fiscal year to provide child care services that meet the requirements of this subtitle to eligible children in the State on a sliding fee scale basis and using funding methods provided for in section 508(a)(1), with priority being given for services to children of families with very low family incomes, taking into consideration the size of the family; and

(B) the State will use at least 10 percent of the funds reserved for the purposes specified in subparagraph (A) in any fiscal year to provide for the extension of part-day programs as described in section 508(b).

(5) ACTIVITIES TO IMPROVE THE QUALITY OF CHILD CARE.—The plan shall provide that the State will use not more than 10 percent of the amount allotted to it in any fiscal year to do each of the following:

(A) Provide financial assistance, pursuant to procedures established under the State Dependent Care Development Grants Act (42 U.S.C. 9801 note), to private nonprofit organizations or public organizations (including units of general purpose local government) that meet the requirements of section 512 for the development, establishment, expansion, operation, and coordination of resource and referral programs specifically related to child care.

(B) Improve the monitoring of compliance with, and enforcement of, the licensing and regulatory requirements (including registration requirements) of the State.

(C) Provide training, technical assistance, and scholarship assistance in accordance with the requirements of subsections (b), (c), and (d) of section 513.

(D) Ensure that adequate salaries and other compensation are paid to full- and part-time staff who provide child care services for which assistance is provided under paragraph (4).

(6) ACTIVITIES TO INCREASE THE AVAILABILITY OF CHILD CARE.—The plan shall provide that the State will use not more than 10 percent of the amount allotted to it in any fiscal year for any of the following activities, together with an assurance that the State will give priority to the activities described in subparagraphs (A) and (B):

(A) Making grants and low interest loans to family child care providers and nonprofit child care providers to help such providers pay the cost of—

(i) establishing child care programs; and

(ii) making renovations and improvements in existing facilities to be used to carry out such programs.

(B) Making grants and low-interest loans to child care providers to assist such providers in meeting Federal, State, and local child care standards, giving priority to providers receiving assistance under this subtitle or under other publicly assisted child care programs and which serve children of families that have very low incomes.

(C) Providing assistance for the establishment and operation of after school child care programs.

(D) Making grants or loans to fund the start up costs of employer sponsored child care programs.

(E) Providing assistance for the temporary care of children who are sick and unable to attend child care programs in which such children are enrolled.

(F) Providing assistance for the establishment and operation of child care programs for homeless children.

(G) Providing assistance to link child care programs with programs designed to assist the elderly.

(H)(i) Establishing and administering a revolving loan fund from which any person desiring to make capital improvements to the principal residence of such person (within the meaning of section 1034 of the Internal Revenue Code of 1986) may obtain a loan in order to become a licensed family child care provider, pursuant to State and local law, and to comply with the minimum standards applicable to such providers as established under section 517(e)(2).

(ii) To permit the use of funds provided under this subtitle for the activity described in clause (i), the State shall set forth procedures and guidelines to carry out the purposes of such clause, including procedures—

(I) that provide assurances that only applicants who obtain a license for the operation of a child care facility in accordance with the provisions of State and local law and who will meet the minimum standards applicable to family child care services established under section 517(e)(2), benefit from loans made available pursuant to the provisions of clause (i);

(II) to assure that the revolving fund will be administered by the State and will provide loans to qualified applicants, pursuant to the terms and conditions established by such State, in an amount, determined by such State, that is not in excess of $1,500;

(III) to assure that funds used to carry out the purpose of clause (i) are transferred to such fund to provide capital for making loans;

(IV) to assure that interest and principal payments on loans and any other moneys, property, or assets derived from any action concerning such funds are deposited into such fund;

(V) to assure that all loans, expenses, and payments pursuant to the operation of the revolving loan fund are paid from such fund;

(VI) to assure that loans made from such fund are made to qualified applicants to enable such applicants to make capital improvements so that such applicant may obtain a State or local family child care provider license and so that such applicant may meet the minimum standards applicable to such providers established under section 517(e)(2); and

(VII) that specify how such revolving loan fund will continue to be financed in subsequent years, such as through contributions by the State or by some other entity.

(7) DISTRIBUTION OF FUNDS.—The plan shall provide that funds will be distributed—

(A) to a variety of types of child care providers in each community, including center-based child care providers, group home child care providers, and family child care providers; and

(B) equitably among child care providers to provide child care services in rural and urban areas.

(8) REIMBURSEMENTS.—The plan shall provide that for child care services for which assistance is provided under this subtitle, an eligible child care provider shall have a right to reimbursement at the same rate charged by that provider for comparable services to children of comparable ages and special needs whose parents are not eligible for certificates under this subtitle or for child care assistance under any other Federal or State program.

(9) PRIORITY.—The plan shall provide that priority will be given, in distributing funds in the State, to child care providers that—

(A) in providing child care services assisted by such funds, will give priority to eligible children of families with very low income;

(B) to the maximum extent feasible, provide child care services to a reasonable mix of children, including children from different socioeconomic backgrounds and children with a handicapping condition;

(C) provide opportunities for parent involvement in all aspects of providing such services; and

(D) to the maximum extent feasible, offer family support services.

(10) SLIDING FEE SCALE.—The plan shall provide for the establishment of a sliding fee scale that requires cost sharing based on the services provided to and the income of the families (adjusted for family size) of eligible children who receive services for which assistance is provided under this subtitle.

(11) PARENTAL INVOLVEMENT.—The plan shall establish procedures for parental involvement in State and local planning, monitoring, and evaluation of child care programs and services in the State.

(12) ENFORCEMENT OF LICENSING AND OTHER REGULATORY REQUIREMENTS (INCLUDING REGISTRATION REQUIREMENTS).—The plan shall provide that the State, not later than 4 years after the date of enactment of this subtitle, shall have in effect enforcement policies and practices that will be applicable to all licensed or regulated child care providers (including child care providers required to register) in the State, including policies and practices that—

(A) require personnel who perform inspection functions with respect to licensed or regulated child care services to have or receive training in health and safety, child abuse prevention and detection, program management, and relevant law enforcement;

(B) to the maximum extent feasible, have personnel requirements to ensure that individuals who are hired as licensing inspectors are qualified to inspect and have inspection responsibility exclusively for children's services;

(C) require—

(i) personnel who perform inspection functions with respect to licensed or regulated child care services to make not less than 1 unannounced inspection of each center-based child care provider and each group home child care provider in the State annually; and

(ii) personnel who perform inspection functions with respect to licensed or regulated child care services to make unannounced inspections annually of not less than 20 percent of licensed and regulated family child care providers in the State;

(D) require licensed or regulated child care providers (including registered child care providers) in the State—

(i) to have written policies and program goals and to make a copy of such policies and goals available to parents; and

(ii) to provide parents with unlimited access to their children and to providers caring for their children, during normal hours of operation of such providers and whenever children of such parents are in the care of such providers;

(E) implement a procedure to address complaints that will provide a reasonable opportunity for a parent, or child care provider, that is adversely affected or aggrieved by a decision of the lead agency or any program assisted under this subtitle, to be heard by the State;

(F) prohibit the operator of a child care facility to take any action against an employee of such operator that would adversely affect the employment, or terms or conditions of employment, of such employee because such employee communicates a failure of such operator to comply with any applicable licensing or regulatory requirement;

(G) implement a consumer education program designed to inform parents and the general public about licensing requirements, complaint procedures, and policies and practices required by this paragraph;

(H) require a child care provider to post, on the premises where child care services are provided, the telephone number of the appropriate licensing or regulatory agency that parents may call regarding a failure of such provider to comply with any applicable licensing or regulatory requirement; and

(I) require the State to maintain a record of parental complaints and to make information regarding substantiated parental complaints available to the public on request.

(13) DATA COLLECTION.—The plan shall provide for the establishment of procedures for data collection by the State designed to show—

(A) by race, sex, ethnic origin, handicapping condition, and family income, how the child care needs of families in the State are being fulfilled, including information on—

(i) the number of children being assisted with funds provided under this subtitle, and under other State and Federal child care and preschool programs;

(ii) the type and number of child care programs, child care providers, caregivers, and support personnel located in the State;

(iii) the regional cost of child care; and

(iv) such other information as the Secretary considers necessary to establish how funds provided under this subtitle are being used;

(B) the extent to which the availability of child care has been increased; and

(C) how the purposes of this subtitle and the objectives of the State set forth in the State plan are being met, including efforts to improve the quality, availability, and accessibility of child care;

and shall provide that data collected by the State under this paragraph shall be submitted to the Secretary.

(d) APPROVAL OF APPLICATION.—The Secretary shall approve an application that satisfies the requirements of this section.

(e) SPECIAL RULE.—In carrying out the provisions of this section, the Secretary shall approve any application with respect to the activities described in the plan submitted under paragraph (5) of subsection (c), if the Secretary determines that the State is making reasonable progress in carrying out the activities which are described in subparagraphs (A) and (D) of paragraph (5).

SEC. 508. SPECIAL RULES FOR USE OF STATE ALLOTMENTS.

(a) FUNDING OF CHILD CARE SERVICES.—

(1) IN GENERAL.—The child care services referred to in section 507(c)(4) that are to be provided out of the allotment to a State, shall be provided—

(A) by contracts with or grants to eligible child care providers who agree to provide such services directly to eligible children;

(B) by grants to units of general purpose local government that agree to enter into contracts with eligible child care providers who agree to provide such services directly to eligible children; or

(C) by distributing child care certificates to parents of eligible children under such terms as the Secretary may prescribe to enable the recipients of such certificates to purchase child care services from eligible child care providers.

(2) LIMITATION ON CERTIFICATES.—Child care certificates authorized by paragraph (1)(C) may be issued by a State only if a resource and referral program carried out by an organization that meets the requirements of section 512 is available to help parents locate child care services made available by eligible child care providers.

(3) NO ENTITLEMENT TO CONTRACT OR GRANT.—Nothing in this subtitle shall be construed to entitle any child care provider or recipient of a child care certificate to any contract, grant or benefit, or to limit the right of any State to impose additional limitations or conditions on contracts or grants funded under this subtitle.

(b) PART-DAY PROGRAMS.—

(1) IN GENERAL.—At least 10 percent of the funds available for activities under section 507(c)(4)(A) shall be used by the State to enable child care providers to extend the hours of operation of the part-day programs described in paragraph (2) to provide full-working-day child care services throughout the year, in order to meet the needs of parents of eligible children.

(2) ELIGIBLE PROGRAMS.—As used in paragraph (1), the term "part-day programs" means—

(A) programs of schools and nonprofit child care providers (including community-based organizations) receiving State or local funds designated for preschool;

(B) programs established under the Head Start Act (42 U.S.C. 9831 et seq.);

(C) preschool programs for which assistance is provided under chapter 1 of the Education Consolidation and Improvement Act of 1981 (20 U.S.C. 3801 et seq.); and

(D) preschool programs for children with a handicapping condition.

(c) FACILITIES.—

(1) NEW FACILITIES.—No financial assistance provided under this subtitle shall be expended for the construction of a new facility.

(2) EXISTING FACILITIES.—No financial assistance provided under this subtitle shall be expended to renovate or repair any facility unless—

(A) the child care provider that receives such financial assistance agrees—

(i) in the case of a grant, to repay to the Secretary or the State, as the case may be, the amount that bears the same ratio to the amount of such grant as the value of the renovation or repair, as of the date such provider ceases to provide child care services in such facility in accordance with this subtitle, bears to the original value of the renovation or repair; and

(ii) in the case of a loan, to repay immediately to the Secretary or the State, as the case may be, the principal amount of such loan outstanding and any interest accrued, as of the date such provider ceases to provide child care services in such facility in accordance with this subtitle;

if such provider does not provide child care services in such facility in accordance with this subtitle throughout the useful life of the renovation or repair; and

(B) if such provider is a sectarian agency or organization, the renovation or repair is necessary to bring such facility into compliance with health and safety requirements imposed by this subtitle.

SEC. 509. PLANNING GRANTS.

(a) IN GENERAL.—A State desiring to participate in the programs authorized by this subtitle that cannot fully satisfy the requirements of the State plan under section 507(b) without financial assistance may, in the first year that the State participates in the programs, apply to the Secretary for a planning grant.

(b) AUTHORIZATION.—The Secretary is authorized to make a planning grant to a State described in subsection (a) if the Secretary determines that—

(1) the grant would enable the State to fully satisfy the requirements of a State plan under section 507(b); and

(2) the State will apply, for the remainder of the allotment that the State is entitled to receive for such fiscal year.

(c) AMOUNT OF GRANT.—A grant made to a State under this section shall not exceed 1 percent of the total allotment that the State would qualify to receive in the fiscal year involved if the State fully satisfied the requirements of section 507.

(d) LIMITATION ON ADMINISTRATIVE COSTS.—A grant made under this section shall be considered to be expended for administrative costs by the State for purposes of determining the compliance by the State with the limitation on administrative costs imposed by section 507(c)(3)(E).

SEC. 510. CONTINUING ELIGIBILITY OF STATES.

A State shall be ineligible for assistance under this subtitle after the expiration of the 4-year period beginning on the date the Secretary establishes minimum child care standards under section 517(e)(2) unless the State demonstrates to the satisfaction of the Secretary that—

(1) all child care providers required to be licensed and regulated in the State—

(A) are so licensed and regulated; and

(B) are subject to the enforcement provisions referred to in the State plan; and

(2) all such providers who are receiving assistance under this subtitle or under other publicly-assisted child care programs—

(A) satisfy the requirements of subparagraphs (A) and (B) of paragraph (1); and

(B) satisfy the minimum child care standards established by the Secretary under section 517(e)(2) of this subtitle.

SEC. 511. STATE ADVISORY COMMITTEE ON CHILD CARE.

(a) ESTABLISHMENT.—The chief executive officer of a State participating in the program authorized by this subtitle shall—

(1) establish a State advisory committee on child care (hereinafter in this section referred to as the "committee") to assist the lead agency in carrying out the responsibilities of the lead agency under this subtitle; and

(2) appoint the members of the committee.

(b) COMPOSITION.—The State committee shall be composed of not fewer than 21 and not more than 30 members who shall include—

(1) at least 1 representative of the lead agency designated under section 506(a);

(2) 1 representative of each of—

(A) the State departments of—

(i) human resources or social services;

(ii) education;

(iii) economic development; and

(iv) health; and

(B) other State agencies having responsibility for the regulation, funding, or provision of child care services in the State;

(3) at least 1 representative of providers of different types of child care services, including caregivers and directors;

(4) at least 1 representative of early childhood development experts;

(5) at least 1 representative of school districts and teachers involved in the provision of child care services and preschool programs;

(6) at least 1 representative of resource and referral programs;

(7) 1 pediatrician;

(8) 1 representative of a citizen group concerned with child care;

(9) at least 1 representative of an organization representing child care employees;

(10) at least 1 representative of the Head Start agencies in the State;

(11) parents of children receiving, or in need of, child care services, including at least 2 parents whose children are receiving or are in need of subsidized child care services;

(12) 1 representative of specialists concerned with children who have a handicapping condition;

(13) 1 representative of individuals engaged in business;

(14) 1 representative of fire marshals and building inspectors;

(15) 1 representative of child protective services; and

(16) 1 representative of units of general purpose local government.

(c) FUNCTIONS.—The committee shall—

(1) advise the lead agency on child care policies;

(2) provide the lead agency with information necessary to coordinate the provision of child care services in the State;

(3) otherwise assist the lead agency in carrying out the functions assigned to the lead agency under section 506(c);

(4) review and evaluate child services for which assistance is provided under this subtitle or under State law, in meeting the objectives of the State plan and the purposes of this subtitle;

(5) make recommendations on the development of State child care standards and policies;

(6) participate in the regional public hearings required under section 506(c)(5); and

(7) perform other functions to improve the quantity and quality of child care services in the State.

(d) MEETINGS AND HEARINGS.—

(1) IN GENERAL.—Not later than 30 days after the beginning of each fiscal year, the committee shall meet and establish the time, place, and manner of future meetings of the committee.

(2) MINIMUM NUMBER OF HEARINGS.—The committee shall have at least 2 public hearings each year at which the public shall be given an opportunity to express views concerning the administration and operation of the State plan.

(e) USE OF EXISTING COMMITTEES.—To the extent that a State has established a broadly representative State advisory group, prior to the date of enactment of this subtitle, that is comparable to the advisory committee described in this section and focused exclusively on child care and early childhood development programs, such State shall be considered to be in compliance with subsections (a) through (c).

(f) SUBCOMMITTEE ON LICENSING.—

(1) COMPOSITION.—The committee shall have a subcommittee on licensing (hereinafter in this section referred to as the "subcommittee") that shall be composed of the members appointed under paragraphs (2)(A)(iv), (3), (6), (7), (11), (14), and (15) of subsection (b).

(2) FUNCTIONS.—

(A) REVIEW OF LICENSING AUTHORITY.—The subcommittee shall review the law applicable to, and the licensing requirements and the policies of, each licensing agency that regulates child care services and programs in the State unless the State has reviewed such law, requirements, and policies in the 4-year period ending on the date of the establishment of the committee under subsection (a).

(B) REPORT.—Not later than 1 year after establishment of the committee under subsection (a), the subcommittee shall prepare and submit to the chief executive officer of the State involved a report.

(C) CONTENTS OF REPORT.—A report prepared under subparagraph (B) shall contain—

(i) an analysis of information on child care services provided by center-based child care providers, group home child care providers, and family child care providers;

(ii) a detailed statement of the findings and recommendations that result from the subcommittee review under subparagraph (A), including a description of the current status of child care licensing, regulating, monitoring, and enforcement in the State;

(iii) a detailed statement identifying and describing the deficiencies in the existing licensing, regulating, and monitoring programs of the State involved, including an assessment of the adequacy of staff to carry out such programs effectively, and recommendations to correct such deficiencies or to improve such programs; and

(iv) comments on the minimum child care standards established by the Secretary under section 517(e)(2).

(3) RECEIPT OF REPORT BY THE CHIEF EXECUTIVE OFFICER OF THE STATE.—Not later than 60 days after receiving the report from the subcommittee, the chief executive officer of the State shall transmit such report to the Secretary with—

(A) the comments of the chief executive officer of the State; and

(B) a plan for correcting deficiencies in, or improving the licensing, regulating, and monitoring, of the child care services and programs referred to in paragraph (2)(A).

(4) TERMINATION OF ASSISTANCE.—None of the funds received under this subtitle may be used to carry out any activity under this section occurring more than 90 days after the State submits a report required by subsection (d).

(g) SERVICES AND PERSONNEL.—

(1) AUTHORITY.—The lead agency is authorized to provide the services of such personnel, and to contract for such other services as may be necessary, to enable the committee and the subcommittee to carry out their functions under this subtitle.

(2) REIMBURSEMENT.—Members of the committee shall be reimbursed, in accordance with standards established by the Secretary, for necessary expenses incurred by such members in carrying out the functions of the committee and the subcommittee.

(3) SUFFICIENCY OF FUNDS.—The Secretary shall ensure that sufficient funds are made available, from funds available for the administration of the State plan, to the committee and the subcommittee to carry out the requirements of this section.

SEC. 512. RESOURCE AND REFERRAL PROGRAMS.

(a) ELIGIBILITY FOR ASSISTANCE.—Each State receiving funds under this subtitle shall, pursuant to section 507(c)(5)(A), make grants to or enter into contracts with private nonprofit organizations or public organizations (including units of general purpose local government), as resource and referral agencies to ensure that resource and referral services are available to families in all geographical areas in the State.

(b) FUNDING.—Organizations that receive assistance under subsection (a) shall carry out resource and referral programs—

(1) to identify all types of existing child care services, including services provided by individual family child care providers and by child care providers who provide child care services to children with a handicapping condition;

(2) to provide to interested parents information and referral regarding such services, including the availability of public funds to obtain such services;

(3) to provide or arrange for the provision of information, training, and technical assistance to existing and potential child care providers and to others (including businesses) concerned with the availability of child care services; and

(4) to provide information on the demand for and supply of child care services located in a community.

(c) REQUIREMENTS.—To be eligible for assistance as a resource and referral agency under subsection (a), an organization shall—

(1) have or acquire a database of information on child care services in the State or in a particular geographical area that the organization continually updates, including child care services provided in centers, group home child care settings, nursery schools, and family child care settings;

(2) have the capability to provide resource and referral services in a particular geographical area;

(3) be able to provide parents with information to assist them in identifying quality child care services;

(4) to the maximum extent practicable, notify all eligible child care providers in such area of the functions it performs and solicit such providers to request to be listed to receive referrals made by such organization; and

(5) otherwise comply with regulations promulgated by the State in accordance with subsection (d).

(d) LIMITATION ON INFORMATION.—In carrying out this section, an organization receiving assistance under subsection (a) as a resource and referral agency shall not provide information concerning any child care program or services which are not in compliance with the laws of the State and localities in which such services are provided.

SEC. 513. TRAINING AND TECHNICAL ASSISTANCE.

(a) MINIMUM REQUIREMENT.—A State receiving funds under this subtitle shall require, not later than 2 years after the date of the enactment of this subtitle, that all employed or self-employed individuals who provide licensed or regulated child care services (including registered child care services) in a State complete at least 40 hours of training over a 2-year period in areas appropriate to the provision of child care services, including training in health and safety, nutrition, first aid, the recognition of communicable diseases, child abuse detection and prevention, and the needs of special populations of children.

(b) GRANTS AND CONTRACTS FOR TRAINING AND TECHNICAL ASSISTANCE.—

(1) GRANTS AND CONTRACTS.—The State shall make grants to, and enter into contracts with State agencies, units of general purpose local government, institutions of higher education, and nonprofit organizations (including resource and referral organizations, child care food program sponsors, and family child care associations, as appropriate) to develop and carry out child care training and technical assistance programs under which preservice and continuing in-service training is provided to eligible child care providers, including family child care providers, and the staff of such providers including teachers, administrative personnel, and staff of resource and referral programs involved in providing child care services in the State.

(2) ELIGIBILITY REQUIREMENTS FOR GRANTS AND CONTRACTS RELATING TO TRAINING FOR FAMILY CHILD CARE PROVIDERS.—To be eligible to receive a grant or enter into a contract for a training and technical assistance program for family child care providers under paragraph (1), a nonprofit organization shall—

(A) recruit and train family child care providers, including providers with the capacity to provide night-time and emergency child care services;

(B) operate resource centers to make developmentally appropriate curriculum materials available to family child care providers;

(C) provide grants to family child care providers for the purchase of moderate cost equipment to be used to provide child care services; and

(D) operate a system of substitute caregivers.

(3) ELIGIBILITY REQUIREMENTS FOR GRANTS AND CONTRACTS RELATING TO TECHNICAL ASSISTANCE.—To be eligible to receive a grant, or enter into a contract under subsection (b) to provide technical assistance, an agency, organization, or institution shall agree to furnish technical assistance to child care providers to assist such providers—

(A) in understanding and complying with local regulations and relevant tax and other policies;

(B) in meeting State licensing, regulatory, and other requirements (including registration) pertaining to family child care providers.

(c) SCHOLARSHIP ASSISTANCE.—The State shall provide scholarship assistance to—

(1) individuals who seek a nationally recognized child development associate credential for center-based or family child care and whose income does not exceed the poverty line (as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) by more than 50 percent, in amounts sufficient to cover the costs involved in securing such credential; and

(2) caregivers who seek to obtain the training referred to in subsection (a) and whose income does not exceed such poverty line.

(d) CLEARINGHOUSE.—The State shall establish in the lead agency a clearinghouse to collect and disseminate training materials to resource and referral agencies and child care providers throughout the State.

SEC. 514. FEDERAL ADMINISTRATION OF CHILD CARE.

(a) ADMINISTRATOR OF CHILD CARE.—There is hereby established in the Department of Health and Human Services the position of Administrator of Child Care (hereinafter in this section referred to as the "Administrator"). The Secretary shall appoint an individual to serve as the Administrator at the pleasure of the Secretary.

(b) DUTIES.—The Administrator shall—

(1) coordinate all activities of the Department of Health and Human Services relating to child care, and coordinate such activities with similar activities of other Federal entities;

(2) annually collect and publish State child care standards, including periodic modifications to such standards;

(3) evaluate activities carried out with funds provided under this subtitle;

(4) act as a clearinghouse to collect and disseminate materials that relate to—

(A) the matters required by section 513(b)(1) to be addressed by training required by section 513 to be provided; and

(B) studies that relate to the salaries paid to individuals employed to provide child care services; and

(5) provide technical assistance to assist States to carry out this subtitle.

SEC. 515. FEDERAL ENFORCEMENT.

(a) REVIEW OF COMPLIANCE WITH STATE PLAN.—The Secretary shall review and monitor State compliance with this subtitle and the plan approved under section 507(d) for the State.

(b) NONCOMPLIANCE.—

(1) IN GENERAL.—If the Secretary, after reasonable notice and opportunity for a hearing to a State, finds that—

(A) there has been a failure by the State to comply substantially with any provision or any requirements set forth in the plan approved under section 507(d) for the State; or

(B) in the operation of any program or project for which assistance is provided under this subtitle there is a failure by the State to comply substantially with any provision of this subtitle;

the Secretary shall notify the State of the finding and that no further payments may be made to such State under this subtitle (or, in the case of noncompliance in the operation of a program or activity, that no further payments to the State will be made with respect to such program or activity) until the Secretary is satisfied that there is no longer any such failure to comply or that the noncompliance will be promptly corrected.

(2) ADDITIONAL SANCTIONS.—In the case of a finding of noncompliance made pursuant to this paragraph (1), the Secretary may, in addition to imposing the sanctions described in such paragraph, impose other appropriate sanctions, including recoupment of money improperly expended for purposes prohibited or not authorized by this subtitle, and disqualification from the receipt of financial assistance under this subtitle.

(3) NOTICE.—The notice required under paragraph (1) shall include a specific identification of any additional sanction being imposed under paragraph (2).

(c) ISSUANCE OF RULES.—The Secretary shall establish by rule procedures for—

(1) receiving, processing, and determining the validity of complaints concerning any failure of a State to comply with the State plan or any requirement of this subtitle; and

(2) imposing sanctions under this section.

SEC. 516. PAYMENTS.

(a) IN GENERAL.—

(1) AMOUNT OF PAYMENT.—Each State that—

(A) has an application approved by the Secretary under section 507(d); and

(B) demonstrates to the satisfaction of the Secretary that it will provide from non-Federal sources the State share of the aggregate amount to be expended by the State under the State plan for the fiscal year for which it requests a grant;

shall receive a payment under this section for such fiscal year in an amount (not to exceed its allotment under section 505 for such fiscal year) equal to the Federal share of the aggregate amount to be expended by the State under the State plan for such fiscal year.

(2) FEDERAL SHARE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Federal share for each fiscal year shall be 80 percent.

(B) EXCEPTION.—If a State makes the demonstration specified in section 510 throughout a fiscal year for which it requests a grant, then the Federal share shall be 85 percent.

(3) STATE SHARE.—The State share equals 100 percent minus the Federal share.

(4) LIMITATION.—A State may not require any private provider of child care services that receives or seeks funds made available under this subtitle to contribute in cash or in kind to the State contribution required by this subsection.

(b) METHOD OF PAYMENT.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary may make payments to a State in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

(2) LIMITATION.—The Secretary may not make such payments in a manner that prevents the State from complying with the requirement specified in section 507(c)(3)(F).

(c) SPENDING OF FUNDS BY STATE.—Payments to a State from the allotment under section 505 for any fiscal year may be expended by the State in that fiscal year or in the succeeding fiscal year.

SEC. 517. NATIONAL ADVISORY COMMITTEE ON CHILD CARE STANDARDS.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—In order to improve the quality of child care services, the Secretary shall establish, not later than 60 days after the date of the enactment of this subtitle, a National Advisory Committee on Child Care Standards (hereinafter in this section referred to as the "Committee"), the members of which shall be appointed from among representatives of—

(A) the chief executive officers of the several States;

(B) State legislatures;

(C) local governments;

(D) businesses;

(E) State individuals responsible for regulating the insurance industry within the State;

(F) religious institutions;

(G) persons who carry out different types of child care programs;

(H) persons who carry out resource and referral programs;

(I) child care and early childhood development specialists;

(J) early childhood education specialists;

(K) individuals who have expertise in pediatric health care, handicapping conditions, and related fields;

(L) organizations representing child care employees;

(M) individuals who have experience in the regulation of child care services; and

(N) parents who have been actively involved in community child care programs.

(2) APPOINTMENT OF MEMBERS.—The Committee shall be composed of 15 members of which—

(A) 5 members shall be appointed by the President;

(B) 3 members shall be appointed by the majority leader of the Senate;

(C) 2 members shall be appointed by the minority leader of the Senate;

(D) 3 members shall be appointed by the Speaker of the House of Representatives; and

(E) 2 members shall be appointed by the minority leader of the House of Representatives.

(3) CHAIRMAN.—The President shall appoint a chairman from among the members of the Committee.

(4) VACANCIES.—A vacancy occurring on the Committee shall be filled in the same manner as that in which the original appointment was made.

(b) PERSONNEL, REIMBURSEMENT, AND OVERSIGHT.—

(1) PERSONNEL.—The Secretary shall make available to the Committee office facilities, personnel who are familiar with child development and with developing and implementing regulatory requirements, technical assistance, and funds as are necessary to enable the Committee to carry out effectively its functions.

(2) REIMBURSEMENT.—

(A) COMPENSATION.—Members of the Committee who are not regular full-time employees of the United States Government shall, while attending meetings and conferences of the Committee or otherwise engaged in the business of the Committee (including traveltime), be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding the rate specified at the time of such service under GS-18 of the General Schedule established under section 5332 of title 5, United States Code.

(B) EXPENSES.—While away from their homes or regular places of business on the business of the Committee, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(3) OVERSIGHT.—The Secretary shall ensure that the Committee is established and operated in accordance with the Federal Advisory Committee Act (5 U.S.C. App.).

(c) FUNCTIONS.—The Committee shall—

(1) review Federal policies with respect to child care services and such other data as the Committee may deem appropriate;

(2) not later than 180 days after the date on which a majority of the members of the Committee are first appointed, submit to the Secretary proposed minimum standards described in subsection (d) for child care services, taking into account the different needs of infants, toddlers, preschool and school-age children; and

(3) develop and make available to lead agencies, for distribution to resource and referral agencies in the State, model requirements for resource and referral agencies.

(d) MINIMUM CHILD CARE STANDARDS.—The proposed child care standards submitted pursuant to subsection (c)(2) shall be minimum standards and shall consist of only the following:

(1) CENTER-BASED CHILD CARE SERVICES.—Such standards submitted with respect to child care services provided by center-based child care providers shall be limited to—

(A) group size limits in terms of the number of caregivers and the number and ages of children;

(B) the maximum appropriate child-staff ratios;

(C) qualifications and background of child care personnel;

(D) health and safety requirements for children and caregivers; and

(E) parental involvement in licensed and regulated child care services.

The standards described in subparagraphs (A) and (B) shall reflect the median standards for all States (using for States which apply separate standards to publicly-assisted programs the most comprehensive or stringent of such standards) as of the date of enactment of this subtitle.

(2) FAMILY CHILD CARE SERVICES.—Such standards submitted with respect to child care services provided by family child care providers shall be limited to—

(A) the maximum number of children for which child care services may be provided and the total number of infants for which child care services may be provided;

(B) the minimum age for caregivers; and

(C) health and safety requirements for children and caregivers.

(3) GROUP HOME CHILD CARE SERVICES.—Such standards submitted with respect to child care services provided by group home child care providers shall be limited to the matters specified in paragraphs (1)(B) and (2).

(4) LIMITATION.—The Committee shall not submit any standard under subsection (c)(2) that is less or more rigorous than the least or most rigorous standard that exists in all States at the time of the submission of such recommendation.

(e) CONSIDERATION AND ESTABLISHMENT OF STANDARDS.—

(1) NOTICE OF PROPOSED RULEMAKING.—Not later than 90 days after receiving the recommendations of the committee, the Secretary shall—

(A) publish in the Federal Register—

(i) a notice of proposed rulemaking concerning the minimum standards proposed under subsection (d) to the Secretary; and

(ii) such proposed minimum standards for public comment for a period of at least 60 days; and

(B) distribute such proposed minimum standards to each lead agency and each State subcommittee on licensing for comment.

(2) ESTABLISHMENT OF MINIMUM CHILD CARE STANDARDS.—

(A) ISSUANCE OF RULES.—The Secretary shall, in consultation with the committee—

(i) take into consideration any comments received by the Secretary with respect to the standards proposed under subsection (d); and

(ii) not later than 180 days after publication of such standards, shall issue rules establishing minimum child care standards for purposes of this subtitle. Such standards shall include the nutrition requirements issued, and revised from time to time, under section 17(g)(1) of the National School Lunch Act (42 U.S.C. 1766(g)(1)).

(B) AMENDING STANDARDS.—The Secretary may amend any standard first established under subparagraph (A), except that such standard may not be modified, by amendment or otherwise, to make such standard less comprehensive or less stringent than it is when first established.

(C) EXTENDED PERIOD FOR COMMENT.—If the Committee recommends a standard under subsection (c)(2) that no State has a requirement concerning, as of the time that such standard is recommended, the Secretary shall provide an additional 30 days during which States may submit comments concerning such standard.

(3) ADDITIONAL COMMENTS.—The National Committee may submit to the Secretary and to the Congress such additional comments on the minimum child care standards established under paragraph (2) as the National Committee considers appropriate.

(f) VARIANCES.—

(1) TIME FOR COMPLIANCE WITH STANDARDS.—Not later than the end of the 4-year period referred to in section 510, States shall comply with the standards established under this section.

(2) EXCEPTION.—At the expiration of the 4-year period referred to in paragraph (1) the chief executive officer, in consultation with the State advisory committee, may submit a request to the Secretary for a 1 year variance from the requirements of one or more particular standards.

(3) REQUIREMENTS.—A request for a variance under this subsection shall include—

(A) a statement by the chief executive officer of the State of any steps taken to implement the relevant standards in the State within the 4-year period;

(B) the specific reasons for the submission of the variance request; and

(C) a detailed plan that outlines the additional procedures and resources to be used to come into compliance with the standards at the end of the variance period.

(4) PERIOD OF VARIANCE.—A variance granted by the Secretary shall be for a 1-year period and may be renewed at the discretion of the Secretary for an additional 1-year period if requested by the State.

(g) TERMINATION OF COMMITTEE.—The National Committee shall cease to exist 90 days after the date the Secretary establishes minimum child care standards under subsection (e)(3).

SEC. 518. LIMITATIONS ON USE OF FINANCIAL ASSISTANCE FOR CERTAIN PURPOSES.

(a) SECTARIAN PURPOSES AND ACTIVITIES.—No financial assistance provided under this subtitle shall be expended for any sectarian purpose or activity, including sectarian worship and instruction.

(b) TUITION.—With regard to services provided to students enrolled in grades 1 through 12, no financial assistance provided under this subtitle shall be expended for—

(1) any services provided to such students during the regular school day;

(2) any services for which such students receive academic credit toward graduation; or

(3) any instructional services which supplant or duplicate the academic program of any public or private school.

SEC. 519. NONDISCRIMINATION.

(a) FEDERAL FINANCIAL ASSISTANCE.—Any financial assistance provided under this subtitle, including a loan, grant, or child care certificate, shall constitute Federal financial

assistance for purposes of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title IX of the Education Amendments of 1972 (20 U.S.C. 1681, et seq.), the Rehabilitation Act of 1973 (29 U.S.C. 794 et seq.), the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), and the regulations issued thereunder.

(b) RELIGIOUS DISCRIMINATION.—A child care provider may not discriminate against any child on the basis of religion in providing child care services in return for a fee paid, reimbursement received, or certificate redeemed, in whole or in part with financial assistance provided under this subtitle.

SEC. 520. PRESERVATION OF PARENTAL RIGHTS AND RESPONSIBILITIES.

Nothing in this subtitle shall be construed or applied in any manner to infringe upon or usurp the moral and legal rights and responsibilities of parents or legal guardians.

Mr. BYRD. Mr. President, I ask for the yeas and nays on that amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3310

Mr. BYRD. Mr. President, I send an amendment in the second degree to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 3310.

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

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. No objection.

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

The amendment is as follows:

Strike all after "with" and insert in lieu thereof the following: "instructions to report back forthwith with the following amendment,".

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Parental and Medical Leave Act of 1988".

(b) TABLE OF CONTENTS.—

TITLE I—GENERAL REQUIREMENTS FOR PARENTAL LEAVE AND MEDICAL LEAVE

SEC. 101. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the number of two-parent households in which both parents work and the number of single-parent households in which the single parent works are increasing significantly;

(2) it is important for the development of children and the family unit that fathers and mothers be able to participate in early child rearing and the care of children who have serious health conditions;

(3) the lack of employment policies to accommodate working parents forces many individuals to choose between job security and parenting;

(4) there is inadequate job security for employees who have serious health conditions that prevent the employees from working for temporary periods;

(5) due to the nature of the roles of men and women in our society, the primary responsibility for family caretaking often falls on women, and such responsibility affects their working lives more than it affects the working lives of men; and

(6) employment standards that apply to one gender only have serious potential for encouraging employers to discriminate against employees and applicants for employment who are of that gender.

(b) PURPOSES.—It is the purpose of this Act—

(1) to balance the demands of the workplace with the needs of families;

(2) to promote the economic security and stability of families;

(3) to entitle employees to take reasonable leave for medical reasons, for the birth or adoption of a child, and for the care of a child who has a serious health condition;

(4) to accomplish such purposes in a manner which accommodates the legitimate interests of employers;

(5) to accomplish such purposes in a manner which, consistent with the Equal Protection Clause of the Fourteenth Amendment, minimizes the potential for employment discrimination on the basis of sex by ensuring generally that leave is available for eligible medical reasons (including maternity-related disability) and for compelling family reasons, on a gender-neutral basis; and

(6) to promote the goal of equal employment opportunity for women and men, pursuant to such clause.

SEC. 102. DEFINITIONS.

As used in this title:

(1) COMMERCE.—The terms "commerce" and "industry or activity affecting commerce" mean any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce, including "commerce" and any activity or industry "affecting commerce" within the meaning of the Labor Management Relations Act, 1947 (29 U.S.C 141 et seq.).

(2) EMPLOY.—The term "employ" has the same meaning given the term in section 3(g) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(g)).

(3) EMPLOYEE.—

(A) IN GENERAL.—The term "employee" means an individual that is included under the definition of such term in section 3(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)) who has been employed by the employer with respect to whom benefits are sought under this Act for at least—

(i) 900 hours of service during the previous 12-month period; and

(ii) 12 months.

"(B) EXCLUSION.—The term "employee" does not include any Federal officer or employee covered under subchapter III of chapter 63 of title 5, United States Code (as added by title II of this Act).

(4) EMPLOYER.—The term "employer"—

(A) means any person engaged in commerce or in any industry or activity affecting commerce who employs 20 or more employees at any one worksite for each working day during each of 20 or more calendar workweeks in the current or preceding calendar year;

(B) includes—

(i) any person who acts directly or indirectly in the interest of an employer to one or more employees; and

(ii) any successor in interest of such an employer; and

(C) includes any public agency, as defined in section 3(x) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(x)).

(5) EMPLOYMENT BENEFITS.—The term "employment benefits" means all benefits provided or made available to employees by an employer, including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions, regardless of whether the benefits are provided by a policy or practice of an employer or by an employee benefit plan as defined in section 3(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(1)).

(6) HEALTH CARE PROVIDER.—The term "health care provider" means—

(A) any person licensed under Federal, State, or local law to provide health care services, or

(B) any other person determined by the Secretary to be capable of providing health care services.

(7) PERSON.—The term "person" has the same meaning given the term in section 3(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(a)).

(8) REDUCED LEAVE SCHEDULE.—The term "reduced leave schedule" means leave scheduled for fewer than the usual number of hours of an employee per workweek or hours per workday.

(9) SECRETARY.—The term "Secretary" means the Secretary of Labor.

(10) SERIOUS HEALTH CONDITION.—The term "serious health condition" means an illness, injury, impairment, or physical or mental condition that involves—

(A) inpatient care in a hospital, hospice, or residential medical care facility; or

(B) continuing treatment or continuing supervision by a health care provider.

(11) SON OR DAUGHTER.—The term "son or daughter" means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a de facto parent, who is—

(A) under 18 years of age; or

(B) 18 years of age or older and incapable of self-care because of a mental or physical disability.

(12) STATE.—The term "State" has the same meaning given the term in section 3(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(c)).

SEC. 103. PARENTAL LEAVE REQUIREMENT.

(a) IN GENERAL.—

(1) ENTITLEMENT TO LEAVE.—An employee shall be entitled, subject to section 105, to 10 workweeks of parental leave during any 24-month period—

(A) as the result of the birth of a son or daughter of the employee;

(B) as the result of the placement, for adoption or foster care, of a son or daughter with the employee; or

(C) in order to care for the employee's son or daughter who has a serious health condition.

(2) EXPIRATION OF ENTITLEMENT.—The entitlement to leave under paragraphs (1)(A) and (1)(B) shall expire at the end of the 12-month period beginning on the date of such birth or placement.

(3) INTERMITTENT LEAVE.—In the case of a son or daughter who has a serious health condition, such leave may be taken intermittently when medically necessary, subject to subsection (e).

(b) REDUCED LEAVE.—On agreement between the employer and the employee, leave under this section may be taken on a reduced leave schedule, however, such reduced leave schedule shall not result in a reduction in the total amount of leave to which the employee is entitled.

(c) UNPAID LEAVE PERMITTED.—Except as provided in subsection (d), leave granted under subsection (a) may consist of unpaid leave.

(d) RELATIONSHIP TO PAID LEAVE.—

(1) UNPAID LEAVE.—If an employer provides paid parental leave for fewer than 10 work-weeks, the additional weeks of leave added to attain the 10 work-week total may be unpaid.

(2) SUBSTITUTION OF PAID LEAVE.—An employee or employer may elect to substitute any of the employee's accrued paid vacation leave, personal leave, or other appropriate paid leave for any part of the 10-week period.

(e) FORESEEABLE LEAVE.—

(1) REQUIREMENT OF NOTICE.—In any case in which the necessity for leave under this section is foreseeable based on an expected birth or adoption, the employee shall provide the employer with prior notice of such expected birth or adoption in a manner which is reasonable and practicable.

(2) DUTIES OF EMPLOYEE.—In any case in which the necessity for leave under this section is foreseeable based on planned medical treatment or supervision, the employee shall—

(A) make a reasonable effort to schedule the treatment or supervision so as not to disrupt unduly the operations of the employer, subject to the approval of the health care provider of the employee's son or daughter; and

(B) provide the employer with prior notice of the treatment or supervision in a manner which is reasonable and practicable.

(3) REGULATIONS.—The Secretary shall promulgate regulations under section 108(a) that define the term "reasonable and practicable" for purposes of paragraphs (1) and (2)(B).

(f) SPOUSES EMPLOYED BY THE SAME EMPLOYER.—In any case in which a husband and wife entitled to parental leave under this section are employed by the same employer, the aggregate number of workweeks of parental leave to which both may be entitled may be limited to 10 workweeks during any 24-month period, if such leave is taken under subparagraph (A) or (B) of subsection (a)(1).

SEC. 104. TEMPORARY MEDICAL LEAVE REQUIREMENT.

(a) IN GENERAL.—

(1) ENTITLEMENT TO LEAVE.—Any employee who, as the result of a serious health condition, becomes unable to perform the functions of the position of the employee, shall be entitled to temporary medical leave, subject to section 105.

(2) PERIOD OF ENTITLEMENT.—The entitlement under paragraph (1) shall continue for as long as the employee is unable to perform the functions, except that the leave shall not exceed 13 workweeks during any 12-month period.

(3) INTERMITTENT LEAVE.—Leave taken under this subsection may be taken intermittently when medically necessary, subject to subsection (d).

(b) UNPAID LEAVE PERMITTED.—Except as provided in subsection (c), leave granted under subsection (a) may consist of unpaid leave.

(c) RELATIONSHIP TO PAID LEAVE.—

(1) IN GENERAL.—If an employer provides paid temporary medical leave or paid sick leave for fewer than 13 weeks, the additional weeks of leave added to attain the 13-week total may be unpaid.

(2) SUBSTITUTION OF PAID LEAVE.—An employee or employer may elect to substitute the employee's accrued paid vacation leave, sick leave, or other appropriate paid leave for any part of the 13-week period, except that nothing in this Act shall require an employer to provide paid sick leave or paid medical leave in any situation in which such employer would not normally provide any such paid leave.

(d) FORESEEABLE LEAVE.—

(1) DUTIES OF EMPLOYEE.—In any case in which the necessity for leave under this section is foreseeable based on planned medical treatment or supervision, the employee shall—

(A) make a reasonable effort to schedule the treatment or supervision so as not to disrupt unduly the operations of the employer, subject to the approval of the employee's health care provider, and

(B) provide the employer with prior notice of the treatment or supervision in a manner which is reasonable and practicable.

(2) REGULATIONS.—The Secretary shall promulgate regulations under section 108(a) that define the term "reasonable and practicable" for purposes of paragraph (1).

SEC. 105. CERTIFICATION.

(a) IN GENERAL.—An employer may require that a claim for parental leave under section 103(a)(1)(C), or temporary medical leave under section 104, be supported by certification issued by the health care provider of the son, daughter, or employee, whichever is appropriate. The employee shall provide a copy of such certification to the employer.

(b) SUFFICIENT CERTIFICATION.—The certification shall be considered sufficient if it states—

(1) the date on which the serious health condition commenced;

(2) the probable duration of the condition;

(3) the appropriate medical facts within the knowledge of the provider regarding the condition; and

(4)(A) for purposes of leave under section 104, a statement that the employee is unable to perform the functions of the employee's position; and

(B) for purposes of leave under section 103(a)(1)(C), an estimate of the amount of time that the employee is needed to care for the son or daughter.

(c) SECOND OPINION.—

(1) IN GENERAL.—In any case in which the employer has reason to doubt the validity of the certification provided under subsection (a), the employer may require, at its own expense, that the employee obtain the opinion of a second health care provider designated or approved by the employer concerning the information certified under subsection (b).

(2) LIMITATION.—Any health care provider designated or approved under paragraph (1) may not be employed on a regular basis by the employer.

(d) RESOLUTION OF CONFLICTING OPINIONS.—

(1) IN GENERAL.—In any case in which the second opinion described in subsection (c) differs from the original certification provided under subsection (a), the employer may require, at its own expense, that the employee obtain the opinion of a third health care provider designated or approved jointly by the employer and the employee concerning the information certified under subsection (b).

(2) FINALITY.—The opinion of the third health care provider concerning the information certified under subsection (b) shall be considered to be final and shall be binding on the employer and the employee.

(e) SUBSEQUENT RECERTIFICATION.—The employer may require that the employee obtain subsequent recertifications on a reasonable basis.

SEC. 106. EMPLOYMENT AND BENEFITS PROTECTION.

(a) RESTORATION TO POSITION.—

(1) IN GENERAL.—Any employee who takes leave under section 103 or 104 for its intended purpose shall be entitled, on return from the leave—

(A) to be restored by the employer to the position of employment held by the employee when the leave commenced; or

(B) to be restored to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.

(2) LOSS OF BENEFITS.—The taking of leave under this title shall not result in the loss of any employment benefit accrued before the date on which the leave commenced.

(3) LIMITATIONS.—Except as provided in subsection (b), nothing in this section shall be considered to entitle any restored employee to—

(A) the accrual of any seniority or employment benefits during any period of leave; or

(B) any right, benefit, or position of employment other than that to which the employee was entitled to on the date the leave was commenced.

(4) CERTIFICATION.—As a condition to restoration under paragraph (1), the employer may have a policy that requires each employee to receive certification from the em-

ployee's health care provider that the employee is able to resume work.

(5) CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit an employer from requiring an employee on leave under section 103 or 104 to periodically report to the employer on the employee's status and intention to return to work.

(b) MAINTENANCE OF HEALTH BENEFITS.—During any period an employee takes leave under section 103 or 104, the employer shall maintain coverage under any group health plan (as defined in section 162(i)(3) of the Internal Revenue Code of 1954) for the duration of such leave at the level and under the conditions coverage would have been provided if the employee had continued in employment continuously from the date the employee commenced the leave until the date the employee is restored under subsection (a).

SEC. 107. PROHIBITED ACTS.

(a) INTERFERENCE WITH RIGHTS.—

(1) EXERCISE OF RIGHTS.—It shall be unlawful for any employer to interfere with, restrain, or deny the exercise of or the attempt to exercise, any right provided under this title.

(2) DISCRIMINATION.—It shall be unlawful for any employer to discharge or in any other manner discriminate against any individual for opposing any practice made unlawful by this title.

(b) INTERFERENCE WITH PROCEEDINGS OR INQUIRIES.—It shall be unlawful for any person to discharge or in any other manner discriminate against any individual because the individual—

(1) has filed any charge, or has instituted or caused to be instituted any proceeding, under or related to this title;

(2) has given or is about to give any information in connection with any inquiry or proceeding relating to any right provided under this title; or

(3) has testified or is about to testify in any inquiry or proceeding relating to any right provided under this title.

SEC. 108. ADMINISTRATIVE ENFORCEMENT.

(a) IN GENERAL.—The Secretary shall issue such rules and regulations as are necessary to carry out this section, including rules and regulations concerning service of complaints, notice of hearings, answers and amendments to complaints, and copies of orders and records of proceedings.

(b) CHARGES.—

(1) FILING.—Any person alleging an act that violates this title may file a charge respecting the violation with the Secretary. Charges shall be in such form and contain such information as the Secretary shall require by regulation.

(2) NOTIFICATION.—Not later than 15 days after the Secretary receives notice of a charge under paragraph (1), the Secretary shall—

(A) serve a notice of the charge on the person charged with the violation; and

(B) inform such person and the charging party as to the rights and procedures provided under this title.

(3) TIME OF FILING.—A charge may not be filed later than 1 year after the date of the last event constituting the alleged violation.

(c) PROCESS ON NOTICE OF A CHARGE.—Investigation; Complaint.—

(1) INVESTIGATION.—Within the 60-day period after the Secretary receives any charge, the Secretary shall investigate the charge and issue a complaint based on the charge or dismiss the charge.

(2) COMPLAINT BASED ON CHARGE.—If the Secretary determines that there is a reasonable basis for the charge, the Secretary shall issue a complaint based on the charge and promptly notify the charging party and the respondent as to the issuance.

(3) DISMISSAL.—If the Secretary determines that there is no reasonable basis for the charge, the Secretary shall dismiss the charge and promptly notify the charging party and the respondent as to the dismissal.

(4) SETTLEMENT AGREEMENTS.—

(A) WITH CHARGING PARTY.—The charging party and the respondent may enter into a settlement agreement concerning the violation alleged in the charge before any determination is reached by the Secretary under this subsection. To be effective such an agreement must be determined by the Secretary to be consistent with the purposes of this title.

(B) WITH SECRETARY.—On the issuance of a complaint, the Secretary and the respondent may enter into a settlement agreement concerning a violation alleged in the complaint. Any such settlement may not be entered into over the objection of the charging party, unless the Secretary determines that the settlement provides a full remedy for the charging party.

(5) CIVIL ACTIONS.—If, at the end of the 60-day period referred to in paragraph (1), the Secretary—

(A) has not issued a complaint under paragraph (2);

(B) has dismissed the charge under paragraph (3); or

(C) has not approved or entered into a settlement agreement under subparagraph (A) or (B) of paragraph (4);

the charging party may elect to bring a civil action under section 109.

(6) COMPLAINT AND RELIEF ON SECRETARY'S INITIATIVE.—

(A) ISSUANCE.—The Secretary may issue and serve a complaint alleging a violation of this title on the basis of information and evidence gathered as a result of an investigation initiated by the Secretary pursuant to section 110.

(B) RELIEF.—

(i) IN GENERAL.—On issuance of a complaint, the Secretary shall have the power to petition the United States district court for the district in which the violation is alleged to have occurred, or in which the respondent resides or transacts business, for appropriate temporary relief or a restraining order.

(ii) NOTICE.—On the filing of any such petition, the court shall cause notice of the petition to be served on the respondent.

(iii) TYPE OF RELIEF.—The court shall have jurisdiction to grant to the Secretary such temporary relief or restraining order as the court considers just and proper.

(d) RIGHTS OF PARTIES.—

(1) SERVICE OF COMPLAINT.—In any case in which a complaint is issued under subsection (c), the Secretary shall, not later than 10 days after the date on which the complaint is issued, cause to be served on the respondent a copy of the complaint.

(2) PARTIES TO COMPLAINT.—Any person filing a charge alleging a violation of this title may elect to be a party to any complaint filed by the Secretary alleging the violation. The election must be made before the commencement of a hearing.

(3) CIVIL ACTION.—The failure of the Secretary to comply in a timely manner with any obligation assigned to the Secretary under this title shall entitle the charging party to elect, at the time of such failure, to bring a civil action under section 109.

(e) CONDUCT OF HEARING.—

(1) PROSECUTION BY SECRETARY.—The Secretary shall prosecute any complaint issued under subsection (c).

(2) HEARING.—An administrative law judge shall conduct a hearing on the record with respect to a complaint issued under this title. The hearing shall be conducted in accordance with sections 554, 555, and 556 of title 5, United States Code, and shall be commenced within 60 days after the issuance of the complaint, unless the judge, in the judge's discretion, determines that the purposes of this Act would best be furthered by commencement of the action after the expiration of such period.

(f) FINDINGS AND CONCLUSIONS.—

(1) IN GENERAL.—After a hearing is conducted under this section, the administrative law judge shall promptly make findings of fact and conclusions of law, and, if appropriate, issue an order for relief as provided in section 111.

(2) NOTIFICATION CONCERNING DELAY.—The administrative law judge shall inform the parties, in writing, of the reason for any delay in making the findings and conclusions if the findings and conclusions are not made within 60 days after the conclusion of the hearing.

(g) FINALITY OF DECISION; REVIEW.—

(1) FINALITY.—The decision and order of the administrative law judge shall become the final decision and order of the Secretary unless, on appeal by an aggrieved party taken not later than 30 days after the action, the Secretary modifies or vacates the decision, in which case the decision of the Secretary shall be the final decision.

(2) REVIEW.—Not later than 60 days after the entry of the final order of the Secretary under paragraph (1), any person aggrieved by the final order may obtain a review of the order in the United States court of appeals for the circuit in which the violation is alleged to have occurred or in which the employer resides or transacts business.

(3) JURISDICTION.—On the filing of the record with the court, the jurisdiction of the court shall be exclusive and its judgment shall be final, except that the same shall be subject to review by the Supreme Court of the United States on writ of certiorari or certification as provided in section 1254 of title 28, United States Code.

(h) COURT ENFORCEMENT OF ADMINISTRATIVE ORDERS.—

(1) POWER OF SECRETARY.—If a respondent does not appeal an order of the Secretary under subsection (g)(2), the Secretary may petition the United States district court for the district in which the violation is alleged to have occurred, or in which the respondent resides or transacts business, for the enforcement of the order of the Secretary, by filing in the court a written petition praying that the order be enforced.

(2) JURISDICTION.—On the filing of the petition, the court shall have jurisdiction to make and enter a decree enforcing the order of the Secretary. In the proceeding, the order of the Secretary shall not be subject to review.

(3) DECREE OF ENFORCEMENT.—If, on appeal of an order under subsection (g)(2), the United States court of appeals does not reverse or modify the order, the court shall have the jurisdiction to make and enter a decree enforcing the order of the Secretary.

SEC. 109. ENFORCEMENT BY CIVIL ACTION.

(a) RIGHT TO BRING CIVIL ACTION.—

(1) IN GENERAL.—Subject to the limitations in this section, an employee or the Secre-

tary may bring a civil action against any employer to enforce the provisions of this title in any appropriate court of the United States or in any State court of competent jurisdiction.

(2) NO CHARGE FILED.—Subject to paragraph (3), a civil action may be commenced under this subsection without regard to whether a charge has been filed under section 108(b).

(3) LIMITATIONS.—No civil action may be commenced under paragraph (1) if the Secretary—

(A) has approved, or has failed to disapprove, a settlement agreement under section 108(c)(4), in which case no civil action may be filed under this subsection if the action is based on a violation alleged in the charge and resolved by the agreement; or

(B) has issued a complaint under section 108(c)(2) or 108(c)(6), in which case no civil action may be filed under this subsection if the action is based on a violation alleged in the complaint.

(4) TO ENFORCE SETTLEMENT AGREEMENTS.—Notwithstanding paragraph (3)(A), a civil action may be commenced to enforce the terms of any such settlement agreement.

(5) TIMING OF COMMENCEMENT OF CIVIL ACTION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), no civil action may be commenced more than 1 year after the date on which the alleged violation occurred.

(B) EXCEPTION.—In any case in which—

(i) a timely charge is filed under section 108(b); and

(ii) the failure of the Secretary to issue a complaint or enter into a settlement agreement based on the charge (as provided under section 108(c)(4)) occurs more than 11 months after the date on which any alleged violation occurred,

the employee may commence a civil action not more than 30 days after the date on which the employee is notified of the failure.

(6) AGENCIES.—The Secretary may not bring a civil action against any agency of the United States.

(b) VENUE.—An action brought under subsection (a) in a district court of the United States may be brought—

(1) in any appropriate judicial district under section 1391 of title 28, United States Code; or

(2) in the judicial district in the State in which—

(A) the employment records relevant to the violation are maintained and administered; or

(B) the aggrieved person worked or would have worked but for the alleged violation.

(c) NOTIFICATION OF THE SECRETARY; RIGHT TO INTERVENE.—A copy of the complaint in any action brought by an employee under subsection (a) shall be served on the Secretary by certified mail. The Secretary shall have the right to intervene in a civil action brought by an employee under subsection (a).

(d) ATTORNEYS FOR THE SECRETARY.—In any civil action brought under subsection (a), attorneys appointed by the Secretary may appear for and represent the Secretary, except that the Attorney General and the Solicitor General shall conduct any litigation in the Supreme Court.

SEC. 110. INVESTIGATIVE AUTHORITY.

(a) IN GENERAL.—To ensure compliance with the provisions of this title, or any regulation or order issued under this title, subject to subsection (c), the Secretary shall have the investigative authority provided under section 11(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(a)).

(b) OBLIGATION TO KEEP AND PRESERVE RECORDS.—An employer shall keep and preserve records in accordance with section 11(c) of such Act, and in accordance with regulations issued by the Secretary.

(c) REQUIRED SUBMISSIONS GENERALLY LIMITED TO AN ANNUAL BASIS.—The Secretary may not under this section require any employer or any plan, fund, or program to submit to the Secretary any books or records more than once in any 12-month period, unless the Secretary has reasonable cause to believe there may exist a violation of this title or any regulation or order issued pursuant to this title, or is investigating a charge brought pursuant to section 108.

(d) SUBPOENA POWERS, ETC.—For purposes of any investigation conducted under this section, the Secretary shall have the subpoena authority provided under section 9 of the Fair Labor Standards Act of 1938 (29 U.S.C. 209).

(e) DISSEMINATION OF INFORMATION.—The Secretary may make available to any person substantially affected by any matter that is the subject of an investigation under this section, and to any department or agency of the United States, information concerning any matter that may be the subject of the investigation.

SEC. 111. RELIEF.

(a) INJUNCTIVE RELIEF.—

(1) CEASE AND DESIST.—On finding a violation under section 108 by a person, an administrative law judge shall issue an order requiring the person to cease and desist from any act or practice that violates this title.

(2) INJUNCTIONS.—In any civil action brought under section 109, a court may grant as relief any permanent or temporary injunction, temporary restraining order, or other equitable relief as the court considers appropriate.

(b) MONETARY DAMAGES.—

(1) IN GENERAL.—Any employer that violates this title shall be liable to the injured party in an amount equal to—

(A) any wages, salary, employment benefits, or other compensation denied or lost to the employee by reason of the violation, plus interest on the total monetary damages calculated at the prevailing rate; and

(B) an additional amount equal to the greater of—

(i) the amount determined under subparagraph (A), as liquidated damages; or

(ii) the amount of consequential damages but not to exceed three times the amount determined under subparagraph (A).

(2) GOOD FAITH.—If an employer who has violated this title proves to the satisfaction of the court that the act or omission which violated this title was in good faith and that the employer had reasonable grounds for believing that the act or omission was not a violation of this title, the court may, in its discretion, reduce the amount of the liability or penalty provided for under this subsection to the amount determined under paragraph (1)(A).

(c) ATTORNEYS' FEES.—A prevailing party (other than the United States) may be awarded a reasonable attorneys' fee as part of the costs, in addition to any relief awarded. The United States shall be liable for costs in the same manner as a private person.

(d) LIMITATION.—Damages awarded under subsection (b) may not accrue from a date more than 2 years before the date on which a charge is filed under section 108(b) or a civil action is brought under section 109.

SEC. 112. NOTICE.

(a) IN GENERAL.—Each employer shall post and keep posted, in conspicuous places on the premises of the employer where notices to employees and applicants for employment are customarily posted, a notice, approved by the Secretary, setting forth excerpts from, or summaries of, the pertinent provisions of this title and information pertaining to the filing of a charge.

(b) PENALTY.—Any employer who willfully violates this section shall be fined not more than $100 for each separate offense.

TITLE II—PARENTAL LEAVE AND TEMPORARY MEDICAL LEAVE FOR CIVIL SERVICE EMPLOYEES

SEC. 201. PARENTAL LEAVE AND TEMPORARY MEDICAL LEAVE.

(a) IN GENERAL.—(1) Chapter 63 of title 5, United States Code, is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER III—PARENTAL LEAVE AND TEMPORARY MEDICAL LEAVE

"§ 6331. Definitions

"For purposes of this subchapter:

"(1) 'employee' means—

"(A) an employee as defined by section 6301(2) of this title (excluding an individual employed by the government of the District of Columbia); and

"(B) an individual under clause (v) or (ix) of such section;

who has been employed for at least 12 months and completed at least 900 hours of service during the previous 12-month period.

"(2) 'serious health condition' means an illness, injury, impairment, or physical or mental condition that involves—

"(A) inpatient care in a hospital, hospice, or residential medical care facility; or

"(B) continuing treatment, or continuing supervision, by a health care provider; and

"(3) 'son or daughter' means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a de facto parent, who is—

"(A) under 18 years of age; or

"(B) 18 years of age or older and incapable of self-care because of a mental or physical disability.

"§ 6332. Parental leave requirement

"(a)(1) An employee shall be entitled, subject to section 6334, to 10 workweeks of parental leave during any 24-month period—

"(A) as the result of the birth of a son or daughter of the employee;

"(B) as the result of the placement, for adoption or foster care, of a son or daughter with the employee; or

"(C) in order to care for the employee's son or daughter who has a serious health condition.

"(2) The entitlement to leave under paragraphs (1)(A) and (1)(B) shall expire at the end of the 12-month period beginning on the date of such birth or placement.

"(3) In the case of a son or daughter who has a serious health condition, such leave may be taken intermittently when medically necessary, subject to subsection (e).

"(b) On agreement between the employing agency and the employee, leave under this section may be taken on a reduced leave schedule, however, such reduced leave schedule shall not result in a reduction in the total amount of leave to which the employee is entitled.

"(c) Except as provided in subsection (d), leave granted under subsection (a) may consist of unpaid leave.

"(d)(1) If an employing agency provides paid parental leave for fewer than 10 work-weeks, the additional weeks of leave added to attain the 10 work-week total may be unpaid.

"(2) An employee or employing agency may elect to substitute any of the employee's accrued paid vacation leave, personal leave, or other appropriate paid leave for any part of the 10-week period.

"(e)(1) In any case in which the necessity for leave under this section is foreseeable based on an expected birth or adoption, the employee shall provide the employing agency with prior notice of such expected birth or adoption in a manner which is reasonable and practicable.

"(2) In any case in which the necessity for leave under this section is foreseeable based on planned medical treatment or supervision, the employee shall—

"(A) make a reasonable effort to schedule the treatment or supervision so as not to disrupt unduly the operations of the employing agency, subject to the approval of the health care provider of the employee's son or daughter; and

"(B) provide the employing agency with prior notice of the treatment or supervision in a manner which is reasonable and practicable.

"(3) The Director of the Office of Personnel Management shall promulgate regulations that define the term 'reasonable and practicable' for purposes of paragraphs (1) and (2)(B).

"§ 6333. Temporary medical leave requirement

"(a)(1) Any employee who, as the result of a serious health condition, becomes unable to perform the functions of the position of the employee, shall be entitled to temporary medical leave, subject to section 6334.

"(2) The entitlement under paragraph (1) shall continue for as long as the employee is unable to perform the functions, except that the leave shall not exceed 13 administrative workweeks of the employee during any 12-month period.

"(3) Leave taken under this subsection may be taken intermittently when medically necessary, subject to subsection (d).

"(b) Except as provided in subsection (c), leave granted under subsection (a) may consist of unpaid leave.

"(c)(1) If an employing agency provides paid temporary medical leave or paid sick leave for fewer than 13 weeks, the additional weeks of leave added to attain the 13-week total may be unpaid.

"(2) An employee or employing agency may elect to substitute the employee's accrued paid vacation leave, sick leave, or other appropriate paid leave for any part of the 13-week period, except that nothing in this Act shall require an employing agency to provide paid sick leave or paid medical leave in any situation in which such employing agency would not normally provide any such paid leave.

"(d)(1) In any case in which the necessity for leave under this section is foreseeable based on planned medical treatment or supervision, the employee shall—

"(A) make a reasonable effort to schedule the treatment or supervision so as not to disrupt unduly the operations of the employing agency, subject to the approval of the employee's health care provider, and

"(B) provide the employing agency with prior notice of the treatment or supervision in a manner which is reasonable and practicable.

"(2) The Director of the Office of Personnel Management shall promulgate regulations that define the term "reasonable and practicable" for purposes of paragraph (1).

"§ 6334. Certification

"(a) An employing agency may require that a claim for parental leave under section 6332(a)(10)(C), or temporary medical leave under section 6333, be supported by certification issued by the health care provider of the son, daughter, or employee, whichever is appropriate. The employee shall provide a copy of such certification to the employing agency.

"(b) The certification shall be considered sufficient if it states—

"(1) the date on which the serious health condition commenced;

"(2) the probable duration of the condition;

"(3) the appropriate medical facts within the knowledge of the provider regarding the condition; and

"(4)(A) for purposes of leave under section 6333, a statement that the employee is unable to perform the functions of the employee's position; and

"(B) for purposes of leave under section 6332(a)(1)(C), an estimate of the amount of time that the employee is needed to care for the son or daughter.

"(c)(1) In any case in which the employing agency has reason to doubt the validity of the certification provided under subsection (a), the employing agency may require, at its expense, that the employee obtain the opinion of a second health care provider designated or approved by the employing agency concerning the information certified under subsection (b).

"(2) Any health care provider designated or approved under paragraph (1) may not be employed on a regular basis by the employing agency.

"(d)(1) In any case in which the second opinion described in subsection (c) differs from the original certification provided under subsection (a), the employing agency may require, at its expense, that the employee obtain the opinion of a third health care provider designated or approved jointly by the employing agency and the employee concerning the information certified under subsection (b).

"(2) The opinion of the third health care provider concerning the information certified under subsection (b) shall be considered to be final and shall be binding on the employing agency and the employee.

"(e) The employing agency may require that the employee obtain subsequent recertifications on a reasonable basis.

"§ 6335. Job protection

"An employee who uses leave under section 6332 or 6333 of this title shall be entitled shall be entitled, on return from the leave—

"(1) to be restored to the position of employment held by the employee when the leave commenced; or

"(2) to be restored to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.

"§ 6336. Prohibition of coercion

"(a) An employee may not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any other employee for the purpose of interfering with the exercise of the rights of the employee under this subchapter.

"(b) For the purpose of this section, 'intimidate, threaten, or coerce' includes promising to confer or conferring any benefit (such as appointment, promotion, or compensation), or taking or threatening to take any reprisal (such as deprivation of appointment, promotion, or compensation).

"§ 6337. Health insurance

"An employee enrolled in a health benefits plan under chapter 89 of this title who is placed in a leave status under section 6332 or 6333 of this title may elect to continue the health benefits enrollment of the employee while in leave status and arrange to pay into the Employees Health Benefits Fund (described in section 8909 of this title), through the employing agency of the employee, the appropriate employee contributions.

"§ 6338. Regulations

"The Office of Personnel Management shall prescribe regulations necessary for the administration of this subchapter. The regulations prescribed under this subchapter shall be consistent with the regulations prescribed by the Secretary of Labor under title I of the Parental and Medical Leave Act of 1988.".

(2) The table of contents for chapter 63 of title 5, United States Code, is amended by adding at the end thereof the following:

"SUBCHAPTER III—PARENTAL LEAVE AND TEMPORARY MEDICAL LEAVE

"6331. Definitions.
"6332. Parental leave requirement.
"6333. Temporary medical leave requirement.
"6334. Certification.
"6335. Job protection.
"6336. Prohibition of coercion.
"6337. Health insurance.
"6338. Regulations.".

(b) EMPLOYEES PAID FROM NONAPPROPRIATED FUNDS.—Section 2105(c)(1) of title 5, United States Code, is amended by striking out "53" and inserting in lieu thereof "53, subchapter III of chapter 63,".

TITLE III—COMMISSION ON PARENTAL AND MEDICAL LEAVE

SEC. 301. ESTABLISHMENT.

(a) ESTABLISHMENT.—There is established a Commission to be known as the Commission on Parental and Medical Leave (hereinafter in this title referred to as the "Commission").

SEC. 302. DUTIES.

The Commission shall—

(1) conduct a comprehensive study of—

(A) existing and proposed policies relating to parental leave and temporary medical leave; and

(B) the potential costs, benefits, and impact on productivity of such policies on employers;

(2) to the extent practicable, include in the study of parental leave and temporary medical leave policies required under subsection (1)(A), a review of all studies of existing and proposed methods designed to provide workers with full or partial salary replacement or other income protection during periods of parental leave and temporary medical leave that are consistent with the legitimate business interests of employers;

(3) within 2 years after the date on which the Commission first meets, submit a report to Congress that outlines the findings of the Commission.

SEC. 303. MEMBERSHIP.

(a) COMPOSITION.—

(1) APPOINTMENTS.—The Commission shall be composed of 12 voting members and 2 ex-officio members appointed not more than 60 days after the date of the enactment of this Act as follows:

(A) One Senator shall be appointed by the majority leader of the Senate, and one Senator shall be appointed by the minority leader of the Senate.

(B) One member of the House of Representatives shall be appointed by the Speaker of the House of Representatives, and one member of the House of Representatives shall be appointed by the minority leader of the House of Representatives.

(C)(i) Two members each shall be appointed by—

(I) the Speaker of the House of Representatives,

(II) the majority leader of the Senate,

(III) the minority leader of the House of Representatives, and

(IV) the minority leader of the Senate.

(ii) Such members shall be appointed by virtue of demonstrated expertise in relevant family, temporary disability, and labor-management issues and shall include representatives of employers.

(2) EX-OFFICIO MEMBERS.—The Secretary of Health and Human Services and the Secretary of Labor shall serve on the Commission as nonvoting ex-officio members.

(b) VACANCIES.—Any vacancy on the Commission shall be filled in the same manner in which the original appointment was made.

(c) CHAIRPERSON AND VICE CHAIRPERSON.—The Commission shall elect a chairperson and a vice chairperson from among the members of the Commission.

(d) QUORUM.—Eight members of the Commission shall constitute a quorum for all purposes, except that a lesser number may constitute a quorum for the purpose of holding hearings.

SEC. 304. COMPENSATION.

(a) PAY.—Members of the Commission shall serve without compensation.

(b) TRAVEL EXPENSES.—Members of the Commission shall be allowed reasonable travel expenses, including a per diem allowance, in accordance with section 5703 of title 5, United States Code, while performing duties of the Commission.

SEC. 305. POWERS.

(a) MEETINGS.—The Commission shall first meet not more than 30 days after the date on which all members are appointed. The Commission shall meet thereafter on the call of the chairperson or a majority of the members.

(b) HEARINGS AND SESSIONS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before the Commission.

(c) ACCESS TO INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable the Commission to carry out this Act. On the request of the chairperson or vice chairperson of the Commission, the head of the agency shall furnish the information to the Commission.

(d) EXECUTIVE DIRECTOR.—The Commission may appoint an Executive Director from the personnel of any Federal agency to assist the Commission in carrying out the duties of the Commission.

(e) USE OF SERVICES AND FACILITIES.—On the request of the Commission, the head of any Federal agency may make available to the Commission any of the facilities and services of the agency.

(f) PERSONNEL FROM OTHER AGENCIES.—On the request of the Commission, the head of any Federal agency may detail any of the personnel of the agency to assist the Commission in carrying out the duties of the Commission.

SEC. 306. TERMINATION.

The Commission shall terminate 30 days after the date of the submission of the final report of the Commission to Congress.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. EFFECT ON OTHER LAWS.

(a) FEDERAL AND STATE ANTIDISCRIMINATION LAWS.—Nothing in this Act shall be construed to modify or affect any Federal or State law prohibiting discrimination on the basis of race, religion, color, national origin, sex, age, or handicapped status.

(b) STATE AND LOCAL LAWS.—Nothing in this Act shall be construed to supersede any provision of any State or local law that provides greater employee parental or medical leave rights than the rights established under this Act.

SEC. 402. EFFECT ON EXISTING EMPLOYMENT BENEFITS.

(a) MORE PROTECTIVE.—Nothing in this Act shall be construed to diminish the obligation of an employer to comply with any collective-bargaining agreement or any employment benefit program or plan that provides greater parental and medical leave rights to employees than the rights provided under this Act.

(b) LESS PROTECTIVE.—The rights provided to employees under this Act may not be diminished by any collective-bargaining agreement or any employment benefit program or plan.

SEC. 403. ENCOURAGEMENT OF MORE GENEROUS LEAVE POLICIES.

Nothing in this Act shall be construed to discourage employers from adopting or retaining leave policies more generous than any policies that comply with the requirements under this Act.

SEC. 404. REGULATIONS.

Not later than 60 days after the date of enactment of this Act, the Secretary shall prescribe such regulations as are necessary to carry out title I.

SEC. 405. EFFECTIVE DATES.

(a) ADVISORY COMMISSION.—Title III shall become effective on the date of enactment of this Act.

(b) OTHER TITLES.—

(1) IN GENERAL.—Except as provided in paragraph (2), titles I, II, and IV shall take effect 6 months after the date of the enactment of this Act.

(2) COLLECTIVE BARGAINING AGREEMENTS.—In the case of a collective bargaining agreement in effect on the effective date described in paragraph (1), title I shall apply on the earlier of—

(A) the date of the termination of such agreement, or

(B) the date which occurs 12 months after the date of the enactment of this Act.

Notwithstanding any other provision of this Act, the term "employer" means any person engaged in commerce or in any industry affecting commerce who employs 50 or more employees at any one worksite for each working day during each of 19 or more calendar workweeks in the current or preceding calendar year; and includes:

"(i) any person who acts directly or indirectly in the interest of an employer to one or more employees;

"(ii) any successor in interest of such an employer; and

"(iii) any public agency, as defined in section 3(x) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(x)): and

notwithstanding any other provision of this act, the period of entitlement described in Sec. 104 (a)(2) of this act shall not exceed 10 workweeks during any 12-month period; and notwithstanding any other provision of this act, the entitlement under paragraph (a)(2), in "Sec. 6333" entitled "Temporary Medical Leave Requirement" contained in Sec. 201 of this act shall not exceed 10 administrative workweeks of the employee during any 12-month period.

TITLE V—CHILD PORNOGRAPHY AND OBSCENITY

SEC. 501. SHORT TITLE.

This title may be cited as the "Child Protection and Obscenity Enforcement Act of 1988".

Subtitle A—Child Pornography

SEC. 511. AMENDMENTS TO EXISTING OFFENSES.

(a) SEXUAL EXPLOITATION OF CHILDREN.—Paragraph (2) of subsection 2251(c) of title 18, United States Code, is amended by inserting "by any means including by computer" after "interstate or foreign commerce" both places it appears.

(b) MATERIAL INVOLVING SEXUAL EXPLOITATION OF CHILDREN.—Subsection 2252(a) of title 18, United States Code, is amended by inserting "by any means including by computer" after "interstate or foreign commerce" each place it appears.

(c) DEFINITION.—Section 2256 of title 18, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (4);

(2) by striking out the period at the end of paragraph (5) and inserting in lieu thereof: "; and"; and

(3) by adding at the end the following:

"(6) 'computer' has the meaning given that term in section 1030 of this title.".

SEC. 512. SELLING OR BUYING OF CHILDREN.

(a) IN GENERAL.—Chapter 110 of title 18, United States Code, is amended by inserting after section 2251 the following:

"§ 2251A. Selling or buying of children

"(a) Any parent, legal guardian, or other person having custody or control of a minor who sells or otherwise transfers custody or control of such minor, or offers to sell or otherwise transfer custody of such minor either—

"(1) with knowledge that, as a consequence of the sale or transfer, the minor will be portrayed in a visual depiction engaging in, or assisting another person to engage in, sexually explicit conduct; or

"(2) with intent to promote either—

"(A) the engaging in of sexually explicit conduct by such minor for the purpose of producing any visual depiction of such conduct; or

"(B) the rendering of assistance by the minor to any other person to engage in sexually explicit conduct for the purpose of producing any visual depiction of such conduct;

shall be punished by imprisonment for not less than 20 years or for life and by a fine under this title, if any of the circumstances described in subsection (c) of this section exist.

"(b) Whoever purchases or otherwise obtains custody or control of a minor, or offers to purchase or otherwise obtain custody or control of a minor either—

"(1) with knowledge that, as a consequence of the purchase or obtaining of custody, the minor will be portrayed in a visual depiction engaging in, or assisting another person to engage in, sexually explicit conduct; or

"(2) with intent to promote either—

"(A) the engaging in of sexually explicit conduct by such minor for the purpose of producing any visual depiction of such conduct; or

"(B) the rendering of assistance by the minor to any other person to engage in sexually explicit conduct for the purpose of producing any visual depiction of such conduct;

shall be punished by imprisonment for not less than 20 years or for life and by a fine under this title, if any of the circumstances described in subsection (c) of this section exist.

"(c) The circumstances referred to in subsections (a) and (b) are that—

"(1) in the course of the conduct described in such subsections the minor or the actor traveled in or was transported in interstate or foreign commerce;

"(2) any offer described in such subsections was communicated or transported in interstate or foreign commerce by any means including by computer or mail; or

"(3) the conduct described in such subsections took place in any territory or possession of the United States.".

(b) DEFINITION.—Section 2256 of title 18, United States Code, as amended by section 201 of this Act, is further amended—

(1) by striking out "and" at the end of paragraph (5);

(2) by striking out the period at the end of paragraph (6) and inserting "; and" in lieu thereof; and

(3) by adding at the end the following:

"(7) 'custody or control' includes temporary supervision over or responsibility for a minor whether legally or illegally obtained.".

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 110 of title 18, United States Code, is amended by inserting after the item relating to section 2251 the following:

"2251A. Selling or buying of children.".

SEC. 513. RECORD KEEPING REQUIREMENTS.

(a) IN GENERAL.—Chapter 110 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 2257. Record keeping requirements

"(a) Whoever produces any book, magazine, periodical, film, videotape, or other matter which—

"(1) contains one or more visual depictions made after February 6, 1978 of actual sexually explicit conduct; and

"(2) is produced in whole or in part with materials which have been shipped in interstate or foreign commerce, or is shipped or transported or is intended for shipment or transportation in interstate or foreign commerce;

shall create and maintain individually identifiable records pertaining to every performer portrayed in such a visual depiction.

"(b) Any person to whom subsection (a) applies shall, with respect to every performer portrayed in a visual depiction of actual sexually explicit conduct—

"(1) ascertain, by examination of an identification document containing such information, the performer's name and date of birth, and require the performer to provide such other indicia of his or her identity as may be prescribed by regulations;

"(2) ascertain any name, other than the performer's present and correct name, ever used by the performer including maiden name, alias, nickname, stage, or professional name; and

"(3) record in the records required by subsection (a) the information required by paragraphs (1) and (2) of this subsection and such other identifying information as may be prescribed by regulation.

"(c) Any person to whom subsection (a) applies shall maintain the records required by this section at his business premises, or at such other place as the Attorney General may by regulation prescribe and shall make such records available to the Attorney General for inspection at all reasonable times.

"(d)(1) No information or evidence obtained from records required to be created or maintained by this section shall, except as provided in paragraphs (2) and (3), be used, directly or indirectly, as evidence against any person with respect to any violation of law.

"(2) Paragraph (1) of this subsection shall not preclude the use of such information or evidence in a prosecution or other action for a violation of any applicable provision of law with respect to the furnishing of false information.

"(3) In a prosecution of any person to whom subsection (a) applies for an offense in violation of subsection 2251(a) of this title which has as an element the production of a visual depiction of a minor engaging in or assisting another person to engage in sexually explicit conduct and in which that element is sought to be established by showing that a performer within the meaning of this section is a minor—

"(A) proof that the person failed to comply with the provisions of subsection (a) or (b) of this section concerning the creation and maintenance of records, or a regulation issued pursuant thereto, shall raise a rebuttable presumption that such performer was a minor; and

"(B) proof that the person failed to comply with the provisions of subsection (e) of this section concerning the statement required by that subsection shall raise the rebuttable presumption that every performer in the matter was a minor.

"(e)(1) Any person to whom subsection (a) applies shall cause to be affixed to every copy of any matter described in paragraph (1) of subsection (a) of this section, in such manner and in such form as the Attorney General shall by regulations prescribe, a statement describing where the records required by this section with respect to all performers depicted in that copy of the matter may be located.

"(2) If the person to whom subsection (a) of this section applies is an organization the statement required by this subsection shall include the name, title, and business address of the individual employed by such organization responsible for maintaining the records required by this section.

"(3) In any prosecution of a person for an offense in violation of section 2252 of this title which has as an element the transporting, mailing, or distribution of a visual depiction involving the use of a minor engaging in sexually explicit conduct, and in which that element is sought to be established by a showing that a performer within the meaning of this section is a minor, proof that the matter in which the visual depiction is contained did not contain the statement required by this section shall raise a rebuttable presumption that such performer was a minor.

"(f) The Attorney General shall issue appropriate regulations to carry out this section.

"(g) As used in this section—

"(1) the term 'actual sexually explicit conduct' means actual but not simulated conduct as defined in subparagraphs (A) through (E) of paragraph (2) of section 2256 of this title;

"(2) 'identification document' has the meaning given that term in subsection 1028(d) of this title;

"(3) the term 'produces' means to produce, manufacture, or publish and includes the duplication, reproduction, or reissuing of any material; and

"(4) the term 'performer' includes any person portrayed in a visual depiction engaging in, or assisting another person to engage in, actual sexually explicit conduct.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 110 of title 18, United States Code, is amended by adding after the item relating to section 2256 the following:

"2257. Record keeping requirements.".

(c) EFFECTIVE DATE.—Section 2257 of title 18, United States Code, as added by this section shall take effect 180 days after the date of the enactment of this Act except—

(1) the Attorney General shall prepare the initial set of regulations required or authorized by section 2257 within 90 days of the date of the enactment of this Act; and

(2) subsection (e) of section 2257 of this title and of any regulation issued pursuant thereto shall take effect 270 days after the date of the enactment of this Act.

SEC. 514. R.I.C.O. AMENDMENT.

Subsection 1961(1)(B) of title 18, United States Code, is amended by inserting after "section 1957 (relating to engaging in monetary transactions in property derived from specified unlawful activity)" the following: "sections 2251 through 2252 (relating to sexual exploitation of children),".

Subtitle B—Obscenity

SEC. 521. RECEIPT OR POSSESSION FOR SALE; PRESUMPTIONS FOR CHAPTER 71.

(a) RECEIPT OR POSSESSION FOR SALE.—Chapter 71 of title 18, United States Code, is amended by inserting after section 1465 the following:

"§ 1466. Receipt or possession of obscene matter for sale or distribution

"(a) Whoever is engaged in the business of selling or transferring books, magazines, pictures, papers, films, videotapes, or phonograph or other audio recordings, and knowingly receives or possesses with intent to distribute any obscene book, magazine, picture, paper, film, videotape, or phonograph or other audio recording, which has been shipped or transported in interstate or foreign commerce, shall be punished by imprisonment for not more than 5 years or by a fine under this title, or both.

"(b) As used in this subsection, the term 'engaged in the business' means that the person who sells or transfers or offers to sell or transfer books, magazines, pictures, papers, films, videotapes, or phonograph or other audio recordings, devotes time, attention, or labor to such activities, as a regular course of trade or business, with the objective of earning a profit, although it is not necessary that the person make a profit or that the selling or transferring or offering

to sell or transfer such material be the person's sole or principal business or source of income. The offering for sale of or to transfer, at one time, two or more copies of any obscene publication, or two or more of any obscene article, or a combined total of five or more such publications and articles, shall create a rebuttable presumption that the person so offering them is 'engaged in the business' as defined in subsection (b).

"(c) In a prosecution for a violation of this section, it shall be an affirmative defense, on which the defendant has the burden of persuasion by a preponderance of the evidence, that the person—

"(1) ordered or received the obscene matter without examining the matter in advance;

"(2) did not in fact offer the matter for sale, or transfer or offer to transfer it to another person other than the sender; and

"(3) possessed the material less than 21 days.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 71 of title 18, United States Code, is amended by adding after the item relating to section 1465 the following:

"1466. Receipt or possession of obscene matter for sale or distribution.

"1467. Criminal forfeiture.".

(c) USE OF FACILITY OF COMMERCE.—The first paragraph of section 1465 of title 18, United States Code, is amended by inserting after the word distribution: ", or knowingly travels in interstate commerce, or uses a facility or means of commerce for the purpose of interstate or foreign sale or distribution of,".

(d) DISTRIBUTION OF PROCEEDS.—Section 1465 of title 18, United States Code, is amended by inserting "or the proceeds from the sale thereof" after "character,".

(e) PRESUMPTIONS.—Chapter 71 of title 18, United States Code, as amended by subsection (a) of this section and by section 302, is further amended by adding at the end the following:

"§ 1469. Presumptions

"(a) In any prosecution under this chapter in which an element of the offense is that the matter in question was transported, shipped, or carried in interstate commerce, proof, by either circumstantial or direct evidence, that such matter was produced or manufactured in one State and is subsequently located in another State shall raise a rebuttable presumption that such matter was transported, shipped, or carried in interstate commerce.

"(b) In any prosecution under this chapter in which an element of the offense is that the matter in question was transported, shipped, or carried in foreign commerce, proof, by either circumstantial or direct evidence, that such matter was produced or manufactured outside of the United States and is subsequently located in the United States shall raise a rebuttable presumption that such matter was transported, shipped, or carried in foreign commerce.".

(f) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 71 of title 18, United States Code, is amended by adding after the item relating to section 1468 the following:

"1469. Presumptions.".

SEC. 522. FORFEITURE IN OBSCENITY CASES.

(a) IN GENERAL.—Chapter 71 of title 18, United States Code, is amended by adding at the end the following:

"§ 1467. Criminal forfeiture

"(a) PROPERTY SUBJECT TO CRIMINAL FORFEITURE.—A person who is convicted of an offense involving obscene material under this chapter shall forfeit to the United States such person's interest in—

"(1) any obscene material produced, transported, mailed, shipped or received in violation of this chapter;

"(2) any property, real or personal, constituting or traceable to gross profits or other proceeds obtained from such offense; and

"(3) any property, real or personal, used or intended to be used to commit or to promote the commission of such offense. A forfeiture under this subparagraph shall be authorized only by the Attorney General, the Deputy Attorney General, the Associate Attorney General, or the Assistant Attorney General or the Acting Assistant Attorney General in the Criminal Division.

"(b) THIRD PARTY TRANSFERS.—All right, title, and interest in property described in subsection (a) of this section vests in the United States upon the commission of the act giving rise to forfeiture under this section. Any such property that is subsequently transferred to a person other than the defendant may be the subject of a special verdict of forfeiture and thereafter shall be ordered forfeited to the United States, unless the transferee establishes in a hearing pursuant to subsection (m) of this section that he is a bona fide purchaser for value of such property who at the time of purchase was reasonably without cause to believe that the property was subject to forfeiture under this section.

"(c) PROTECTIVE ORDERS.—(1) Upon application of the United States, the court may enter a restraining order or injunction, require the execution of a satisfactory performance bond, or take any other action to preserve the availability of property described in subsection (a) of this section for forfeiture under this section—

"(A) upon the filing of an indictment or information charging a violation of this chapter for which criminal forfeiture may be ordered under this section and alleging that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section; or

"(B) prior to the filing of such an indictment or information, if, after notice to persons appearing to have an interest in the property and opportunity for a hearing, the court determines that—

"(i) there is a substantial probability that the United States will prevail on the issue of forfeiture and that failure to enter the order will result in the property being destroyed, removed from the jurisdiction of the court, or otherwise made unavailable for forfeiture; and

"(ii) the need to preserve the availability of the property through the entry of the requested order outweighs the hardship on any party against whom the order is to be entered;

except that an order entered under subparagraph (B) shall be effective for not more than 90 days, unless extended by the court for good cause shown or unless an indictment or information described in subparagraph (A) has been filed.

"(2) A temporary restraining order under this subsection may be entered upon application of the United States without notice or opportunity for a hearing when an information or indictment has not yet been filed with respect to the property, if the United States demonstrates that there is probable cause to believe that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section and that provision of notice will jeopardize the availability of the property for forfeiture. Such a temporary order shall expire not more than 10 days after the date on which it is entered, unless extended for good cause shown or unless the party against whom it is entered consents to an extension for a longer period. A hearing requested concerning an order entered under this paragraph shall be held at the earliest possible time and prior to the expiration of the temporary order.

"(3) The court may receive and consider, at a hearing held pursuant to this subsection, evidence and information that would be inadmissible under the Federal Rules of Evidence.

"(d) WARRANT OF SEIZURE.—The Government may request the issuance of a warrant authorizing the seizure of property subject to forfeiture under this section in the same manner as provided for a search warrant. If the court determines that there is probable cause to believe that the property to be seized would, in the event of conviction, be subject to forfeiture and that an order under subsection (c) of this section may not be sufficient to assure the availability of the property for forfeiture, the court shall issue a warrant authorizing the seizure of such property.

"(e) ORDER OF FORFEITURE.—The court shall order forfeiture of property referred to in subsection (a) if the trier of fact determines, beyond a reasonable doubt, that such property is subject to forfeiture.

"(f) EXECUTION.—Upon entry of an order of forfeiture under this section, the court shall authorize the Attorney General to seize all property ordered forfeited upon such terms and conditions as the court shall deem proper. Following entry of an order declaring the property forfeited, the court may, upon application of the United States, enter such appropriate restraining orders or injunctions, require the execution of satisfactory performance bonds, appoint receivers, conservators, appraisers, accountants, or trustees, or take any other action to protect the interest of the United States in the property ordered forfeited. Any income accruing to or derived from property ordered forfeited under this section may be used to offset ordinary and necessary expenses to the property which are required by law, or which are necessary to protect the interests of the United States or third parties.

"(g) DISPOSITION OF PROPERTY.—Following the seizure of property ordered forfeited under this section, the Attorney General shall destroy or retain for official use any property described in paragraph (1) of subsection (a) and shall direct the disposition of any property described in paragraph (2) of subsection (a) by sale or any other commercially feasible means, making due provision for the rights of any innocent persons. Any property right or interest not exercisable by, or transferable for value to, the United States shall expire and shall not revert to the defendant, nor shall the defendant or any person acting in concert with him or on his behalf be eligible to purchase forfeited property at any sale held by the United States. Upon application of a person, other than the defendant or person acting in concert with him or on his behalf, the court may restrain or stay the sale or disposition of the property pending the conclusion of any appeal of the criminal case giving rise to the forfeiture, if the applicant demon-

strates that proceeding with the sale or disposition of the property will result in irreparable injury, harm, or loss to him.

"(h) AUTHORITY OF ATTORNEY GENERAL.—With respect to property ordered forfeited under this section, the Attorney General is authorized to—

"(1) grant petitions for mitigation or remission of forfeiture, restore forfeited property to victims of a violation of this chapter, or take any other action to protect the rights of innocent persons which is in the interest of justice and which is not inconsistent with the provisions of this section;

"(2) comprise claims arising under this section;

"(3) award compensation to persons providing information resulting in a forfeiture under this section;

"(4) direct the disposition by the United States, in accordance with the provisions of section 1616, title 19, United States Code, of all property ordered forfeited under this section by public sale or any other commercially feasible means, making due provision for the rights of innocent persons; and

"(5) take appropriate measures necessary to safeguard and maintain property ordered forfeited under this section pending its disposition.

"(i) APPLICABILITY OF CIVIL FORFEITURE PROVISIONS.—Except to the extent that they are inconsistent with the provisions of this section, the provisions of section 1468(d) of this title (18 U.S.C. 1468(d)) shall apply to a criminal forfeiture under this section.

"(j) BAR ON INTERVENTION.—Except as provided in subsection (m) of this section, no party claiming an interest in property subject to forfeiture under this section may—

"(1) intervene in a trial or appeal of a criminal case involving the forfeiture of such property under this section; or

"(2) commence an action at law or equity against the United States concerning the validity of his alleged interest in the property subsequent to the filing of an indictment or information alleging that the property is subject to forfeiture under this section.

"(k) JURISDICTION TO ENTER ORDERS.—The district courts of the United States shall have jurisdiction to enter orders as provided in this section without regard to the location of any property which may be subject to forfeiture under this section or which has been ordered forfeited under this section.

"(l) DEPOSITIONS.—In order to facilitate the identification and location of property declared forfeited and to facilitate the disposition of petitions for remission or mitigation of forfeiture, after the entry of an order declaring property forfeited to the United States, the court may, upon application of the United States, order that the testimony of any witness relating to the property forfeited be taken by deposition and that any designated book, paper, document, record, recording, or other material not privileged be produced at the same time and place, in the same manner as provided for the taking of depositions under Rule 15 of the Federal Rules of Criminal Procedure.

"(m) THIRD PARTY INTERESTS.—(1) Following the entry of an order of forfeiture under this section, the United States shall publish notice of the order and of its intent to dispose of the property in such manner as the Attorney General may direct. The Government may also, to the extent practicable, provide direct written notice to any person known to have alleged an interest in the property that is the subject of the order of forfeiture as a substitute for published notice as to those persons so notified.

SEC. 524. COMMUNICATIONS ACT AMENDMENT.

Section 223(b) of the Communications Act of 1934 (47 U.S.C. 223(b)) is amended to read as follows:

"(b)(1)(A) Whoever knowingly—

"(i) in the District of Columbia or in interstate or foreign communication, by means of telephone, makes (directly or by recording device) any obscene communication for commercial purposes to any person, regardless of whether the maker of such communication placed the call; or

"(ii) permits any telephone facility under such person's control to be used for an activity prohibited by clause (i);

shall be fined in accordance with title 18 of the United States Code, or imprisoned not more than two years, or both.

"(2)(A) Whoever knowingly—

"(i) in the District of Columbia or in interstate or foreign communication, by means of telephone, makes (directly or by recording device) any indecent communication for commercial purposes to any person, regardless of whether the maker of such communication placed the call; or

"(ii) permits any telephone facility under such person's control to be used for an activity prohibited by clause (i),

shall be fined not more than $50,000 or imprisoned not more than six months, or both.".

SEC. 525. ELECTRONIC SURVEILLANCE.

Subsection (1) of section 2516 of title 18, United States Code, is amended by redesignating paragraphs (i) and (j) as (j) and (k), respectively, and by adding a new paragraph (i) as follows:

"(i) any felony violation of chapter 71 (relating to obscenity) of this title;".

SEC. 526. POSSESSION AND SALE OF OBSCENE MATTERS IN FEDERAL JURISDICTION OR ON FEDERAL PROPERTY.

(a) IN GENERAL.—Chapter 71 of title 18, United States Code, is amended by inserting before section 1461 the following:

"§ 1460. Possession and sale of obscene matter on Federal property

"(a) Whoever, either—

"(1) in the special maritime and territorial jurisdiction of the United States, or on any land or building owned by, leased to, or otherwise used by or under the control of the Government of the United States; or

"(2) in the Indian country as defined in section 1151 of this title,

knowingly sells or possesses with intent to sell an obscene visual depiction or a visual depiction of a minor engaging in or assisting another person to engage in sexually explicit conduct, shall be punished by a fine in accordance with the provisions of this title or imprisoned for not more than 2 years, or both.

"(b) Except as provided in subsection (c), whoever, in an area described in subparagraph (1) or (2) of subsection (a) knowingly possesses an obscene visual depiction or a visual depiction of a minor engaging in or assisting another person to engage in sexually explicit conduct shall be punished by imprisonment for not more than 6 months or a fine of not more than $5,000 for an individual or $10,000 for a person other than an individual, or both.

"(c) Subsection (b) shall not apply in the case of a person who possesses an obscene visual depiction in any place where such person lives or resides.

"(d) For the purposes of this section—

"(1) the term 'visual depiction' includes undeveloped film and videotape but does not include mere words; and

"(2) the terms 'minor' and 'sexually explicit conduct' have the meaning given those terms in chapter 110 of this title.

"(e) In a prosecution for a violation of this section involving an obscene visual depiction, it shall be an affirmative defense, on which the defendant has the burden of persuasion by a preponderance of the evidence, that the person—

"(1) ordered or received the obscene matter without examining the matter in advance;

"(2) did not in fact offer the matter for sale, or transfer or offer to transfer it to another person other than the sender; and

"(3) possessed the material less than 21 days.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 71 of title 18, United States Code, is amended by adding before the item relating to section 1461 the following:

"1460. Possession and sale of obscene matter on Federal property.".

SEC. 527. CIVIL FORFEITURE.

(a) IN GENERAL.—Chapter 71 of title 18, United States Code, is amended by adding the following new section at the end thereof:

"§ 1470. Civil forfeiture

"(a) PROPERTY SUBJECT TO CIVIL FORFEITURE.—The following property shall be subject to forfeiture by the United States:

"(1) Any material that has been adjudged obscene in any criminal case, Federal or State, that is produced, transported, mailed, shipped, or received in violation of this chapter.

"(2) Any property, real or personal, constituting or traceable to gross profits or other proceeds obtained from a violation of this chapter involving material that has been adjudged obscene in any criminal case, State or Federal, except that no property shall be forfeited under this paragraph, to the extent of the interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner.

"(b) SEIZURE PURSUANT TO SUPPLEMENTAL RULES FOR CERTAIN ADMIRALTY AND MARITIME CLAIMS.—Any property subject to forfeiture to the United States under this section may be seized by the Attorney General upon process issued pursuant to the Supplemental Rules for Certain Admiralty and Maritime Claims by any district court of the United States having jurisdiction over the property, except that seizure without such process may be made when the seizure is pursuant to a search under a search warrant. The government may request the issuance of a warrant authorizing the seizure of property subject to forfeiture under this section in the same manner as provided for a search warrant under the Federal Rules of Criminal Procedure.

"(c) CUSTODY OF ATTORNEY GENERAL.—Property taken or detained under this section shall not be repleviable, but shall be deemed to be in the custody of the Attorney General, subject only to the orders and decrees of the court or the official having jurisdiction thereof. Whenever property is seized under any of the provisions of this subchapter, the Attorney General may—

"(1) place the property under seal;

"(2) remove the property to a place designated by him; or

"(3) require that the General Services Administration take custody of the property and remove it, if practicable, to an appropri-

ate location for disposition in accordance with law.

"(d) OTHER LAWS AND PROCEEDINGS APPLICABLE.—All provisions of the customs laws relating to the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws, the disposition of such property or the proceeds from the sale thereof, the remission or mitigation of such forfeitures, and the compromise of claims, shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under this section, insofar as applicable and not inconsistent with the provisions of this section, except that such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this section by such officers, agents, or other persons as may be authorized or designated for that purpose by the Attorney General or the Postal Service, except to the extent that such duties arise from seizures and forfeitures effected by any customs officer.

"(e) APPLICABILITY OF CERTAIN SECTIONS.—Sections 1606, 1607, 1608, 1609, 1613, 1614, 1617, and 1618 of title 19 shall not apply with respect to obscene material subject to forfeiture under subsection (a)(1) of this section.

"(f) DISPOSITION OF FORFEITED PROPERTY.—Whenever property is forfeited under this section the Attorney General shall destroy or retain for official use any article described in paragraph (1) of subsection (a), and with respect to property described in paragraphs (2) and (3) of subsection (a) may—

"(1) retain the property for official use or transfer the custody or ownership of any forfeited property to a Federal, State, or local agency pursuant to section 1616 of title 19;

"(2) sell any forfeited property which is not required to be destroyed by law and which is not harmful to the public; or

"(3) require that the General Services Administration take custody of the property and dispose of it in accordance with law.

The Attorney General shall ensure the equitable transfer pursuant to paragraph (1) of any forfeited property to the appropriate State or local law enforcement agency so as to reflect generally the contribution of any such agency participating directly in any of the acts which led to the seizure or forfeiture of such property. A decision by the Attorney General pursuant to paragraph (1) shall not be subject to judicial review. The Attorney General shall forward to the Treasurer of the United States for deposit in accordance with section 524(c) of title 28 the proceeds from any sale under paragraph (2) and any moneys forfeited under this subchapter.

"(g) TITLE TO PROPERTY.—All right, title, and interest in property described in subsection (a) of this section shall vest in the United States upon commission of the act giving rise to forfeiture under this section.

"(h) STAY OF PROCEEDINGS.—The filing of an indictment or information alleging a violation of this chapter which is also related to a civil forfeiture proceeding under this section shall, upon motion of the United States and for good cause shown, stay the civil forfeiture proceeding.

"(i) VENUE.—In addition to the venue provided for in section 1395 of title 28 or any other provision of law, in the case of property of a defendant charged with a violation that is the basis for forfeiture of the property under this section, a proceeding for forfeiture under this section may be brought in the judicial district in which the defendant owning such property is found or in the judicial district in which the criminal prosecution is brought.".

(b) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 71 of title 18, United States Code, is amended by inserting after the item relating to section 1469 the following:

"1470. Civil forfeiture.".

(c) REPEAL.—The last paragraph of section 1465 of title 18, United States Code, is repealed.

SEC. 528. CIVIL FINES.

Chapter 71 of title 18, United States Code, is amended by inserting at the end the following new section:

"Section 1471. Civil fines.

"(a) Whoever produces, transports, mails, ships or receives any article that has been adjudged obscene in any state or federal criminal case shall be subject to a civil penalty of—

"(1) for a first violation, not more than $10,000;

"(2) for a second violation, not more than $50,000; and

"(3) for a third or subsequent violation, not more than $250,000 in the case of an individual, or $500,000 in the case of an organization.

"(b) An action to recover a fine imposable under subsection (a) shall be brought in the name of the United States. The Attorney General may commence such a civil action in the district court in any district where the violation occurs. Such an action must be commenced within 5 years of the violation. The Attorney General may compromise, modify, or remit with or without condition any civil penalty imposed under this section.

"(c) In any civil action under this section, the defendant shall have a right to a trial by jury, and the government shall have the burden of proof, by a preponderance of the evidence, that the article is obscene under the standards of the community in which the trial takes place."

SEC. 529. SEVERABILITY.

If any of the provisions of this Act are found invalid, such finding shall not affect the validity or effect of the remaining provisions thereof.

TITLE V—CHILD CARE PROVISIONS

SEC. 501. SHORT TITLE.

This title may be cited as the "Act for Better Child Care Services of 1988".

SEC. 502. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the number of children living in homes where both parents work, or living in homes with a single parent who works, has increased dramatically over the last decade;

(2) the availability of quality child care is critical to the self-sufficiency and independence of millions of American families, including the growing number of mothers with young children who work out of economic necessity;

(3) high quality child care programs can strengthen our society by providing young children with the foundation on which to learn the basic skills necessary to be productive workers;

(4) the years from birth to age 6 are a critical period in the development of a young child;

(5) a significant number of parents do not have a real choice as they seek adequate child care for their young children because of limited incomes, insufficient State child care standards, and the inadequate supply of child care services in their community;

(6) high quality early childhood development programs provided during such period are cost effective because such programs can reduce the chances of juvenile delinquency and adolescent pregnancy and can improve the likelihood that children will finish high school and become employed;

(7) the number of quality child care arrangements falls far short of the number required for children in need of child care services;

(8) the rapid growth of participation in the labor force by mothers of children under the age of 1 has resulted in a critical shortage of quality child care arrangements for infants and toddlers;

(9) the lack of available child care services results in many preschool and school-age children being left without adequate supervision for significant parts of the day;

(10) many working parents who are unable to afford adequate child care services do not receive adequate financial assistance for such services from employers or public sources;

(11) because of the lack of affordable child care, a large number of parents are not able to work or to seek the training or education they need to become self sufficient;

(12) making adequate child care services available for parents who are employed, seeking employment, or seeking to develop employment skills promotes and strengthens the well-being of families and the national economy;

(13) the payment of the exceptionally low salaries to child care workers adversely affects the quality of child care services by making it difficult to retain qualified staff;

(14) several factors result in the shortage of quality child care options for children and parents, including—

(A) the inability of parents to pay for child care services;

(B) the lack of up-to-date information on child care services;

(C) the lack of training opportunities for staff in child care programs;

(D) the high rate of staff turnover in child care facilities; and

(E) the wide differences among the States in child care licensing and enforcement policies; and

(15) improved coordination of child care services will help to promote the most efficient use of child care resources.

(b) PURPOSES.—The purposes of this subtitle are—

(1) to build on and to strengthen the role of the family by seeking to ensure that parents are not forced by lack of available programs or financial resources to place a child in an unsafe or unhealthy child care facility or arrangement;

(2) to promote the availability and diversity of quality child care services to expand child care options available to all families who need such services;

(3) to provide assistance to families whose financial resources are not sufficient to enable such families to pay the full cost of necessary child care services;

(4) to lessen the chances that children will be left to fend for themselves for significant parts of the day;

(5) to improve the productivity of parents in the labor force by lessening the stresses related to the absence of adequate child care services;

(6) to provide assistance to States to improve the quality of, and coordination among, child care programs;

(7) to increase the opportunities for attracting and retaining qualified staff in the field of child care to provide high quality child care services to children; and

(8) to strengthen the competitiveness of the United States by providing young children with a sound early childhood development experience.

SEC. 503. DEFINITIONS.

As used in this subtitle:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of Child Care appointed under section 514(a).

(2) CAREGIVER.—The term "caregiver" means an individual who provides a service directly to an eligible child on a person-to-person basis.

(3) CENTER-BASED CHILD CARE PROVIDER.—The term "center-based child care provider" means a child care provider that provides child care services in a nonresidential facility.

(4) CHILD CARE CERTIFICATE.—The term "child care certificate" means a certificate that is issued by the State to parents who may use such certificate only as payment for child care services for an eligible child and that provides to an eligible child care provider a right to reimbursement for such services at the same rate charged by that provider for comparable services to children whose parents are not eligible for certificates under this subtitle or for child care assistance under any other Federal or State program.

(5) COMMUNITY-BASED ORGANIZATION.—The term "community-based organization" has the meaning given such term by section 4(5) of the Job Training and Partnership Act (29 U.S.C. 1503(5)).

(6) ELEMENTARY SCHOOL.—The term "elementary school" means a day or residential school that provides elementary education, as determined under State law.

(7) ELIGIBLE CHILD.—The term "eligible child" means an individual—

(A) who is less than 16 years of age;

(B) whose family income does not exceed 100 percent of the State median income for a family of the same size; and

(C) who—

(i) resides with a parent or parents who are working, seeking employment, or enrolled in a job training or educational program; or

(ii) is receiving, or needs to receive, protective services and resides with a parent or parents not described in clause (i).

(8) ELIGIBLE CHILD CARE PROVIDER.—The term "eligible child care provider" means a center-based child care provider, a group home child care provider, a family child care provider, or other provider of child care services for compensation that—

(A) is licensed or regulated under State law;

(B) satisfies—

(i) the Federal requirements, except as provided in subparagraph (C); and

(ii) the State and local requirements;

applicable to the child care services it provides; and

(C) after the expiration of the 4-year period beginning on the date the Secretary establishes minimum child care standards under section 517(e)(2), complies with such standards that are applicable to the child care services it provides.

(9) FAMILY CHILD CARE PROVIDER.—The term "family child care provider" means 1 individual who provides child care services for fewer than 24 hours per day, as the sole caregiver, and in the private residence of such individual.

(10) FAMILY SUPPORT SERVICES.—The term "family support services" means services that assist parents by providing support in parenting and by linking parents with community resources and with other parents.

(11) FULL-WORKING-DAY.—The term "full-working-day" means at least 10 hours per day.

(12) GROUP HOME CHILD CARE PROVIDER.—The term "group home child care provider" means 2 or more individuals who jointly provide child care services for fewer than 24 hours per day and in a private residence.

(13) HANDICAPPING CONDITION.—The term "handicapping condition" means any condition set forth in section 602(a)(1) of the Education of the Handicapped Act (20 U.S.C. 1401(a)(1)) or section 672(1) of the Education of the Handicapped Act (20 U.S.C. 1471(a)).

(14) INDIAN TRIBE.—The term "Indian tribe" has the meaning given it in section 4(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(b)).

(15) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" has the meaning given such term in section 481(a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1088(a)(1)), except that with respect to a tribally controlled community college such term has the meaning given it in section 2(a)(5) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801(a)(5)).

(16) LEAD AGENCY.—The term "lead agency" means the agency designated under section 506(a).

(17) LOCAL EDUCATIONAL AGENCY.—The term "local educational agency" has the meaning given that term in section 198(a)(10) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2854(a)(10)).

(18) PARENT.—The term "parent" includes a legal guardian or other person standing in loco parentis.

(19) SCHOOL-AGE CHILD CARE SERVICES.—The term "school-age child care services" means child care services that are—

"(A) provided during such times of the school day when regular instructional services are not in session; and

"(B) not intended as an extension of or replacement for the regular academic program, but are intended to provide an environment which enhances the social, emotional, and recreational development of children of school age;

(20) SECONDARY SCHOOL.—The term "secondary school" means a day or residential school which provides secondary education, as determined under State law.

(21) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services unless the context specifies otherwise.

(22) SCHOOL FACILITIES.—The term "school facilities" means classrooms and related facilities used to provide education.

(23) SLIDING FEE SCALE.—The term "sliding fee scale" means a system of cost sharing between the State and a family based on income and size of the family with the very low income families having to pay no cost.

(24) STATE.—The term "State" means any of the several States, the District of Columbia, the Virgin Islands of the United States, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, or Palau.

(25) UNIT OF GENERAL PURPOSE LOCAL GOVERNMENT.—The term "unit of general purpose local government" means any city, county, town, township, parish, village, a combination of such general purpose political subdivisions including those in two or more States, or other general purpose political subdivisions of a State.

(26) TRIBAL ORGANIZATION.—The term "tribal organization" has the meaning given it in section 4(c) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(c)).

(27) TRIBALLY CONTROLLED COMMUNITY COLLEGE.—The term "tribally controlled community college" has the meaning given it in section 2(a)(4) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801(a)(4)).

SEC. 504. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—To carry out this subtitle, other than section 521, there are authorized to be appropriated $2,500,000,000 for the fiscal year 1990 and such sums as may be necessary in each of the fiscal years 1991 through 1994.

SEC. 505. AMOUNTS RESERVED; ALLOTMENTS.

(a) AMOUNTS RESERVED.—

(1) TERRITORIES AND POSSESSIONS.—The Secretary shall reserve not to exceed one half of 1 percent of the amount appropriated under section 504(a) in each fiscal year for payments to Guam, American Samoa, the Virgin Islands of the United States, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, and Palau, to be allotted in accordance with their respective needs.

(2) INDIANS.—The Secretary shall reserve an amount, not less than 1.5 percent and not more than 3 percent of the amount appropriated under section 504(a) in each fiscal year, to carry out subsection (c) regarding Indian children.

(b) STATE ALLOTMENT.—

(1) GENERAL RULE.—From the remainder of the sums appropriated under section 504(a) for each fiscal year, the Secretary shall allot to each State (excluding jurisdictions referred to in subsection (a)(1)) an amount equal to the sum of—

(A) an amount that bears the same ratio to 50 percent of such remainder as the product of the young child factor of the State and the allotment percentage bears to the sum of the corresponding products for all States; and

(B) an amount that bears the same ratio to 50 percent of such remainder as the product of the school lunch factor of the State and the allotment percentage bears to the sum of the corresponding products for all the States.

(2) YOUNG CHILD FACTOR.—The term "young child factor" means the ratio of the number of children in the State who are less than 5 years of age to the number of children in all the States who are less than 5 years of age.

(3) SCHOOL LUNCH FACTOR.—The term "school lunch factor" means the ratio of the number of children in the State who are receiving free or reduced price lunches under the school lunch program established under the National School Lunch Act (42 U.S.C. 1751 et seq.) to the number of children in all the States who are receiving free or reduced price lunches under such program.

(4) ALLOTMENT PERCENTAGE.—

(A) IN GENERAL.—The allotment percentage for a State is determined by dividing—

(i) the per capita income of all individuals in the United States; by

(ii) the per capita income of all individuals in the State.

(B) LIMITATIONS.—If a sum determined under subparagraph (A)—

(i) exceeds 1.2, then the allotment percentage of that State shall be considered to be 1.2; and

(ii) is less that 0.8, then the allotment percentage of the State shall be considered to be 0.8.

(C) PER CAPITA INCOME.—For purposes of subparagraph (A), per capita income shall be—

(i) determined at 2-year intervals;

(ii) applied for the 2-year period beginning on October 1 of the first fiscal year beginning on the date such determination is made; and

(iii) equal to the average of the annual per capita incomes for the most recent period of 3 consecutive years for which satisfactory data are available from the Department of Commerce at the time such determination is made.

(c) PAYMENTS FOR THE BENEFIT OF INDIAN CHILDREN.—

(1) TRIBAL ORGANIZATIONS.—From the funds reserved under subsection (a)(2), the Secretary may, upon the application of a Indian tribe or tribal organization enter into a contract with, or make a grant to such Indian tribe or tribal organization for a period of 3 years, subject to satisfactory performance, to plan and carry out programs and activities that are consistent with this subtitle. Such contract or grant shall be subject to the terms and conditions of section 102 of the Indian Self-Determination Act (25 U.S.C. 450f) and shall be conducted in accordance with sections 4, 5, and 6 of the Act of April 16, 1934 (48 Stat. 596; 25 U.S.C. 655-657), that are relevant to such programs and activities.

(2) INDIAN RESERVATIONS.—In the case of an Indian tribe in a State other than the States of Oklahoma, Alaska, and California, such programs and activities shall be carried out on the Indian reservation for the benefit of Indian children.

(3) STANDARDS.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall establish, through the application process, standards applicable to child care services provided under such programs and activities. For purposes of establishing such standards, the Secretary shall take into consideration—

(i) the codes, regulations, and cultural factors of the Indian tribe involved, as expressed by such tribe or the tribal organization that represents such tribe; and

(ii) the State licensing and regulatory requirements applicable to child care services provided in the State in which such program and activities are carried out.

(B) APPLICATION.—

(i) RULE.—Except as provided in clause (ii), after the Secretary establishes minimum child care standards under section 517(e)(2), such minimum standards shall apply with respect to child care services provided under such programs and activities.

(ii) WAIVERS AND MODIFICATIONS.—The Secretary may waive or modify, for a period not to exceed 5 years beginning on the date such minimum standards are established, any of such minimum standards that would limit the capacity of an Indian tribe or tribal organization to receive funds under this subtitle if the Secretary determines that there is a reasonable expectation that each of such standards requested to be waived will be met by the applicant by the end of the period for which the waiver is requested.

(4) AVAILABILITY OF STATE CHILD CARE SERVICES.—For the purpose of determining whether to approve an application for a contract or grant under this subsection, the Secretary shall take into consideration the availability of child care services provided in accordance with this subtitle by the State in which the applicant proposes to carry out a program to provide child care services.

(5) RULE OF CONSTRUCTION.—This subsection shall not be construed—

(A) to limit the eligibility of any individual to participate in any program carried out with assistance received under this subtitle by a State; or

(B) to modify any requirement imposed on a State by any provision of this subtitle.

(6) COORDINATION.—To the maximum extent practicable, the applicant for a grant or contract under this subsection and the State in which the applicant is located shall coordinate with each other their respective child care programs and activities, including child care programs and activities carried out with assistance received under this subtitle.

(d) DATA AND INFORMATION.—The Secretary shall obtain from each appropriate Federal agency, the most recent data and information necessary to determine the allotments provided for in subsection (b).

(e) REALLOTMENTS.—

(1) IN GENERAL.—Any portion of the allotment under subsection (b) to a State that the Secretary determines is not required to carry out a State plan approved under section 507(d), in the period for which the allotment is made available, shall be reallotted by the Secretary to other States in proportion to the original allotments to the other States.

(2) LIMITATIONS.—

(A) REDUCTION.—The amount of any reallotment to which a State is entitled to under paragraph (1) shall be reduced to the extent that it exceeds the amount that the Secretary estimates will be used in the State to carry out a State plan approved under section 507(d).

(B) REALLOTMENTS.—The amount of such reduction shall be similarly reallotted among States for which no reduction in an allotment or reallotment is required by this subsection.

(3) AMOUNTS REALLOTTED.—For purposes of any other section of this subtitle, any amount reallotted to a State under this subsection shall be considered to be part of the allotment made under subsection (b) to the State.

(f) DEFINITION.—For the purposes of this section, the term "State" means any of the several 50 States, the District of Columbia, or the Commonwealth of Puerto Rico.

SEC. 506. LEAD AGENCY.

(a) DESIGNATION.—The chief executive officer of a State desiring to participate in the program authorized by this subtitle shall designate, in an application submitted to the Secretary under section 507(a), an appropriate State agency that meets the requirements of subsection (b) to act as the lead agency.

(b) REQUIREMENTS.—

(1) ADMINISTRATION OF FUNDS.—The lead agency shall have the capacity to administer the funds provided under this subtitle to support programs and services authorized under this subtitle and to oversee the plan submitted under section 507(b).

(2) COORDINATION.—The lead agency shall have the capacity to coordinate the services for which assistance is provided under this subtitle with the services of other State and local agencies involved in providing services to children.

(3) ESTABLISHMENT OF POLICIES.—The lead agency shall have the authority to establish policies and procedures for developing and implementing interagency agreements with other agencies of the State to carry out the purposes of this subtitle.

(c) DUTIES.—The lead agency shall—

(1) assess child care needs and resources in the State, and assess the effectiveness of existing child care services and services for which assistance is provided under this subtitle or under other laws, in meeting such needs;

(2) develop a plan designed to meet the need for child care services in the State for eligible children, including infants, preschool children, and school-age children, giving special attention to meeting the needs for services for low-income children, migrant children, children with a handicapping condition, foster children, children in need of protective services, children of adolescent parents who need child care to remain in school, and children with limited English-language proficiency;

(3) develop, in consultation with the State advisory committee on child care established under section 511, the State plan submitted to the Secretary under section 507(b);

(4) hold hearings, in cooperation with such State advisory committee on child care, annually in each region of the State in order to provide to the public an opportunity to comment on the provision of child care services in the State under the proposed State plan;

(5) make such periodic reports to the Secretary as the Secretary may by rule require;

(6) coordinate the provision of services under this subtitle with—

(A) other child care programs and services, and with educational programs, for which assistance is provided under any State, local, or other Federal law, including the State Dependent Care Development Grants Act (42 U.S.C. 9871 et seq.); and

(B) other appropriate services, including social, health, mental health, protective, and nutrition services, available to eligible children under other Federal, State, and local programs; and

(7) identify resource and referral programs for particular geographical areas in the State that meet the requirements of section 512.

SEC. 507. APPLICATION AND PLAN.

(a) APPLICATION.—To be eligible to receive assistance under this subtitle, a State shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require by rule.

(b) PLAN.—The application of a State submitted under subsection (a) shall include an assurance that the State will comply with the requirements of this subtitle and a State plan that is designed to be implemented during a 4-year period and that meets the requirements of subsection (c).

(c) REQUIREMENTS OF A PLAN.—

(1) LEAD AGENCY.—The plan shall identify the lead agency designated in accordance with section 506(a).

(2) ADVISORY BODIES.—The plan shall demonstrate that the State will establish in ac-

cordance with section 511 a State advisory committee on child care.

(3) POLICIES AND PROCEDURES.—The plan shall set forth policies and procedures designed to ensure all of the following:

(A) That—

(i) all providers of child care services for which assistance is provided under this subtitle comply with all licensing and regulatory requirements (including registration requirements) applicable under State and local law; and

(ii) such requirements are imposed and enforced by the State uniformly on all child care providers that provide child care services under similar child care arrangements.

This subparagraph shall not be construed to prohibit a State from imposing more stringent standards or requirements on child care providers who provide services for which assistance is provided under this subtitle and who also receive State funds under any other law to provide child care services under a contract or other arrangement with the State.

(B) That procedures will be established to ensure that child care providers receiving assistance under this subtitle or under other publicly-assisted child care programs comply with the minimum child care standards established under section 517(e)(2) after the expiration of the 5-year period beginning on the date the Secretary establishes such standards, and comply with all applicable State and local licensing and regulatory requirements (including registration requirements).

(C) That the State will not—

(i) reduce the categories of child care providers licensed or regulated by the State on the date of enactment of this subtitle; or

(ii) reduce the level of standards applicable to child care services provided in the State and to the matters specified in sections 513(a) and 517(d), even if such standards exceed the minimum standards established under section 517(e)(2) by the Secretary unless the State demonstrates, to the satisfaction of both the Secretary and the State advisory committee on child care established under section 511, that the reduction is based on positive developmental practice.

(D) That funds received under this subtitle by the State will be used only to supplement, not to supplant, the amount of Federal, State, and local funds expended for the support of child care services and related programs in the State, except that States may use existing expenditures in support of child care services to satisfy the State matching requirement under section 516(b).

(E) That for each fiscal year the State will use an amount not to exceed 10 percent of the amount of funds received under section 505 by the State for such fiscal year to administer the State plan.

(F) That the State will pay funds under this subtitle to eligible child care providers in a timely fashion to ensure the continuity of child care services to eligible children.

(G) That resource and referral agencies will be made available to families in all regions of the State.

(H) That each eligible child care provider who provides services for which assistance is provided under paragraph (4)—

(i) provides services to children of families with very low income, taking into account family size;

(ii) after the expiration of the 4-year period beginning on the date the Secretary establishes minimum child care standards under section 517(e)(2), complies with such standards except as provided in clause (iv);

(iii) if such eligible child care provider is regulated by a State educational agency that—

(I) administers any State law applicable to child care services;

(II) develops child care standards that meet or exceed the minimum standards established under section 517(e)(2) and the State licensing or regulatory requirements (including registration requirements); and

(III) enforces the standards described in subclause (II) that are developed by such agency, using policies and practices that meet or exceed the requirements specified in subparagraphs (A) through (K) of paragraph (11);

complies with the standards described in subclause (II) that are developed by such agency; and

(iv) complies with the State plan and the requirements of this subtitle.

(I) That child care services for which assistance is provided under paragraph (4) are available to children with a handicapping condition.

(J) That State regulations will be issued governing the provision of school-age child care services if the State does not already have such regulations.

(K) That child care providers in the State are encouraged to develop personnel policies that include compensated time for staff undergoing training required under this subtitle.

(L) Encourage the payment of adequate salaries and other compensation—

(i) to full and part-time staff of child care providers who provide child care services for which assistance is provided under paragraph (4);

(ii) to the extent practicable, to such staff in other major Federal and State child care programs; and

(iii) to other child care personnel, at the option of the State.

(M) That child care services for which assistance is provided under paragraph (4) are available for an adequate number of hours and days to serve the needs of parents of eligible children, including parents who work nontraditional hours.

(4) CHILD CARE SERVICES.—The plan shall provide that—

(A) subject to subparagraph (B), the State will use at least 70 percent of the amount allotted to the State in any fiscal year to provide child care services that meet the requirements of this subtitle to eligible children in the State on a sliding fee scale basis and using funding methods provided for in section 508(a)(1), with priority being given for services to children of families with very low family incomes, taking into consideration the size of the family; and

(B) the State will use at least 10 percent of the funds reserved for the purposes specified in subparagraph (A) in any fiscal year to provide for the extension of part-day programs as described in section 508(b).

(5) ACTIVITIES TO IMPROVE THE QUALITY OF CHILD CARE.—The plan shall provide that the State will use not more than 10 percent of the amount allotted to it in any fiscal year to do each of the following:

(A) Provide financial assistance, pursuant to procedures established under the State Dependent Care Development Grants Act (42 U.S.C. 9801 note), to private nonprofit organizations or public organizations (including units of general purpose local government) that meet the requirements of section 512 for the development, establishment, expansion, operation, and coordination of resource and referral programs specifically related to child care.

(B) Improve the monitoring of compliance with, and enforcement of, the licensing and regulatory requirements (including registration requirements) of the State.

(C) Provide training, technical assistance, and scholarship assistance in accordance with the requirements of subsections (b), (c), and (d) of section 513.

(D) Ensure that adequate salaries and other compensation are paid to full- and part-time staff who provide child care services for which assistance is provided under paragraph (4).

(6) ACTIVITIES TO INCREASE THE AVAILABILITY OF CHILD CARE.—The plan shall provide that the State will use not more than 10 percent of the amount allotted to it in any fiscal year for any of the following activities, together with an assurance that the State will give priority to the activities described in subparagraphs (A) and (B):

(A) Making grants and low interest loans to family child care providers and nonprofit child care providers to help such providers pay the cost of—

(i) establishing child care programs; and

(ii) making renovations and improvements in existing facilities to be used to carry out such programs.

(B) Making grants and low-interest loans to child care providers to assist such providers in meeting Federal, State, and local child care standards, giving priority to providers receiving assistance under this subtitle or under other publicly assisted child care programs and which serve children of families that have very low incomes.

(C) Providing assistance for the establishment and operation of after school child care programs.

(D) Making grants or loans to fund the start up costs of employer sponsored child care programs.

(E) Providing assistance for the temporary care of children who are sick and unable to attend child care programs in which such children are enrolled.

(F) Providing assistance for the establishment and operation of child care programs for homeless children.

(G) Providing assistance to link child care programs with programs designed to assist the elderly.

(H)(i) Establishing and administering a revolving loan fund from which any person desiring to make capital improvements to the principal residence of such person (within the meaning of section 1034 of the Internal Revenue Code of 1986) may obtain a loan in order to become a licensed family child care provider, pursuant to State and local law, and to comply with the minimum standards applicable to such providers as established under section 517(e)(2).

(ii) To permit the use of funds provided under this subtitle for the activity described in clause (i), the State shall set forth procedures and guidelines to carry out the purposes of such clause, including procedures—

(I) that provide assurances that only applicants who obtain a license for the operation of a child care facility in accordance with the provisions of State and local law and who will meet the minimum standards applicable to family child care services established under section 517(e)(2), benefit from loans made available pursuant to the provisions of clause (i);

(II) to assure that the revolving fund will be administered by the State and will provide loans to qualified applicants, pursuant

to the terms and conditions established by such State, in an amount, determined by such State, that is not in excess of $1,500;

(III) to assure that funds used to carry out the purpose of clause (i) are transferred to such fund to provide capital for making loans;

(IV) to assure that interest and principal payments on loans and any other moneys, property, or assets derived from any action concerning such funds are deposited into such fund;

(V) to assure that all loans, expenses, and payments pursuant to the operation of the revolving loan fund are paid from such fund;

(VI) to assure that loans made from such fund are made to qualified applicants to enable such applicants to make capital improvements so that such applicant may obtain a State or local family child care provider license and so that such applicant may meet the minimum standards applicable to such providers established under section 517(e)(2); and

(VII) that specify how such revolving loan fund will continue to be financed in subsequent years, such as through contributions by the State or by some other entity.

(7) DISTRIBUTION OF FUNDS.—The plan shall provide that funds will be distributed—

(A) to a variety of types of child care providers in each community, including center-based child care providers, group home child care providers, and family child care providers; and

(B) equitably among child care providers to provide child care services in rural and urban areas.

(8) REIMBURSEMENTS.—The plan shall provide that for child care services for which assistance is provided under this subtitle, an eligible child care provider shall have a right to reimbursement at the same rate charged by that provider for comparable services to children of comparable ages and special needs whose parents are not eligible for certificates under this subtitle or for child care assistance under any other Federal or State program.

(9) PRIORITY.—The plan shall provide that priority will be given, in distributing funds in the State, to child care providers that—

(A) in providing child care services assisted by such funds, will give priority to eligible children of families with very low income;

(B) to the maximum extent feasible, provide child care services to a reasonable mix of children, including children from different socioeconomic backgrounds and children with a handicapping condition;

(C) provide opportunities for parent involvement in all aspects of providing such services; and

(D) to the maximum extent feasible, offer family support services.

(10) SLIDING FEE SCALE.—The plan shall provide for the establishment of a sliding fee scale that requires cost sharing based on the services provided to and the income of the families (adjusted for family size) of eligible children who receive services for which assistance is provided under this subtitle.

(11) PARENTAL INVOLVEMENT.—The plan shall establish procedures for parental involvement in State and local planning, monitoring, and evaluation of child care programs and services in the State.

(12) ENFORCEMENT OF LICENSING AND OTHER REGULATORY REQUIREMENTS (INCLUDING REGISTRATION REQUIREMENTS).—The plan shall provide that the State, not later than 4 years after the date of enactment of this subtitle, shall have in effect enforcement policies and practices that will be applicable to all licensed or regulated child care providers (including child care providers required to register) in the State, including policies and practices that—

(A) require personnel who perform inspection functions with respect to licensed or regulated child care services to have or receive training in health and safety, child abuse prevention and detection, program management, and relevant law enforcement;

(B) to the maximum extent feasible, have personnel requirements to ensure that individuals who are hired as licensing inspectors are qualified to inspect and have inspection responsibility exclusively for children's services;

(C) require—

(i) personnel who perform inspection functions with respect to licensed or regulated child care services to make not less than 1 unannounced inspection of each center-based child care provider and each group home child care provider in the State annually; and

(ii) personnel who perform inspection functions with respect to licensed or regulated child care services to make unannounced inspections annually of not less than 20 percent of licensed and regulated family child care providers in the State;

(D) require licensed or regulated child care providers (including registered child care providers) in the State—

(i) to have written policies and program goals and to make a copy of such policies and goals available to parents; and

(ii) to provide parents with unlimited access to their children and to providers caring for their children, during normal hours of operation of such providers and whenever children of such parents are in the care of such providers;

(E) implement a procedure to address complaints that will provide a reasonable opportunity for a parent, or child care provider, that is adversely affected or aggrieved by a decision of the lead agency or any program assisted under this subtitle, to be heard by the State;

(F) prohibit the operator of a child care facility to take any action against an employee of such operator that would adversely affect the employment, or terms or conditions of employment, of such employee because such employee communicates a failure of such operator to comply with any applicable licensing or regulatory requirement;

(G) implement a consumer education program designed to inform parents and the general public about licensing requirements, complaint procedures, and policies and practices required by this paragraph;

(H) require a child care provider to post, on the premises where child care services are provided, the telephone number of the appropriate licensing or regulatory agency that parents may call regarding a failure of such provider to comply with any applicable licensing or regulatory requirement; and

(I) require the State to maintain a record of parental complaints and to make information regarding substantiated parental complaints available to the public on request.

(13) DATA COLLECTION.—The plan shall provide for the establishment of procedures for data collection by the State designed to show—

(A) by race, sex, ethnic origin, handicapping condition, and family income, how the child care needs of families in the State are being fulfilled, including information on—

(i) the number of children being assisted with funds provided under this subtitle, and under other State and Federal child care and preschool programs;

(ii) the type and number of child care programs, child care providers, caregivers, and support personnel located in the State;

(iii) the regional cost of child care; and

(iv) such other information as the Secretary considers necessary to establish how funds provided under this subtitle are being used;

(B) the extent to which the availability of child care has been increased; and

(C) how the purposes of this subtitle and the objectives of the State set forth in the State plan are being met, including efforts to improve the quality, availability, and accessibility of child care;

and shall provide that data collected by the State under this paragraph shall be submitted to the Secretary.

(d) APPROVAL OF APPLICATION.—The Secretary shall approve an application that satisfies the requirements of this section.

(e) SPECIAL RULE.—In carrying out the provisions of this section, the Secretary shall approve any application with respect to the activities described in the plan submitted under paragraph (5) of subsection (c), if the Secretary determines that the State is making reasonable progress in carrying out the activities which are described in subparagraphs (A) and (D) of paragraph (5).

SEC. 508. SPECIAL RULES FOR USE OF STATE ALLOTMENTS.

(a) FUNDING OF CHILD CARE SERVICES.—

(1) IN GENERAL.—The child care services referred to in section 507(c)(4) that are to be provided out of the allotment to a State, shall be provided—

(A) by contracts with or grants to eligible child care providers who agree to provide such services directly to eligible children;

(B) by grants to units of general purpose local government that agree to enter into contracts with eligible child care providers who agree to provide such services directly to eligible children; or

(C) by distributing child care certificates to parents of eligible children under such terms as the Secretary may prescribe to enable the recipients of such certificates to purchase child care services from eligible child care providers.

(2) LIMITATION ON CERTIFICATES.—Child care certificates authorized by paragraph (1)(C) may be issued by a State only if a resource and referral program carried out by an organization that meets the requirements of section 512 is available to help parents locate child care services made available by eligible child care providers.

(3) NO ENTITLEMENT TO CONTRACT OR GRANT.—Nothing in this subtitle shall be construed to entitle any child care provider or recipient of a child care certificate to any contract, grant or benefit, or to limit the right of any State to impose additional limitations or conditions on contracts or grants funded under this subtitle.

(b) PART-DAY PROGRAMS.—

(1) IN GENERAL.—At least 10 percent of the funds available for activities under section 507(c)(4)(A) shall be used by the State to enable child care providers to extend the hours of operation of the part-day programs described in paragraph (2) to provide full-working-day child care services throughout the year, in order to meet the needs of parents of eligible children.

(2) ELIGIBLE PROGRAMS.—As used in paragraph (1), the term "part-day programs" means—

(A) programs of schools and nonprofit child care providers (including community-based organizations) receiving State or local funds designated for preschool;

(B) programs established under the Head Start Act (42 U.S.C. 9831 et seq.);

(C) preschool programs for which assistance is provided under chapter 1 of the Education Consolidation and Improvement Act of 1981 (20 U.S.C. 3801 et seq.); and

(D) preschool programs for children with a handicapping condition.

(c) FACILITIES.—

(1) NEW FACILITIES.—No financial assistance provided under this subtitle shall be expended for the construction of a new facility.

(2) EXISTING FACILITIES.—No financial assistance provided under this subtitle shall be expended to renovate or repair any facility unless—

(A) the child care provider that receives such financial assistance agrees—

(i) in the case of a grant, to repay to the Secretary or the State, as the case may be, the amount that bears the same ratio to the amount of such grant as the value of the renovation or repair, as of the date such provider ceases to provide child care services in such facility in accordance with this subtitle, bears to the original value of the renovation or repair; and

(ii) in the case of a loan, to repay immediately to the Secretary or the State, as the case may be, the principal amount of such loan outstanding and any interest accrued, as of the date such provider ceases to provide child care services in such facility in accordance with this subtitle;

if such provider does not provide child care services in such facility in accordance with this subtitle throughout the useful life of the renovation or repair; and

(B) if such provider is a sectarian agency or organization, the renovation or repair is necessary to bring such facility into compliance with health and safety requirements imposed by this subtitle.

SEC. 509. PLANNING GRANTS.

(a) IN GENERAL.—A State desiring to participate in the programs authorized by this subtitle that cannot fully satisfy the requirements of the State plan under section 507(b) without financial assistance may, in the first year that the State participates in the programs, apply to the Secretary for a planning grant.

(b) AUTHORIZATION.—The Secretary is authorized to make a planning grant to a State described in subsection (a) if the Secretary determines that—

(1) the grant would enable the State to fully satisfy the requirements of a State plan under section 507(b); and

(2) the State will apply, for the remainder of the allotment that the State is entitled to receive for such fiscal year.

(c) AMOUNT OF GRANT.—A grant made to a State under this section shall not exceed 1 percent of the total allotment that the State would qualify to receive in the fiscal year involved if the State fully satisfied the requirements of section 507.

(d) LIMITATION ON ADMINISTRATIVE COSTS.—A grant made under this section shall be considered to be expended for administrative costs by the State for purposes of determining the compliance by the State with the limitation on administrative costs imposed by section 507(c)(3)(E).

SEC. 510. CONTINUING ELIGIBILITY OF STATES.

A State shall be ineligible for assistance under this subtitle after the expiration of the 4-year period beginning on the date the Secretary establishes minimum child care standards under section 517(e)(2) unless the State demonstrates to the satisfaction of the Secretary that—

(1) all child care providers required to be licensed and regulated in the State—

(A) are so licensed and regulated; and

(B) are subject to the enforcement provisions referred to in the State plan; and

(2) all such providers who are receiving assistance under this subtitle or under other publicly-assisted child care programs—

(A) satisfy the requirements of subparagraphs (A) and (B) of paragraph (1); and

(B) satisfy the minimum child care standards established by the Secretary under section 517(e)(2) of this subtitle.

SEC. 511. STATE ADVISORY COMMITTEE ON CHILD CARE.

(a) ESTABLISHMENT.—The chief executive officer of a State participating in the program authorized by this subtitle shall—

(1) establish a State advisory committee on child care (hereinafter in this section referred to as the "committee") to assist the lead agency in carrying out the responsibilities of the lead agency under this subtitle; and

(2) appoint the members of the committee.

(b) COMPOSITION.—The State committee shall be composed of not fewer than 21 and not more than 30 members who shall include—

(1) at least 1 representative of the lead agency designated under section 506(a);

(2) 1 representative of each of—

(A) the State departments of—

(i) human resources or social services;

(ii) education;

(iii) economic development; and

(iv) health; and

(B) other State agencies having responsibility for the regulation, funding, or provision of child care services in the State;

(3) at least 1 representative of providers of different types of child care services, including caregivers and directors;

(4) at least 1 representative of early childhood development experts;

(5) at least 1 representative of school districts and teachers involved in the provision of child care services and preschool programs;

(6) at least 1 representative of resource and referral programs;

(7) 1 pediatrician;

(8) 1 representative of a citizen group concerned with child care;

(9) at least 1 representative of an organization representing child care employees;

(10) at least 1 representative of the Head Start agencies in the State;

(11) parents of children receiving, or in need of, child care services, including at least 2 parents whose children are receiving or are in need of subsidized child care services;

(12) 1 representative of specialists concerned with children who have a handicapping condition;

(13) 1 representative of individuals engaged in business;

(14) 1 representative of fire marshals and building inspectors;

(15) 1 representative of child protective services; and

(16) 1 representative of units of general purpose local government.

(c) FUNCTIONS.—The committee shall—

(1) advise the lead agency on child care policies;

(2) provide the lead agency with information necessary to coordinate the provision of child care services in the State;

(3) otherwise assist the lead agency in carrying out the functions assigned to the lead agency under section 506(c);

(4) review and evaluate child services for which assistance is provided under this subtitle or under State law, in meeting the objectives of the State plan and the purposes of this subtitle;

(5) make recommendations on the development of State child care standards and policies;

(6) participate in the regional public hearings required under section 506(c)(5); and

(7) perform other functions to improve the quantity and quality of child care services in the State.

(d) MEETINGS AND HEARINGS.—

(1) IN GENERAL.—Not later than 30 days after the beginning of each fiscal year, the committee shall meet and establish the time, place, and manner of future meetings of the committee.

(2) MINIMUM NUMBER OF HEARINGS.—The committee shall have at least 2 public hearings each year at which the public shall be given an opportunity to express views concerning the administration and operation of the State plan.

(e) USE OF EXISTING COMMITTEES.—To the extent that a State has established a broadly representative State advisory group, prior to the date of enactment of this subtitle, that is comparable to the advisory committee described in this section and focused exclusively on child care and early childhood development programs, such State shall be considered to be in compliance with subsections (a) through (c).

(f) SUBCOMMITTEE ON LICENSING.—

(1) COMPOSITION.—The committee shall have a subcommittee on licensing (hereinafter in this section referred to as the "subcommittee") that shall be composed of the members appointed under paragraphs (2)(A)(iv), (3), (6), (7), (11), (14), and (15) of subsection (b).

(2) FUNCTIONS.—

(A) REVIEW OF LICENSING AUTHORITY.—The subcommittee shall review the law applicable to, and the licensing requirements and the policies of, each licensing agency that regulates child care services and programs in the State unless the State has reviewed such law, requirements, and policies in the 4-year period ending on the date of the establishment of the committee under subsection (a).

(B) REPORT.—Not later than 1 year after establishment of the committee under subsection (a), the subcommittee shall prepare and submit to the chief executive officer of the State involved a report.

(C) CONTENTS OF REPORT.—A report prepared under subparagraph (B) shall contain—

(i) an analysis of information on child care services provided by center-based child care providers, group home child care providers, and family child care providers;

(ii) a detailed statement of the findings and recommendations that result from the subcommittee review under subparagraph (A), including a description of the current status of child care licensing, regulating, monitoring, and enforcement in the State;

(iii) a detailed statement identifying and describing the deficiencies in the existing licensing, regulating, and monitoring programs of the State involved, including an as-

sessment of the adequacy of staff to carry out such programs effectively, and recommendations to correct such deficiencies or to improve such programs; and

(iv) comments on the minimum child care standards established by the Secretary under section 517(e)(2).

(3) RECEIPT OF REPORT BY THE CHIEF EXECUTIVE OFFICER OF THE STATE.—Not later than 60 days after receiving the report from the subcommittee, the chief executive officer of the State shall transmit such report to the Secretary with—

(A) the comments of the chief executive officer of the State; and

(B) a plan for correcting deficiencies in, or improving the licensing, regulating, and monitoring, of the child care services and programs referred to in paragraph (2)(A).

(4) TERMINATION OF ASSISTANCE.—None of the funds received under this subtitle may be used to carry out any activity under this section occurring more than 90 days after the State submits a report required by subsection (d).

(g) SERVICES AND PERSONNEL.—

(1) AUTHORITY.—The lead agency is authorized to provide the services of such personnel, and to contract for such other services as may be necessary, to enable the committee and the subcommittee to carry out their functions under this subtitle.

(2) REIMBURSEMENT.—Members of the committee shall be reimbursed, in accordance with standards established by the Secretary, for necessary expenses incurred by such members in carrying out the functions of the committee and the subcommittee.

(3) SUFFICIENCY OF FUNDS.—The Secretary shall ensure that sufficient funds are made available, from funds available for the administration of the State plan, to the committee and the subcommittee to carry out the requirements of this section.

SEC. 512. RESOURCE AND REFERRAL PROGRAMS.

(a) ELIGIBILITY FOR ASSISTANCE.—Each State receiving funds under this subtitle shall, pursuant to section 507(c)(5)(A), make grants to or enter into contracts with private nonprofit organizations or public organizations (including units of general purpose local government), as resource and referral agencies to ensure that resource and referral services are available to families in all geographical areas in the State.

(b) FUNDING.—Organizations that receive assistance under subsection (a) shall carry out resource and referral programs—

(1) to identify all types of existing child care services, including services provided by individual family child care providers and by child care providers who provide child care services to children with a handicapping condition;

(2) to provide to interested parents information and referral regarding such services, including the availability of public funds to obtain such services;

(3) to provide or arrange for the provision of information, training, and technical assistance to existing and potential child care providers and to others (including businesses) concerned with the availability of child care services; and

(4) to provide information on the demand for and supply of child care services located in a community.

(c) REQUIREMENTS.—To be eligible for assistance as a resource and referral agency under subsection (a), an organization shall—

(1) have or acquire a database of information on child care services in the State or in a particular geographical area that the organization continually updates, including child care services provided in centers, group home child care settings, nursery schools, and family child care settings;

(2) have the capability to provide resource and referral services in a particular geographical area;

(3) be able to provide parents with information to assist them in identifying quality child care services;

(4) to the maximum extent practicable, notify all eligible child care providers in such area of the functions it performs and solicit such providers to request to be listed to receive referrals made by such organization; and

(5) otherwise comply with regulations promulgated by the State in accordance with subsection (d).

(d) LIMITATION ON INFORMATION.—In carrying out this section, an organization receiving assistance under subsection (a) as a resource and referral agency shall not provide information concerning any child care program or services which are not in compliance with the laws of the State and localities in which such services are provided.

SEC. 513. TRAINING AND TECHNICAL ASSISTANCE.

(a) MINIMUM REQUIREMENT.—A State receiving funds under this subtitle shall require, not later than 2 years after the date of the enactment of this subtitle, that all employed or self-employed individuals who provide licensed or regulated child care services (including registered child care services) in a State complete at least 40 hours of training over a 2-year period in areas appropriate to the provision of child care services, including training in health and safety, nutrition, first aid, the recognition of communicable diseases, child abuse detection and prevention, and the needs of special populations of children.

(b) GRANTS AND CONTRACTS FOR TRAINING AND TECHNICAL ASSISTANCE.—

(1) GRANTS AND CONTRACTS.—The State shall make grants to, and enter into contracts with State agencies, units of general purpose local government, institutions of higher education, and nonprofit organizations (including resource and referral organizations, child care food program sponsors, and family child care associations, as appropriate) to develop and carry out child care training and technical assistance programs under which preservice and continuing in-service training is provided to eligible child care providers, including family child care providers, and the staff of such providers including teachers, administrative personnel, and staff of resource and referral programs involved in providing child care services in the State.

(2) ELIGIBILITY REQUIREMENTS FOR GRANTS AND CONTRACTS RELATING TO TRAINING FOR FAMILY CHILD CARE PROVIDERS.—To be eligible to receive a grant or enter into a contract for a training and technical assistance program for family child care providers under paragraph (1), a nonprofit organization shall—

(A) recruit and train family child care providers, including providers with the capacity to provide night-time and emergency child care services;

(B) operate resource centers to make developmentally appropriate curriculum materials available to family child care providers;

(C) provide grants to family child care providers for the purchase of moderate cost equipment to be used to provide child care services; and

(D) operate a system of substitute caregivers.

(3) ELIGIBILITY REQUIREMENTS FOR GRANTS AND CONTRACTS RELATING TO TECHNICAL ASSISTANCE.—To be eligible to receive a grant, or enter into a contract under subsection (b) to provide technical assistance, an agency, organization, or institution shall agree to furnish technical assistance to child care providers to assist such providers—

(A) in understanding and complying with local regulations and relevant tax and other policies;

(B) in meeting State licensing, regulatory, and other requirements (including registration) pertaining to family child care providers.

(c) SCHOLARSHIP ASSISTANCE.—The State shall provide scholarship assistance to—

(1) individuals who seek a nationally recognized child development associate credential for center-based or family child care and whose income does not exceed the poverty line (as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) by more than 50 percent, in amounts sufficient to cover the costs involved in securing such credential; and

(2) caregivers who seek to obtain the training referred to in subsection (a) and whose income does not exceed such poverty line.

(d) CLEARINGHOUSE.—The State shall establish in the lead agency a clearinghouse to collect and disseminate training materials to resource and referral agencies and child care providers throughout the State.

SEC. 514. FEDERAL ADMINISTRATION OF CHILD CARE.

(a) ADMINISTRATOR OF CHILD CARE.—There is hereby established in the Department of Health and Human Services the position of Administrator of Child Care (hereinafter in this section referred to as the "Administrator"). The Secretary shall appoint an individual to serve as the Administrator at the pleasure of the Secretary.

(b) DUTIES.—The Administrator shall—

(1) coordinate all activities of the Department of Health and Human Services relating to child care, and coordinate such activities with similar activities of other Federal entities;

(2) annually collect and publish State child care standards, including periodic modifications to such standards;

(3) evaluate activities carried out with funds provided under this subtitle;

(4) act as a clearinghouse to collect and disseminate materials that relate to—

(A) the matters required by section 513(b)(1) to be addressed by training required by section 513 to be provided; and

(B) studies that relate to the salaries paid to individuals employed to provide child care services; and

(5) provide technical assistance to assist States to carry out this subtitle.

SEC. 515. FEDERAL ENFORCEMENT.

(a) REVIEW OF COMPLIANCE WITH STATE PLAN.—The Secretary shall review and monitor State compliance with this subtitle and the plan approved under section 507(d) for the State.

(b) NONCOMPLIANCE.—

(1) IN GENERAL.—If the Secretary, after reasonable notice and opportunity for a hearing to a State, finds that—

(A) there has been a failure by the State to comply substantially with any provision or any requirements set forth in the plan approved under section 507(d) for the State; or

(B) in the operation of any program or project for which assistance is provided

under this subtitle there is a failure by the State to comply substantially with any provision of this subtitle;

the Secretary shall notify the State of the finding and that no further payments may be made to such State under this subtitle (or, in the case of noncompliance in the operation of a program or activity, that no further payments to the State will be made with respect to such program or activity) until the Secretary is satisfied that there is no longer any such failure to comply or that the noncompliance will be promptly corrected.

(2) ADDITIONAL SANCTIONS.—In the case of a finding of noncompliance made pursuant to this paragraph (1), the Secretary may, in addition to imposing the sanctions described in such paragraph, impose other appropriate sanctions, including recoupment of money improperly expended for purposes prohibited or not authorized by this subtitle, and disqualification from the receipt of financial assistance under this subtitle.

(3) NOTICE.—The notice required under paragraph (1) shall include a specific identification of any additional sanction being imposed under paragraph (2).

(c) ISSUANCE OF RULES.—The Secretary shall establish by rule procedures for—

(1) receiving, processing, and determining the validity of complaints concerning any failure of a State to comply with the State plan or any requirement of this subtitle; and

(2) imposing sanctions under this section.

SEC. 516. PAYMENTS.

(a) IN GENERAL.—

(1) AMOUNT OF PAYMENT.—Each State that—

(A) has an application approved by the Secretary under section 507(d); and

(B) demonstrates to the satisfaction of the Secretary that it will provide from non-Federal sources the State share of the aggregate amount to be expended by the State under the State plan for the fiscal year for which it requests a grant;

shall receive a payment under this section for such fiscal year in an amount (not to exceed its allotment under section 505 for such fiscal year) equal to the Federal share of the aggregate amount to be expended by the State under the State plan for such fiscal year.

(2) FEDERAL SHARE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Federal share for each fiscal year shall be 80 percent.

(B) EXCEPTION.—If a State makes the demonstration specified in section 510 throughout a fiscal year for which it requests a grant, then the Federal share shall be 85 percent.

(3) STATE SHARE.—The State share equals 100 percent minus the Federal share.

(4) LIMITATION.—A State may not require any private provider of child care services that receives or seeks funds made available under this subtitle to contribute in cash or in kind to the State contribution required by this subsection.

(b) METHOD OF PAYMENT.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary may make payments to a State in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

(2) LIMITATION.—The Secretary may not make such payments in a manner that prevents the State from complying with the requirement specified in section 507(c)(3)(F).

(c) SPENDING OF FUNDS BY STATE.—Payments to a State from the allotment under section 505 for any fiscal year may be expended by the State in that fiscal year or in the succeeding fiscal year.

SEC. 517. NATIONAL ADVISORY COMMITTEE ON CHILD CARE STANDARDS.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—In order to improve the quality of child care services, the Secretary shall establish, not later than 60 days after the date of the enactment of this subtitle, a National Advisory Committee on Child Care Standards (hereinafter in this section referred to as the "Committee"), the members of which shall be appointed from among representatives of—

(A) the chief executive officers of the several States;

(B) State legislatures;

(C) local governments;

(D) businesses;

(E) State individuals responsible for regulating the insurance industry within the State;

(F) religious institutions;

(G) persons who carry out different types of child care programs;

(H) persons who carry out resource and referral programs;

(I) child care and early childhood development specialists;

(J) early childhood education specialists;

(K) individuals who have expertise in pediatric health care, handicapping conditions, and related fields;

(L) organizations representing child care employees;

(M) individuals who have experience in the regulation of child care services; and

(N) parents who have been actively involved in community child care programs.

(2) APPOINTMENT OF MEMBERS.—The Committee shall be composed of 15 members of which—

(A) 5 members shall be appointed by the President;

(B) 3 members shall be appointed by the majority leader of the Senate;

(C) 2 members shall be appointed by the minority leader of the Senate;

(D) 3 members shall be appointed by the Speaker of the House of Representatives; and

(E) 2 members shall be appointed by the minority leader of the House of Representatives.

(3) CHAIRMAN.—The President shall appoint a chairman from among the members of the Committee.

(4) VACANCIES.—A vacancy occurring on the Committee shall be filled in the same manner as that in which the original appointment was made.

(b) PERSONNEL, REIMBURSEMENT, AND OVERSIGHT.—

(1) PERSONNEL.—The Secretary shall make available to the Committee office facilities, personnel who are familiar with child development and with developing and implementing regulatory requirements, technical assistance, and funds as are necessary to enable the Committee to carry out effectively its functions.

(2) REIMBURSEMENT.—

(A) COMPENSATION.—Members of the Committee who are not regular full-time employees of the United States Government shall, while attending meetings and conferences of the Committee or otherwise engaged in the business of the Committee (including traveltime), be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding the rate specified at the time of such service under GS-18 of the General Schedule established under section 5332 of title 5, United States Code.

(B) EXPENSES.—While away from their homes or regular places of business on the business of the Committee, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(3) OVERSIGHT.—The Secretary shall ensure that the Committee is established and operated in accordance with the Federal Advisory Committee Act (5 U.S.C. App.).

(c) FUNCTIONS.—The Committee shall—

(1) review Federal policies with respect to child care services and such other data as the Committee may deem appropriate;

(2) not later than 180 days after the date on which a majority of the members of the Committee are first appointed, submit to the Secretary proposed minimum standards described in subsection (d) for child care services, taking into account the different needs of infants, toddlers, preschool and school-age children; and

(3) develop and make available to lead agencies, for distribution to resource and referral agencies in the State, model requirements for resource and referral agencies.

(d) MINIMUM CHILD CARE STANDARDS.—The proposed child care standards submitted pursuant to subsection (c)(2) shall be minimum standards and shall consist of only the following:

(1) CENTER-BASED CHILD CARE SERVICES.—Such standards submitted with respect to child care services provided by center-based child care providers shall be limited to—

(A) group size limits in terms of the number of caregivers and the number and ages of children;

(B) the maximum appropriate child-staff ratios;

(C) qualifications and background of child care personnel;

(D) health and safety requirements for children and caregivers; and

(E) parental involvement in licensed and regulated child care services.

The standards described in subparagraphs (A) and (B) shall reflect the median standards for all States (using for States which apply separate standards to publicly-assisted programs the most comprehensive or stringent of such standards) as of the date of enactment of this subtitle.

(2) FAMILY CHILD CARE SERVICES.—Such standards submitted with respect to child care services provided by family child care providers shall be limited to—

(A) the maximum number of children for which child care services may be provided and the total number of infants for which child care services may be provided;

(B) the minimum age for caregivers; and

(C) health and safety requirements for children and caregivers.

(3) GROUP HOME CHILD CARE SERVICES.—Such standards submitted with respect to child care services provided by group home child care providers shall be limited to the matters specified in paragraphs (1)(B) and (2).

(4) LIMITATION.—The Committee shall not submit any standard under subsection (c)(2) that is less or more rigorous than the least or most rigorous standard that exists in all States at the time of the submission of such recommendation.

(e) CONSIDERATION AND ESTABLISHMENT OF STANDARDS.—

(1) NOTICE OF PROPOSED RULEMAKING.—Not later than 90 days after receiving the recommendations of the committee, the Secretary shall—

(A) publish in the Federal Register—

(i) a notice of proposed rulemaking concerning the minimum standards proposed under subsection (d) to the Secretary; and

(ii) such proposed minimum standards for public comment for a period of at least 60 days; and

(B) distribute such proposed minimum standards to each lead agency and each State subcommittee on licensing for comment.

(2) ESTABLISHMENT OF MINIMUM CHILD CARE STANDARDS.—

(A) ISSUANCE OF RULES.—The Secretary shall, in consultation with the committee—

(i) take into consideration any comments received by the Secretary with respect to the standards proposed under subsection (d); and

(ii) not later than 180 days after publication of such standards, shall issue rules establishing minimum child care standards for purposes of this subtitle. Such standards shall include the nutrition requirements issued, and revised from time to time, under section 17(g)(1) of the National School Lunch Act (42 U.S.C. 1766(g)(1)).

(B) AMENDING STANDARDS.—The Secretary may amend any standard first established under subparagraph (A), except that such standard may not be modified, by amendment or otherwise, to make such standard less comprehensive or less stringent than it is when first established.

(C) EXTENDED PERIOD FOR COMMENT.—If the Committee recommends a standard under subsection (c)(2) that no State has a requirement concerning, as of the time that such standard is recommended, the Secretary shall provide an additional 30 days during which States may submit comments concerning such standard.

(3) ADDITIONAL COMMENTS.—The National Committee may submit to the Secretary and to the Congress such additional comments on the minimum child care standards established under paragraph (2) as the National Committee considers appropriate.

(f) VARIANCES.—

(1) TIME FOR COMPLIANCE WITH STANDARDS.—Not later than the end of the 4-year period referred to in section 510, States shall comply with the standards established under this section.

(2) EXCEPTION.—At the expiration of the 4-year period referred to in paragraph (1) the chief executive officer, in consultation with the State advisory committee, may submit a request to the Secretary for a 1 year variance from the requirements of one or more particular standards.

(3) REQUIREMENTS.—A request for a variance under this subsection shall include—

(A) a statement by the chief executive officer of the State of any steps taken to implement the relevant standards in the State within the 4-year period;

(B) the specific reasons for the submission of the variance request; and

(C) a detailed plan that outlines the additional procedures and resources to be used to come into compliance with the standards at the end of the variance period.

(4) PERIOD OF VARIANCE.—A variance granted by the Secretary shall be for a 1-year period and may be renewed at the discretion of the Secretary for an additional 1-year period if requested by the State.

(g) TERMINATION OF COMMITTEE.—The National Committee shall cease to exist 90 days after the date the Secretary establishes minimum child care standards under subsection (e)(3).

SEC. 518. LIMITATIONS ON USE OF FINANCIAL ASSISTANCE FOR CERTAIN PURPOSES.

(a) SECTARIAN PURPOSES AND ACTIVITIES.—No financial assistance provided under this subtitle shall be expended for any sectarian purpose or activity, including sectarian worship and instruction.

(b) TUITION.—With regard to services provided to students enrolled in grades 1 through 12, no financial assistance provided under this subtitle shall be expended for—

(1) any services provided to such students during the regular school day;

(2) any services for which such students receive academic credit toward graduation; or

(3) any instructional services which supplant or duplicate the academic program of any public or private school.

SEC. 519. NONDISCRIMINATION.

(a) FEDERAL FINANCIAL ASSISTANCE.—Any financial assistance provided under this subtitle, including a loan, grant, or child care certificate, shall constitute Federal financial assistance for purposes of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title IX of the Education Amendments of 1972 (20 U.S.C. 1681, et seq.), the Rehabilitation Act of 1973 (29 U.S.C. 794 et seq.), the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), and the regulations issued thereunder.

(b) RELIGIOUS DISCRIMINATION.—A child care provider may not discriminate against any child on the basis of religion in providing child care services in return for a fee paid, reimbursement received, or certificate redeemed, in whole or in part with financial assistance provided under this subtitle.

SEC. 520. PRESERVATION OF PARENTAL RIGHTS AND RESPONSIBILITIES.

Nothing in this subtitle shall be construed or applied in any manner to infringe upon or usurp the moral and legal rights and responsibilities of parents or legal guardians.

Mr. BYRD. Mr. President, I want to get on to the welfare conference report as soon as possible. Does the distinguished Republican leader wish to say anything further at this point on this or any other matter?

Mr. DOLE. No, except at the appropriate time, when I can be recognized, I do intend to offer a motion to table. I have not quite decided whether to move to table the motion to recommit or just table the whole bill, so we can clear the deck on drugs, technical corrections, and appropriations, which I think are of paramount importance.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I now ask that the Chair lay before the Senate the conference report on H.R. 1720.

Mr. President, I understand the papers are not here.

The PRESIDING OFFICER. They are not.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there be a period for morning business not to extend beyond 15 minutes. I understand Mr. PRYOR wishes to speak for 5 minutes. Hopefully the papers on welfare reform will be in the Chamber by that time.

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

INTERNAL REVENUE SERVICE AUDIT REPORT OF SIGNIFICANT CURRENCY ACTIVITY

Mr. PRYOR. Mr. President, the Vice President stated yesterday that the Governor of Massachusetts plans to unleash an army of IRS agents on the public in order to decrease the national deficit. The basis of his statement is Governor Dukakis' plan to raise more revenue through better management at the IRS. Better management does not equate with hordes of agents being let loose on innocent taxpayers across our land. It means going after big time tax cheats and drug lords, who are ripping off the U.S. Treasury and the American taxpayer.

Mr. President, according to an IRS internal audit report dated June of 1986 that I have in my hands, Mr. President, it states "Official Use Only" at the bottom. Under this administration, the IRS has failed significantly to pursue the big-time operators who today walk into our banks literally with suitcases of money, do not file tax returns, and yet somehow avoid detection by the Internal Revenue Service.

Mr. President, this is an outrage.

Mr. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Arkansas.

Mr. PRYOR. I thank the Chair.

Mr. President, this is an outrage because, by the law, banks file reports with the IRS for all cash transactions over $10,000. These reports include the names, addresses, and ID numbers of the people who make these deposits. These reports go to the Internal Revenue Service.

This allows the IRS to pursue those tax cheats who deal in huge amounts of cash. Despite having the information in their computers, Mr. President, necessary to put these people away, the IRS internal audit report found, and I quote:

> Of taxpayers who had currency activity exceeding $100,000 each, 21 percent did not file tax returns and were not identified because currency reports were not used to initiate delinquency investigations.

The report goes on to say that these activities "averaged $183,000 each."

Mr. President, these people are walking into our financial institutions with wheelbarrows and suitcases full of cash money and the banks are telling the IRS who and where they are. It would not take an army of tax agents

to go after these people. The IRS has their addresses and yet no one from this administration so much as knocked on their door. We spend millions of dollars each year to collect this information, yet this administration has failed to use it. The big guys get off, while the little folks get hit, harassed and hounded by this administration's IRS.

If I could ask Mr. BUSH a question, it would be: Mr. Vice President, rather than bad-mouthing proposals to implement good management and fairness, why do you not tell us who these people are or where they are and why has your administration not put them in jail? Why does this administration's IRS let the big guys go, and punish the small?

And while you are at it, Mr. Vice President, why do you not explain to the American taxpayers how, under this administration, the IRS management failed to collect over $100 million from large utility companies because someone last week forgot to file the appeal in a timely fashion. If this had been "Ma and Pa's" drug store, this administration's IRS would have nailed their hides to the wall.

In seeking greater compliance, what some of us here are talking about is not unleashing anyone on the public. What we are talking about is good management and simple fairness—of collecting what is owed from those who owe it. It is that simple.

As chairman of the Senate IRS Oversight Subcommittee, I intend to ask the IRS to come before my subcommittee and tell us about these huge piles of cash. In the meantime, I would advise this administration not to throw stones at anyone's proposal to increase compliance efforts at the IRS. They may be living in a glass house.

No wonder the little folks of America have lost faith in our tax system and the tax collector, the Internal Revenue Service.

I thank the Chair and yield the floor.

Mr. BYRD. Mr. President, may I inquire as to whether or not any other Senators wish to speak, strictly in morning business?

The PRESIDING OFFICER (Mr. FOWLER). There are no responses.

Mr. BYRD. All right. Mr. President, I ask morning business be closed.

The PRESIDING OFFICER. Without objection, morning business is closed.

Mr. BYRD. Mr. President, morning business is closed?

The PRESIDING OFFICER. It is.

PARENTAL AND TEMPORARY MEDICAL LEAVE

The Senate continued with the consideration of the bill.

Mr. BYRD. Mr. President, what is the pending matter before the Senate?

The PRESIDING OFFICER. The pending matter before the Senate is the motion to recommit the bill, S. 2488, motion to recommit of the majority leader, to the Committee on Labor and Human Resources with instructions to report back, with amendments to the instructions.

Mr. BYRD. Mr. President, I do not want to take any steps until the distinguished Republican leader is on the floor. He is on the telephone just now. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. BYRD. Mr. President, parliamentary inquiry. Mr. President, I would like to clarify the record. The two amendments that I offered on the motion to recommit with instructions, I stated that they dealt with child care. That was a misstatement. They deal with child care but they deal with the whole thing, parental leave, the child pornography—the two amendments entail the entire bundle. They do not just deal with child care. So I would like to make the record clear on that.

And would it not be correct that if the Senate were to vote its approval of the motion to recommit with instructions to report back forthwith that the measure, which would be reported back, would be a committee substitute which would include the committee amendment, committee amendment No. 4, I believe it was, that had not yet been agreed to? Would that not be a part of the text when the committee substitute would be reported back?

The PRESIDING OFFICER. The majority leader is correct, assuming, of course, that that proposal is included in as in the amendment contained in the instructions.

Mr. BYRD. Yes. That is a part of the motion to recommit with instructions to report back and two amendments in the first and second degrees that have been offered. That is part of it.

The PRESIDING OFFICER. Yes, the Senator's inquiry is correct.

Mr. BYRD. I thought that should be clarified for all of us and also for the Republican leader who posed a question.

Mr. DOLE. If it comes back to the Senate, then what does the Senate do? We do not agree to the committee amendment?

The PRESIDING OFFICER. The Chair would advise, what he understands to be the Republican leader's inquiry, that the committee amendment then would be pending, and it is amendable.

Mr. DOLE. Is it pending or agreed to?

The PRESIDING OFFICER. It would be pending.

Mr. DOLE. So only the Senate could agree to it.

The PRESIDING OFFICER. That is correct.

Mr. BYRD. Would not the Senate be agreeing to it if the Senate were to approve the motion to recommit with instructions and report back, and then since the Senate would have already agreed to the two amendments because they are included, when the Senate agrees to this motion, which it may not do, and the two amendments, if it agrees to them, then does not the committee report back forthwith a committee substitute that has everything the Senate agreed to?

The PRESIDING OFFICER. In response to the inquiry of the majority leader, and after a consultation with the Parliamentarian, it is the Chair's understanding that this is the parliamentary situation:

Pending is the motion of the majority leader to recommit with instructions. If the Senate approves that and sends it to the committee and the committee reports the substitute amendment, then that would return to the full body encompassing the reported substitute amendment as proposed by the majority leader. But that matter would then be pending and amendable before the full Senate.

Mr. BYRD. Yes. So that the committee substitute, which would be the pending matter before the body, the substitute is pending, prior to action on the bill, the substitute is before the body, it is open to amendments in the first and second degree when it would be reported back, if the Senate agrees to this motion.

The PRESIDING OFFICER. That is correct.

Mr. BYRD. That would be before the body and that substitute, the text of that substitute would include parental leave, would include committee amendments that have been agreed to, the committee amendments as amended and the remaining fourth amendment would be a part of that text and the child care legislation would be included in that committee substitute.

It would be then for the Senate to determine whether or not it wanted to further amend that substitute, whether it wanted to agree to the substitute, and then upon agreeing to the substitute at such time as it did as amended if amended, then it would go to the bill and decide whether it wanted to pass the bill with the committee substitute as amended if amended.

So you have the whole thing in that committee substitute: you have your parental leave, you have your child

care; you have your child pornography; and you have the fourth committee amendment as part of the text and open to amendment in another degree; is that correct?

The PRESIDING OFFICER. As the majority leader can appreciate, the Chair possibly should have but does not have entire knowledge of what is contained in the proposal put before and presently pending before the body.

Mr. BYRD. Yes.

The PRESIDING OFFICER. But if the Chair assumes the majority leader's representation of what is contained therein is correct, then the majority leader is correct.

Mr. BYRD. Yes, the Chair would have to assume that because the committee amendments were not read. By unanimous consent, the reading was dispensed with. So the Chair does have only my representations on which to base his statement. But the committee amendments, if they were properly drawn, and I have to assume that they were, they would include the matter that I have indicated.

Before I yield the floor, does the distinguished Republican leader wish to make any further parliamentary inquiry?

Mr. DOLE. No further parliamentary inquiry, but if the majority leader will yield without losing his right to the floor, I would hope we can agree on a time for debating or a motion to postpone or a motion to table so we can have some indication on what we may be doing. If we do that yet today or maybe tomorrow morning, it might clear up a lot of things.

If we can postpone this until after we have considered technical corrections, the drug bill—we cannot do it that way, I understand, but if we can do it a day certain, say, next Thursday, that will give us an opportunity to not only work on, if there is any compromise out there anywhere but, more important, to deal with the drug issue and technical corrections.

So maybe we can agree on a time, say, 30 minutes on each side to debate that as an appropriate time, whenever the majority leader would like to do that.

Mr. BYRD. That would be very agreeable. If the distinguished Republican leader wishes to indicate he prefers to move to table or prefers to postpone indefinitely, I think it would be well if we would have an hour equally divided or whatever.

I would suggest that that would probably be better done no earlier than tomorrow, depending on how long it takes to do the conference report on welfare.

CLOTURE MOTION

Mr. BYRD. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair, without objection, 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 debate on the motion to recommit S. 2488, a bill to grant employees parental and temporary medical leave under certain circumstances, and for other purposes.

Senators Harry Reid, William Proxmire, Carl Levin, Dale Bumpers, Jay Rockefeller, Alan Cranston, Wyche Fowler, Jr., Christopher Dodd, Edward M. Kennedy, Claiborne Pell, Timothy Wirth, Daniel K. Inouye, Max Baucus, Robert C. Byrd, Terry Sanford, and Donald Riegle.

FAMILY WELFARE REFORM ACT—CONFERENCE REPORT

Mr. BYRD. Mr. President, I ask that the Chair lay before the Senate the conference report on H.R. 1720.

The PRESIDING OFFICER. Under the previous order, the clerk, will report the conference report on H.R. 1720.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1720) to replace the existing AFDC program with a new Family Support Program which emphasizes work, child support, and need-based family support supplements, to amend title IV of the Social Security Act to encourage and assist needy children and parents under the new program to obtain the education, training, and employment needed to avoid long-term welfare dependence, and to make other necessary improvements to assure that the new program will be more effective in achieving its objectives, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 28, 1988.)

The PRESIDING OFFICER. The chair announces that under the previous order there will be 2 hours of debate on this conference report to be equally divided and controlled by the Senator from New York, Mr. MOYNIHAN, and the Senator from Oregon, Mr. PACKWOOD.

The Senator from New York, Mr. MOYNIHAN, is recognized.

Mr. MOYNIHAN. Mr. President, in this historic Chamber, we perhaps use the term "historic" more often than is appropriate, but I do believe this is such an occasion. For the first time in half a century, the Senate, Congress, and shortly the President will move to an entire redefinition and overhaul of what we have come to know as our welfare system.

Mr. President, the basic legislation was adopted in this Chamber on June 16 by a vote of 93 to 3. Rarely has the Senate been of one mind in a matter of such complexity. It is a view that took 20 years to forge. It did not come easily, it did not come quickly, but it came.

We bring you back, Mr. President, the conference report which was unanimously approved by the Senate conferees. If I may be indulged a moment, I would like to record their names: The Senator from Texas, Mr. BENTSEN; the Senator from New York, Mr. MOYNIHAN; the Senator from Arkansas, Mr. PRYOR; the Senator from West Virginia, Mr. ROCKEFELLER; the Senator from South Dakota, Mr. DASCHLE; the Senator from Oregon, Mr. PACKWOOD; the Senator from Kansas, Mr. DOLE; the Senator from Wyoming, Mr. WALLOP; and the Senator from Colorado, Mr. ARMSTRONG. Complete unanimity on both sides of the aisle.

I would draw attention, Mr. President, to the beginning of the statement which describes the conference report. It says it is "A bill to replace the existing AFDC Program with a new Family Support Program which emphasizes work, child support, and need-based family support supplements, a bill to encourage and assist needy children and parents under the new program to obtain the education, training, and employment needed to avoid long-term welfare dependence and to make other necessary improvements."

Mr. President, what we intended to do, as you will hear from my distinguished and honored colleague, the Senator from Oregon, who has been with us so long on this matter, and the Senator from Colorado, was to redefine the whole question of dependency. Receiving income support is no longer to be a permanent or even extended condition but, rather, a transition to employment and an immediate gain of parental support for children.

Title I of this legislation, Mr. President, is child support and establishment of paternity. We start out with the proposition that we cannot abandon children in this country with impunity. You have a responsibility to them and if you do not exercise it on your own, society will see to it that you do.

The outlines of the legislation are familiar. Other Senators wish to speak. I will simply note that two of our distinguished colleagues are former Governors. I would like to read a letter just received this moment from the National Governor's Association. The letter is signed by Governors Clinton, and Castle, lead Governors on welfare reform, a bipartisan team, a

Democrat from Arkansas and a Republican from Delaware.

On behalf of the National Governors' Association they write:

NATIONAL GOVERNOR'S ASSOCIATION,
September 29, 1988.

DEAR SENATOR: We write on behalf of the National Governor's Association to express our support for the welfare reform bill agreed to by the Conference on Welfare Reform. The bill represents a bi-partisan consensus for a major overhaul of our welfare system. We believe that we can implement this program efficiently and with positive results for millions of our welfare clients.

As you consider your vote on the welfare package, we urge you not to lose sight of the real purpose we are all trying to achieve with this legislation. The nation's Governors have had several years of experience with employment and training programs for our welfare clients and we know they work. We urge you not to let this historic opportunity pass to enact and implement a significant new national effort to reach out to our most needy citizens and provide them with the education, training and work experiences they need to become self-sufficient.

The Nation's Governors support the agreement reached by the conference. We urge you to support it too.

Sincerely,

GOV. BILL CLINTON,
Lead Governor on Welfare Reform.
GOV. MICHAEL N. CASTLE,
Lead Governor on Welfare Reform.

We have, Mr. President, bipartisan, unanimous support from the executives who will have to carry out the new programs we consider here today.

I have one other letter, Mr. President, if I could ask the Senate to indulge me just one more moment, from the American Public Welfare Association—the association comprised of State welfare commissioners, founded the year the Social Security Act was enacted into law, in response to the great trauma of the 1930's, the Depression when everyone was out of work, when everyone was in need or just about, or so it seemed. Here we are, a half century later dealing with the most baffling events of our age. A half century of unprecedented prosperity leaves us with an unprecedented number of poor children. Adults live well in our Nation by any standard. Children are now our poorest citizens. We do not know, cannot say how this dual family system came into being where one child in two will live in a single, female-parent-headed household before they reach age 18; where one child in three will be on what we call welfare, or did call welfare. We want to begin calling it family support.

Where one child in four is born poor. We don't know how this came to pass, but it has done. And this is our effort to respond.

The American Public Welfare Association, in the person of Stephen B. Heintz, who is the Commissioner of the Connecticut Department of Income Maintenance and Chair of the steering committee for this matter, and Sidney Johnson, the executive director, write:

DEAR SENATOR: Reducing the number of American children living in poverty is the goal that undergirds the American Public Welfare Association's support for comprehensive welfare reform.

In November, 1986, we issued recommendations for sweeping reform, including mandatory, comprehensive state education, training, and employment programs.

Past efforts to gain even modest improvements in the welfare system have been mired in partisan conflict. The conference report before you represents a bipartisan consensus on a difficult issue.

Although the conference bill now before you is not as comprehensive as we would like, it does take this major step: it establishes as *national policy* the transformation of the welfare system into a system to promote the self-sufficiency of poor families.

We urge you to vote in favor of the conference report on H.R. 1720, the Family Welfare Reform Act.

With this first step toward comprehensive reform, states commit themselves to the massive task of education and training for jobs for families now receiving welfare. This federal-state partnership can begin to make a difference in the lives of poor families.

We urge your support.

Seeing my great leader in so many matters, the distinguished former chairman of the committee, chairman emeritus, you might call him, once the chairman and no doubt he intends to be again, I happily yield the floor to the distinguished Senator from Oregon.

Mr. PACKWOOD. Mr. President, I do not know about the future, but chairman emeritus sounds like I am a retired teacher from New York University. I am not ready for that status yet.

If my good friend would not mind, I would like to yield first to Senator ARMSTRONG. Without him we would not have gotten on board on this.

Mr. MOYNIHAN. Mr. President, if I may, I think that would be the most appropriate possible beginning for this bipartisan consensus. Absent the Senator from Colorado, we would not be at this point indeed.

Mr. PACKWOOD. I yield 10 minutes to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado is recognized for 10 minutes.

Mr. ARMSTRONG. Mr. President, I am grateful to my colleague from Oregon for yielding, and to my friend from New York for his kind words.

Mr. President, a couple of years ago the Senator from New York sent to me, as I expect he did to a number of Senators, a series of lectures which he had given on the subject of public welfare, summarizing what he had learned from studying the needs of welfare families and people in poverty over two or three decades.

When I received these, I did an uncharacteristic thing. I read these lectures. I guess, like most Members of this body, I get piles of stuff that I could not begin to read if I lived to be as old as Methuselah, but there was something about this particular series of papers which he sent that attracted my interest. I was richly rewarded by the experience because I learned a lot about public welfare from Senator MOYNIHAN, who is indeed an expert on this matter.

In great detail he pointed out the various kinds of programs we have tried to serve the needs and concerns of people who find themselves below the poverty line and who are on programs of public assistance. I thought we reached a somewhat gloomy conclusion until the very last pages of this series of papers—I guess the so-called Godkin lectures—when he simply summed up by saying we have tried a lot of things, and so far we have not had anything like the success we would like to have, but we have to keep trying.

I complimented him on that at that time. I did not think too much more about it until he showed up in my office a year or so after that with the proposal or the first drafts of the proposal which now comes before us as this welfare reform bill in the conference report. He disclosed to me, as he did, I guess, in a series of house calls on members of the Finance Committee and others in the Senate, his dream of trying to break the poverty cycle by providing education and training. Let me say to my friend from New York that honestly when he first came around I did not think he was going to get very far with it.

At any point up until about 2 weeks ago I would have been willing to bet that somewhere along the line their bill was going to go over the rails because there were just too many reasons why it was not timely, why with the opposing interests involved the different points of view would not be reconciled.

But it is really an interesting example of superb legislative craftsmanship and leadership on the part of the Senator from New York that brings us to this stage. He has pumped life into this over and over again. When House and Senate conferees were ready to give up, he encouraged us. When we could not make a deal with the administration, he alternately cajoled, threatened, and bargained and did all of the things that finally made possible quite a remarkable achievement.

That achievement is this: That we are going to adopt—and I have no doubt that we will by a large margin—a bill which simultaneously expands the benefits for persons on welfare, which is faithful to his original intent which is to provide enhanced education and training opportunities so that people will really have a chance to get off welfare. It is not a certainty. We do

not know whether it is going to really work as well as we all hope but at least that the changes—that the States will be given funds and entitlement—will be created so people can seek and receive an experience that will qualify them for a life of work instead of a life of dependence and misery.

At the same time, we are going to pass a bill that contains the kind of reforms that Ronald Reagan has been talking about off and on for all of his political life going back 20 or 25 years.

It is a, I think, in the finest sense of the word compromise we can all be proud of.

The essence of it is: First of all, education and training opportunities, entitlement for people to receive that kind of experience, some additional funding, some additional benefits for recipients in terms of Medicaid and child care support particularly to transition because we have had a situation where people on welfare would lose benefits when they went to work, and thereby be discouraged from actually seeking and accepting employment.

But we have built into this some important safeguards which are near and dear to the heart of a lot of conservatives in this Chamber, of a lot of taxpayers; just a lot of people at home who think the whole welfare system has probably become far too lax and far too permissive.

As a matter of fact, if you go out into the country and say what do you think welfare reform is and ask not recipients or experts in welfare, or scholars on the subject, but just the man or woman on the street, you just say to them, "Tell us about welfare reform, and what do you think that means?" They would say "Here is what a good program of public welfare should be: first of all, it should help people who need our help who are down on their luck, who are physically disabled, or cannot get a job, whatever it is. The second thing is welfare reform means we ought to have at some future date fewer people on welfare, not more. If the result is to get more and more people covered by welfare, and trap more and more people in some kind of a self-perpetuating cycle of dependency, that is not reform. The third thing is it ought to save money."

At some point, Mr. President, I think welfare reform does mean lowering the total cost to our Nation's taxpayers.

But if you ask people that question, what is welfare reform, one of the things they are going to tell you for sure is people on welfare ought to work, work, work because it is good for the soul, because it is fair to the taxpayers, because it rankles people who are paying taxes to support these programs to see people who are the recipients of them not get out to work.

That was the argument that President Reagan has been making, not only since he was President, but I guess dating back long before that, even when he was Governor of California and when he was out on the chicken dinner circuit for general lecturing. He said there ought to be some extension, and direct connection between receiving welfare and having to work.

Mr. President, I emphasize that because while I think Senator MOYNIHAN deserves a great deal of credit, and while I think Senator PACKWOOD does and others who have worked on this, including our colleagues in the House, we would miss a bet if we failed to pay tribute to President Reagan who at the crucial moment told us something that we needed to hear in order to make this compromise possible. He said, "If you don't do something about work in this bill, I am going to veto it."

At that point, some of us in the Chamber began to try to see if we could get a work requirement in. Senator DOLE took the lead. And some of the others were interested in it. And the provision that we have is a lot less probably than some of us would like. It does not say everybody on welfare has to work. But it does establish in the Federal law for the first time a link between receiving welfare and work. Here is how that goes, for Senators who have not followed it closely.

What this bill says in its final form is that of the new two-parent families who are entitled for the first time to receive welfare, at least one of the two parents in the family must work at least 16 hours a week under most circumstances. There are some exceptions, but that is the general idea. That is not very many people. It is only, I guess, about 7 or 8 percent of all the welfare recipients. I hope the idea will catch on. In fact, I think it will.

I believe the notion of welfare recipients working is a good idea, that it will ultimately be understood as a basic reform far beyond the requirements of this bill.

Up in Weld County, CO, we have a program which has been underway for some time in which practically everybody who receives welfare works.

The result of that, first of all, was that the cost of public welfare in Weld County, CO, has declined. During the years when the economy was soft in Colorado, during a time when welfare rolls were increasing all over our State, in Weld County the cost of welfare was not only holding steady, but was going down. Was this a burdensome thing, something that the recipients who had to work disliked? To hear some people who have opposed the work requirement—and I refer primarily to some of our colleagues in the other body—you would think this was an imposition on them. But in a survey among the recipients, among those who receive welfare in Weld County, CO, and are required to do some work, I believe over 83 percent said they thought it was a good idea and that it was fair.

This emphasizes something which is easy to lose track of. For the most part, people on welfare are not shiftless, good-for-nothing loafers who just love sitting around receiving public benefits, without doing anything in support of it. They do not object to working. In fact, my observation is that most people on welfare would like nothing better than to have a full-time, good job and work all the time, like the rest of us, and have the dignity and the sense of belonging and the purpose that goes with that. So the work requirement, I think, is an important element of it.

There are other reforms in this bill which I think are very significant. One is the participation requirement. We are saying not only that we are going to create an entitlement for people to have education and training, but also, we are going to hold the States accountable that they actually furnish this to the persons for whom it is intended; that we are going to establish a benchmark, a series of participation standards which gradually phase up to 22 percent over time; that at least that proportion of those eligible actually receive the benefits. We will monitor that to see if we can do more in the future.

There are other items about which I am pleased. I mentioned that this whole program of public welfare is needlessly expensive, extravagant, and loophole-ridden.

I am delighted that, with very little discussion and controversy, we have been able to put into this an antifraud requirement based upon the experience of the State of California, where they have the so-called FRED program. I have forgotten what that acronym means, but I believe it is fraud, eligibility—

Mr. MOYNIHAN. Fraud, eligibility, detection.

Mr. ARMSTRONG. Fraud, eligibility, detection.

The point is that before they get on welfare, they do a little test. They see through the computers how many cars are registered at your address, whether you paid income taxes, and so on.

Two things result from that. First, some people who would otherwise improperly qualify for welfare do not get it. Second, the general public is reassured that this is on the up-and-up, that this is on the level, that this is not just a scandalous, fraudulent abuse.

Mr. President, I am pleased to note, and would be remiss if I did not point this out, that while this is an expensive proposition—we are talking about a proposal that is going to spend $3.5 billion—under the leadership of the

Senator from New York and the Senator from Oregon, the Senate conferees were able to hold rather closely to our proposed expenditure for this. The House started out at over $7 billion, and we were at about $2.8 billion. The final figure is close to our number—I think $3.4 billion is contemplated.

While that is a lot of money and does represent a substantial expansion of benefits in some areas, what we are spending the money for, I think, is well justified. It costs something to provide these transition benefits for child care and Medicaid, but I think it is worth it. It costs something to provide these education programs, and I think that is worth it, too.

The one thing I do not believe we can afford is to just go on year after year, pumping out money to people and not giving them at the same time the kind of education, training, and work experiences that are necessary to give them the opportunity to help themselves. So I feel good about this. I am delighted to have a chance to vote for it.

I hope and assume that we are going to get a big vote on the rollcall vote; maybe 85 to 90 Senators will support this, and I think we should.

I hope and believe that the House will support it by a heavy margin and that the President will sign it. I think that is what will happen and should happen, and when it does, it will be a victory not only for PAT MOYNIHAN, Ronald Reagan, and BOB PACKWOOD, but also a victory for all people now on welfare who would like to have a chance to better their lot in life.

Mr. President, the conference report on the welfare reform bill is one of the most historic bills to come before this body in a long time.

It is, first of all, the product of compromise between different sincerely held views on how best to break the tragedy of dependency and poverty.

One view has long been advocated by our distinguished colleague, Senator PAT MOYNIHAN, of New York. The legislation introduced earlier this year by Senator MOYNIHAN had as its central feature a new program to provide States with the resources needed to educate and train those on welfare for a life of work and independence.

Another approach to welfare reform has, for a long time, been suggested by another prominent American, Ronald Reagan. As Governor and President, Mr. Reagan has long argued that work must be at the heart at any meaningful welfare reform effort. Under this view, our Nation's welfare policy must be not only one of compassion in providing cash assistance, food stamps, and Medicaid, but one which emphasizes the responsibility to work for oneself and families.

Those views, of course, are not mutally exclusive. For many, education and training is the only way out of poverty. For still many others, welfare ought to be conditioned on an obligation to work.

This bill is historic because these two philosophies of welfare reform are brought together. They coexist happily and comfortably in a measure which I believe will do much to help thousands trapped in poverty.

For that reason alone—because PAT MOYNIHAN has joined in common cause with Ronald Reagan to bring important changes to our welfare system—this is a historic occasion.

I am proud to have been a part of this process. Earlier this year, I joined with the distinguished Republican leader, Senator DOLE, in offering an amendment to establish the first mandatory work requirement in the history of our Nation's welfare system. I am grateful that proposal has survived conference intact. It is the linchpin to garnering President Reagan's support for this reform measure, and because of it, many months of effort on reforming welfare are coming to fruition today.

PROVISIONS OF THE BILL

Mr. President, I would like to discuss the relative merits, and some lingering concerns, with this bill. Before I do, however, it may be useful to briefly summarize its major provisions.

WORK REQUIREMENT

The bill establishes for the first time a Federal requirement that some welfare recipients must work as a condition of receiving benefits.

The bill provides that one parent in a two-parent AFDC-UP family must work at least 16 hours a week in a State-approved work program. States may use the Community Work Experience, Grant Diversion, or On-the-Job-Training Programs, or other State-designed work programs to meet this requirement.

States must ensure that at least 40 percent of their monthly AFDC-UP caseload is participating in a work program by 1994. This percentage rises to 75 percent by 1997.

States are allowed the flexibility of substituting education for the work requirement in the case of a UP parent under age 25 who has not completed high school.

The work requirement expires on September 30, 1998. After this date, States would still be allowed to operate the program but would not be required to do so.

EDUCATION AND TRAINING (JOBS PROGRAM)

The bill also creates a new "JOBS" Program authorizing education and training for welfare recipients.

Under JOBS, all recipients, including parents caring for a child over age 3, are required to participate in such programs to the extent State resources permit. Minor parents with children of any age are required to finish high school.

States will have considerable flexibility to determine the nature of their own education and training program. The only programs States are required to have are basic education and job skills, readiness, and placement training. States are also required to have two of the following four work-related programs: Community Work Experience, Intensive Job Search, Grant Diversion, and On-the-Job Training. Beyond this, States are free to establish programs best suited to help those on welfare in local communities.

States will also have considerable flexibility to determine the size and scope of their program. The Federal Government will match the amount of money devoted to education and training by State governments. But the essential decision on the size of the education and training program in each State will be up to local elected officials. Once they have decided on how much of their own money to commit, the Federal Government will match that at a 60-percent rate.

The bill does mandate minimal participation levels in education and training. This was among the more important amendments added to the bill by the Senate. Under this provision, States must ensure that 7 percent of the nonexempt monthly AFDC caseload must be participating in education or training by 1991. That percent gradually increases to 20 percent by 1995. This requirement will help ensure that the program reaches those who most risk long-term dependency.

Also under JOBS, the States will be required to provide child day care if necessary for an individual to participate. The Federal Government will match State payments for child care.

AFDC-UP

The bill would require that all States provide the so-called AFDC-UP benefit: cash assistance to two parent families who are eligible by reason of the unemployment of the principal earner. States currently have the option of providing AFDC-UP.

States that do not now provide AFDC-UP may limit cash benefits to 6 months per year and may require participation in JOBS for 40 hours a week. These States, however, would be required to provide Medicaid coverage for the entire family so long as they are eligible for cash assistance.

Those States that now operate an UP Program would be required to maintain full AFDC cash benefits and Medicaid. This mandate would expire on September 30, 1988, along with the work requirement.

WORK TRANSITION PROVISIONS

The bill contains two benefits to help families make the transition from welfare to work. States will be required to provide (helped by Federal matching payments) child care for 12 months to families that leave welfare.

Current law requires 30 days of transitional day care and 3 months at State option.

The bill also requires States to provide 12 months of Medicaid coverage after they leave the welfare rolls. Current law provides 4 months of Medicaid coverage. States will have the option of charging a premium for this coverage during the last 6 months for those whose income exceeds the poverty level.

These transition benefits will expire on September 30, 1998.

CHILD SUPPORT ENFORCEMENT

The bill strengthens Federal child support enforcement requirements by mandating immediate wage withholding for all new support awards, making State guidelines on award amounts binding on judges, and setting standards for the establishment of paternity. This will help increase the amount of support paid by absent fathers for their children on welfare.

MINOR PARENTS BENEFITS

The bill gives States the option of requiring a minor parent to live with a parent, adult relative, in another adult-supervised setting, or in foster care as a condition of receiving AFDC assistance. Current law creates an incentive for minor parents to leave home in order to receive AFDC by requiring that an entire household's income be calculated in determining benefits. Frequently, this means a minor leaves home to get AFDC. States would now have the option of requiring the minor to stay at home or in a similar environment.

ANTI-FRAUD PROGRAM

Finally, the bill requires States to establish a pre-eligibility fraud detection system. This would require States to screen an applicant's eligibility for assistance before they are actually placed on the rolls. California has a similar highly successful program.

COST

The conference report will increase Federal outlays by $3.3 billion from 1989 through 1993. This amount is fully offset by several revenue raising provisions of the bill to keep the legislation "deficit neutral."

This final cost is well below the that of the House-passed bill ($7.1 billion) and slightly higher than the Senate-passed bill ($2.8 billion).

CHARTING THE COURSE OF WELFARE REFORM

In addition to this brief summary of provisions, my colleagues may find it useful to trace the progress of this legislation from the time it was first reported to the Senate today. I will ask to have printed in the RECORD a short table demonstrating how the bill developed over the course of the year.

As the table indicates, the bill passed by the Senate has fared quite well in conference. The Senate approved amendments to add the work requirement, the JOBS participation rates, and sunsets on proposed transition benefits. All of these important features are in the conference report.

The Senate bill contained positive reforms, not in the House bill, which remain in the conference report. For instance, the Senate bill required all minor parents to complete high school or some other educational activity, and that has been retained.

The Senate proposed the requirement that minor parents live at home or under some adult supervision in order to receive welfare benefits. Under the conference agreement, this policy is not mandated by the Federal Government, but States are given the option of implementing it.

The conference report is also noteworthy for some of the things it does not contain. It does not contain a costly expansion in basic welfare benefits proposed by the House. It does not contain onerous restrictions on the Community Work Experience Program [CWEP], as proposed by the House, which would have essentially gutted the Nation's most important work program.

The conference report also does not contain a terrible work disincentive contained in the House bill which would have prohibited States from requiring people to take work unless it paid more than the full value of AFDC cash benefits, Food Stamps, and Medicaid. This provision would have been a severe disincentive to work, effectively pricing many on welfare out of the available job market and enshrining the motion that welfare is acceptable if it "pays more than work." It was born of the view that if welfare recipients aren't trained for high-paying jobs, they should not be asked to work. That view is simply wrong, in my view, for many coming off welfare will not have the kind of skills needed to initially obtain high paying jobs. The conference report requires States only to ensure that welfare recipients are not asked to take work paying less than their cash assistance. The proposed transition benefits will also help supplement the wages of those leaving welfare.

At this point, Mr. President, I ask unanimous consent that a table comparing the various Senate and House bills with the final conference report be printed in the RECORD.

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

WELFARE REFORM COMPARISON

	Committee-reported S. 1511	Senate-passed bill	House bill	Conference report
(1) Total five year cost	$2.8 billion	$2.8 billion	$7.1 billion	$3.3 billion.
(2) Child support enforcement	Strengthens Federal Child Support Enforcement standards and increase collections.	Strengthens Federal Child Support Enforcement standards and increase collections.	Strengthens Federal Child Support Enforcement guidelines and increase collections.	Strengthens Federal Child Support Enforcement standards and increase collections.
(3) UP work requirement	No provision	(Floor amendment)	No provision	Requires one parent in a two-parent AFDC-UP family to work 16 hours a week as a condition of receiving assistance
		Requires that 50 percent of the average monthly UP caseload be in the work program by fiscal year 1994, and 100 percent by fiscal year 1995.		Requires that 40 percent of the average monthly UP caseload be in the work program by fiscal year 1994 to 75 percent in fiscal year 1997–98. Sunset after fiscal year 1998
				Allows States to provide 2 months of intensive job search in advance of work requirement and substitute education for a parent under age 25 who has not finished high school.
(4) Antifraud provision	Requires States to implement pre-eligibility fraud detection system. (Committee amendment).	Requires States to implement pre-eligibility fraud detection system.	No provision	Requires States to implement pre-eligibility fraud detection system.
(5) Education/training (JOBS)	Authorizes the "JOBS" program to provide education and training for welfare recipients.	Authorizes the "JOBS" program to provide education and training for welfare recipients.	Authorizes the "NETWORK" program to provide education and training for welfare recipients.	Authorizes the "JOBS" program to provide education and training for welfare recipients.
	Allows States to determine the types of programs to be provided, but requires basic education and training skills.	Allows States to determine the types of programs to be provided, but requires basic education, skills training, and 2 of 3 work-related programs: Job Search, Community Work Experience, and Grant Diversion. (Floor amendment).	Allows States to determine the types of programs to be provided, but requires job search and skills training.	Allows States to determine the types of programs to be provided, but requires basic education, skills training, job readiness, placement and development and 2 of 4 work-related programs: Job Search, Community Work Experience, Grant Diversion and On-the-Job-Training.
	Requires all minor parents to complete high school.	Requires all minor parents to complete high school.	No provision	Requires all minor parents to complete high school, including exempt mothers, but allows States to develop criteria (with HHS approval) to exempt some for whom school is inappropriate.

	Caps JOBS entitlement at $500 million in fiscal year 1989, $650 million in fiscal year 1990, $800 million in fiscal year 1991 and $1 billion in fiscal year 1992.	Caps JOBS entitlement at $500 million in fiscal year 1989, $650 million in fiscal year 1990, $800 million in fiscal year 1991 and $1 billion in fiscal year 1992.	Open-ended entitlement	Caps JOBS entitlement at $600 million in fiscal year 1989, $650 million in fiscal year 1990, $800 million in fiscal year 1991, $1 billion in fiscal year 1992, $1.1 billion in fiscal year 1993, and $1.3 billion in fiscal year 1994 and beyond.
	Prohibits States from requiring work if it pays less than value of AFDC cash benefits plus Food Stamps and Medicaid.	Prohibits States from requiring work only if it pays less than AFDC cash income. (Floor amendment).	Prohibits States from requiring work paying less than AFDC cash benefits plus the value of Food Stamps and Medicaid.	Prohibits States from requiring work paying less than AFDC cash income.
	No participation rates	Requires States to meet participation rates of 10 percent in fiscal year 1990 and fiscal year 1991, 14 percent in fiscal year 1992 and fiscal year 1993, 22 percent after fiscal year 1994 of average monthly non-exempt caseload (Floor amendment).	No participation rates	Requires States to meet participation rates of 7 percent in fiscal year 1990 and fiscal year 1991, 11 percent in fiscal year 1992 and fiscal year 1993, 15 percent after fiscal year 1994 and 20 percent in fiscal year 1995 and beyond of average monthly non-exempt caseload.
(6) Community work experience (Work-for-Welfare).	No change in current law	No change in current law	Reduces CWEP hours at beginning of assignment by dividing grant by rate of pay for similar job. Limits CWEP to 6 months and prohibits reassignment.	Reduces CWEP hours after 9 months in one assignment by dividing grant by greater of minimum wage or rate of pay of same employer at same site for similar job. No other limits on CWEP.
(7) AFDC–UP benefit	States must provide at least 6 months of AFDC–UP cash benefits and full Medicaid to family. After 6 months, Medicaid must be provided only to children and pregnant women if family is still cash-eligible. States may require UP recipients to participate in JOBS for 40 hours a week.	States must provide at least 6 months of AFDC–UP cash benefits and full Medicaid to family. After 6 months, Medicaid must be provided only to children and pregnant women if family is still cash-eligible. States may require UP recipients to participate in JOBS for 40 hours a week.	All States must provide full AFDC–UP cash benefits and Medicaid to entire family.	States currently providing AFDC–UP and full Medicaid must continue to do so without change in benefits until September 30, 1998. Non-UP States must provide at least 6 months of UP cash benefits and must provide Medicaid to the entire family beyond 6 months if family still cash-eligible. States may require UP recipients to participate in JOBS for 40 hours a week. Mandatory UP benefit & work requirement sunsets on September 30, 1998.
(8) Minor parents benefits	Requires unmarried minor parent to live at home or with guardian, adult relative or foster care as condition of receiving assistance. Household income (i.e. grandparents) counted in determining AFDC benefits.	Requires unmarried minor parent to live at home or with guardian, adult relative or foster care as condition of receiving assistance. Household income counted in determining AFDC benefits.	Requires unmarried minor parent to live at home or with guardian, adult relative or foster care as condition of receiving assistance but household income NOT counted in determining AFDC benefits.	States may require unmarried minor parent to live at home, with guardian, adult relative or foster care to receive AFDC. Household income counted in determining AFDC benefits.
(9) Income disregards	No change in current law	No change in current law	Increases child care disregard to $175 a month for a child over 2 and $200 a month for under 2. Raise standard disregard to $100. Disregards $50 in child support and EITC. Indexes disregards and allows State increases.	Increases child care disregard from $160 a month per child to $175 a month for a child over 2 and $200 a month for a child under 2. Raises standard deduction income disregard from $75 a month to $100. Disregards EITC.
(10) Medicaid transition	Requires States to provide (with Federal matching payments) 12 months of Medicaid benefits to AFDC families leaving welfare.	Requires States to provide (with Federal matching payments) 12 months of Medicaid benefits to AFDC families leaving welfare.	No provision. (The House adopted a Medicaid transition benefit in the 1987 Reconciliation bill.).	Requires States to provide (with Federal matching payments) 12 months of Medicaid benefits to AFDC families leaving welfare.
	Requires States to charge a premium during the last 6 months of benefits.	Requires States to charge a premium during the last 6 months of benefits.	xl	Allows States to charge a premium during the last 6 months of benefits.
	Limits to 12 of 36 months to reduce incentive to revert to AFDC.	Limits to 12 of 36 months to reduce incentive to revert to AFDC.	xl	No provision.
	No sunset on benefits	Sunsets benefits on December 31, 1993. (Floor amendment).	xl	Sunsets benefits on September 30, 1998.
(11) Child care transition	Requires States to provide (with Federal matching payments) 9 months of child care for families who leave welfare.	Requires States to provide (with Federal matching payments) 9 months of child care for families who leave welfare.	Requires States to provide (with Federal matching payments) 12 months of child care for families who leave welfare.	Requires States to provide (with Federal matching payments) 12 months of child care for families who leave welfare.
	Limits child care transition benefits to 9 of 36 months to reduce incentive to revert to welfare.	Limits child care transition benefits to 9 of 36 months to reduce incentive to revert to welfare.	No provision	Requires HHS study and regulations if benefit causes recycling.
	Provides that day care must meet standards set by State and local law.	Provides that day care must meet standards set by State and local law.	State law applies on child care standards, but States cannot reduce current standards, must require parental access, post phone number for complaint, and comply with local fire standards.	States must establish procedures to assure that center-based care is subject to State/local requirements on health and fire safety. States must also develop guidelines for family day-care. All daycare must allow parental access.
	No sunset on benefits	Sunsets benefits on December 31, 1993. (Floor amendment).	No sunset	Sunsets benefits on September 30, 1998.

BENEFITS OF THE PROPOSED REFORM

Mr. ARMSTRONG. Mr. President, some of us will differ as to what is the most beneficial reform in this bill. Many of them have considerable merit, to be sure. This bill will provide the necessary resources to help educate and train thousands for a life of work. The participation rates proposed in JOBS will help ensure the program reaches a good number of needy people, those with the lowest skills who most risk long-term dependency.

The bill will provide transitional assistance in the form of Medicaid and child care to avoid the cliff that faces many who want to leave welfare—namely, not enough wages to support day care and not enough health insurance to adequately protect a family.

The bill will provide more AFDC-UP, and that may help keep families together during hard times of unemployment.

The bill will send many teen mothers back to school to get the basic skills needed to begin competing in the work force.

The bill will establish a new anti-fraud system which will keep the undeserving and ineligible off welfare. That is fair to those in need and to those who pay the bill. The California FRED Program—which stands for fraud detection and prevention—is the model program in the Nation, and has been a great success.

THE WORK REQUIREMENT

But to me, the single most important reform in this bill is the work requirement. It is, for the first time ever, conditioning the receipt of welfare assistance with a requirement to work. This requirement is modest in scope—asking one parent in a two-parent welfare family to work 16 hours a week. It will apply to only a small percentage of the welfare caseload. But installing this principle in our welfare system is a historic step.

Here is why I believe that is so. First, I think it is simple justice. Most people fully share the view that those on welfare who are able to do so should work in return for the subsistence and support society is providing them. That is simple fairness, equity, and common sense. Second, work is good in and of itself. By working, we gain dignity, a sense of purpose and self respect. We develop skills, become responsible, and are able to advance in life to better serve our fellow man.

I have heard this idea of work-for-welfare characterized as "silly," "make-work," and worse still, "slave-fare." Mr. President, comments such as these mystify me. I honestly believe those who oppose the work requirement do not fully understand how the world works. I say this because work is so fundamental to our being. I say this also because work will turn out to be a very popular reform—not just with the taxpayers paying the freight—but with those on welfare itself. I suspect there are actually precious few on welfare who want to be there. I know there are thousands who would leap at the opportunity to work.

In Weld County, CO, there is a highly successful work program in which people coming to the welfare office for assistance are given a job. The program enjoys great popularity; 86 percent of the clients said they

thought it was fair or very fair to require work; 80 percent said the work program was worthwhile; 83 percent supported its purpose and rejected the notion that it was at all punitive. At the conclusion of my remarks, I will insert several recent articles on the Weld County experience.

I also completely reject the notion this requirement promotes "make-work." Many of the jobs involved are in community service—in Government offices or local nonprofit social welfare organizations serving the handicapped, disabled, senior citizens, and those on welfare itself. That is not make-work. Even if the jobs to be provided are not the most interesting, such as raking leaves, fixing roads, or cleaning parks, or would not lead to permanent careers, I still believe they are worth it.

Journalist Pete Hamill wrote the following in Esquire magazine in March 1988. He said:

> Human beings must work. It is as necessary to life as food and drink. . . . . There are no "dead-end" jobs for people who want to make something of their lives. When I was a kid I worked as a messenger, a delivery boy, a bank teller, a lowly assistant in an advertising agency's art department, a sheet-metal worker in the Brooklyn Navy Yard. I didn't make a career of any of those jobs, but they taught me how to work. That is, they taught me how to get up in the morning when I wanted to sleep another few hours. They taught me how to perform tasks that personally didn't interest me. They taught me how to understand the needs of others and their expectations of me.

That summarizes well the essential idea behind the work program.

I agree with those who say work is not always a substitute for needed education. But this provision does not deny educational opportunities. Work is part-time, no more than 16 hours a week. For those who need more education, ample time is available. For those on AFDC-UP under age 25 who have not finished high school, States may substitute education.

But work must be an essential part of reform. Many on welfare feel degraded by it. They feel trapped. They feel like they are caught up in a system and cannot get off. They really want to work. They want to be in the mainstream of American life. They want to be able to look their kids in the eye when they come home and say, "What did you do at school today? Here's what I did in my job." They just do not like the status they are in. So work is important for their own sake. It is important in and of itself.

REMAINING CONCERNS

Having noted the many benefits which I believe this bill will provide, it would be at best, an exaggeration, and at worst disingenuous, to suggest this legislation will solve all or even most of our welfare problem. It is not the kind of fundamental reform which many thoughtful scholars such as Charles Murray have suggested. Far from it.

Rather than dismantling the present welfare system and starting over, much in this bill builds upon that system and tries to make it better by targeting more resources toward work and work-related benefits. But there are those who believe the welfare problem cannot be solved by tinkering with the present system because that system itself is the problem.

Many are persuaded that welfare dependency is caused by welfare itself. In an effort to compassionately assist the poor, benefits are provided which far exceed what most would be able to gain through their own work. The result is unavoidable: people stay idle so as not to lose what is so desperately needed for day-to-day living. They are locked out of a life where work and self-reliance are the only means of survival and gain, and trapped in a web of benefits that cannot be given up. Some believe the only real way to solve this is not to begin it in the first place; to provide enough assistance to meet only minimal needs, to provide a unitary benefit versus a hodge-podge of programs from housing to medical care to nutrition to cash and to flatly require work and self-reliance in exchange for it. These are thoughtful views, but this bill does not accept that challenge.

On a less philosophical note, there is reason to be concerned that this bill will not help very many people. At best, only a small percentage of those on welfare will receive education and training. Of the average annual monthly caseload of about 3.8 million people, fully one-half are exempted from participating in the JOBS Program for one reason or another—the most significant being that they are the mother of a child under age 3. That leaves 1.9 million potential participants in JOBS. Of that number, the bill would only require States to ensure that 20 percent are involved in education or training—about 380,000 a month. Over the course of a year, the bill might put 800,000 individuals through education and training—3 million less than actually receiving assistance.

The work program will itself only put 370,000 welfare recipients to work in exchange for benefits when it is fully implemented in 1997. Again, that is a fraction of the total AFDC caseload.

Next, there is the danger that the new benefits provided by this bill will actually draw some people onto the welfare rolls. By mandating the two-parent AFDC-UP benefit, there is a certainty that thousands—perhaps as many as 80,000 per month on average—will be eligible for welfare, food stamps, and Medicaid that now are not.

The proposed transition benefits, though well conceived, also pose a danger. Many working poor who have not been on welfare may yet be attracted to the deal offered by this bill: Renewed educational opportunities while receiving cash assistance, Medicaid and food stamps, and then another 12 months of child care and Medicaid when they go back to work. Part of the reason this package of benefits may be attractive is that many working poor, nonwelfare families will someday be working along side those once on welfare now receiving substantial transition benefits. This is a potentially serious inequity which must be carefully watched.

In this regard, I am disappointed the conference report does not contain a provision in the Senate bill which would have limited the number of times an individual could have recycled on and off welfare. Many have argued that transition benefits are needed to end the terrible choice facing so many people on welfare: That as soon as they go to work, they lose all health care assistance. That problem has to be addressed, and the Medicaid transition will help. But in a sense, this benefit may only be postponing that stark choice for a year because, at some date, the benefits will run out. For that reason, there should be some reasonable limit on how many times the welfare system will carry an individual before society leaves them on their own.

Partly because of this, the bill would sunset transition benefits in 10 years so Congress can analyze if they have worked as intended.

Finally, Mr. President, perhaps the most damning indictment of this bill is that it does not address some of the basic reasons why welfare is needed by so many. This bill itself will not provide the economic opportunities so desperately needed. It will help train people for them, but not create them. Our Nation simply must pursue the kind of innovative policies of the past 8 years which have created jobs and opportunities for low-income Americans, or no amount of welfare reform will help.

This bill also doesn't really address some very fundamental issues of values in our society: The values that promote welfare and those needed to help avoid it. Congress cannot legislate away the kind of values that drive irresponsible young men to father children and then abandon them with their mother. Congress cannot legislate away the tragedy of teen pregnancy and the terribly unwise decisions that cause it. Congress cannot legislate the work ethic, or a sense of devotion, discipline, love, and religious influences that must exist in any family if children are to succeed, prosper, and

give back to the parents that raised them.

For the most part, this bill is left to deal with the symptoms of broken moral and family values. That is not to say Congress should not lend the helping hand extended by this bill. But it is to suggest that unless our people, community leaders, schools, and churches attack the terrible influences in the lives of young Americans, from promiscuity to crime to drugs, and instead teach responsibility, work, discipline, religion, and self-control, welfare dependency will remain an unsolvable problem.

A REASON TO HOPE

Despite these important misgivings, Mr. President, I remain confident the proposal before us will make a difference for countless many. If it only gives 800,000 people a year the chance to make it, then it is worth it. If it only puts 370,000 to work in exchange for welfare, that is substantial progress.

Rather than measuring success in pure numbers, I believe this bill will establish new principles and a new atmosphere within our welfare system. Welfare can be transformed from a system of despair to a hotbed of education, training, and work. Thousands on welfare will come to know that something is expected of them in exchange for assistance, and they too will expect something of themselves. Many will warmly embrace the opportunities for training and work to be provided by this bill. And in the end, a new era of hope can be born within our welfare programs.

It has been decades since Congress last attempted to reform welfare. In a time less than that, Congress may again need to revisit the problem and examine the effects of what is being put forth today. It won't be too long before we know if this made a difference. If it doesn't, more fundamental change will be in order.

For now, however, I have great hope this will make a significant difference, that it will offer opportunity for many and test the promise of work. This is a road Congress must travel if our Nation is ever to end the dependency the present welfare system has inflicted on so many.

Mr. President, I ask consent that several articles on the Weld County Work Program which recently appeared in the Greeley Tribune be printed at this point in the RECORD.

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

[From the Greeley (CO) Tribune, Sept. 11, 1988]

WELFARE REFORM CUTS WELD COSTS

(By Gayle Perez)

Last year Shar Thompson faced a problem shared by many single parents—she was without a job yet still responsible for supporting herself and her three young children.

Headed down a dead-end road and desperate for a job. Thompson was determined to keep her head above water and finally turned to the Weld County Department of Social Services for public assistance.

"I didn't want to be a (welfare) recipient but there was nothing I could do at the time. I was willing to work but had limited work experience," she said.

But at social services, instead of receiving welfare under the Aid to Families with Dependent Children's program, which most eligible clients receive, Thompson was given the chance to work as a temporary receptionist at the Greeley Unemployment office.

With the help of social services and the Weld County Human Resource Department, Thompson was able to gain enough work experience to land a full-time job with the Weld County Welfare Diversion Program.

Ironically it was the welfare diversion program that has helped Thompson and many other Weld County single parents get off public assistance and into the regular workforce.

For almost 10 years, the Weld Diversion Program has been helping people break out of the welfare cycle by learning to make themselves more employable.

The program has had remarkable success in reducing Weld's welfare caseload and is being cited across the nation as a model for welfare reform.

In the past five years, the number of AFDC recipients in Weld has decreased 4.2 percent. That compares to a 34.6 percent increase statewide in the same time. Some other Front Range counties have had considerably higher increases in AFDC recipients in the last five years: In Boulder County the caseload increased 99.8 percent; Arapahoe County has seen an 89.1 percent increase; and Jefferson County's caseload is up 81.2 percent.

"Our goal is employment, and we want our clients to establish good work habits such as getting to work on time and establishing a good working record," said Alvina Derrera, coordinator of employment and training programs at the Human Resource Department.

Weld County's program has been so successful it is attracting national attention. Welfare reform laws now being discussed in Congress would create programs similar to Weld's throughout the United States. The national Welfare Reform Bill passed both the House and the Senate with some revision and is now in committee where the differences will be worked out.

"The Weld County program is superb. It's the kind of program that needs to be expanded," said U.S. Rep. Hank Brown, R-Colo. and a Greeley resident. "It's been a success in Weld County and needs to be mimicked nationwide."

Sen. William Armstrong agrees the program should serve as a model for the rest of the country.

"This program was based on the assumption that people will choose to work rather than receive welfare if they have the choice," he added.

Seeds for the Weld diversion program were planted in 1979 with an Employment Opportunities Pilot Project formed by state and county government. It was designed to bring clients off welfare rolls through employment.

In the past seven years, different legislation has broadened the program—establishing most of the guidelines it operates under today.

"The current system coming out of Weld County was learned through trial and error," said Walt Speckman, executive director of the Human Resources Department.

The program operates this way: When clients are determined to be eligible for AFDC assistance, they are referred to the diversion program at the Human Resources Department. Clients are screened and if no disabilities or other barriers prohibit them from working, they are provided 40-hour-a-week work experience for up to eight weeks instead of getting AFDC money.

"We want to keep it short term so they don't begin to think it's another form of welfare," Derrera said of the time limit.

Jobs are provided by various county and non-profit organizations. The jobs range from day care and street maintenance to teacher's aides and office workers, Derrera said.

Employers throughout the county volunteer to provide jobs and the needed supervision for the clients.

Wages are paid jointly with 50 percent federal, 30 percent state and 20 percent county money. Weld County contributed $80,000 toward the program in 1988.

The county also uses the money from its Job Training Partnership Grant to help with the program.

"We've been able to do something I think is helpful for people without spending a lot of money," said Weld County Commissioner Jackie Johnson, a welfare reform advocate.

Diversion clients are paid—usually minimum wage—but at least equal to or more than they would receive from AFDC.

The clients also receive help in finding day care and receive Medicaid and Workman's Compensation Insurance.

While clients gain employment experience during the eight weeks, diversion employees help locate permanent jobs.

"The aim of the program is not to try and train the clients in a particular job, but rather to try and develop a work history for them," Johnson said.

"Many of these people do not have a work history or have a poor work history. Our goal is to get them a good work history," Johnson added.

Clients may not be enrolled for more than three periods.

In Weld, single parents with children 6 months or older are required to participate in the program if no work barriers exist.

"Our feeling is that young mothers might serve their children better if they don't get on the welfare system so quickly," Johnson said.

Individuals refusing to participate or unsuccessfully completing the program do not receive as much AFDC money.

"About 95 percent of the people want to work and they don't have a problem with it," Speckman said. "These are the ones we really focus on."

Bette Rhoden, Weld County purchasing director, and Ann Heiman, director of the Parent Child Learning Center in La Salle, said they employ diversion clients not only to aid the individuals but also for the extra help it provides them.

Rhoden said she has used diversion employees to do clerical work in her office since 1981. The only qualification she requires is some typing skills, but she added she is willing to work with employees to improve all their work skills.

"Our office works with them very closely and as a result many have been very fortunate in getting permanent jobs."

Heiman said the diversion clients she uses provide extra help for the tasks regular staff may not be able to do.

"We don't depend on them to be our regular staff, but it's a pleasure to have the extra help," she said. "Sometimes the little ones need an extra hand or a baby needs to be held and that's where they really help out."

Heiman said she uses the workers in various tasks ranging from cleaning and cooking to helping care for the children.

In addition to employing the individuals, Heiman also accepts children of diversions clients in the day-care program.

With enthusiastic employers and clients, the diversion program has become a success story for Weld County.

"The program has been very beneficial. Of the 10 larger counties, Weld is the only county in the state to show stability or a decline in the AFDC caseload," said Gene McKenna, director of Weld County Department of Social Services.

In a speech before Congress earlier this summer, Armstrong made note of the welfare caseload decline despite tough economic times in Weld.

". . . It is an agriculture county that has had all the problems that farm communities have had . . . and in a period when unemployment has been rising and the welfare caseload has been rising, in Weld County where they have this work program the caseload has been declining," he said.

Through August this year, the AFDC caseload in Weld has dropped 11 percent to 1,250 from 1,404 in 1987.

Likewise, the number of diversion clients at any one time has increased from an average of 37 in 1984 to an expected average of 109 clients this year. There now are 125 clients participating in the program.

"There are several reasons the county's caseload has dropped, but the welfare diversion program definitely has been a tremendous help," McKenna said.

Robert Henson, director of work programs for the Colorado Department of Social Services, agreed.

"I think it's one of the factors (for Weld's stabilized caseload). Given what's going on in the diversion program, it's been of some benefit of Weld County Social Services and the clients it serves," he said.

McKenna said one of the biggest benefits is that it provides a substantial savings to the county. Speckman estimated Weld saves about $500,000 to $600,000 a year in AFDC payments.

"By controlling the cost of government, I think the constituents feel good about it because it gives the county more money for such things as roads," Johnson said.

Results of a study done by social services of clients who successfully completed the program indicate approximately 68 percent did not return to public assistance, Derrera said.

But county and state officials aren't the only ones boasting about the program. Clients seem to value it as well.

Participants do an evaluation of the program and of those completing the evaluation, more than 80 percent indicated the program was worthwhile.

While Weld is enjoying some success with its program, other Colorado counties can be doing the same, Henson said.

"Any county in the state can do what Weld is doing but they haven't," he said.

Boulder County officials are in the process of starting a similar work program and have looked at Weld's program for direction.

"It's been really helpful to have a working model to look at," said Don Bishop, administrator of assistance payment division of the Boulder County Department of Social Services.

Bishop said Boulder's Employment Plus program is using a lot of the same technical rules as Weld that need to be followed to receive state and federal dollars.

Boulder County officials also looked at how Weld is providing day care and training for the diversion clients.

Mothers Discover Welfare Program Brings Satisfaction

(By Gayle Perez)

Sitting at a small table at the Parent Child Learning Center in La Salle, Delores Medina patiently showed about a half dozen preschool children how to cut out shapes and paste them on construction paper.

As the children diligently worked on their art projects, Medina complimented each one on the beautiful work they had done.

"I really enjoy being here around these little kids. They're a lot of fun to work with," Medina said as one of the students came up to give her a hug.

Although Medina never dreamed of becoming a teacher's aide, when she received the job through the Weld County Welfare Division Program she was delighted just to find work.

Three years ago, Medina and her family faced a financial crisis when her husband was forced to quit his job because of a heart disease.

Without a steady income to support the family of five, Medina sought public assistance through the Weld County Department of Social Services.

Instead of going on welfare, Medina was referred to the Weld County Division Program at the Weld County Human Resource Department and began working at the Parent Child center.

The diversion program has been helping people like Medina stay off the welfare rolls by providing paid work experience—subsidized by federal, state and county money—for a maximum of eight weeks. Officials hope after the eight weeks that most clients will find permanent employment and no longer need welfare.

"They asked me if I was interested in being a teacher's aide. I said I had never done it before but I was willing to try," said Medina, a Kersey resident.

She completed her eight-week term and on the last day was hired as a permanent employee at the center.

"This job is the only income for our family and it sure is a lot better than the $400 we would've received (from welfare)." she said.

About a year ago, Shar Thompson of Greeley faced a similar problem in not having a job but needing to support her three children.

Thompson sought public assistance and was referred to the diversion program. She landed a temporary job at the Greeley unemployment office and finally a permanent job with the diversion program.

"I am really thankful for the program," she said. "I really didn't want to be on public assistance but there was nothing I could do at the time."

Like Medina, Thompson said she was surprised to get a permanent job.

"I had looked for jobs before I got into the program and I knew it would be difficult, but I happened to gain the skills that were needed to get the (permanent) job," she said.

Thompson said she enjoys working for the diversion program, especially since she is helping people who are in the same situation as herself.

"A lot of them (diversion clients) come in and think that I don't know what they're going through—but I tell them I've been through it and I know what they are scared of," she said. "I think it helps knowing that I was once in their shoes."

While Medina and Thompson say they may have been lucky to find jobs, they also agree that determination and a willingness to work has helped them.

"A lot of being successful in finding employment has to do with attitude. I think the program has a lot to offer and I'm really thankful for the job I have," Thompson said.

Medina added, "I think it's a really good program and if you really get out there and try, something will come along."

Weld's Child-Support Collections Increase

(By Gayle Perez)

Collections of delinquent child support payments in Weld County are up $151,000 through the first eight months of 1988, and a record number of collections are expected to be made by the end of the year.

Through August, child support collections total $967,000 compared with $816,000 collected in the same period last year, said David Huffman, administrator of the child support enforcement program of the Weld County Department of Social Services.

"We're expecting to collect from $1.4 to $1.5 million by the end of the year," Huffman said.

The department's success in collecting delinquent child support payments has contributed to a decrease in the welfare caseload in Weld County, Huffman said. Some single mothers, for example, no longer need to rely on welfare when their child support payments are made in a timely manner.

Huffman said the collections are up mostly because of a stronger emphasis on getting non-supporting parents to make payments.

Weld County's increased collections mirror a statewide trend.

At the end of June, collections increased by more than 21 percent in Colorado—marking the third consecutive quarter they have increased by more than 18 percent, said Kathy Stumm, Child Support Enforcement Division Director for the Colorado Department of Social Services.

During the period, statewide child support collections totaled $9.95 million compared with $8.21 million collected during the same period last year.

There are four categories of child support collections in Weld County: welfare cases, non-welfare cases, "reciprocal" cases where one of the parents lives outside of Weld and cases where children are in foster care.

Huffman said there are about 10,000 child support collection cases in Weld but only about 3,000 are active.

Of the active cases there are approximately 1,700 on welfare, 700 non-welfare cases and about 600 reciprocal cases, Huffman said.

Through August, the biggest growth among collection methods in Weld has been by intercepting tax returns, with a 25 percent increase in that category, he said.

After it is verified that a nonsupportive parent is behind on child support payments, the Weld collection unit can submit a request to the Internal Revenue Service to intercept any federal or state income tax refund, that may be coming.

In the same manner, collections also may be taken from unemployment compensation.

In the first eight months of 1988 about $170,000 has been collected from federal income tax returns, about $8,000 from Colorado taxes and an additional $13,000 from unemployment compensation, Huffman said.

Statewide tax intercept collections netted $1.5 million through May.

The remainder of collections are made through day-to-day contact and negotiations with the nonsupporting parent.

If payments still lag after repeated contact from the office, then two other remedies—wage assignments and garnishments—are used.

A child-support provision passed by Congress in 1984 allows for wages to be withheld from the nonsupporting parents' paychecks if they fall behind on payments.

Weld County also has been busy switching the county's cases to a state computer system this year, Huffman said. The change will result in easier tax collections by having them all on one system as well as providing better access in locating a nonsupporting parent.

Mr. PACKWOOD. Mr. President, when we consider this bill—and we will find this time and again—when we have gone to our States—people will say: "How did we get in this jam? How did this happen? Why are there so many more people on welfare?"

Although he did not say it in his opening statement, I think the Senator from New York put his finger on it sometime ago.

The present welfare system was not designed for the present so-called welfare problem that we have. I believe I heard the Senator from New York refer to the original welfare reform as the "miners' widows' pension relief."

It was in the mid-1930's: Using the miner's widow as an example, the husband has been killed in the mine; she is 37, has three children, and she is not really trained for work in the job market. Anyone who says she does not work because she has stayed home does not understand what a housewife does, but she was not employable in the job market. Little or no pension from the mining company because of the death of her husband. The likelihood of her getting a job was very slim, especially in the mid-1930's, with employment at 20, 22, or 25 percent.

So we devised a system to give her relief, to help her along, to help educate the children a bit, get them up to the age of 16 or 18. That was the beginning of the welfare system—widows' relief.

Gradually, it was expanded to those generally handicapped and unable to work. But the system never imagined that it would have to serve a welfare population that was composed heavily of teenage or very young unmarried women with children who would be looking forward to 30, 40, or 50 more years of life. Yet, we continued to try to tinker and to draft into the old system something new, and we could not understand why it did not work, until we went back to the original premise and realized that it was never meant to work to solve the problem that we began to see in the late 1950's, the 1960's, and into the 1980's.

So it fell to the lot of the Senator from New York, in his excellent articles, and who lobbied us one by one. In this business, bills are not passed very often by extraordinary oratory on the Senate floor. They are passed by the willingness of one Senator to go to the office of another Senator and sit down and take 10, 20, or 30 minutes and sell the other Senator on the merits of the proposition. That is what PAT MOYNIHAN did.

BILL ARMSTRONG has laid out what the present bill does; and after all the difficulties we have gone through, there are only three or four premises in it.

We are going to try to change from the present system which, no matter what we do to it, cannot be made to serve the present problems. We are going to transform the existing cash assistance—that is, welfare, call it what you want—to a program based on employment and training.

Instead of giving our poor just monthly checks, just cash, this bill aids our country's poor by showing them the value of a job and an education, something we have not seriously tried before.

The bill requires that certain of these recipients work. That is a good four-letter word, Mr. President—work. We will try to educate them so that they can work in today's society at a job at which they, hopefully, can work for the remainder of their life.

In order to encourage people to continue to work, we have added a 1-year transition period for Medicaid—Medcaid being the low-income medical assistance we give to the very poorest of our country—a 1-year transition period for Medicaid benefits and for child care. So that if someone moves off welfare into a job that, very honestly, at the start is probably not going to pay a great deal of money we are going to help them make that transition through child care and Medicaid benefits.

Currently, when a recipient leaves welfare he or she nears a great risk of losing their child care or Medicaid.

So we have said during that first year we will continue your child care and Medicaid payments in addition to the job. I want to emphasize again that if many of these jobs at the start would pay more than $5 an hour or $6 an hour, I would be surprised. But it is going to teach people to start working, and give them a meaningful chance.

Then we have made enormous improvements in the collection of child support payments. Here we have learned a lot in the Congress and I think we can pat ourselves on the back over the last 4 or 5 years on child support.

We have recalcitrant father after recalcitrant father who would not pay. This was not a question of who the parent was. We know the parent. Sometimes the father was married to the woman, sometimes not. But we could not collect.

You go to the poor, overburdened district attorney's office who is worried about drug runners, murders, and rapists and you say "Johnny Jones here won't make his child support payments." The district attorney is inclined to think, "I've got limited resources and the county executive won't give me any more money. I am getting editorials in the press about criminals who are being turned loose on the street. They want me to chase down Johnny Jones and make him pay the child support payments."

No one faults anyone. It is understandable priorities. The district attorney says "That just isn't as high up on my list as murders, rapists, and drug runners."

So Johnny Jones escapes his family obligations.

This bill allows mandatory wage withholding of absentee fathers. You only have to chase Johnny Jones once, find out where he works, garnishee the wages and from that time onward the check comes to the family directly; you do not have to wait until Johnny Jones has failed to pay his child support for 1 month, 2 months, 3 months, or 4 months.

As you have heard already, the National Governors' Association supports this, and President Reagan supports it. I have said before there is no guarantee, no guarantee, that this necessarily will do everything we hope.

The longer I am in government, politics, call it what you want, the longer I watch government work, the less sanguine I become about what I know.

I absolutely knew in 1980 when President Carter was President and we had those $55 and $60 billion deficits that that was the reason for high interest rates and inflation and as soon as we chased that rascal out and brought the deficits down, the interest rates would come down.

We chased that rascal out and the deficits have gone up to $200 billion and the interest rates and the inflation have dropped in half, and I do not understand why.

I used to know why. I am not so sure anymore.

So when I say I support this bill, I support it as wholeheartedly as I have ever supported any bill before. I cannot guarantee it will do everything

we hope, but we do know this for sure: what we have on the books, what we have been trying for 50 years, does not work. That we have proven, and that we can say with a certainty.

So I am delighted to join the others in lauding Senator MOYNIHAN as the mother, father, aunt, uncle, niece, and nephew of this bill. He has founded it, pushed it, supported it, cajoled us, persuaded us, convinced us, never threatened us, never browbeat us, and it is an immense step forward. If it does only half of what we hope, it is an immense step forward, and I am delighted to join in support and hope that every Senator votes for passage of this conference report.

The PRESIDING OFFICER. The Senator from New York [Mr. MOYNIHAN].

Mr. MOYNIHAN. Mr. President, I am genuinely moved and humbled by the remarks of the Senator from Colorado and the Senator from Oregon.

I sent the Senator a note the other day—I do not know if he got it—recalling those lines which I suspect the Presiding Officer will know, from Bellow, which goes: "From first beginning out to undiscovered ends, there's nothing worth the wear of winning save laughter and the love of friends."

I mean that.

I say to the question the Senator raises, he knows this particular set of problems forces itself on us by its sheer size. Yet, we do have one thing working for us. For the first time in 40 years the demography is working in our favor.

Demographers often refer to young people—and the young people do not know this—as barbarians. They say every society keeps being invaded by cohorts of barbarians. They do not know how to behave in society. They have to be taught. Even in barbarian societies, the young barbarians have to be taught.

The question is what is the number of defenders against the number of attackers. Between 1890 and 1960, the number of persons 14 to 24, which is your barbarian range, you might say, increased 10.8 million. In 70 years it grew 10.8 million. Then in the 1960's—in one decade—it grew by 11.8 million. In the 1970's it is down to 800,000, which was about the historic rate, and it has declined further in the 1980's.

So suddenly there are fewer young people. In the sixties they overwhelmed every institution, including families. They overwhelmed colleges. They overwhelmed the Presidency. They overwhelmed the streets.

Between now and the year 2000 the number of people aged 18 to 24 will drop by almost a quarter, and I think my friend from Oregon will remember Governor Kean, of New Jersey, coming before us and making this point. He said, and I do not recall the exact number, but he said:

My Commissioner of Economic Development says to me that New Jersey is going to create 600,000 new jobs by the year 2000, and I do not have a child to waste, not that you ever have a child to waste, but we need these people.

We are trying to prepare young people to enter a tightening job market, and the Senator from Oregon is so absolutely correct in what he says.

In the city of New York there are 64,000 mothers with children, young mothers who in their lives have never had a day's employment. It is not a world they have ever been in or seen anybody in. You have to take them by the hand. You have to know they are going to fall down a couple of times. But we can help them to get up and dust themselves off and try again. We know they can succeed.

And that is what we have set out to do. We are not without knowledge. The Governors' programs have been studied. Governor Deukmejian, in California, Governor Dukakis' program in Massachusetts, one called GAIN, the other called ET.

The Manpower Demonstration Research Corp., in New York, has given us some solid data. We began to feel we knew what we were doing when we settled for a 22-percent participation rate in the JOBS Program and, almost simultaneously, we learned from a research report by the MDRC that a very rich San Diego demonstration program—that really put on a full court press—got 22 percent of the eligible people participating in State assigned work training activities. That is encouraging.

We are encouraged, and I see the distinguished Senator from West Virginia is on the floor, one of our former Governors who is one of our conferees. I know that he wishes to speak.

So, Mr. President, I will yield, but in order that the Senate staff might notify Senators that there will be a rollcall vote, I will ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from West Virginia has been yielded such time as he may use.

Mr. MOYNIHAN. Might I ask the Senator how much time he desires? The Senator from Mississippi wishes to speak and also the distinguished minority leader.

Mr. ROCKEFELLER. I would yield, of course, to the minority leader under any circumstances.

Mr. MOYNIHAN. Could I ask the Senator how much time he would like?

Mr. ROCKEFELLER. I would think that 10 minutes would be more than enough.

The PRESIDING OFFICER. The Senator from West Virginia, Mr. ROCKEFELLER, is recognized.

Mr. ROCKEFELLER. I thank the Chair.

Mr. President, this is an historic day for the Senate, the welfare system, and in the career of DANIEL PATRICK MOYNIHAN. We are close, ever so close, to passing legislation that has eluded passage for the past 20 years. We have finally reached a bipartisan consensus on a way to reform the welfare system, something many people thought was absolutely impossible.

I urge my colleagues to vote affirmatively for this bill so that poor families in this country will not have to wait a minute longer for the help they so desperately need, to improve their lives. I personally am very pleased to have been part of putting together this welfare reform package.

Much has already been said about Senator MOYNIHAN and much more will be said, not only today but in the future, in the many books that will be written about his accomplishments.

(Mr. MOYNIHAN assumed the Chair.)

Mr. ROCKEFELLER. But I want to add my comments. As his friend, admirer, and fellow member of the Senate Finance Committee, I have been truly inspired by Senator MOYNIHAN's commitment to helping people. He would not let us conferees forget how far this bill does go in improving the lot of the very poorest of Americans. Senator MOYNIHAN would constantly remind us of reality. He would remind us that we had work to do, that there were people in need, and we could help them.

So I thank the distinguished Presiding Officer, Senator MOYNIHAN, for your inspiration, for your foresight, for your commitment, for your tenacity, for your writings, for your poetry, and for your nature. And I will stop at that.

What makes this bill remarkable in many ways is that it is truly bipartisan. White House played a constructive role throughout the process.

Senator BENTSEN, took time from the campaign trail to work on this bill. I also would like to commend, Senator DOLE for his intuitive and instinctive compassion for people; Senator PACKWOOD for his wisdom and ability to think of ways to get things done when others cannot; Senator ARMSTRONG for his very humanistic and pragmatic approach to overcoming stumbling blocks; and Senators PRYOR, DASCHLE and WALLOP, for their tireless efforts to see this bill through to the end. This is an exciting moment in our country's history.

Our welfare system sorely needs a new direction. We have failed to provide the opportunity for all Americans to educate themselves, earn a decent

living, and live a life of dignity. The welfare system has deteriorated to a meager cash assistance program that does little in the way of education, jobs training, or work experience—essential ingredients to helping poor men and women become prepared for and part of the work force.

With this bill, we can reshape and reform our current welfare system to one that will truly affect the lives of many of our poorest families.

Federal funding for our current employment and training program for welfare recipients—called the WIN Program—has been cut, Mr. President, by 80 percent since 1981. We can reverse that trend today. This bill will make $600 million available in the first year for important education and training programs.

Substantial research conducted in recent years, has demonstrated that we simply must devote more resources upfront if we are going to make a real difference in welfare families' lives.

Although 1987 represented the fifth year, Mr. President, of economic recovery for this Nation—the economic recovery left many poor Americans behind. In 1987, there were 8 million more poor people than there were in 1978.

What I find truly shocking is the striking increase in the number of children living in poverty. Some 13 million children were poor in 1987, compared to 9.9 million in 1978. That is the wrong direction. This bill will help to change that.

Mr. President, it is time to change the system throughout the country—in every State and on behalf of every one of the 32.5 million Americans living in dismal poverty. In order for this to happen, we are simply going to have to invest more money in the necessary programs.

I say "invest," as my predecessor, Senator Randolph used to say so frequently, because there have been real signs of hope from pilot projects that have spent money on education training for AFDC recipients.

These initial investments will pay off in the long term as former welfare recipients become employed and earn wages and pay taxes.

I, along with my distinguished senior colleagues, the majority leader, Senator Byrd, represent a State that is among those that needs this bill the most. West Virginia continues to have an extraordinary high rate of poverty and an extraordinary high rate of unemployment. Many people have left West Virginia to find employment in other States.

This year, Mr. President, in an average month, over 50,000 households in West Virginia receive AFDC benefits. They received through AFDC an average of $223 a month. Just imagine living on $223 a month.

I am extremely offended by statements made by some that poor people will not work; that welfare is permanent; that there is a welfare psychology that precludes people from having ambitions from caring about their children, from caring about their lives. I reject that.

When I first went to West Virginia a quarter of a century ago, I worked with unemployed coal miners in communities where as many as 50 families out of 56 were on welfare.

I sometimes went with them into what we call in West Virginia punch mines or dog holes. These are coal mines that are closed, have been worked out, and totally unsafe. These coalminers would go in with newspapers wrapped into a funnel, pour in some rock dust, put in a little powder, put in a fuse, light the fuse, go around the corner of the wall and wait for the explosion to go off so rock and maybe some coal would come down. They would pick out the coal and hope they could deliver enough to a tipple so that they could make $8 a day.

Why do men do this? Why did they do it then? Why do some do it now? Because they want to support their families; because they want to live in dignity.

They want to work, but they lack essential training. Tell me how you go down to Union Carbide in south Charleston and apply for a job when you cannot add or subtract, you can barely read, and you cannot even admit that to yourself?

I remember many families when I was a VISTA worker in West Virginia, whose children did not go to school because they were needed at home.

You have to break the cycle, you have to cut into the cycle and give people education and training and hope. People, at least in my State of West Virginia, want to work.

The Family Security Act will significantly increase the funds available to West Virginia and the rest of the States to help children and their parents escape poverty.

The bill begins logically, Mr. President, with provisions to insist that fathers who can financially support their children, whether or not they live in a different household or in a different State, will do so. The statistics on child support collection in most parts of this country are extremely depressing. This legislation makes it clear that men and women who bring children into the world must accept responsibility for them.

A crucial section of this bill is the JOBS Program, with provisions that direct all States to design comprehensive work oriented services—that must include basic education, training, and work experience—for AFDC recipients.

For States, such as my own, it provides the first opportunity—because of the funding levels proposed—for extending this kind of constructive and positive assistance to citizens who are likely to be without a high school degree, without perhaps even the most basic math or science ability, and with little or no work experience. Again, you cannot get a job at Union Carbide if you do not know how to read a job application manual—or anywhere else. You cannot get a job in a coal mine, Mr. President.

One final point about this part of the legislation. When I was Governor of West Virginia, Mr. President, I chose to implement something called the community work experience program—abbreviated as CWEP but dubbed by many as work fare.

I want to comment on the debate about this method of assisting welfare recipients.

The CWEP Program has been enormously successful in West Virginia. I do not understand, Mr. President, the concern expressed by many of my colleagues that CWEP.

It is a program meant to punish rather than help welfare recipients. I would once again like to emphasize that CWEP can be an important work experience and is an important work experience in West Virginia.

Just this past week a film crew from Australia was in West Virginia documenting West Virginia's success in running their CWEP Program. I am very proud of the accomplishments of my State's work and training programs where CWEP is but one of many programs to move an unemployed individual toward the goal of full employment.

Mr. President, there are also important transition benefits in this legislation. These benefits will help ease and encourage a move from the welfare rolls to work. Child care is frequently cited as the biggest reason why many mothers coming off welfare are unable to go to work—one study found that 60 percent of all welfare mothers listed lack of day care as a reason why they could not go to work. Almost a half million children a month will benefit from child care assistance provided by this bill. Helping mothers afford quality day care is an essential element of assisting mothers move from welfare to work.

Just as important, the length of time the entire family can receive health insurance is greatly expanded. Under current law, families receive 4 months of Medicaid coverage after leaving welfare. That is not very much. This bill guarantees a full year of health insurance coverage. Families will no longer have to choose between health insurance coverage for their children and themselves and going to work.

I know there are some who say to wait for next year. I say let us do it now, Mr. President. This is a good bill.

It is not perfect. But let us not waste this opportunity. We have accomplished a tremendous feat and I do not think we should waste the opportunity we have at our fingertips to reform the welfare system.

Again, I congratulate Senator MOYNIHAN for this historical event. I believe Congress has risen to Senator MOYNIHAN's challenge of enacting legislation that will really make a difference in the lives of the poorest families in America.

I thank the Chair and I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD. Mr. President, I have three speakers on the Republican side who are going to want to speak, counting the minority leader; and I know Senator CHILES wants to speak. I will yield 10 minutes to Senator COCHRAN; I think Senator CHILES is going next; and then Senator SPECTER. But we might indicate to those who want to speak after these are done, there is only about 1 hour's time left so it would be best to get to the floor and make their wishes known. I would now yield 10 minutes to the Senator from Mississippi.

The PRESIDING OFFICER (Mr. ROCKEFELLER). The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I thank the distinguished Senator from Oregon. I will not use the 10 minutes but I do appreciate very much having this opportunity to express my support for the conference report and my congratulations to the managers of this legislation. It was really a pleasure to hear the news that the conferees had agreed upon the provisions of the report permitting reform of our Nation's welfare system. This bill reflects general agreement that, while Government has a responsibility to provide help to those in need, able-bodied welfare recipients have a responsibility to seek work to help support themselves and their children. This is a significant step forward in the national effort to help families move from welfare dependency to self-reliance.

I was an original cosponsor of the Senate bill, and I enthusiastically support the conference report. In my State of Mississippi, as in many other States, we have far too large a percentage of our population living in an environment unlikely to give them or their children an appreciation of the value of a job or the pride and personal confidence gained from being self-sufficient. Although many of these citizens want a better life for themselves and their children, there has been little hope for change until now.

This bill emphasizes parental support as the first line of defense against public dependency. Vigorous child support enforcement does more than simply extract financial support from absent parents. It makes a statement about what our society believes the role of parents to be. Parents should provide for their children, and public policy should obligate parents to provide that support.

There are also provisions in this bill which continue public assistance, such as Medicaid, for some time beyond the point that training and the work experience begin. Such benefits are necessary if welfare recipients are to be successfully encouraged to make the transition from welfare to work.

These and other provisions are part of a new strategy for strengthening family cohesion and responsibility and for breaking the cycle of welfare dependency.

There has been commendable cooperation between the White House and the Congress in reaching this compromise. No proposal for genuine welfare overhaul during the past 20 years has been successful, even when one party controlled the Congress and the administration. This compromise, therefore, represents quite a bipartisan achievement. Just as Congress can be proud of its work, the White House deserves praise as well. President Reagan gave the welfare reform issue renewed emphasis in his 1986 State of the Union Message, and this legislation reflects many goals and values he has long supported.

I especially congratulate the distinguished Senator from New York, Senator MOYNIHAN, for his knowledgeable and energetic leadership in the crafting of this landmark legislation. To achieve workable compromise on controversial issues is the greatest aim of legislation in a democracy. His determination and persistence, even in the face of sharp differences of opinion among Members on many of the details of this legislation, have resulted in the celebration of this day of achievement.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. I thank the distinguished Senator from Mississippi for his generous remarks. He is indeed an original cosponsor, and he has been an invaluable supporter throughout. His mention of President Reagan's State of the Union Address, asking us to bring this issue before the 100th Congress, is entirely appropriate. I take the opportunity now—I know everybody here would join me—in expressing our particular appreciation to Mr. Joseph Wright, Deputy Director of the Office of Management and Budget, and to note with pleasure that he is to succeed the present Director, Mr. Miller.

He represented the President with great tenacity, great clarity, and great openness.

Mr. President, I yield 5 minutes to the distinguished senior Senator from Florida.

Mr. CHILES. Mr. President, the conference report on welfare reform which has been brought before the Senate by Senator BENTSEN and Senator MOYNIHAN is an important reform of our welfare system. I wholeheartedly support it.

First, let me state for the RECORD that the conference report is well within budget limitations and the Finance Committee's budget 302 allocation. Based on Congressional Budget Office scoring, the bill saves $411 million in outlays in fiscal year 1989. The bill results in net savings of $0.5 billion over 3 years, and is deficit neutral over the 5-year budget period.

The conference report will also help us with the sequester situation, with a net savings under Office of Management and Budget scoring of $72 million in fiscal year 1989. The difference in scoring between the Congressional Budget Office and the Office of Management and Budget is mainly due to a difference in baseline assumptions for one of the items contained in the conference report.

Mr. President, the budget situation is good news—because we have just a razor thin margin left before we would hit a sequester this year. And a large part of the reason that we are going to avoid a sequester is because of the attentive and diligent work of Senator LLOYD BENTSEN this year as chairman of the Finance Committee. He has managed to complete work on two major pieces of legislation this year—Medicare catastrophic health insurance and welfare reform—without raising the deficit. Senator BENTSEN exemplifies the best in Democratic Party principles of working hard to achieve far-reaching social policy reforms and program improvements while being fiscally responsible at the same time.

Mr. President, this is a good bill.

I listened to my good friend from Mississippi saying he was an original cosponsor. As the distinguished Senator from New York knows, the Senator from Florida was not an original cosponsor and did not cosponsor this bill until the dying moments, primarily because the Senator from Florida was concerned about the budget implications of this bill, not because it was not for a good cause, but because of the great concern I had that this could be or might be more than we could afford.

So I congratulate all parties who worked on this bill to see that that did not happen and certainly the Senator from New York was mindful of that constantly through the process.

It is a good bill. It recognizes the great difficulty many have in getting off the welfare rolls and moving into

productive, fulfilling jobs. It recognizes that help from three sides may be needed to effectively make this transition: Job opportunities and basic skills training and education, child care, and health insurance coverage for families, especially children, until a firm footing in new employment is achieved.

We have started on a new and good path with this bill. Since the 1950's, we have experienced a large enrollment growth in AFDC—aid to families with dependent children. Longstanding attitudes about welfare dependency, about welfare cheats, will take some time to unravel. But with the new directions set forth in this bill, we can begin to unwind these attitudes, and we can begin to offer some new hope to welfare recipients, to get them permanently out of welfare and into productive, independent lives.

I am especially heartened by the conferees' decision to provide transitional Medicaid assistance for 1 year to families leaving welfare for work. This could turn out to be one of the most important pieces of this legislation. Without this change, in many cases, welfare mothers with small children are put in an awful catch-22 situation. They can try to get off welfare and take a job. That job will probably be low-paying, and it will probably not bring health insurance coverage with it. Those are the kinds of jobs available to most welfare mothers. Then a child gets sick and the newly working mother is completely without protection against medical expenses. She has little choice but to stop work and go back on welfare, a move that will bring with it Medicaid coverage for her children.

Mr. President, as chairman of the National Commission to prevent infant mortality, and as chairman of the Labor, Health and Human Services and Education Appropriations Subcommittee, I am painfully aware of the importance of appropriate medical care and regular health screening for pregnant women, for infants and for young children. It is very clear now that appropriate early medical care can prevent later chronic medical problems and debilitating medical care expenses. If we can assure mothers that they and their families will continue to have access to medical care while they make their way into work and off welfare we will be giving them the best incentive there is to make that effort.

The bill would also require that States provide transitional child care benefits for 1 year, if that care is needed for employment. It would improve the collection of child support payments, making sure that absent parents pay the support they should, one of the first things that has to be done to help mothers move from dependence to independence. The bill would require all States to establish programs to provide a broad range of education, job training, and job readiness activities to assist in the transition from welfare to work.

This is a good bill, Mr. President. I congratulate all sides. The Senator from Oregon, Senator PACKWOOD, certainly has worked long and hard on this bill, as well as all of the members of the Finance Committee. I fully support it. I congratulate those members for their work.

Mr. PACKWOOD. Mr. President, I thank the Senator from Florida. Any time we can get the chairman of the Budget Committee on our side on a bill, we are indeed grateful.

I yield 10 minutes to the Senator from Pennsylvania.

Mr. SPECTER. I thank my colleague from Oregon, Mr. President. I am pleased to support this conference report. I congratulate the distinguished Senator from New York [Mr. MOYNIHAN] for his outstanding contribution, the distinguished Senator from Oregon, and all those who have participated in this important legislation. I have been very much concerned as of a week ago, when I saw my colleague in the Senate gym, that we would not see a conference concluded successfully and offered by assistance because of my longstanding concern about this problem. I am delighted to see this conference report before the Senate today and to know that ultimate passage and signature by the President is an imminent matter.

Mr. President, I have observed problems of welfare dependency for some 25 years, going back to my earliest days of public service. As an assistant district attorney in Philadephia, I have seen the tremendous impact, the tremendous cost occasioned by a program which did not realistically move people from welfare rolls to payrolls. I believe that this legislation presented today, while not perfect, is a significant step forward. It has as its basic objective to move people from the welfare rolls onto payrolls. It has as its objective, as articulately expressed by Rev. Leon Sullivan, the chairman and founder of OIC, to move people toward a hand up instead of a hand out, and we are on that road.

I am concerned that we may not have gone quite far enough in the legislation which will be enacted, but it is a big step forward and we can learn from the experience. I noted the distinguished Senator from Florida, Mr. CHILES' comment about the 1 year of Medicaid. As I read the compromise, it is 1 year—6 months without payment and 6 months with payment. That is one area of concern which this Senator has, whether there is sufficient Medicaid and AFDC benefits to provide for the appropriate transition. The ultimate success of this legislation will be measured in terms of whether there will be enough job training, education, and other needed assistance during the transition period so that people will move from the welfare rolls to the payrolls. Quite frankly, I would like to have seen just a little more along that line.

Mr. President, in the 99th Congress I had the pleasure to cosponsor with Senator MOYNIHAN Senate bills 2578 and 2579 which were directed toward these objectives. In the 100th Congress Senator MOYNIHAN was crafting his own legislation, and I introduced Senate bills 280 and 281 with the cosponsorship of Senator DODD. The concerns that I had expressed turned on whether there was sufficient assistance. We have taken a significant step forward. I think child support is very important and we have increased the enforcement, another item that I worked on extensively as district attorney. That is a big item in this legislation. Day care is also very important.

Mr. President, I think it is important to focus on the fact that the welfare issue is not solely a black issue, and that is frequently misunderstood. The statistics show that 41.9 percent of those on welfare are black, 41.3 percent are white, and the balance Hispanic, Asians, and native Americans. So this is an area of social need which cuts across all racial boundary lines.

Mr. President, it is my hope that community-based organizations will have a substantial role in the administration of this reform legislation. A good bit of my own insight into this problem has come, as I have said earlier, from work with Reverend Sullivan, having visited his OIC training centers in the early 1960's when he took over a policy station at 19th and Oxford in Philadelphia. He took over that abandoned police station and from that has fashioned a nationwide training program with extraordinary insights on how to move people through literacy training and job training and off of welfare rolls. His organization has certainly been in the leadership in these areas as has the National Urban League with its President John Jacob, as has SER—Jobs for Progress, the United Way of America, 70,001, The National Puerto Rican Forum, and the National Council of LaRaza.

It had been my hope, Mr. President, that these community-based organizations would have had more of a statutory role in the planning and development of the education and training program. They are available for service delivery, and I hope as we move through the program they will have an expansive role to play because I think they have great expertise and can help in the solution of the problem.

I am pleased, Mr. President, to note the obligation that in fiscal years 1990 and 1991 a State will be required to

enroll at least 7 percent of the eligible parents in education and training programs, and that requirement would rise to 20 percent by the year 1995.

I think it is very important, Mr. President, that the work requirements be linked to education and job training so that it is meaningful and that it is related to long-term permanent employment opportunities. The work requirement is fine as long as it is part of an integrated whole.

Mr. President, I know the time is limited so I shall conclude with the comment that I believe it is up to the Congress to monitor this new program very carefully. It is an enormous achievement because it is the first welfare reform bill enacted, I think it has been cited, for 53 years. Senator MOYNIHAN refers to his 20 years of efforts on it, and to bring all of the parties together is a herculean achievement. I believe that President Reagan is entitled to substantial credit, the conferees to substantial credit, and we now have a bill where we can take big strides forward, but we have to be sure that we do not falter; we have to watch to see how the program works and whether it is successful in moving people from the welfare rolls to the payrolls, whether there is enough education and job training, whether there is enough carryover on AFDC and Medicaid so that a transition can be made and people will not fall back onto welfare. It is important that we make that transition and make those bridges strong.

I thank the Chair and yield the floor.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. May I express once again great personal gratitude to the Senator from Pennsylvania for his personal remarks, for the cogency of his general analysis, and to assure him that we fully intend to oversee, monitor, and track the new programs. He is absolutely correct that such oversight is essential.

Mr. SPECTER. I thank the distinguished chairman from New York very much for those comments and for those assurances.

Mr. DOLE addressed the Chair.

Mr. HELMS. Mr. President, will the Senator from Kansas allow me 1 minute to ask a couple questions?

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I thank the Chair and I thank the Senator from Kansas, the distinguished Republican leader.

Is my recollection correct that the bill as passed by the Senate cost $2.8 billion?

Mr. MOYNIHAN. That is correct. Is the Senator addressing the Senator from New York? I am sorry.

Mr. HELMS. Yes.

Mr. MOYNIHAN. That is correct.

Mr. HELMS. As I understand it, this conference report will cost $3.4 billion.

Mr. MOYNIHAN. $3.3 is our final figure; yes.

Mr. HELMS. As for the work requirement, that is going to be phased in over what amounts to a 10-year period; is that correct?

Mr. MOYNIHAN. That is essentially correct. It is the judgment of the Governors that getting the administrative arrangements in place will take some time. The JOBS Program is to be fully effective in fiscal year 1991 and the optimal participation rates must be achieved in fiscal year 1997.

Mr. HELMS. I read the other day an estimate that by 1998, 75 percent of the two-parent households will involve both the husband and the wife working. Is that an approximately correct figure?

Mr. MOYNIHAN. That is approximately correct. By fiscal year 1997, States must assure that in 75 percent of their eligible two-parent families at least one parent—both parents if the State can supply child care—is working.

Mr. HELMS. The training program for one-parent families in the original bill is still in this conference report?

Mr. MOYNIHAN. That is correct.

Mr. HELMS. I thank the Senator.

Mr. President, I was obliged to vote against the Family Security Act of 1988 when it passed the Senate on June 17. I regret that I cannot support this final version of the bill because I am convinced that it will do precious little to end the welfare cycle and may, in fact, perpetuate it.

Mr. President, none of us is opposed to helping those who are less fortunate. Americans, as individuals and communities, have a responsibility to help those who cannot help themselves with our time and our money. That responsibility cannot and should not be abdicated by us as individuals. Trying to place it entirely on the shoulders of government is a copout. It has never worked; it never will.

In fact, Mr. President, history shows that past efforts to shift this responsibility from individuals and communities to the Federal Government clearly have failed. Since we embarked down the road called the Great Society in the middle 1960's, the result has been massive Federal spending and more poverty, not less.

Mr. President, statistics show that child poverty is the core of the welfare problem. Declining steadily from 1959 to 1969, it then began rising hitting 19.5 percent in 1981 and has remained over 20 percent ever since.

This was not a national phenomenon, Mr. President. It was concentrated in States which pay the highest Aid for Families with Dependent Children [AFDC] benefits. A study for the Joint Economic Committee last year by Ohio University Profs. Richard Vedder and Lowell Gallaway showed that from 1969 to 1979 child poverty increased close to 40 percent in the 10 States with the highest AFDC benefits while child poverty decreased 20 percent in the 10 States with the lowest benefits. Between 1979 and 1984 black child poverty rates in the South fell while the West suffered a 38-percent increase—even though AFDC benefits in the West were twice those in the South.

The Family Security Act of 1988 ostensibly reforms welfare to reverse the errors of the past. Unfortunately, it will do nothing of the sort. It will not require all able-bodied welfare recipients to work. It will not foster individual responsibility. It simply robs from the State and Federal Treasury billions of dollars—a bill which our children and grandchildren will be forced to pay.

Let's look at the specifics of the bill, Mr. President:

First off, this legislation would create an entirely new entitlement to education and job training for AFDC recipients called the JOBS Program which will eventually cost taxpayers at least $1 billion a year. This money will be in addition to education and job training funds already targeted for the poor through the Adult Education Program, Job Training Partnership Act block grants, and several other programs.

In the debate on the bill in the Senate, Mr. President, we heard a lot about the supposed requirement under the JOBS Program that AFDC recipients either work, train, or be looking for a job in order to receive benefits. However, numerous exemptions together with the conditions imposed on the individual States effectively emasculate any mandatory aspects the JOBS Program might otherwise have. In fact, the States are only required to ensure that 20 percent of their AFDC caseload participate in the program by 1995.

Mr. President, approximately 50 percent of the AFDC caseload itself would be exempt from mandatory participation in the JOBS Program for one reason or another. For example, only able-bodied AFDC recipients with children over 3 years of age would be required to participate. This provision alone will exempt over 20 percent of all AFDC recipients. It will also effectively foreclose efforts to intervene early in the welfare dependency cycle despite the fact two-thirds of mothers who use AFDC for 10 years or more first enter the program with a child under 3.

Mr. President, mandatory participation in the JOBS Program would also be contingent on the States guaranteeing child care, transportation, and other work-related expenses for all

participants. Even when recipients could be required to participate, States would not have to provide any significant work-related activities and could even pay for them to attend postsecondary education as part of the JOBS Program. As Senator ARMSTRONG noted in the Finance Committee's report, this may entice some to go on the rolls to reap significant education benefits.

Most ludicrous of all, Mr. President, this legislation would prohibit participants in the JOBS Program from taking most jobs. Participants could not be given jobs that cause current employees to be displaced, lose hours, or lose promotional opportunities. They also could not be given jobs filling vacancies in established positions or which result from layoffs. In other words, Mr. President, the JOBS Program would only permit participants to fill newly created jobs.

Mr. President, States also could not force AFDC recipients to take jobs paying less than the AFDC benefit amount unless a State will pay the difference between a recipient's wages and the former AFDC benefit. Each year, Mr. President, millions of Americans enter the work force making less than what they could receive under welfare. However, they are almost certain to earn much more in a few years than they would receive from welfare. I fail to understand why welfare recipients should receive a wage guarantee unavailable to other Americans.

Mr. President, if welfare recipients find and are willing to accept jobs, States must then provide them with 12 months of child care at a 5-year cost of at least $400 million to the Federal taxpayer. It will cost State taxpayers at least $300 million on top of that. Twelve months of transitional Medicaid benefits costing at least another $700 million would also have to be provided. These new benefits more than double the current transitional benefits to families leaving the AFDC Program.

Mr. President, in addition to expanding benefits the bill would also expand eligibility by making the AFDC-UP Program mandatory to the States rather than optional. So States, such as North Carolina, will be forced to provide AFDC-UP benefits. Under AFDC-UP, welfare assistance is extended to two-parent families in which the principal wage earner is unemployed. Another 130,000 families will thus be sucked into the welfare trap costing Federal taxpayers $1.1 billion and the State taxpayer $600 million over the next 5 years.

Mr. President, we have heard a lot about the work requirement in this conference report. One parent in a two-parent family must work 16 hours per week. However, what is not discussed, Mr. President, is that this work requirement does not go into full effect for 10 years and even then, only 75 percent of those in the AFDC-UP Program will be required to work. Furthermore, the hour requirement can be reduced and the participation rates can be waived under certain conditions. The hard-working taxpayer who is paying for this bill has worked and will continue to work far more than 16 hours a week. We should expect no less from those on welfare.

Mr. President, it is apparent that this bill—when looked at in its entirety—will not force welfare recipients to work as its advocates proclaim. The legislation sells out to the tried and failed philosophy of begging welfare recipients to work via work incentives and expanded benefits.

The mandate that recipients either work or prepare for work is negated by the bill's other provisions. Half of welfare's caseload would be exempt for one reason or another and the remaining recipients may only be forced to take newly created jobs—which are few in number—as part of the JOBS Program. Even when participation could be compelled, States would have to pay related transportation and child care expenses. Finally, States could not require recipients to take jobs unless the States will pay shortfalls between recipient wages and the AFDC benefit.

Mr. President, the hodgepodge of programs constituting our welfare system obviously needs to be coordinated and streamlined. However, the Family Security Act of 1988 merely takes us back to failed policies of the past rather than enacting meaningful improvement. The American taxpayer—and welfare recipients—deserve better. I sincerely wish I believed this bill would reform welfare, but I do not, and for that reason I must vote against it.

I thank the Senator from Kansas.

Mr. BIDEN. Mr. President, I support the conference report on welfare reform. While the bill has necessarily been weakened somewhat in the process of compromise, it is still—on balance—a very good bill.

Our policy in this area should be based on one simple premise: We should help the less fortunate in our society receive the education, training and services they need to work their way out of poverty, and we will expect in return that they will take responsibility for their own plight. Unfortunately, our current system of welfare meets neither goal of empowerment or responsibility. Because of its historical origins, our current welfare system is largely a system of income support. As a result, far too many Americans have become mired in patterns of long-term dependence.

The reforms contained in this bill emphasize job training, basic education, work programs and services such as child care that will enable welfare recipients to work. They will help welfare recipients get jobs and achieve economic independence. This is a significant improvement in the underlying philosophy of our welfare system. H.R. 1720 recognizes that there must be something more than just money in our outstretched hand.

Let me give a few specific examples of how this bill will improve our welfare system.

First, the bill will dramatically improve our system of child support. Society has a right to expect that parents will provide support for their children, unless they are not able to do so. Unfortunately, millions of wayward American parents are diverting to themselves more than $4 billion meant for their children.

The welfare reform bill will help correct this problem. It requires States to implement automatic wage withholding for all State-ordered child support payments, as soon as a support order is entered. In addition, States must establish guidelines so that judges will enter reasonable child support awards, and States must establish paternity for all children. These provisions will ensure that millions of absent parents, mostly fathers, will take some financial responsibility for their children.

A second important provision involves the bill's mandate that all States provide benefits to two-parent families. Fathers should not have to leave their families so that their children can become eligible for Government assistance. Under current Federal law, States are allowed to deny benefits to children when their fathers live at home. This policy is antifamily, breaking apart couples and creating the worst possible financial incentives. While the 16 hours of unpaid community work required for these two-parent families may not be the best use of our limited job training funds, the bill still serves the important role of eliminating the basic antifamily incentives of our current system.

A third provision assures welfare recipients of 1 year of day-care assistance, and thus helps eliminate one of the most serious barriers to employment for many welfare recipients. While it would be preferable for the bill to require that the subsidized day care providers meet basic safety and quality standards, it at least will provide some child care assistance to people who need it.

Despite all of these improvements, however, this bill is not the last word on this issue. This bill establishes the framework of a sound welfare policy, but its success will depend on how well we follow through to achieve the promise of this bill. For the crucial job training and education provisions of this bill to work, we will have to both provide adequate resources and ensure

that future Federal dollars are well spent.

Let me use the bill's participation requirements as an example of both the promise and the peril we face. As the bill requires States to provide job training and education to more and more people in the years to come, there is the promise that hundreds of thousands of additional welfare recipients will be aided to move to lives of economic independence.

At the same time, however, there is also a risk that the bill will cover so many people that States will provide only token training and education. We must insist that job training does not come to mean mere job referral services for those who lack skills, and we must demand that education is not forgotten simply because it is often more difficult and expensive. We must be vigilant to ensure that we do not spread our resources too thin, and make welfare reform an empty promise.

In short, Mr. President, this bill is an important and historic step toward a more equitable and more effective welfare system. Our challenge in the years to come will be to build upon this legislation and to continue to improve our system so that we may some day achieve the goal of a society in which all Americans enjoy full economic independence.

Finally, I would like to say a few words about my friend and colleague, Senator MOYNIHAN, who crafted this legislation, and guided it to passage.

Mr. President, in writing one of the essays that became known as the Federalist papers, James Madison stated that the first aim of any government ought to be to seek out leaders "who possess the most wisdom to discern, and the most virtue to pursue, the common good of the society."

For two centuries, that comment has set the standards that the American people have traditionally expected of their elected representatives. We recognize that ideals and ideas are the fuel that feeds the republic and that committed, persevering public officials must mold those ideas and ideals into sound public policy.

We in the Senate are privileged to have in our ranks a colleague who embodies that spirit. Senator DANIEL PATRICK MOYNIHAN has been at the forefront of shaping public policy in this country for the better part of three decades. Whether he is writing at the old schoolhouse up in Pindar's Corners, speaking before national and international public forums, or here in the Halls of Congress, PAT MOYNIHAN has generated original and insightful political thought that touches upon the whole spectrum of issues facing public officials everywhere.

And yet, to say all of that is to tell only half the story of DANIEL PATRICK MOYNIHAN. For he is a doer as well as a thinker. Not content to simply identify the critical questions facing us as a nation, he labors unceasingly here in Congress to develop and enact into law sound public policies to confront those critical questions. He is the philosopher-statesman in the very best tradition.

For some time, Senator MOYNIHAN has been the Senate's most thoughtful advocate for meaningful, clear-headed, compassionate welfare reform in the face of a changing society. This week, the Congress has taken an important step towards that much-needed reform.

Mr. WALLOP. Mr. President, This afternoon, the Senate is acting on one of the most amazing conference reports to come before the 100th Congress. It is amazing for two reasons. First, this report encompasses a bill which provides true welfare reform. It is based on the principle that only effective way to overcome poverty is to become an active member in the labor force. The legislation stresses employment training and work experience activities. It provides the opportunity and the responsibility for able-bodies adults on welfare to become productive participants of our society. The second amazing feature of this report is that we have been able to even reach an agreement on a welfare reform bill supportive by the Senate, most of the House of Representatives, and the White House.

Some began this exercise from the perspective simply equating welfare reform to benefit expansion. The Senate never took this position. We realized that some work related benefits, the transition benefits of child care and Medicaid, could be improved. But, the focus of welfare reform has to be on work and work training.

The Senate reaffirmed this philosophy by its vote of approval for the Armstrong-Dole amendment. This amendment set strong participation requirements in jobs and job training programs. This was the major obstacle we had to overcome in the conference, but this philosophy ultimately prevailed, and we now have bill. Our arguments in favor of improved employment and training programs were significantly strengthened by the MRDC studies over the past 2 years. MRDC reviewed a number of State programs, and I should note that it has been the States that have led in real welfare reform activities. They have put together imaginative, effective employment training programs. The results, as reported by MRDC, demonstrated that the Senate was on the right course with our reforms.

Fortunately, we had the able leadership of the Senator from New York, Mr. MOYNIHAN, in developing this legislation. He has been active on this issue for decades. He knew why Congress failed to pass welfare reform back in the early 1970's. His leadership enabled us to avoid the mistakes of the past. We also had the strong advocacy of the Senator from Colorado, Mr. ARMSTRONG. He recognized that welfare reform was meaningless without strong work requirements. He proposed the requirements, he convinced the Senate to adopt them, and he finally convinced the House conferees to accept them. Without this incredible leadership by these two men, we would not have this welfare reform before us today.

The bill reforms the Aid to Families with Dependent Children from top to bottom. We strengthened the child support sections. This includes provisions to improve paternity determination and support collections. We provide a new entitlement program of job training to assist the single parents, usually female, who too often must turn to welfare in order to survive. This new training program will give them the opportunity to move into the mainstream, to become economically self-sufficient. We expand coverage to two-parent families where both parents are unemployed. This includes a real work requirement which will enable the unemployed father to remain active in the work force while receiving temporary assistance. Health insurance benefits and child care benefits have been improved. And, we have provided these reforms while maintaining a revenue neutral bill.

We had a fascinating conference. I thought it was an incredible experience, our small group of Senators facing about 40 House Members. I am proud to have been a participant. This is good legislation. It deserves to become law, and I look forward to attending the signing ceremony in the Rose Garden.

Mr. GRASSLEY. Mr. President, the U.S. Congress is about to adopt a major overhaul of our Nation's welfare system. I rise today to support the conference committee report, which embodies a real if somewhat imperfect, compromise. Even more significant than the compromise is the progress this legislation makes toward moving families into self-sufficiency.

I support welfare reform. Of course, I support legislation which improves on the manner in which we provide for the needs of the less fortunate. I am certain that every Member of this body supports welfare reform.

The mission of welfare reform legislation must be to help poor people become self-sufficient, while ensuring that basic human needs are met. As the social and economic conditions of our various States continue to change at ever-increasing rates, legislation must allow and encourage flexibility in responding to the challenges facing the poor.

Flexibility is best fostered by leaving much of the implementation procedures up to States and counties. The economic and social conditions in Iowa, for example, are not the same as in New York or Texas or Hawaii.

Variations in social and economic conditions not only affect the needs of low-income people in each unique locality; such variations also affect the resources available to address needs of low-income persons.

Nonetheless, the Federal Government has a role in providing assistance to less fortunate sectors of the population. The Federal Government must provide a safety net of support to low-income persons. That does not, however, entitle Congress to give away the store. In addition to its own assistance, Congress must continue to seek ways to encourage and enable involvement from the private sector. Charities, churches, civic organizations, as well as local governments, provide many vital links to the chain of low-income assistance.

For many people, welfare reform means simply—getting people back to work. Rightly or wrongly, the general public feels that people should work in exchange for assistance. This sentiment is expressed most strongly by those who have struggled on their own, without the benefit of Government entitlements.

Now, Mr. President, we should not regard work as punitive or demeaning. Work is a privilege. Work is an honor.

Professionals who are very experienced with social services clientele insist that welfare recipients want to work; that welfare recipients do not want to be dependent on public assistance.

I believe these professionals. I believe that welfare recipients want to work. Therefore, it is certainly appropriate that welfare reform legislation have a jobs program as its centerpiece, with supplemental assistance provided when needed. This bill, as reported by the conferees, contains that work requirement. It is a very moderate work requirement, as I understand it. I am most hopeful that it will be expanded after it has proved its most assured success.

Mr. GRAHAM. Mr. President, this is an important bill for all Americans because we are a lesser people when we tolerate the existence of a permanent welfare class in our society—and the Family Security Act of 1988 addresses, in pragmatic and compassionate terms, real ways to help Americans get off welfare.

I congratulate Senators MOYNIHAN, BENTSEN, and the other members of the Finance Committee for the thorough and thoughtful effort which went into crafting this legislation.

For the last 7 years we have seen programs designed to help welfare recipients dismantled. And the graphic evidence that this does not work is in the number of homeless families—with children—in our cities;

The small children and young people involved in drugs and petty street crime and truancy;

The families split up so they can qualify for welfare access;

The high statistics on teenage pregnancies particularly among the poor;

The tragic stories of mothers who must face a day of work knowing their young children are at home alone.

A government which turns its back on citizens who need help betrays the very trust on which it is founded.

Every American deserves the same chance to pursue prosperity and well-being. That chance is not a free ticket to anything—it is the opportunity to succeed. It is impossible obstacles removed. It is, for those caught in the cycle of poverty, the most basic nutrition and shelter, education and training, safe childcare.

Welfare should never be a permanent condition. It has to be an interim program to get people back into productive and meaningful, contributory lives.

Important components of this bill are transitional services.

Adults who find work will not immediately lose their medical coverage, nor have to leave young children unsupervised.

There will be a 12-month period of Medicaid coverage to bridge any health care gap between welfare coverage and the medical coverage offered by a new job.

And there will be free or reduced-cost childcare—childcare of a caliber which does not penalize a child for being poor.

The peace of mind which comes from knowing children are safe and cared for is necessary for every parent each day at work.

To get those job—jobs which have a future—not dead-end, task work—to get those jobs, people need skills and education.

Basic education and skills training are key to making welfare programs temporary. Give people with no hope, real hope and they will make their own miracles.

The bill pays attention to fathers and their responsibilities.

On the one hand it is designed to encourage fathers to stay with their families, rather than abandon them so the mothers and children will qualify for welfare payments.

On the other hand it strengthens child support enforcement with mandated garnishment of wages and a national system of updated parent identification.

Mr. President, this bill is different because the whole family is at the center of it and the preservation of family ideals is its heart. The focus on the family is not a new idea in the re-evaluation of welfare.

In 1986 Florida held a special Governor's conference on the black family which articulated a comprehensive view of low-income family problems in many of Florida's black communities. That conference produced a report stressing many of the provisions which are in this welfare reform package we are considering now.

Transitional benefits, mandatory child support, two-parent unemployed benefits are important steps that many have recognized—Congress now included—as essential to breaking the welfare cycle once and for all.

There are real flaws in the current system—flaws which defeat the very purpose for which welfare was created: to get people back on their feet.

Those flaws were identified clearly in the Florida Black Family Conference.

They were identified clearly by the National Governor's Association Task Force which prepared the study from which this bill we consider today was drafted.

The problems of the poor are not specific to any ethnic or racial group. They are simply economic hardship, sometimes generations ingrained—and they can be resolved with common-sense assistance.

When someone is drowning you don't throw a handful of money at him and say, "Here, figure out how to swim." You throw him a lifeline. You choose a lifeline that is strong enough, long enough, and you hang on until that person has made it safely to shore.

That's what the Family Security Act of 1988 does. It gives people what they need to save themselves. It doesn't encourage them to flounder in a sea of bureaucratic well-meaning. It doesn't encourage them to float aimlessly and endlessly through the welfare program.

The Family Security Act is tough, pragmatic, humane legislation and I urge every one of my colleagues to support it.

Thank you, Mr. President.

SUPPORT WELFARE REFORM

Mr. KENNEDY. Mr. President, I commend the conferees for their tireless and successful effort to construct this far-reaching bipartisan welfare reform package that will help millions of poor Americans to escape from poverty. Above all, this measure is a tribute to the ability, vision, and leadership of our distinguished colleague from New York, Senator PAT MOYNIHAN. He has been striving for these reforms for many years and he richly deserves the praise he is receiving for this achievement.

I also commend Senator BENTSEN, Senator PACKWOOD, and Senator DOLE and all the other members of the

Senate Finance Committee and the House Ways and Means Committee for the skill and perseverance with which they reached this goal. The Family Security Act is one of the finest landmarks of this or any other Congress, and they all deserve great credit.

I am especially pleased to note that the best and most critical portions of the Senate bill are included in this legislation. It puts in place strong new child support enforcement mechanisms; it expands the AFDC Unemployed Parent Program; and most important, it establishes job training and education as the main goals of the welfare system. It is my hope that with the resources provided in this act, the vast majority of Americans trapped in a cycle of dependency will escape from poverty and fulfill their potential as productive members of society.

I still have some reservations about certain provisions of this compromise. I had hoped that Congress would extend AFDC-UP into a full-year program. Family stability should not be a 6-months-a-year proposition.

I also continue to have strong reservations about the misguided mandated of work requirement for AFDC-UP families. In a worthwhile change, however, this regressive provision has been modified to permit young parents to continue their education, instead of being forced to take make-work dead-end jobs in order to remain on welfare. Although the provision is improved, Congress must do more to ensure that the "work-fare" requirements do not become "punishment-for-poverty." The wiser and more effective approach is to concentrate on work experience and training, in order to move people off welfare rolls and on to payrolls.

Finally, I also want to note that many of the best provisions in this legislation say "Made in Massachusetts"—a tribute to the far-reaching welfare reforms developed and tested in Massachusetts in the past decade. Governor Dukakis deserves a special share of the credit for this legislation as he was a strong partner in advising us along the way. Again, I commend all those who contributed to this impressive reform. It will change the lives of millions of Americans, and we shall have a better and more productive country in the years ahead.

● Mr. BENTSEN. Mr. President, the conference committee on welfare reform has worked long and hard to reach compromise. The issues between the House and Senate were difficult, involving both important policy differences and very large differences in cost.

In my opinion, the conference agreement now before the Senate represents an excellent compromise. It provides the framework for a fundamental change in direction for the Nation's welfare system, and it goes a long way to help millions of poor children and their families break out of the cycle of poverty.

The welfare reform bill builds a vastly improved program of education, employment, and training for adult welfare recipients. It says to welfare recipients: "OK, if your children are over 3 years of age, you must go into an education or training program, or you must take a job. We'll see that you don't lose money going to work. We will provide 12 months of transitional child care; we'll continue your Medicaid for 12 months, because a lot of people on welfare, single mothers in particular, are deeply concerned about the health care of their children. But your part of the bargain is to break the cycle of dependency and get off welfare."

That is the gist, the heart of welfare reform. This conference agreement provides generous Federal matching funds that will enable the States to develop education, employment, and training programs. It will provide up to $1 billion in entitlement funding in 1991, which will mean more than a quarter of a million new participants will receive services to enable them to move from welfare to work.

It will also strengthen the child support system by providing several important reforms. It will require States to do a better job of establishing paternity. Child support collections will be increased as the result of immediate wage withholding requirements; and support levels will be improved as the result of periodic review and updating of child support orders. According to the Congressional Budget Office, child support collections will increase by well over one-half of a billion dollars over the next 5 years.

One other thing I would like to point out about this conference agreement: it is deficit neutral. When the Committee on Finance started out on the road to welfare reform a good many months ago, there was general agreement that the bill should not increase the deficit. The conference agreement meets our objective.

Mr. President, I would like to commend both the Senate and the House conferees for their diligence in seeking accord on tough issues. We have a conference agreement that has bipartisan support, and which we have every reason to believe the President will sign.

And I would like to take a moment to recognize the senior Senator from the State of New York, who has invested more than two decades in the framing and development of this legislation. Without his vision, and indeed stubborn determination, we would not be here today approving an historic agreement. In addition, I want to acknowledge the invaluable contributions of the members of the Finance Committee who served as conferees on this bill, Senator PACKWOOD, the ranking member and Senators DOLE, PRYOR, ROCKEFELLER, DASCHLE, ARMSTRONG, and WALLOP. The many hours they were willing to devote to crafting a compromise will mean much to the families whose lives will be changed with enactment of this measure. Chairman ROSTENKOWSKI and his able House conferees brought compassion and hard bargaining to the conference table and deserve much credit for forgoing a viable compromise.

Finally, I want to extend special recognition to the staff members who have spent more than 2 years crafting the provisions we have before us today. Under the able guidance of staff directors, Jim Gould and Ed Mihalski, the staff has helped bring this conference to a successful conclusion. For Margaret Malone, Joe Humphreys, Marina Weiss, Pat Oglesby, Lindy Paul, Brad Figel, and Rikki Baum, developing this bill has been a labor of love and has resulted in a compromise of which you should be very proud. My thanks to each and every one of you, and to the many staff members whom I have not named but who spent countless hours working out the details of this agreement and who—when it appeared we would not be able to reach a compromise—always found a way to overcome seemingly impossible obstacles.●

Mr. BRADLEY. Mr. President, the Family Welfare Reform Act will help many Americans lead more productive lives. The act changes the focus of our current AFDC Program to help welfare recipients train for and find real jobs that will enable them to provide for their families. This is a fundamental shift in our approach to welfare. Currently, we provide the poor with cash benefits and health care, but we do little else to help welfare recipients climb out of poverty, to achieve self-sufficiency.

The overwhelming majority of Americans believe that the poor who are able to work should do so rather than simply receiving a handout. I agree. But we will now provide the training, the access to child care and health care, and the access to jobs that make work a reality as well as a requirement. Americans want to be self-reliant, independent individuals, and I believe that it is our responsibility to give everyone an opportunity to achieve these goals.

Under this act, States will provide education, training, child care, and jobs for welfare recipients, thus trading in years of future welfare costs for an investment now in training. In the process, people get back their self-respect and control of their own lives.

The act consolidates existing work-related programs, reducing the fragmentation of services that are so frustrating to recipients and providers

alike. These changes are patterned upon the success of several effective and innovative work training programs already in operation in many States. Since local conditions vary, States will determine how programs are to be administered to fit local conditions. This flexibility will aid my own State of New Jersey in its efforts to help welfare recipients through the New Jersey REACH Program.

Still, Mr. President, we should have no illusions. This act does not eliminate poverty; nor will it eliminate welfare. I am particularly concerned that we ensure that States will, in fact, provide sufficient child care, basic education, and training for welfare recipients. In addition, we must continue to provide effective support to single parents as they move off the welfare roles by insuring adequate transitional benefits, such as health care coverage and child care. Also, we must support unemployed, two-parent families through access to education and training programs as a means to return to full employment. With this act we begin to do so.

Mr. President, I am particularly pleased that this act incorporates several proposals I have made to improve the Child Support Enforcement Program. The terrible record of ensuring that children receive support from parents to which they are legally entitled has been a national shame. Improving our record in this area has been a long-standing concern of mine.

In 1984, Congress enacted major legislative changes which I proposed to significantly improve the collection of child support. Those changes mandated several enforcement steps, including wage withholding, if a parent is 1 month in arrears. It also established Federal and State income tax refund offsets to collect overdue child support. In addition, last year Congress adopted a bill I introduced that prohibited the courts from wiping out child support arrearages.

The changes we enacted in the Child Support Enforcement Amendments of 1984 and 1986 have significantly helped our children. Since 1978, total child support collections have tripled and twice as many children are now receiving child support. That is good news.

But there is still a lot of room for improvement. Despite improved child support efforts, most noncustodial parents fall far behind in their obligations to their children. The record, Mr. President, is still abominable.

Currently, of the 9 million single-parent mothers, over 40 percent receive no child support awards; of the mothers who are legally entitled to child support, 24 percent never get the money and 26 percent consistently received less than the amount awarded by the court. Despite improved collections, the overall record is still abysmal.

The average amount of child support actually received by families—less than $200 a month—is very low and has not increased in real terms since 1970.

Currently, almost 15 million children under the age of 18 live in a household where only 1 parent is present—almost double the 1970 level—and half of those live below the poverty level.

Mr. President, my home State of New Jersey has been a leader in child support enforcement. The State's efforts to standardize awards through guidelines and to review child support cases have improved the financial status of thousands of children. Yet even in New Jersey, only about 11 percent of welfare payments are recouped through child support payments from noncustodial parents. And there are thousands of New Jersey families not on welfare who do not receive the support to which they are entitled. There is clearly room for improvement, even in the States with the comparatively good records.

Mr. President, during Senate consideration of the 1984 child support amendments, I indicated that the 1984 legislative changes might not be enough to correct the abuse and neglect in the system. I warned that further steps would probably be necessary to improve the system. That time has come. In April 1987, I introduced the Child Support Improvement Act which has been integrated into this welfare reform effort. The following key provisions of my bill have been incorporated into Senator MOYNIHAN's legislation:

The establishment and use of uniform guidelines to determine the amount of child support to be awarded.

Automatic review every 3 years of the size of the child support awards to determine if increases or decreases are warranted.

Expand efforts to find noncustodial parents who fail in meeting their obligations.

Immediate wage withholding of support awards in cases that come before the child support agency unless good cause can be shown for an alternate arrangment.

Expansion of paternity enforcement activities to ensure that fathers are identified.

The establishment of a Commission to proposed improvements in interstate child support cases.

Mr. President, I support immediate wage withholding in all title IV-D and non-IV-D cases. I am pleased that this conference report provides for immediate wage withholding in all IV-D cases. And I am pleased that my colleagues agreed to my amendment to establish wage withholding for all cases starting in 1994.

Mr. President, the Federal Government clearly has a major role in helping families escape proverty, but Federal help must supplement the primary responsibilities of families to help themselves. Parents have a responsibility to care for their children.

Sadly, too often, noncustodial parents do not fulfill their responsibility. We, as a nation, have a moral obligation to provide assistance to poor families and their children—but only after parents shoulder their own responsibilities. I am pleased that the bill being considered today recognizes that improvements should be central to any welfare reform initiative enacted by the Congress.

I know that the Family Welfare Reform Act of 1988 is not a panacea. Even when it is enacted, many poor individuals and families will still cling to a "safety net"—a net they too often fall through. But I believe this legislation will enable many Americans to lead independent lives and provide for their childern. I hope it will be a lasting crack in the endless cycle of poverty.

Mr. KERRY. Mr. President, I am pleased to join with my colleagues today in supporting final passage of the conference report on H.R. 1720, the welfare reform bill. Once again, I would like to congratulate my distinguished colleagues from New York, Senator MOYNIHAN, for his leadership and diligence in seeing this process through to fruition. I do not have to remind my colleagues that the road to the point we have reached today was often a rocky one. In this regard, I would also like to commend my colleagues on the conference committee, those from the House as well as those from here in the Senate, for working in what was clearly a bipartisan effort to bring this measure before us today.

The legislation before us today represents the first significant change to our current welfare system in more than 50 years. Although I still have reservations about certain aspects of the bill, we are, today, undertaking a vitally important and long overdue first step in moving people from welfare to work. More importantly, by passing this legislation today, we will begin to provide people on welfare with a route out of poverty. Central to this effort are provisons contained in the bill which strengthen child support enforcement; provide education, training and employment opportunities and assist in the transition from welfare to work by providing much needed transitional health and child care benefits.

Mr. President, the conferees have done yeoman's work in bringing this legislation before us today, and I am sensitive to the fact that to arrive at

this point, everyone concerned had to operate in the spirit of bipartisan cooperation that is characteristic of the legislative process. This process back in July 1987, when we introduced the original Senate version of the welfare reform bill and comes to fruition today.

The bill is not as expansive or comprehensive as many would have liked. It contains provisions troublesome to me such as the 16 hour weekly work requirement for two-parent families receiving benefits, the AFDC Unemployed Parent Program [AFDC-UP]. Nevertheless, all sides concerned have made compromises is an effort to begin to make a difference to those who need it the most—our Nation's poor children and their families.

Mr. President, most of my colleagues know by now, that the Employment and Training [ET] Program in my home State of Massachusetts, served as one of the models for provisions contained in the legislation before us today. The success of the Massachusetts experience is a working example of the fact that we can crack the cycle of welfare dependency if we provide individuals with genuine employment opportunities, counseling, education, training and extended health care and day care benefits. In short, by offering people a hand up and a way out. We can certainly expect to translate that experience to commensurate savings for the U.S. Treasury and in all of our States.

I am proud and pleased to be a part of one of the most important and significant efforts that we as a body have undertaken during this Congress—one that will provide real employment opportunities for our neediest citizens.

Mr. SANFORD. Mr. President, I want to congratulate my distinguished friends, Senator MOYNIHAN, Senator BENTSEN, and others who have worked so diligently these past 2 years to develop a better approach to our welfare system—an approach that will focus on moving people into independence and away from dependence on an outdated maintenance program.

Education must be the basic foundation of real welfare reform, and I am pleased that conferees have agreed to make education and training a central component of their compromise measure.

The thrust of welfare reform is jobs. It is that simple. Welfare reform is designed to lift individuals and families out of welfare dependence by moving them into jobs that promise hope for the future. And we know the barriers that prevent this are lack of health care, lack of day care, and lack of basic educational skills.

Welfare reform attempts to address these obstacles preventing gainful employment by providing transitional health care and child day care benefits that will allow individuals on welfare to move into jobs. This reform also gives priority to basic educational skills. If we expect welfare recipients to compete successfully in the job market, we must provide them the basic education and job skills.

This training in basic skills must address the very real problem of illiteracy among adults in this country. The U.S. Department of Education estimates that between 17 and 21 million adults in the United States are illiterate. That is 21 million individuals who are unable to read, write, speak, or otherwise communicate competently enough to meet the ordinary demands of modern society. And the highest rates of illiteracy are among welfare recipients.

I have seen estimates that the cost of illiteracy in this country is $200 billion or more each year. And there are other costs, human costs, involved. These human costs go beyond unemployment and underemployment. They include the lack of self-esteem. They also pose potentially life threatening situations where reading, for example, might be essential in a crisis situation.

Mr. President, I ask unanimous consent to submit for the RECORD an article written by David Work, executive director of the North Carolina Board of Pharmacy. He makes a good, and I believe somewhat unique case for strengthening educational programs that will effectively reverse the problem of illiteracy without our welfare system.

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

CONGRESS SHOULD FIX IT RIGHT THIS TIME

Part of my daily routine is to pick up the mail at the local post office on the way to work. While sorting through the mail on a recent morning a young mother with her toddler entered the lobby and asked me where she should mail an out of town letter. The signs on two mail slots in her plain view about six feet behind me read "Stamped Mail" and "Metered Mail;" words that she obviously could not comprehend. By her question she declared herself functionally illiterate.

The United States Senate recently passed a bill which would greatly revise the American welfare system. These efforts are labeled as the largest overhaul of the welfare system in 50 years. It is imperative that programs be included in this legislation to assist the functionally illiterate and bring them into our society as full participating members. Being an informed voter, able to make reasonable choices in life and the opportunity for personal growth through reading would be the dawn of a new day for current non-readers.

AN AMERICAN CASTE OF INVISIBLES

Anyone who is in contact with the public can detect with regularity examples of illiteracy or literacy. Those with the problem are skilled at concealing their status and take care to blend in with the general public. They often ask for directions to be repeated so that they can be memorized, claim to have left their glasses at home or request information that is easily apparent to a reader. It is not an affliction that is readily detected by a person's demeanor, ethnic group or appearance. We see the homeless, especially in large cities, but the inability to read isn't a visible trait. They have in every sense been sentenced to a permanent position in the underclass of society as noted by Jonathan Kozol and others. In this sense the functionally illiterate are an American Caste of Invisibles.

The state agency I work for exists to protect the citizens of North Carolina in pharmaceutical matters such as prescription labelling. Common sense tells me that non-readers cannot understand the labelling which is on prescriptions and over the counter drugs. But government bureaucrats are notorious for claiming that the public is adequately informed about drugs if they have something in print such as labelling or patient leaflets for some drugs. Relying only on the printed word effectively excludes at least 20% of the population from information such as side effects, allergies or foods and beverages to avoid.

Pharmacists, physicians and medical authors have expressed concern for years that patients fail to follow medication directions. Indeed some researches have found that up to ⅓ of emergency room admissions are related to improper use of prescribed drugs. Other report that up to 10% of prescriptions written by doctors go unfilled which concerns physicians who expect prescribed drugs to be consumed by the patient. A non-reader is likely to choose to save money and not get a prescription filled if the label is meaningless. Pharmaceutical manufacturers are naturally concerned since it directly affects their sales. Apparently it has not occurred to any of these educated groups that such problems could be directly connected to the patients inability to read prescription directions.

PROBLEM IS GROWING

Even with the adult literacy programs now in place the problem is growing. Over 40,000 illiterate adults are added weekly to our population. These people are added to the millions, now approaching 30 million, who read at a grade school level if at all. It's estimated that another almost equal number have some reading skills but cannot reliably understand short sentences such as prescription directions. To put this in perspective the number of functional illiterates in our country is equal to the population of New York, New Jersey and Connecticut and growing. Doctors, nurses and pharmacists are reluctant to admit that a large part of the population doesn't understand the printed word. This is a natural response when these educated and literate professionals usually communicate among each other. They treat patients which, unfortunately, often doesn't always involve communication. Think back on your last medical care experience—would you have understood directions without the benefit of the printed word?

The existence of non-readers in our society is of real concern which evokes alarm when we realize that some of our social policies are spreading this group. The illiterate mother in the post office is not likely to raise a reading child. Even if she urged the child onward there would be no parent/child reading at home and the message would soon be conveyed to the child that reading isn't required to be an adult.

One of the collateral consequences of illiteracy among Medicaid recipients is the im-

prudent spending of tax dollars. It just doesn't make sense for a government program to pay nearly $70 per month, which is over $800 per year, a common charge for a beneficiary's ulcer medication when the person does not understand the label directions.

As a minimum adult literacy education needs to be added as a benefit to Aid to Families with Dependent Children (AFDC) programs and Medicaid programs without delay. If reading programs were available to AFDC mothers it would have the overflow benefit of providing a reading parent for the child to emulate. This would help an immediate problem and make it more likely that a child in this situation will be a reader. Many state Medicaid programs now provide benefits for speech, hearing and language disorders which is just another form of failing to communicate. Literacy would be a natural addition to these programs for those who have another communicating problem—the inability to effectively read.

Cost is always a legitimate concern here but should not be a barrier. The cost per recipient for literacy programs is modest compared to a hospital admission which is a frequent result of patients failing to follow prescribed therapy because they don't understand what they are expected to do. According to recent national figures the cost for one day in a hospital is now more than $485 while a nationally recognized computer based reading program in Charlotte, North Carolina costs less than $200 per person for an entire year.

Our government leaders have a responsibility to provide effective medical care to the reading and non-reading beneficiaries of public assistance. Comparable and effective care is not available for the illiterate only because of their non-reading status. Literacy programs for these recipients would be an immense stride towards meeting that duty and demonstrate that Congress wants to fix the welfare system right this time.

Mr. DECONCINI. I rise in support of the conference report on H.R. 1720, the Family Welfare Reform Act. I would like to commend Senator MOYNIHAN and Chairman BENTSEN, as well as all the members of the conference committee, for their dedication and very hard work on this most important issue to the over 11 million Americans who rely upon the aid to families with dependent children welfare program. I think everyone in this body would agree that without Senator BENTSEN and Senator MOYNIHAN's leadership, we would not be voting on this measure today.

This bill takes a strong first step to break the dehabilitating cycle of governmental dependence by offering welfare recipients education and training. Today, the Congress will be trading handouts for a helping hand to self-sufficiency and a piece of the American dream.

While not perfect, I believe this bipartisan package provides a ray of hope for the millions of Americans living in poverty. This welfare reform effort clearly demonstrates that Congress, despite our budget woes, has not forgotten America's poor. I would have liked a bit more State flexibility and increased transitional health care provisions, but I appreciate that this package is as much as we can afford today.

I was a cosponsor of Senator MOYNIHAN's bill, S. 1511, the Family Security Act of 1988, but I cosponsored the bill with some reservations. I encouraged the learned Senator from New York and other members of the Senate Finance Committee to increase the Medicaid and child care transitional assistance provisions, to increase the funding for visitation counseling in order to improve child support collections, and to guarantee child care for individuals participating in the jobs program.

When the bill came to the Senate floor last June, I, along with many of my fellow colleagues, indicated that we had come a long way, but needed to go much further. I believed that the limitations upon child care assistance and Medicaid health benefits were the greatest obstacles in reducing welfare dependency. As it was certain S. 1511 would pass overwhelmingly, I urged the conferees not to be pennywise and pound-foolish with respect to the transition benefits, and not to limit the flexibility of the States to enter into public-private partnerships to achieve the aims of the legislation. As a result, child care transition benefits were increased to a minimum of 12 months without interruption as was added to House passed version by the Andrews amendment. As a result, welfare dependent parents need not fear for the health of their children or themselves as they enter the work force. And lastly, as a result, the bill will provide for demonstration projects to examine the benefits of using public-private partnerships in the efforts to reduce welfare dependency.

It is my firm belief that the Family Welfare Reform Act will improve the quality of lives of millions of Americans. The legislation before us today is both a tribute to the compassion of the American people and the ingenuity of its leadership. I am indeed very grateful to have taken part in the restructuring of our welfare system.

The Family Welfare Reform Act is not going to eliminate all the problems of the poor in America, but it is a great step forward. Despite its perceived deficiencies, I believe we should unanimously support the conference report on H.R. 1720.

Mr. BINGAMAN. Mr. President, I rise in strong support of the Family Security Act of 1988, which after months of negotiations and compromise has been presented to this body for a vote. I congratulate my good friend and colleague, Senator MOYNIHAN, for his outstanding leadership in the Senate's effort to reform our welfare laws, and I applaud all of the members of the Finance Committee who labored so long and hard on this important issue.

Whether valid or not, one of the major criticisms of our current welfare system is that it locks people into public dependency and thereby perpetuates a permanent class of poverty-struck and under-educated citizens. The legislation before us today takes a different approach. It places an emphasis on education, jobs and economic independence. It would, as stated in a New York Times editorial, transform our welfare system from an assistance program with an employment component into an employment program with financial assistance.

I, like Senator MOYNIHAN, believe we can help individuals break the chains of dependence and poverty and still remain a compassionate society. In my view, a truly compassionate society is one that helps people help themselves. And this legislation, with its emphasis on education, training, and jobs, does just that.

This is not a novel concept yet for more than 50 years, our welfare system—our Aid to Families With Dependent Children—seemingly has done little to help individuals break the chains of poverty. Indeed, AFDC benefits originally were intended to enable widows to stay home to care for their children. No work incentive was stressed then, and none was stressed when the number of AFDC participants, both mothers and children, ballooned in the 1960s. Some 20 years later, as we once again review current statistics and programs, we see that both the Federal Government and the States, which are charged with administering the programs, have largely failed in any real sense to get AFDC participants out of poverty and into the work force where they are so desperately needed.

Today, more than 11 million Americans receive AFDC benefits. More than 7 million of those are children. That is 7 million children living in poverty—one-fifth of all American children—going to sleep hungry, going to school hungry, going through life hungry, often undermotivated or unconcerned.

These children are our Nation's future. And if they or their parents are suffering from hunger or lack of motivation or unconcern, then every other American citizen is suffering also. These 7 million children soon must become this country's workers, leaders, educators, and taxpayers. If we ignore their needs now—if we refuse to seriously invest in them and continue to exclude their parents from the economic mainstream, we will not have the skilled, healthy, and productive work force we must have in the future to compete successfully in the global economy. And we will have jeopardized our Nation's social and economic security.

Our world is not the world of 50 years ago. We live in a new world—the competitive, global society of the 21st century. And the key to success in this world is our ability to equip all of our citizens with the tools necessary to become productive, contributing members of our society. That means we must deal with a changing work force, an outdated educational system, and the critical problems facing our children growing up in poverty and dependence.

NEW MEXICO PERSPECTIVE

In my State of New Mexico, the problems are especially critical. The Public Voice for Food and Health Policy, in a study profiling rural poverty in New Mexico and three other States—Kentucky, Georgia, and Kansas—revealed that rural poverty in New Mexico was higher than the national norm at the beginning of the 1980s and has worsened since.

In 1979, nearly 18 percent of New Mexico's population lived below the poverty line. All but one of the State's 32 counties had a poverty rate above the national average of 11.6 percent, and more than half of our counties had poverty rates at least 50 percent above the national average.

Minority populations are suffering the most in New Mexico. Last year, 23 percent of the State's Hispanics, 29 percent of its blacks, and more than 40 percent of its Indians live below the poverty threshold—compared to about 13 percent of the State's Anglo population.

And these statistics do not begin to convey fully the plight of New Mexico's poor—of America's poor. Poverty can shackle a person to a life of hardship, a life without the benefit of a good education, a stable job, or adequate health care. And when this happens, we all lose.

WELFARE REFORM

What does all this mean? To me, it means we must overhaul our welfare program now. Our current system is sorely shortsighted—we give a person or a family a check each month, shut our eyes, cross our fingers, and hope that in time such checks will no longer be needed. We can do better than that. And I believe we can do it with the legislation before us today.

This legislation offers a rare and valuable opportunity for the Federal Government, working with the States, to improve the quality of life for a portion of our population that desperately needs our help. At the same time, I believe the provisions crafted by the House and Senate conference committee allow the individual States sufficient latitude to design the type of assistance program best suited to each particular State.

I am particularly hopeful that this bill's education and employment provisions may help many of the New Mexicans now receiving welfare benefits. As I mentioned earlier, the unemployment rate in my home State is hovering around 9 percent. Much of the problem lies with the fact that many of our traditional industries in New Mexico—mining and oil and gas, for example—are in trouble. We need to make restraining a top priority, and I believe this legislation does that.

I do not mean to suggest that nothing curently is being done. On the contrary, New Mexico has implemented Project Forward, a successful pilot program to educate, train, and help long-term participants overcome their dependence on public assistance programs. Such planning by States is one of the requirements of the Family Security Act. However, this is only a pilot program, and like all new programs, problems remain to be addressed.

CHILD CARE ISSUE

I would like to discuss in greater detail one of these problems—a problem that necessarily arises whenever a parent is encouraged, or required, to leave the home for work or school: The problem of quality child care.

I do not think anyone will deny that the first 4 or 5 years of a child's life are extremely critical. They are years of rapid growth and development. And as the Children's Defense Fund points out, that development is uniquely subject to influence from outside sources.

Because we have the power to shape the lives of young Americans for generations to come and because by enacting this legislation we will shape the lives of thousands of children currently born into poverty, we must pay special attention to the needs of our children.

As I stated earlier, more than 7 million children presently are dependent on our Aid to Families With Dependent Children Program. That means that the parents of more than 7 million children, who currently receive little or no day care, will soon be required to find day care services for their children while they attend classes or work.

We in the Federal Government must work and cooperate with the States to ensure that any initiative requiring child care includes provisions for the availability of safe and adequate child care. I know that this is a very costly proposition, but I think it is a very wise one.

I am pleased that this legislation ensures States a stable funding source for child care projects in its entitlement provisions, and that title III of the act ensures transitional child care and Medicaid for newly employed and independent parents.

Many people have said that these provisions do not go far enough. Perhaps we could, and should, do more. I believe this is an issue that must be seriously addressed by us all, and it is one I am pursuing with parents, legislators, business persons, and other concerned individuals in my State.

There is much we can, and must, do for our children and for our fellow citizens struggling to break the grip of poverty. We must commit ourselves to helping them help themselves. This legislation—this landmark redirection of our public assistance programs—embodies such a commitment. I wholeheartedly support it and urge my colleagues and the administration to do likewise. Thank you.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, early in 1987 we began a process that many of us doubted would ever really be completed, and it was the revamping of the welfare system. But I would say, as others have said on this floor, it was due to the diligence of a number of Senators, primarily Senator MOYNIHAN, but certainly the Presiding Officer, Senator ROCKEFELLER, and the ranking Republican on the Finance Committee, Senator PACKWOOD; Senator ARMSTRONG, a member of the Committee on Finance; Senator BENTSEN, certainly, as chairman; and Senator WALLOP.

If anybody would have told me that a group like that could be gotten together and have worked out a welfare reform bill, I would have said, "Well, maybe," because there are different ideas and different philosophies, all good men in this case, well-intentioned, but going in somewhat different directions. But lo and behold, here we are today with a bill we can support.

I would hope the vote would be unanimous. It may not be. We are here again today, as I indicated on the floor a couple of days ago, because most times when it is a matter of public interest the parties come together. This is not a Democratic bill, a Republican bill, or an administration bill. It is a consensus, I can say, with President Reagan helping lead the effort, saying all along that he would sign the bill under certain conditions, Senator MOYNIHAN leading in the effort on the Senate side, Congressman DOWNEY and others, Congressman BROWN of Colorado.

So we have reached an agreement that I assume some, who may be here 5 or 10 or 15 years from now, will be able to finally say, well, it worked or did not work, or we need to change this. It has been about 50-some years since we have really reached out, and had a comprehensive reform measure. There was never any dispute with the goal but how we were going to get there.

I happen to believe the Senate did the better job. I certainly do not criticize the House. I certainly do not criti-

cize them now, but originally I think our bill was the more responsible bill.

I believe now the final product is much closer to the Senate bill than the House. But I know that there are some in the House who do not like this bill at all. Some are conservatives, some are moderates, and some are liberals. I would only speak to my Republican friends in the House. Ronald Reagan supports this bill.

I would guess a great many Republicans on the Senate side—I do not know how many, hopefully nearly all—will support this bill.

Senator ARMSTRONG, who has a pretty good reputation as a pretty solid conservative, is one of the cheerleaders for this bill, the final product, because he knows having spent hours and hours and weeks and weeks in session that there is a good product.

So I urge my Republican colleagues in the Senate and in the House to support this legislation.

The Finance Committee measure had a cost of $2.6 billion as compared to the House bill cost of approximately $7 billion over the same period of time and, as indicated just a moment ago in response to a question by Senator HELMS, this final package is about $3.345 billion, more or less. It is close enough for Government work.

But the reasons for the difference in the cost were, of course, the areas over which we had the greatest disagreement with the House proposal.

In a major concession, to those who were concerned that the costs of this new program would quickly grow, our bill contained an overall cap on the jobs portion of the bill. So while we have assured the Governors adequate funding so they are encouraged to put jobs programs into place, we have also protected the Treasury.

I do not want to leave out the Governors Association because they had a lot of input into this bill, and Republican and Democratic Governors, and members of the Governors' staffs were very active in the process, and certainly should be. They are going to be implementing the program.

The House also provided for a number of expansions, including increasing the income disregards; providing an increased Federal matching rate for benefit increases; providing the full 12-month transition period for child care and finally mandating all States put into place an AFDC unemployed parent provision.

We have what I believe would be a pretty good overall package, but alternatively, the Finance Committee bill, focuses its dollars and efforts on work, on education, and training activities, with expansions in those areas where we felt they supported the focus on jobs and training. Those are the key words "jobs and training and education."

While we mandate coverage of two parent families, where the principal wage earner is unemployed, we allow the States to limit the coverage to 6 months, and more importantly we also target our resources to take the most difficult to serve and require the States to offer real work experience as part of their jobs program.

There were flaws in the House bill but there are also some flaws in our bill. There was much concern that the White House expressed, concern about participation standards, about a work requirement, and we were able to reach an agreement on that. In fact, I think the vote was 54 to 41 on June 16. The American people won. I really believe if you look back on one—I do not suggest because I had a part of that event—that may have made a difference, it was that vote that day which in effect satisfied the President, and satisfied many on both sides of the aisle.

The chairman of the Finance Committee supported it. When there was an effort made to table the work requirement, it failed. The amendment was quickly adopted by the Senator from New York who had no personal problem with it, but the Governors had problems with it.

So participation standards is one of those areas where there is little philosophical debate as to the value of some kind of performance measure but rather a division of opinions as to what the measure should be and how quickly it should be put into place.

I believe that reasonable standards can help to encourage the States to actively pursue the jobs program, and offer services to a broader array of participants.

By 1992, according to the CBO's estimates, the States will be given almost four times the Federal resources they now receive under the Social Security Act for WIN, WIN demonstrations and other new authorities enacted in 1981 and 1982—job search, grant diversion, and a community work experience program, or CWEP. These resources will be in addition to those provided to them under the Jobs Training Partnership Act, and the social services block grant, vocational education, adult education, and other programs which are directed by law to serve populations that include AFDC recipients.

So I would just say that there has been a lot of good work done. There were a lot of days I assume—I did not attend all the conferences—when Senators PACKWOOD, MOYNIHAN, ROCKEFELLER, ARMSTRONG, whoever, probably came away feeling that maybe it was all lost. But in the final analysis, because they were all willing to make one more effort, one more effort, and the House had to be a part of that, I think we have a pretty good package.

So I believe the bill does improve the welfare system substantially. I believe it is time.

I do believe that the participation standards are an important principle and one we should put into place.

The transition benefits do deserve our review, once we have real experience with that.

The final requirement is that States offer jobs programs to ensure that welfare recipients will have a chance to gain some real work experience.

The House bill did not really require the States to do anything more than they now are doing in exchange for this flexibility and massive infusion of new Federal resources. They did not have to require the States to involve significant numbers of welfare recipients in meaningful employment and training activities. They only required States to have an employment and training program in place.

The bill before the Senate would require the States to involve a small but increasing number of AFDC recipients in work-related activities.

Participation standards would ensure that a significant proportion of the 60 percent of AFDC parents are required to be in some activity which will help them learn to support themselves and their children.

Given the level of activity the majority of States had achieved in 1985, it seems reasonable to expect that 6 or 7 years later, with more experience and vastly greater resources, all of the States should be able to meet and even exceed the goals outlined in the legislation.

TRANSITION BENEFIT

With regard to the transition benefits, while I would certainly agree that the availability and financing of child care and Medicaid services are a critical component of a work-based welfare system, the record is unclear as to whether or not the provision of these services after someone leaves the welfare rolls is necessary or what the ultimate cost will be. I believe allowing rather than mandating that the States cover these services made more sense until we have some better sense of what is really necessary. But given that the Congress did not agree, in the view of this Senator, the next best thing to do is to sunset these new transition services after a period of time and give us a chance for review.

The bill currently contains a requirement that a study be done examining the impact of the Medicaid benefit.

WORK REQUIREMENT

The Dole-Armstrong amendment was the other area in which we were able to reach an agreement providing for a specific work requirement. The Senate refused to table this amendment 41-51 and the conferees further recognized its importance. While it is clear that the States will have every

incentive to start up programs there really was no absolute requirement that an individual ever go to work. In the view of the Senate, at a minimum one parent in the newly mandated AFDC/UP family should be required to work at least 16 hours per week. Such a requirement would hopefully help maintain the commitment to employment by these individuals.

CONCLUSION

I believe the bill does improve the welfare system substantially. Participation standards are an important principle and one we should put into place; the transition benefits do deserve our review once we have real experience and cost data; and finally the requirement that the States offer jobs programs insures that welfare recipients will have a chance to gain some real work experience.

I extend my thanks to all Senators and all the staff members. Sometimes we make the speeches and they do a lot of the work. Sometimes when we get into a bind, we say, "Work it out, and we will be back at 2:30." More often than not, they work it out, or at least give us some options. We have to make the decisions.

So I congratulate all those who particpated. This legislation may not be very exciting to a lot of people. It is welfare, and that turns some people off. There are some out there who will always believe no one should ever be on welfare. Sometimes there is no alternative.

If you are old or cannot find a job or have children, sometimes there is no alternative.

This type of legislation will not make the headlines. There will not be any political action committees rushing in to reward those who were active in support of this legislation, but it is very important. It is very important to many people who will never know what happened on the Senate floor today—children, the elderly, those without any income or very little income. They will be the beneficiaries of a lot of unselfish efforts by Members of this body on both sides of the aisle as well as by those in the White House and those in HHS, OMB, the Governors, and all the agencies.

We are anxious to help the States and see if it works. If we find that this new money and all this expanded authority simply leads to more people on welfare, then we have a problem, and we will have to come back and take another look and tighten it up. Governors will have much to account for if that happens. I have confidence in the Governors. There will be new Governors—new Republicans, new Democrats. But I believe they want this to succeed. They know that now that the bill is about to become law, it is going to shift the responsibility to them to make certain that it works. I think there will be pressure on all the States, and they will put pressure on one another to make certain it works, to get people back to work, to get people an education, to give them jobs, to give them training, and to do the best we can to restore dignity for a lot of Americans.

In closing, let me offer my thanks to Senator MOYNIHAN, Senator PRYOR, Senator DASCHLE, Senator BENTSEN, and Senator ROCKEFELLER for their patience and cooperation. I also want to thank Senators PACKWOOD, ARMSTRONG, and WALLOP who did a tremendous job of representing the views of the Senate Republicans in the conference. There are also a number of staff from the Finance Committee who deserve our thanks—Margaret Malone, Joe Humphreys, Marina Weiss, Lindy Paull, Brad Figel—as well as the representatives of HHS and the Office of Management and Budget—Joe Wright, Barbara Selfridge, Howard Rolston; the White House, Chuck Hobbs—and the personal staffs of the other members of the conference on the Senate side, including Rikki Baum of Senator MOYNIHAN's staff, and Tony Coppolino of Senator ARMSTRONG's staff.

The time for real welfare reform is here—I for one am anxious to help the States in their efforts to get recipients into meaningful employment and off the rolls. But I add a note of caution, if we find that this new money and expanded authority simply leads to an expansion of the rolls and no fundamental change, the Governors will have much to account for. They will also meet with strong resistance in the future for further funding incentives from at least this Senator.

Mr. MOYNIHAN. Mr. President, none of us has been more moved by the remarks of the distinguished minority leader, who has sustained this effort from its outset. We would not be here without him.

The distinguished majority leader would like to speak, and I yield such time as he may desire.

Mr. BYRD. Mr. President, I thank my highly esteemed colleague, the distinguished Senator from New York [Mr. MOYNIHAN].

Mr. President, with the adoption of the Family Security Act conference report, the Senate will take a major step forward in the reform of this country's welfare system. I view this as one of the most productive efforts we have made during the time I have been majority leader.

Many Senators—among them the distinguished Republican leader, Mr. DOLE; the chairman of the Finance Committee, Mr. BENTSEN; and the senior Senator from New York, Mr. MOYNIHAN—worked long and hard on this bill, bringing it to the Senate with broad bipartisan support at passage, and finally, in the conference report, with the unanimous support of the Senate conferees and the agreement of the White House.

The deep concern of those participating in the development of this legislation was particularly evident in the efforts of the senior Senator from Texas, who returned to the Senate to guide the final crafting of the conference report. His unstinting efforts in bringing this landmark bill to final passage only serve to add to the enormous respect in which I hold his talents and his wisdom.

The people of this country owe Senator MOYNIHAN a debt of gratitude for his consummate leadership and tireless efforts on this most difficult issue. He has turned his concerns for our country into action by not only crafting the bill that he and 26 cosponsors introduced here in the Senate last September, but by also working tirelessly during the conference period. He has demonstrated the very qualities that bring credit to the Senate and the Congress. I am proud to call him my friend and honored to call him my distinguished and preeminently capable colleague.

The people of this country also owe a debt of gratitude to the other conferees—those from the House; Senator PRYOR; my distinguished colleague, Senator ROCKEFELLER, who presently presides over the Senate with a degree of skill and dignity and expertise that is so rare as a day in June: Senator DASCHLE, Senator PACKWOOD, Senator DOLE, Senator WALLOP, Senator ARMSTRONG—for their perserverance and concern on this most difficult issue. Their efforts are a credit to the Senate and the Congress.

Mr. President, for all the years that I have served in the Congress, welfare reform legislation has been among the most contentious of issues addressed. Yet, it is among the most important of the issues we must handle. It speaks of people caught in a spiderweb of poverty, joblessness, illiteracy, and hopelessness. No matter in what direction they reach, the web entangles them further. If they find work, it is often low paying and does not include health benefits. But by finding work, the health benefits available to their children are lost. These salaries provide little money to spare for day care for their children, opening up a Pandora's box of difficulties for a single parent. A salary could increase the family's income just enough to reduce eligibility for food stamps—granting the pride of self-sufficiency, perhaps, but literally taking food from the table and from the mouths of children.

This is a painful issue in my own State of West Virginia, where we have a new population coming into our welfare system. This population is the new poor.

The Wall Street Journal notwithstanding, this same problem exists in

the other 49 States of the United States.

These are individuals who have always worked, but have lost their jobs with the closing of many of our basic industries. My State needs a program that will benefit these individuals, many of whom for the first time in their lives find themselves without a job, without an income, and little or no prospect for obtaining employment without retraining.

This measure addresses these basic issues. Paramount among its provisions are those which emphasize the pride which goes with an honest day's work. While providing the necessary underpinnings of training, education, accessible child care and benefit protection, it takes immediate steps to move people off the welfare rolls into productive employment. This is accomplished both for individuals entering the work force for the first time, or reentering because of personal or regional economic misfortune. The bill also strengthens child support enforcement to insure that fathers meet their responsibilities to their children.

Let me say again, Mr. President, that I congratulate those Senators who are on the committees of jurisdiction for their toil and their labor, their talents and their vision, and I congratulate and thank their staffs on both sides of the aisle who likewise have labored in the vineyard so long to accomplish the results that we are proud to vote on today.

I am proud to be associated with this landmark legislation and with those of my colleagues who have guided this effort to a successful finish.

I yield back the time to Mr. MOYNIHAN.

The PRESIDING OFFICER (Mr. ADAMS). The Senator from Oregon,

Mr. PACKWOOD. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 12 minutes and 30 seconds.

Mr. PACKWOOD. Mr. President, how much time does the Senator from Washington wish?

Mr. EVANS. Five minutes.

Mr. PACKWOOD. I yield 5 minutes to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized for 5 minutes.

Mr. EVANS. Thank you, Mr. President.

Let me add my voice to those which have already been raised in congratulations to the Senator from New York, the Senator from Oregon and other colleagues who have produced what I think will be known 10 years from now as one of the most remarkable accomplishments of this 100th Congress.

And I would suggest that it is just a first step, however, and I would particularly like to call attention to one small amendment which I offered to the bill when it came to the Senate which has been retained in the conference report and which allows us to move toward what I hope will be the next and perhaps even more important step. It evolved out of a study which was conducted on federalism in this country under the chairmanship of former Governor Robb of Virginia and myself. Out of that study of federalism we found that of all of the domestic responsibilities of the Federal Government of the United States perhaps none was more important than to insure that there was a safety net for all of our citizens, a safety net so tight and so strong that none would fall through, a safety net that provides adequately for the fundamental food, clothing, and housing for all of our people.

This Welfare Act assumes that responsibility at least in a beginning way.

We must now move toward a stronger assumption of that responsibility financially and a stronger assumption in ensuring a uniformity of benefits across the country instead of the huge disparities which now exist and, finally, to provide opportunity for those citizens who today have little if any opportunity.

This bill is remarkable in taking a first step toward all of those goals.

I hope that the study which is called for in this bill will allow us to take the next step.

Between now and then, however, it will be up to the States of the Nation primarily, the States who have prime responsibility for management of our welfare systems, to show that they can assume the new responsibilities and opportunities offered by this act and give back to us their ideas and their experiences, to share with us new hopes and new propositions, if they will, as to how we can make the next several steps until we have fully put together that impregnable safety net.

Most of all, Mr. President, it is important that we continue what has been so well started here during this 100th Congress and in doing so build a system that not only provides that safety net which is so important, but a system which at the same time retains to the maximum degree possible for the dignity of the individuals and families who seek help and give them at the same time the maximum opportunity to join with all other citizens in their productivity, in the use of their latent talents, and in doing so, to become full partners in the American dream which has eluded so many for so long.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. I thank the distinguished former Governor of the State of Washington, our colleague, Senator EVANS, and say again what he well knows: That it is the Governors who have led us to this point on the floor today and will lead us further in the years ahead.

Another distinguished Governor graces this institution. I am happy to see my friend, the distinguished Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, I thank the distinguished friend from New York for yielding 5 minutes to me.

Mr. President, it was only 48 hours ago when the conferees on welfare reform finally adjourned and agreed to send this particular piece of legislation that we now consider to the floor of the U.S. Senate.

This compromise package emphasizes education and job training. It is also designed to ease that transition from the welfare rolls to the work force. It is long overdue.

I do not think that anyone in this body or in the other body could dispute that the driving force behind this legislation has been the very distinguished Senator from the State of New York, the Honorable DANIEL PATRICK MOYNIHAN. His tenacity and his perseverence are largely responsible for the conference agreement that was reached 2 days ago.

Not only has he been a most effective and skilled negotiator with the other body, at times very tenuous in negotiations, I might add, he has also demonstrated his willingness to listen to the concerns of this administration with regard to many of the complex provisions of this legislation.

There were a few times as the conference deliberations went on as in the Finance Committee that it appeared we had reached an impasse that was insolvable. The welfare reform legislation was pronounced dead by some in the media and many in the public assistance field doubted that an agreement could ever be reached in this session.

Senator MOYNIHAN often stood alone but undaunted in his conviction that the 100th Congress could, would, and must produce a new welfare law.

For the senior Senator from New York it must seem like a long road to travel. Almost for three decades, DANIEL PATRICK MOYNIHAN's name has been associated with the welfare issue and the wrongs of the present system. He has served four successive administrations, those of Presidents Kennedy, Johnson, Nixon, and Ford. No other person in American history can make that particular claim. Every Member of this body is aware of Senator MOYNIHAN's scholarly achievements, and there is no need to list them here.

Last year, a personal note, when Senator MOYNIHAN introduced the Senate version of the welfare reform measure, he asked if he could come to my office, room 264 of the Russell

Building, to personally lobby for my cosponsorship of this legislation. For more than 1 hour he lectured and he entertained. He was the professor at work, but more than the professor, he became the advocate, the advocate for change of a system that had broken down.

During that session that afternoon I invited several of my college interns to come into my office while Senator MOYNIHAN spoke. Those students were in awe not only of the intellect process exhibited but also of his humor and his certain dedication to his cause.

Of course, by the time he left my office he had a cosponsor of the welfare reform legislation.

Just before his introduction last year, the Congressional Quarterly published an article on Senator MOYNIHAN entitled the "Moynihan Factor" and the Chance for Welfare Reform Legislation to Move or Not Move in Congress this Session." At the outset of the article several questions were raised as to how effective this Senator might be in building that needed coalition of support with other Members, organizations, and this administration. The conference agreement that is on the floor this afternoon is that ultimate answer to those questions and any other doubts that might have been initially raised. We should all know by now that we never underestimate DANIEL PATRICK MOYNIHAN of New York.

I am proud to serve in the Senate with a man of such fierce determination, compassion, and integrity, and I congratulate him and the conference committee that met so many times and the splendid staff that helped craft this very complex piece of legislation, the Family Welfare Reform Act.

Mr. President, I ask unanimous consent that the March 21, 1987, Congressional Quarterly article entitled "Daniel Patrick Moynihan: Making Welfare Work" be printed in the RECORD.

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

[From Congressional Quarterly, Mar. 21, 1987]

DANIEL PATRICK MOYNIHAN: MAKING WELFARE WORK

(By Julie Rovner)

In welfare reform circles, they are calling it "The Moynihan Factor."

Loosely translated it is the sense of history brought to the current debate by Sen. Daniel Patrick Moynihan, whose name has been associated with welfare for a quarter of a century. It is his demonstrated ability to galvanize public support for welfare as a kind of children's crusade. And it is his help in bringing decision makers to agreement at least on broad concepts.

But The Moynihan Factor also includes some questions. Will the two-term New York Democrat follow through and convert support for a concept into support for a specific plan? Will he work with the administration and other members who have different views on how to approach the problem? And will he focus on the detailed provisions of the legislation as it moves through Congress?

"This is an extraordinary chance," said Moynihan. "We've determined where the areas of agreement are. . . . There are just so few moments when people are prepared to try something different."

Moynihan's reference is to an emerging consensus among politicians and academics from across the ideological spectrum. The agreement is that able-bodied welfare recipients should be expected to contribute to their well-being, either by working or training for a job; that government has a responsibility to make job training and child care available; and that parents should be expected to help support their children.

THE WORK AHEAD

Lawmakers are now trying to move from this conceptual framework to a specific plan, to find a way to pay for it and to convert it into legislation.

Moynihan is not the only key player. The Senate Labor Committee officially kicked off the legislative side of the welfare reform effort March 18 when it approved a bill (S. 514) introduced by its chairman, Edward M. Kennedy, D-Mass., that would pay states bonuses for moving long-term welfare recipients into jobs.

But most see Moynihan as the leader of the welfare reform drive and say his intellectual prowess and personal involvement in past efforts give him and his ideas a special status.

"If you take him out of the equation you have a very different set of circumstances," said Rep. Sander M. Levin, D-Mich., who March 19 reintroduced legislation he drafted with Moynihan to overhaul federal work and training program for welfare recipients.

"He's clearly the quarterback, and he's a veteran quarterback who's been hit high and low and is not only still on his feet but passing better than ever."

Kennedy, who has made no secret of his desire to play a major role in the welfare debate, also acknowledges Moynihan's supremacy. "They used to ask the famous British scientist, Lord Rutherford, why he always seemed to be riding the crest of the wave in modern physics. And he replied, 'I made the wave, didn't I?' That's the way I feel about Pat Moynihan and welfare reform," said Kennedy through an aide.

"He has a wealth and depth of knowledge that no other member of Congress has on this issue and few have on any issue," said Robert Greenstein of the Center for Budget and Policy Priorities, a Washington think tank. Moynihan, he said, also brings to the debate "a long knowledge of the past history of failures and why they failed."

Such an "institutional memory" is not to be taken lightly, says Leslie Lenkowsky, director of the Institute for Educational Affairs and a leading conservative voice who studied under and later worked for Moynihan. "Policy is usually made in the absence of any understanding of what's happened before. That is not the case with him."

Moynihan is also in a good position to become the broker of competing proposals. "There are now a lot of groups out there that are heavily invested in this," said Stephen Heintz, Connecticut's welfare commissioner and head of a group that developed a welfare reform proposal for the American Public Welfare Association. "How do you bring this all together? . . . I think Moynihan could be the key to that, because everybody respects him so much."

Indeed, almost all of the witnesses who appeared at a series of welfare hearings before Moynihan's Finance Subcommittee on Social Security and Family Policy began their statements by paying homage to the former Harvard professor and his efforts to end poverty.

"I'm not often humbled," testified Rep. Thomas J. Downey, D-N.Y. "But as a student of the chairman's writings on these issues since my college days, my speaking to you on welfare reform is like Pat Robertson explaining scripture to God."

Moynihan, however, is not universally adored. To his admirers, his slightly officious manner is deemed professorial. To his detractors, it is merely pompous. And some question his ability and willingness to focus on the politics involved in such a major undertaking.

"There's an unknown part of the Moynihan Factor, and that's the degree to which he will roll up his sleeves and do the nitty-gritty work in building a majority coalition," said one expert, who asked not to be named. "His interest in this, his knowledge, his intelligence, understanding and commitment are all unquestioned. But he's going to have to work closely with other members, and that part is still not clear."

It is also unclear whether Moynihan can win the support of President Reagan for his vision of welfare reform, which is likely to differ substantially from the administration's line.

"When he comes on television, the senator appears very conciliatory towards the Reagan administration," said Eleanor Homes Norton, former head of the Equal Employment Opportunity Commission and now a professor at the Georgetown University Law Center. "I think that may be because he wants to ward off a veto, and that may mean compromising in ways that will break up the coalition among liberal Democrats who don't want welfare reform at any price," she speculated.

THE PROFESSOR'S PERSPECTIVE

During an hour-long interview, Moynihan moves constantly about his dimly lit office, supplementing his own vast memory with reference books and readings from letters and other documents. He can stop talking in mid-sentence to take a phone call from a constituent, then return and pick up the conversation precisely where he left off.

He seems to derive a real teacher's pleasure in trying to explain the intricacies of the problem, delighting in peppering his answers with anecdotes and such welfare trivia as the bill number of the original Social Security Act. In the process he makes it clear he is worried about the direction not only of public policy, but also of society as a whole.

"Misfortune comes to the complacent; not by some moral law, but because complacense is the parent of incompetence," he reads from a little-known work by the British author Robert Byron, who died in 1941.

"Complacence is the parent of incompetence," he repeats slowly for emphasis. "It's a kind of race here between a complacency that things are going so well that you become incompetent and the alarums that say let's straighten it out. It is a profound social issue."

Moynihan's involvement in the problems of the poor dates back to the early days of President John F. Kennedy's administration. As a special assistant to the secretary

of labor, Moynihan helped draft some of the early plans that became the Lyndon B. Johnson administration's war on poverty.

But it was not until 1965 that Moynihan became a household name. The occasion was the public release of what was intended to be an internal administration document. Its official title was "The Negro Family: The Case for National Action," but it is better known simply as "The Moynihan Report." (Congress and the Nation Vol. II p. 389)

Moynihan, by then an assistant secretary, based his report on government data showing that black family dissolution was no longer following a pattern of rising and falling in step with unemployment. His paper theorized that slavery, racism and systematic segregation had so weakened the status of the black male that the resulting trend toward increased dissolution of black families in urban ghettos portended a new crisis in race relations.

Calling the deterioration of the Negro family "the fundamental source of the weakness of the Negro community at the present time," the report argued that offering equal opportunities would not be enough.

"The principal challenge of the next phase of the Negro revolution is to make certain that equality of results now follow," the report stated. "If we do not, there will be no social peace in the United States for generations."

Although no specifics were offered, the report urged creation of a national policy whose objective "shall be designed to have the effect, directly or indirectly, of enhancing the stability and resources of the Negro American Family."

Released by the White House in an effort to help the press and public understand the violent riots that broke out in the Watts section of Los Angeles in August 1965, the paper caused an almost immediate uproar.

Many in the civil rights community rejected Moynihan's arguments and branded him a racist, and the administration dropped plans to consider family issues as part of a 1966 White House conference on civil rights.

But by 1987, feelings had cooled to the point that many of those who used the word "racist" to describe Moynihan found themselves switching to words like "farsighted."

Moynihan says he takes little satisfaction in having been proved right in predicting the rise in female-headed black families. "That's no great thing," he insisted.

"There's kind of a paradigm in scientific argument, and also in social science, when an argument breaks out in the discipline," he explained. "Everybody knows the world is flat, then someone comes along and says the world is round. It never is settled in the generation in which the argument breaks out. A new generation comes along and they all know the world is round; excepting that some say, 'No, it's not round, it's pinched at the top.' And others say, 'No, no it's pinched at the equator.' And then they fight about that."

With some prodding, though, he does express regret. "I was awfully bitter that we had lost what I knew was an enormous opportunity. And bitter in a much more generalized way. We lost a whole generation of people and let something metastasize."

REENLISTING WITH NIXON

Shortly after the furor over his report erupted, Moynihan left government to head the Harvard-Massachusetts Institute of Technology Joint Center for Urban Studies. But by 1969 he was back, this time as a counselor to President Richard M. Nixon, trying to push the Family Assistance Plan (FAP) through Congress.

FAP would have established nationally standardized minimum benefits under Aid to Families with Dependent Children (AFDC), the principal federal-state welfare program, and a number of other programs. It also would have provided assistance for the "working poor," those who did not earn enough at their jobs to escape poverty. (Congress and the Nation Vol. III, p. 622)

Attacked by liberals for not providing enough and by conservatives for providing too much, FAP was never enacted. But out of the FAP fight came the federalization of welfare plans for the aged, blind and disabled, which were consolidated into what is now the Supplemental Security Income program (SSI).

One problem Moynihan says he did not have to cope with during the debate over FAP was a massive federal deficit—an obstacle he admits looms very large this time around. "In the whole discussion of the Family Assistance Plan—in the whole two years I was involved with it—I never heard the subject of money raised," he said.

During his Nixon tenure, Moynihan's flamboyant writing style again got him into trouble with the black community. In a now-famous memo, he wrote: "The time may have come when the issue of race could benefit from a period of 'benign neglect.' " Further reading of the document makes it clear he meant that white politicians needed to tone down their racial rhetoric. But for many blacks the phrase 'benign neglect' confirmed earlier fears that Moynihan was a racist at heart.

Today, however, that is all behind Moynihan. "I don't see a lot of people thinking about Moynihan in those terms now," said Norton. "Maybe it's because the issue of welfare has become so urgent and Moynihan has spoken with such relevancy in today's terms that people are not harking back 20 years ago to an issue that no longer speaks to these times."

CARTER'S 700 PIECES

Welfare reform next topped the national agenda in 1977, when Carter proposed his Program for Better Jobs and Income (PBJI). The plan would have eliminated AFDC, SSI and food stamps, and replaced them with cash payments for about 32 million persons, including the working poor. At the same time, it would have created up to 1.4 million public service jobs. (Congress and the Nation Vol. V, p. 685)

Moynihan, as chairman of the Finance Subcommittee on Public Assistance in 1979, wavered—first praising, later criticizing the program as well as a scaled-down replacement proposal. In the meantime, the entire concept of welfare reform became entangled in the competing priorities of various politicians and interest groups.

In addition, Moynihan says, the Carter program was far too complicated. "I really worked hard, let me tell you. I spent a whole solid weekend with my feet on the floor working and I just couldn't understand a thing. Seven hundred moving parts," he said.

PRESUMPTIONS HAVE CHANGED

So how is 1987 different enough from 1977 to make comprehensive welfare reform a plausible political possibility?

A major factor, says Moynihan, is that people's presumptions about welfare have changed significantly in the last decade. Mothers in the work force are now the rule rather than the exception, and many of those who crusaded against "workfare" programs in the 1970s now take a different view. They admit that requiring work or training from able-bodied recipients can help reduce welfare dependency.

Census Bureau data showing that one out of every four children is born into poverty in the United States have helped Moynihan and other opinion leaders shift the focus away from "welfare queens" and onto AFDC's original target population—poor children.

A consensus is also developing around the concept of parental support: that absent fathers in particular must be held responsible for supporting their children. "It has to be understood that your're talking here about what is the central task of any society: to produce citizens," Moynihan said.

But a more fundamental element driving the move to clean up the welfare mess is demographic. "The era of the baby boom is over," pronounced Moynihan. "Since 1947 the United States has lived with the problem of too many of a certain kind of person. We had too many babies, then we had too many grade-schoolchildren, then we had too many teenagers and too many young adults. Then we had too many people entering the work force. And now suddenly we don't have enough. For so long it was how are we going to find places for the people, and now suddenly it's how are we going to find people for the places?

"And you hear [Massachusetts Democratic Gov. Michael S.] Dukakis say, 'We can't afford to waste a single child.' Not that we ever could, but this is absolutely new. A sense of, 'Hey, we're short of good hands and you can't let this happen,' " he said.

Moynihan is also optimistic about the leadership demonstrated by the nation's governors and the enthusiasm being generated by such experimental work-welfare programs as Massachusetts' E.T. and California's GAIN.

"You're actually seeing federalism work," he crowed. "Federalism works when it works, and not when someone who doesn't want to do something in Washington says it ought to work. For so many years when you invoked the word federalism in Washington you meant it was something you didn't want to do. When you said this should be done at the grass roots, what you meant was that you were confident it wouldn't be done at the grass roots and therefore it was a more acceptable way of saying, 'I don't think this should be done.' "

Moynihan won't talk in specifics about his legislation, now in the drafting stages. But he does admit that one reason he is trying to focus the debate on children is to avoid the racial overtones that have spelled doom for past reform efforts.

Moynihan acknowledges that the federal budget deficit is certainly a significant barrier to widespread change in the welfare system. But he says it has forced welfare reform advocates to explore alternatives that may in the long run prove more effective than spending more money on the problem. "If you had a lot of money the issue of parental support would not be so salient," Moynihan said. "And if you think about what you want to do, that's one of the things you most want to do, to make that statement."

Nor is he worried that things may be moving too fast, what with House Speaker Jim Wright, D-Texas, now calling for a bill to be on the House floor in May. "We've got to move fast," said Moynihan. "We're not

going to know more than we know now, and we know a lot."

Whatever happens, Moynihan insists that success on welfare cannot be judged by what the 100th Congress does or does not do, and he is wary of over-promising in order to achieve a political goal.

"If we just get this idea of contract, get this idea of parental support, get this idea of accounting for everyone. . . .," he said of his immediate goals. "If you just get those principles, and the idea that we have to do that because it's not now happening.

"What took several generations to come about isn't going to disappear in the next fiscal year," he said. "If we begin to turn the corner at the turn of the century we shall have done pretty well."

Mr. PRYOR. Mr. President, I yield back the remainder of my time.

Mr. MOYNIHAN. Mr. President, I rise to express the deep gratitude of this Senator for those remarkable words. The Senator from Arkansas has lived with this issue and, as a member of the conference, has helped bring this matter to the floor today.

He very properly observes the role of those who have assisted throughout. I would not wish this afternoon to conclude without expressing the uttermost gratitude of the conferees to the Finance Committee staff: Marina Weiss, Margaret Malone, Joe Humphreys, Bruce Kelly, Jim Gould, and Pat Oglesby; and our own Rikki Baum and David Rich. On the minority side, it is hardly for me to speak, but Sheila Burke has been without "peer;" Brad Figel and Lindy Paull, on Senator PACKWOOD's staff; and Tony Coppolino, on Senator ARMSTRONG's staff, have been incomparable throughout. From the Congressional Budget Office, which guided us through intricacies beyond, certainly, my comprehension, Jan Peskin, Julie Isaacs, and Alan Fairbank.

I thank the Chair.

Mr. PACKWOOD. Mr. President, I yield 3 minutes to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. D'AMATO. Mr. President, I rise to express to my colleague from New York our profound thanks for his work in an area that is so critical to this Nation, to keeping this Nation one Nation undivided; to begin to undertake the most important challenge of dealing with the underclass which is developing, the welfare syndrome that is spewing out youngsters who will never reach the potential that God gave them as the result of a system that does not give them the opportunity to be nurtured; to those who have fallen victim and have lived for years, and, if given an opportunity for training, employment, if given an opportunity of support, adequate support, to see that those who have a responsibility meet that responsibility in all parts of this legislative effort in attempting to stem the tide of this burgeoning problem of the developing underclass.

I salute my colleague for his perspicacity, for his caring, for his concern, and for galvanizing a force and yet maintaining the flexibility necessary to bring this bill to fruition and a law that hopefully will begin to reverse this dreadful scourge—the scourge of people never having the opportunity to meet the greatness that is within so many. That is a terrible thing.

So, again, let me say to those who brought have this bill to a point where it can be signed into law, to Senator PACKWOOD, to the Finance Committee, to many on the staff, congratulations for a job well done.

Mr. MOYNIHAN. Mr. President, my dear colleagues and friend will know how important his remarks were to me.

A page is asking him for a text. He has no text. Those words came from his heart, his mind, and they will not be forgotten by his colleague from New York.

Mr. President, I yield the floor.

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum. I ask unanimous consent that it be charged equally.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. PACKWOOD. Mr. President, do I have 4 minutes remaining?

The PRESIDING OFFICER. The Senator is correct.

Mr. PACKWOOD. I yield 4 minutes to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. CHAFEE. Mr. President, I thank the distinguished Republican manager of the bill.

I am delighted today to vote in favor of the conference report on H.R. 1720, the welfare reform bill. As a member of the Finance Committee, it has been my privilege to work alongside of our distinguished colleague, the senior Senator from New York, and I applaud his tremendous efforts on behalf of this legislation. It is one of the most important achievements of this Congress, clearly.

For a great many years now, we have been trying to do something constructive to improve the public welfare system in our country—to enable it to serve both the poor and our society in an efficient, effective, and compassionate way. And this is a tremendous task.

The conference report before us takes the first crucial step toward achieving these goals. Stressing family responsibility, education, and job training, this measure uses the elements we in this body know are the cornerstone of independence.

An important point I would like to make—and perhaps others have made it—is by decoupling the Medicaid benefits from cash assistance, and providing child care, we have removed one of the key disincentives to work under the current system. People cannot go to work because they have no place to care for their children. And if they go to work in low-income jobs where there are not health benefits provided, they lose their Medicaid—Medicaid coverage not only for themselves but for their children.

The $3.34 billion cost of this landmark bill is offset by revenue raising amendments such as extension of the Internal Revenue Services debt collection activities.

This measure could not have come at a better time in our Nation's history. Rates of welfare dependency in our Nation are unacceptably high. Even with a Federal expenditure of over $8.6 billion a year for AFDC alone, we are not adequately feeding and caring for the millions of poor children and their families in this country.

This welfare reform conference report is a short-term investment that I am confident will produce long-term rewards. Four fundamental changes in our welfare system are proposed by this measure. First and foremost, by amending child support collection and enforcement law, the conference report places a new emphasis on family responsibility, making paying child support an obligation, not just an option.

Now it is comme si, comme ca, under this bill, they have to do it.

Second, the bill provides funding for programs of education and job training so that the possibility of leaving the welfare rolls becomes a reality instead of a dream. For years we have been talking about the issue of long-term dependency. Yet we have often failed to recognize that just any job won't help most people get off of welfare. The reason is that individuals are not on welfare, families are. Whatever job a recipient leaves the welfare rolls for, must produce enough income to support a family. As such, meaningful reform must enable people to receive the training and education they need in order to obtain and keep higher paying jobs.

Third, the bill's work transition provisions ensure that child care and health insurance—two necessities in any family where the sole parent is working—are provided for a year after cash benefits have ended.

If you get off of welfare and you have these benefits of the Medicaid coverage for you and your children for a year. That, I think, is the one of the key provisions of this legislation.

This provision is designed to ease the transition from public assistance to private employment by recognizing that few benefits are bestowed before the employee has been on the job for several months.

Fourth, the report requires States to provide cash benefits to poverty stricken families who meet eligibility requirements for AFDC, with the exception that both parents are present. It is of great importance to me that this bill requires States to provide AFDC-UP, which is the term for this intact family assistance. There has been a lot of talk lately about the importance of the family as an American institution. It is my belief that this measure includes one of the most profamily initiatives of this session. Currently 24 States deny assistance to any poor child whose parents live together. This measure allows poor children to be eligible for benefits regardless of the presence of both parents. I would like to see the requirement extend for a full 12 months, instead of the 6-month requirement, but, as I stated previously, this measure is a first step.

Mr. President, this piece of legislation is not without flaws. I do not believe that it is wise to mandate CWEP [community work experience program] participation for those whom we know by experience need it the least: the AFDC-UP [unemployed parent] population. I think we need to know more about the logistics of providing jobs programs on a statewide scale before we mandate participation rates of 800,000 nationwide. Finally, I think the Medicaid transition, which is crucial to independence, security, and the well-being of children and their families, should be extended to 24 months. This amendment I offered in the Finance Committee and it was unfortunately defeated there.

These flaws, however, do not overshadow the benefits of this measure. There are two provisions included in this final conference report of which I feel especially proud: the teen care demonstration programs, and the bar to premiums for Medicaid coverage should a family be living below the Federal poverty level.

The teen care demonstration programs that we will approve today as part of this bill are a watershed in our efforts to end long-term dependency on welfare benefits. It is commonly recognized that one of the greatest contributing factors to welfare dependency is teenage pregnancy. The Children's Defense Fund tells us that a major cause of the high rates of teen pregnancy is low self-esteem and the perception of poor and troubled teens that their life options are limited. Marion Wright Edelman suggests one way to build self-esteem, and thus reduce teen pregnancy, is to provide young people with a "range of non-academic opportunities for service and for feeling good about themselves—sports, recreation, the arts and other enrichment activities." My teen care proposal does just that.

The program is designed to coordinate and target existing services to teens, as well as fill in the gaps where such programs are missing, or are in need of expansion. This $4.5 million demonstration program will fund projects in four States in an attempt to address the four major problems faced by teenagers: drug abuse, dropping out, pregnancy, and suicide—through a coordinated program that would provide resource referral, general stress management and coping skill counseling, recreational referral organization, and general oversight.

Teen pregnancy, the dropout rate, teen suicide, and drug abuse are but four symptoms of one illness—inadequate development of American teens. By treating the illness, as opposed to isolating the symptoms, teen care presents a new approach that is worth investigating.

Second, I am delighted to see that my amendment in the Finance Committee, to bar the imposition of premiums for Medicaid coverage for families whose earnings are below the Federal poverty level, is included in the final conference report. Appropriate health coverage is imperative to the self-sufficiency of a family. To impose premiums on those in poverty, and risk adding to the ranks of the 37 million uninsured in this country, is the epitome of being "penny wise, and dollar foolish."

In closing, let me again applaud the efforts of Senator MOYNIHAN, the leadership of Senator BENTSEN, and the hard work of everyone involved in this measure.

Mr. President, I know my time is short, but I do wish to commend the distinguished senior Senator from New York. He has worked on this for a long, long time and now he is seeing it come to fruition. So we are all very, very happy with the result. I hope that everyone in the Senate will support this legislation.

Mr. MOYNIHAN. Mr. President, may I thank my distinguished friend and fellow member of the Finance Committee, who helped launch this legislation and who has helped to bring it before this body today.

Mr. President, I have letters from the American Federation of Labor and Congress of Industrial Organizations, the Children's Defense Fund, and the Child Welfare League of America, which I ask be printed in the RECORD at this point.

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

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,

Washington, DC, September 29, 1988.

DEAR SENATOR: Congress will soon consider the Conference Report on H.R. 1720, The Family Welfare Reform Act. The AFL-CIO urges you to oppose it.

The Conference Report falls far short of the balanced system of benefit improvements, education and training services, and work requirements contained in the House bill, which the AFL-CIO supported. Instead, it embraces the Administration's punitive and inequitable workfare philosophy and its unreasonable quotas for participation in work activities, while preserving few of the enhanced benefits approved by the House.

Unfortunately, the goal of the bill—to instill pride and self-sufficiency in those who are now humbled by welfare dependency—is thwarted by failing to provide pay equity to welfare recipients who are required to participate in work programs. Without adequate wage protections, enforced work programs will create a second-class pay system and a self-image of second-class citizenship. Workplace morale would also suffer under a system in which two persons doing the same entry-level job receive differing amounts of pay.

Many welfare recipients are in desperate need of a positive work experience, the kind of experience which offers the hope of regular employment and the self-respect which that engenders. This segment of the welfare population needs new skills—not make-work—to prepare for full-time productive employment. As reported out of conference, this legislation guarantees, instead, a cheap, unskilled labor pool that will remain downtrodden and welfare-dependent.

The AFL-CIO urges you to vote against this Conference Report.

Sincerely,

ROBERT M. MCGLOTTEN,
Director,
Department of Legislation.

CHILDREN'S DEFENSE FUND,
Washington, DC, September 28, 1988.

DEAR SENATOR: On behalf of the Children's Defense Fund (CDF), I urge you to oppose the Conference Report on H.R. 1720, The Family Welfare Reform Act, when it comes to the Senate floor later this week. The Conference agreement on welfare reform fails to ensure poor families the help they need to support their children and move toward economic self-sufficiency.

The final House-Senate compromise permits about one-half of the states to place arbitrary time limits on cash assistance for poor two-parent unemployed families, thereby continuing incentives toward family breakup. In addition, at the ideological insistence of the White House, the agreement proposes to squander taxpayers' dollars by mandating old-fashioned "make-work" programs for two-parent families. Such mandates will be implemented at the expense of far more productive investments in education and training programs for single parents on AFDC who will be unable to enter the job market without such help.

Specific provisions in the Conference Report that will prove most harmful to poor children and families include:

The failure to require that all states must provide full-year coverage under the AFDC-Unemployed Parent Program (AFDC-UP);

The imposition of federal "workfare" requirements on AFDC-UP families in all states, a provision which will force states to divert scarce resources toward non-productive make-work assignments for those parents with the greatest work experience and

away from education and training programs for those single parent families who are most likely to become long-term AFDC recipients;

The establishment of rigid participation rates for the regular AFDC caseload in JOBS Program activities, thereby focusing resources on compliance with the participation quotas rather than on the intensive services needed to help young single parents move into jobs; and

The lack of a requirement that family day care assisted with AFDC funds, but currently exempt from state and local child care standards, must comply with minimum health and safety guidelines established by individual states or localities.

These provisions undermine the potential gains for poor children and families in the Conference agreement in the areas of child care, Medicaid transition, and child support enforcement. The additional funds for child care for children in AFDC families and for transitional child care and Medicaid for those families moving from AFDC to jobs are critically needed. Such investments, however, must not be thwarted by requirements which otherwise impede progress for poor families struggling to become economically self-sufficient.

We urge you to oppose the Conference Report on H.R. 1720 and to continue to seek critical improvements for poor children and families in the next Congress.

Sincerely,

MARIAN WRIGHT EDELMAN.

CHILD WELFARE LEAGUE OF AMERICA, INC.,

Washington, DC, September 27, 1988.

An Open Letter to All Members of Congress:

We the undersigned members of the Child Welfare League of America are attending the 1988 Biennial Assembly to chart a course for Child Welfare Policy and Practice for the next two years. We are concerned that the pressure to reach consensus on welfare reform has resulted in a bill that will do little to enhance the long-term self-sufficiency of AFDC parents and even less for the 7.3 million children who depend on AFDC for their income security.

We urge you to oppose a bill that would:

Impose a workfare requirement on AFDC-UP recipients in two-parent families. Makework is no substitute for quality job training. It is not cost effective and provides no long-term benefits.

Impose unrealistic participation rates in the JOBS program and particularly for AFDC-UP recipients.

Place recipients in Community Work Experience (CWEP) without time limits or protections against repeat assignments.

Allow children to be placed in family day care without guarantees that the home meets basic health and safety requirements.

We believe that the bill's overall emphasis on CWEP and high participation rates will divert very limited resources from those who need intensive basic education and training.

As you move toward final passage of a welfare reform bill, please be assured that the Child Welfare League of America and its 500 member agencies throughout the country supports efforts by Members of Congress to craft a bill that results in genuine and humane welfare reform. We stand ready to support you and other Members of Congress who withstand the pressures to further erode the modest improvements outlined in the original House bill.

CHILD WELFARE LEAGUE OF AMERICA, INC.

Agency, City/State:

Mississippi Children's Home Society and Family Services Association, Jackson, Mississippi.

Orchard Place, Des Moines, Iowa.

Children's Bureau of Indianapolis, Indianapolis, Indiana.

Lutheran Child and Family Service of Michigan, Bay City, Michigan.

Children's Aid Society, Birmingham, Alabama.

Family and Child Services, Birmingham, Alabama.

Harris County Children's Protective Services, Houston, Texas.

Fulton County Department of Family and Children's Services, Atlanta, Georgia.

St. Louis Christian Home, St. Louis, Missouri.

Juliette Fowler Homes, Inc., Dallas, Texas.

The Children's Center, Galveston, Texas.

Southern Christian Services, Jackson, Mississippi.

Beech Brook, Pepper Pike, Ohio.

Presbyterian Child Welfare Agency, Buckhorn, Kentucky.

Chicago Child Care Society, Chicago, Illinois.

Boston Children's Services Association, Boston, Massachusetts.

Central Baptist Children's Home, Lake Villa, Illinois.

Counseling and Family Services, Peoria, Illinois.

Sunny Hills Children's Services, San Anselmo, California.

Lutheran Family Services, Raleigh, North Carolina.

New England Home for Little Wanderers, Boston, Massachusetts.

The Salvation Army Social Services for Children, New York, New York.

Jewish Board of Family and Children's Services, New York, New York.

Worcester Children's Friend Society, Worcester, Massachusetts.

Catholic Community Services, Miami Shores, Florida.

Family and Children's Services of Chattanooga, Inc., Chattanooga, Tennessee.

Beacon Counseling, Boston, Massachusetts.

Jewish Child Care Association, New York, New York.

Lula Belle Stewart Center, Detroit, Michigan.

Mr. DOMENICI. Mr. President, I ask unanimous consent that I be permitted to speak for 2 minutes.

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

It is my understanding from the managers that their time has been yielded so there is a total of 2 minutes.

Mr. MOYNIHAN. It is a great pleasure.

The PRESIDING OFFICER. For a total of 2 minutes the Senator is recognized.

Mr. DOMENICI. Mr. President, there are so many people to congratulate on this bill that I will merely indicate that I concur with all of the remarks made that were laudatory of Members of the Senate, the House, and the White House.

Let me say, however, that the United States of America over the last 25 years, almost every time you look at an economic recovery and an economic success story there has been attendant to it one failure. Single heads of households, and in the last 20 years, predominantly single women who are heads of households, have largely escaped the economic recoveries, be they the recovery right after the Second World War or the last three. Single heads of households have been the class of people that have not benefited as greatly from new jobs, from better jobs, from prosperity, from the so-called American dream.

As a matter of fact, I think I can say now that over the last 25 years they are about the only group of people that have not benefited proportionately from economic recovery. I think that is because we did not have an approach to welfare for single heads of households, trying to raise children in the slums and ghettos of America, that had a chance of working in the American economic system that is predicated upon jobs and entrepreneurial spirit. We merely invited them, that group of people, to stay where they were and accept some cash payments. And we should not be the least bit astounded that their numbers increased.

This bill's approach, is substantially different. It is aimed at a helping hand, training, education, and a job. Essentially the best American economic program is a job. Welfare is a last resort. And this, indeed, has a chance of working.

It may cost a few dollars but we have found a way to pay for it and I submit, if it reduces that growing group of Americans who do not participate in the American dream, it will be worth every penny because this is, indeed, one of America's true economic horror stories.

I am very hopeful that this new approach will work. Coupling education, training, a helping hand, and an opportunity to work might break the welfare cycle.

This is indeed both a landmark bill and a common sense bill. It provides a dramatic new emphasis on job training, a basic skills development, day care, and other support services to enable welfare recipients to escape dependence and leave the welfare rolls. It also contains the first real requirement ever that one parent in a two-parent welfare family perform some limited community service or other work activity as a condition of receiving benefits.

This bill results from substantial efforts by many people. President Reagan took the lead by calling from meaningful welfare reform in his State of the Union Address. The Governors have urged reform. The Senator from New York, Mr. MOYNIHAN, has worked hard on this issue for many years. Senate conferees brought

us a conference agreement which upholds the key principles of our Senate-passed measure. And the administration negotiated well to craft a bill the President would support.

BUDGET EFFECTS

Mr. President, the 1989 budget resolution passed by this body provided the opportunity for welfare reform that was deficit neutral in 1988, 1989, and over the period 1989-1991. This bill does not significant costs, but I am happy to report that the measure before us meets the terms of the budget resolution.

According to the Congressional Budget Office [CBO], which we use for scoring all bills against the budget resolution, the measure will cost $3.3 billion from 1989-1993 and provide for new collections and revenues of $3.3 billion over the same period. Because some benefits provisions do not become fully effective until 1990 or later, CBO projects that the bill will in fact save $0.4 billion in 1989 and a total of $0.5 billion over 1989-91.

Under the Gramm-Rudman-Hollings Balanced Budget Act, however, the Office of Management and Budget [OMB] makes final estimates of costs of enacted legislation to determine whether the spending targets mandated by that law are met. Due to differences with CBO in estimating the baseline costs of the Aid to Families With Dependent Children [AFDC] Program, OMB projects this bill will yield savings of $72 million in 1989. Thus the 1989 deficit would be reduced slightly from current estimates.

I must emphasize to my colleagues, however, the pressing need to keep 1989 spending within the levels agreed to under the Bipartisan Budget Agreement to avoid an across the board sequester. The latest OMB figures, adjusted to include the small improvement resulting from welfare reform and other spending legislation before the Senate, show that we are within $0.5 billion of a sequester. That is less than one-tenth of 1 percent of $1 trillion budget. So I stress to all Senators on both sides of the aisle that there remains a very thin margin between current law and a sequester.

CHILD SUPPORT ENFORCEMENT

Mr. President, I am pleased that the bill includes provisions to strengthen Federal child support enforcement standards. The changes made are based on the principle that responsibility for the well-being of family and children lies first with the family itself, including the absent spouse.

The bill provides for automatic withholding of court-ordered child support payments from the paycheck of the absent parent, even if payments are not in arrears. And it takes steps designed to improve the adequacy of child support awards and the establishment of paternity for all children.

My own State of New Mexico has adopted laws that are similar to provisions in the bill. New Mexico has in place a program for intercepting income tax refunds to collect overdue child support payments. Laws have been passed in New Mexico which will increase the number of child support hearing officers to expedite adjudication of child support claims and to establish mandatory support standards for child support judgments. These measures, together with new Federal law, should measurably strengthen our State/Federal Child Support Program.

JOB TRAINING AND SUPPORTING SERVICES

The centerpiece of the bill, which I strongly support, is the new Job Opportunities and Basic Skills Program [JOBS]. This program replaces the current Work Incentives [or WIN] Program with expanded opportunities for job training, education, and basic skills development. Able-bodied recipients with children age 3 and older are generally required to participate in JOBS, to the extent States have resources available to fund the program. Day care and other supportive services must be provided during the training period.

Mr. President, the Federal Government has committed up to $1 billion a year for this purpose by 1992 and even more beyond. We have made it clear that we believe such an investment in job training offers a chance to help people pull themselves out of poverty. A job is the best possible cure for poverty—and for self-respect—that one can think of, Mr. President.

This bill seeks to bring into the labor force persons who are often relatively low-skilled and who do not have significant work history.

Mr. President, there are a number of bills on the agenda around here—the minimum wage, parental leave, mandatory health benefits, and so on—which would levy significant additional costs on business. These new costs amount to an increase in the payroll tax. Employers facing a new tax would have to cut costs and may well be forced to reduce employment opportunities.

It is particularly ironic that any job loss associated with mandated benefits will fall most heavily on precisely the population we seek to assist with this welfare reform bill—low skilled, disadvantaged, teenagers, including teenage mothers. That is the consensus view of virtually all economists.

Mr. President, we have to think about the total effects of the various pieces of legislation we consider. On the one hand we are trying to help the disadvantaged enter the labor market with welfare reform. We must be careful we do not negate the potential gains from welfare reform by passing other legislation which would limit the availability of entry level jobs.

Our economy has created more than 16 million jobs in the last 6 years. If we do not foul things up by imposing excessive mandated benefits on employers, it will continue to create jobs in the coming years. Some of those new jobs we hope will be filled by people trained by the welfare reform bill.

It will be important to monitor in the future the effectiveness of our large investment in these activities.

The final bill also includes two generous so-called transition benefits which seek to ease the transfer of current welfare recipients into the work force. Free day care is provided for up to 1 year after leaving the welfare rolls. And Medicaid coverage is extended for up to 1 year after leaving welfare, even if wages would otherwise make one ineligible.

Mr. President, we know that day care and health insurance are two of the most pressing concerns for many Americans, not just those on welfare. My own State of New Mexico has taken a leadership role in offering subsidized day care to welfare recipients who have found jobs and are attempting to stay in the labor force and off welfare.

These transition benefits may well be helpful to families. Given the large Federal expenditure involved—$400 million per year—their net effectiveness in keeping families off welfare should be carefully studied.

AFCD-UP AND THE WORK REQUIREMENT

Finally, Mr. President, the bill requires all States to implement a welfare program for two-parent families, where the principal wage earner is unemployed. Under current law, this is a State option—24 States, including my own State of New Mexico, have chosen not to implement this so-called AFDC-UP Program and instead to concentrate limited resources on other aspects of the welfare program.

Mandatory AFDC-UP will add roughly 3,000 new cases to the AFDC rolls in New Mexico. This new cash assistance, plus associated Medicaid coverage, will yield a significant cost increase. I would have preferred a continuation of current law, Mr. President, that gave States the flexibility to adapt their welfare programs to their own needs.

But I am glad that the final agreement includes a provision, similar to one included in the Senate bill, which would provide the first real work requirement in the 50-year history of the Federal Welfare Program. Mr. President, the bill simply requires that one parent in a two-parent AFDC-UP family participate in at most 16 hours a week of State-designed work experience or on-the job training.

Frankly, Mr. President, there has been a lot of extreme and misleading rhetoric about this provision. The pur-

pose is not to penalize anyone, but simply to enable help able-bodied individuals in two-parent welfare families to maintain some contact with work skills and the work place.

Let me make clear that families subject to this requirement are receiving cash assistance. They receive health care coverage through Medicaid. They often receive food stamps. I do not think it is unreasonable—and I do not believe most Americans would—to ask recipients of that package of benefits to participate in State-designed work activities which are likely to benefit the community and help them maintain or gain work skills which may lead to a job.

SUMMARY

To sum up, on balance, this is a good bill. It is deficit neutral. It strengthens child support enforcement and family responsibility. It provides significant new resources to States for education, job training, day care, and health care coverage designed to give welfare recipients the opportunity to move from dependence to independence. While I do not believe it wise to require States to provide assistance to two-parent families, the principal wage earner in those families is subject to a reasonable, State-designed, work requirement. Mr. President, this is a sensible measure. I urge its adoption.

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

There being no further debate, the question occurs on agreeing to the conference report.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Texas [Mr. BENTSEN] and the Senator from Arkansas [Mr. BUMPERS] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Indiana [Mr. QUAYLE] is necessarily absent.

The PRESIDING OFFICER (Mr. LAUTENBERG). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 96, nays 1, as follows:

[Rollcall Vote No. 341 Leg.]

YEAS—96

Adams	Daschle	Hecht
Armstrong	DeConcini	Heflin
Baucus	Dixon	Heinz
Biden	Dodd	Hollings
Bingaman	Dole	Humphrey
Bond	Domenici	Inouye
Boren	Durenberger	Johnston
Boschwitz	Evans	Karnes
Bradley	Exon	Kassebaum
Breaux	Ford	Kasten
Burdick	Fowler	Kennedy
Byrd	Garn	Kerry
Chafee	Glenn	Lautenberg
Chiles	Gore	Leahy
Cochran	Graham	Levin
Cohen	Gramm	Lugar
Conrad	Grassley	Matsunaga
Cranston	Harkin	McCain
D'Amato	Hatch	McClure
Danforth	Hatfield	McConnell
Melcher	Pryor	Specter
Metzenbaum	Reid	Stafford
Mikulski	Riegle	Stennis
Mitchell	Rockefeller	Stevens
Moynihan	Roth	Symms
Murkowski	Rudman	Thurmond
Nickles	Sanford	Trible
Nunn	Sarbanes	Wallop
Packwood	Sasser	Warner
Pell	Shelby	Weicker
Pressler	Simon	Wilson
Proxmire	Simpson	Wirth

NAYS—1

Helms

NOT VOTING—3

Bentsen	Bumpers	Quayle

So the conference report was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CORRECTIONS IN THE ENROLLMENT OF H.R. 1720

Mr. MOYNIHAN. Mr. President, I send to the desk a concurrent resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The concurrent resolution will be stated by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 148) to correct technical errors in the enrollment of the bill H.R. 1720.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. MOYNIHAN. Mr. President, this concurrent resolution simply corrects a small number of drafting errors that were discovered after the conference report on the welfare reform legislation was filed. I ask its adoption.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (S. Con. Res. 148) was agreed to, as follows:

S. CON. RES. 148

Resolved by the Senate (the House of Representatives concurring), That, in the enrollment of the bill (H.R. 1720) to revise the AFDC program to emphasize work, child support, and family benefits, to amend title IV of the Social Security Act to encourage and assist needy children and parents under the new program to obtain the education, training, and employment needed to avoid long-term welfare dependence, and to make other necessary improvements to assure that the new program will be more effective in achieving its objectives, the Clerk of the House of Representatives shall make the following corrections:

(1) In section 111(f)(3) of the bill, strike "such date" and insert "such data".

(2) In paragraphs (2) and (4) of subsection (i) of the proposed new section 482 of the Social Security Act (as added by section 210(b) of the bill), strike "403(k)" and insert "403(1)".

(3) In paragraph (1)(C)(i)(II) of the proposed new subsection (f) of section 402 of the Social Security Act (as added by section 301 of the bill), before the period insert ", or (if higher) an amount established by the State".

(4) In paragraph (6)(D) of the proposed new subsection (g) of section 402 of the Social Security Act (as added by section 301 of the bill), strike "$13,000,000,000" and insert "$13,000,000".

(5) In section 403(a) of the bill (in the matter preceding paragraph (1)), strike "402(f)" and insert "401(f)".

(6) In section 604(a) of the bill (in the matter preceding paragraph (1)), strike "402(f)" and inserting "401(f)".

(7) In section 605(a) of the bill (in the matter preceding paragraph (1)), strike "402(f)" and insert "401(f)".

(8) In the proposed new subsection (e) of section 403 of the Social Security Act (as added by section 606 of the bill), immediately after "402(g)(1)(A)(i)", strike the brackets and the words included therein.

(a) In section 401(g)(2) of the bill, insert "Puerto Rico," after "respect to".

Mr. MOYNIHAN. I move to reconsider the vote by which the concurrent resolution was agreed to.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, 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 Committee on Labor and Human Resources.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 1:30 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4784) making appropriations for rural development, agriculture, and related agencies programs for the fiscal year ending September 30, 1989, and for other purposes; it recedes from its disagreement to the amendments of the Senate numbered 20, 60, 71, 78, 115, 117, 118, and 119 to the bill and agrees thereto; it recedes from its disagreement to the amendments of the Senate numbered 1, 12, 22, 43, 46, 56, 68, 75, 82, 90, 91,

109, 120, 121, 122, 126, 127, 128, 129, 130, 131, 140, 141, and 142 to the bill, and agrees thereto, each with an amendment, in which it requests the concurrence of the Senate; and that it insists upon its disagreement to the amendments of the Senate numbered 110 and 134 to the bill.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1472. An act to designate the post office building being constructed in West Liberty, TX, as the "M.P. Daniel and Thomas F. Calhoon, Sr., Post Office Building";

H.R. 3544. An act to increase the size of the Big Thicket National Preserve in the State of Texas by adding the Village Creek Corridor unit, the Big Sandy Corridor unit, and the Canyonlands unit;

H.R. 4417. An act to authorize appropriations to the Secretary of Commerce for the programs of the National Bureau of Standards for fiscal years 1989, and for other purposes;

H.R. 5210. An act to prevent the manufacturing, distribution, and use of illegal drugs, and for other purposes;

H.R. 5232. An act to grant the consent of the Congress to the Southwestern Low-Level Radioactive Waste Disposal Compact;

H.R. 5334. An act to make certain technical and conforming amendments to the Education of the Handicapped Act and the Rehabilitation Act of 1973, and for other purposes; and

H.R. 5337. An act to provide for the imposition of sanctions on Iraq.

At 2:14 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4587) making appropriations for the legislative branch for the fiscal year ending September 30, 1989, and for other purposes.

At 3:17 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, in which it requests the concurrence of the Senate:

H.R. 3704. An act to amend the Federal Fire Prevention and Control Act of 1974 to direct the Director of the Federal Emergency Management Agency, acting through the Administrator of the U.S. Fire Administration, to propose and promulgate a model code and guidelines governing the use and installation of automatic sprinkler systems in places of public accommodation affecting commerce, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 369. Concurrent resolution to commend the Department of State's science and technology officers on their outstanding performance and to recognize the importance of their work to the Congress and to the Nation.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The message further announced that the Speaker has signed the following enrolled bills and joint resolution:

S. 1259. An act to direct the Secretary of the Interior to permit access across certain Federal lands in the State of Arkansas, and for other purposes;

H.R. 4481. An act to authorize appropriations for fiscal year 1989 for military activities of the Department of Defense, for military construction, and the defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes;

H.R. 4782. An act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1989, and for other purposes;

H.R. 4794. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1989, and for other purposes; and

H.J. Res. 665. Joint resolution authorizing the hand enrollment of appropriations bills for fiscal year 1989 and authorizing the subsequent postenactment preparation of printed enrollments of those bills.

The enrolled bills and joint resolution were subsequently signed by the Acting President pro tempore (Mr. BYRD).

At 4:27 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4637) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1989, and for other purposes; it recedes from its disagreement to the amendments of the Senate numbered 14, 28, 29, 32, 36, 37, 38, 40, 42, 61, 75, 78, 79, 80, 83, 106, 107, 108, 118, 120, 123, 125, 127, 128, 129, 130, 132, 136, 143, 155, 156, 157, 160, 163, and 166 to the bill, and agrees thereto; and it recedes from its disagreement to the amendments of the Senate numbered 1, 5, 7, 10, 11, 23, 31, 33, 35, 44, 47, 53, 55, 62, 64, 70, 84, 86, 88, 89, 90, 101, 103, 111, 112, 115, 119, 123, 133, 134, 135, 141, 144, 169, 170, 171, 172, 173, 175, 176, 177, 179, 180, and 182 to the bill, and agrees thereto, each with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 4189. An act to authorize appropriations to carry out the Marine Mammal Protection Act of 1972 for fiscal years 1989 through 1993; and

H.R. 5056. An act to authorize agricultural research programs, improve the operations of the National Agricultural Library, and for other purposes.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 1472. An act to designate the post office building being constructed in West Liberty, Texas, as the "M. P. Daniel and Thomas F. Calhoon, Sr., Post Office Building"; to the Committee on Governmental Affairs.

H.R. 3544. An act to increase the size of the Big Thicket National Preserve in the State of Texas by adding the Village Creek Corridor unit, the Big Sandy Corridor unit, and the Canyonlands unit; to the Committee on Energy and Natural Resources.

H.R. 3704. An act to amend the Federal Fire Prevention and Control Act of 1974 to direct the Director of the Federal Emergency Management Agency, acting through the Administrator of the United States Fire Administration, to propose and promulgate a model code and guidelines governing the use and installation of automatic sprinkler systems in places of public accommodation affecting commerce, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 4417. An act to authorize appropriations to the Secretary of Commerce for the programs of the National Bureau of Standards for fiscal year 1989, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 5056. An act to authorize agricultural research programs, improve the operations of the National Agricultural Library, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 369. Concurrent resolution to commend the Department of State's Science and Technology Officers on their outstanding performance and to recognize the importance of their work to the Congress and to the Nation; to the Committee on Foreign Relations.

MEASURES PLACED ON THE CALENDAR

Pursuant to the order of the Senate of September 23, 1988, the following bill was red the first and second times by unanimous consent, and placed on the calendar:

H.R. 5210. An act to prevent the manufacturing, distribution, and use of illegal drugs, and for other purposes;

ENROLLED BILLS SIGNED

The ACTING PRESIDENT pro tempore (Mr. BYRD) reported that on today, September 29, 1988, he had signed the following enrolled bills, which had previously been signed by the Speaker of the House:

S. 1934. An act pursuant to the report ordered by Public Law 99-229 which directed the Architect of the Capitol and the Secretary of Transportation to undertake a study on the needs of the Federal judiciary for additional office space, to authorize the Architect of the Capitol to contract for the design and construction of a building adjacent to Union Station in the District of Columbia to house agency offices in the judicial branch

of the United States, and for other purposes; and

H.R. 1467. An act to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal year 1988, 1989, 1990, 1991, and 1992, and for other purposes.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, September 29, 1988, he presented to the President of the United States the following enrolled bills:

S. 1259. An act to direct the Secretary of the Interior to permit access across certain Federal lands in the State of Arkansas, and for other purposes; and

S. 1934. An act pursuant to the report ordered by Public Law 99-229 which directed the Architect of the Capital and the Secretary of Transportation to undertake a study of the needs of the Federal judiciary for additional Federal office space, to authorize the Architect of the Capitol to contract for the design and construction of a building adjacent to Union Station in the District of Columbia to house agencies offices in the judicial branch of the United States, and for other purposes.

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-619. A joint resolution adopted by the Legislature of the State of California; to the Committee on Agriculture, Nutrition, and Forestry.

"ASSEMBLY JOINT RESOLUTION NO. 59

"Whereas, The forest fires of 1987 may result in a significant financial loss due to the decrease in federal timber receipts in many of the counties of California; and

"Whereas, The Forest Service, in the United States Department of Agriculture, contributes 25 percent of new timber sales on federal lands, in lieu of property taxes, to counties; and

"Whereas, Fire-damaged trees must be harvested immediately to prevent infestation of voracious bark bettles and heartwood bores and other deterioration; and

"Whereas, For the next several years, loggers will discontinue cutting green trees and concentrate on those trees damaged by fire; and

"Whereas, The Forest Service is not required to share timber receipts for salvaged lumber; and

"Whereas, Counties are required to spend one-half of the timber receipts they receive on schools and one-half on road maintenance and construction; and

"Whereas, Many rural counties depend heavily on the federal timber receipts they receive for their schools and road repairs; and

"Whereas, These counties currently recieve between $35 million and $55 million per year in federal timber receipts from the Forest Service; and

"Whereas, The Forest Service estimates that counties could lose up to $20 million for schools and roads; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature respectfully memoralizes the President and the Congress of the United States to enact legislation to guarantee each rural county currently receving federal timber receipts a minimum allocation of timber receipts for the 1987-88, 1988-89, 1989-90, and 1990-91 fiscal years to help ensure that each county may maintain essential public services; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Chief of the Forest Service."

POM-620. A joint resolution adopted by the Legislature of the State of California; to the Committee on Commerce, Science, and Transportation:

"ASSEMBLY JOINT RESOLUTION NO. 80

"Whereas, The Federal Aviation Administration (FAA) is proposing to expand the use of foreign repair stations for United States registered aircraft; and

"Whereas, The proposed regulation amendment allowing expansion of foreign repair stations has been unilateral on the part of the FAA without proper notice for comment or debate; and

"Whereas, Motivation for the expansion of foreign repair stations is based on purely economic factors, without regard for safety concerns; and

"Whereas, This proposal would permit a United States air carrier to contract for maintenance, alteration, or inspection of its United States registered aircraft with any foreign repair station, whether or not it employs holders of the United States Airman Certificates; and

"Whereas, The FAA foreign repair station proposal would jeopardize airline safety in the United States by allowing any foreign country to inspect and maintain United States aircraft, and by using unlicensed mechanics and inadequately supervised maintenance on the United States aircraft without FAA inspection; and

"Whereas, The FAA foreign repair station proposal would result in the loss of thousands of jobs in the United States and in the displacement of workers; and

"Whereas, Our air transport industry has had an enviable safety record due to the strict control and monitoring currently imposed by the FAA with regard to aircraft maintenance and repairs; and

"Whereas, To alter or relax these controls would only subject the public to unnecessary risks; and

"Whereas, Looser standards for foreign repair stations fly in the face of the growing body of evidence that air safety is already threatened by the FAA's inadquate inspection programs; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the California Legislature respectfully memorializes the President and Congress of the United States to support efforts to ensure that all United States aircraft are repaired in facilities where trained, licensed, and competent mechanics are employed and are supervised by the FAA; and be it further

"Resolved, That any consideration of maintenance plans to the contrary be fully debated and that the FAA do so with an understanding of the impact on customer safety and the economic impact that may result from the use of foreign repair stations; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies 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, and to the Director of the Federal Aviation Administration."

POM-621. A joint resolution adopted by the Legislature of the State of California; to the Committee on Finance:

"ASSEMBLY JOINT RESOLUTION NO. 83

"Whereas, The collection point for the federal excise tax on diesel fuel for off-road vehicle use was changed from the retail to the wholesale level by the Congress as part of the 1987 Budget Reconciliation Act; and

"Whereas, Farmers and other off-road users are exempt from paying the federal 15.1 cents per gallon diesel fuel tax; and

"Whereas, When adopting the 1987 legislation, Congress required the Internal Revenue Service to collect the tax and offer farmers and other off-road users a refund at the end of the tax year; and

"Whereas, As of April 1, 1988, farmers and other off-road users began paying the diesel tax at the time of purchase; and

"Whereas, This change has created an unnecessary financial burden on California farmers and other off-road users of diesel fuel; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to repeal the collection of the federal diesel fuel excise tax for off-road vehicle use; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies 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-622. A joint resolution adopted by the Legislature of the State of California; to the Committee on Governmental Affairs.

"ASSEMBLY JOINT RESOLUTION NO. 74

"Whereas, The United States Census Bureau will be conducting its decennial census in 1990; and

"Whereas, In every past census there has been a significant and disproportionate undercount of minorities, the poor, the homeless, recent immigrants, and residents of remote rural areas; and

"Whereas, Although the Census Bureau is planning to make a special effort to reduce the undercount in 1990, all experts agree that there will still be a significant undercount, particularly in urban areas, or minorities, the poor, the homeless, and recent immigrants, and of residents of some remote rural areas; and

"Whereas, A consensus has emerged among statisticians and other experts, including a panel of the National Academy of Sciences, that the methodology exists to make a statistically valid and technically feasible adjustment of the census to correct for the undercount; and

"Whereas, If the undercount is not corrected, California will lose over 50 million dollars per year in federal programs and federal assistance, which are based on census figures; and

"Whereas, California lost at least one congressional seat in the 1981 reapportionment because of the undercount in the 1980 Census; and

"Whereas, If the undercount is not corrected, California stands to lose one or two congressional seats in the 1991 reapportionment; and

"Whereas, If the undercount is not corrected, California will not be able to develop accurate statistics relating to health needs, infant mortality, and epidemiology, statistics needed for health and emergency services planning and for the allocation of federal health funds; and

"Whereas, If the undercount is not corrected, California schools will not be able to develop accurate statistics on age and ethnicity of children, needed for federal education funding, planning for English-as-a-second-language programs, school construction, desegregation, and other student needs; and

"Whereas, If the undercount is not corrected, California will be unable to develop accurate statistics on refugee migration, needed for planning for social and health services; on inner city transportation needs; and on density of housing, needed to determine housing adequacy and safety; and

"Whereas, Representative Mervyn Dymally has introduced in the House of Representatives a bill which would require the Census Bureau to adjust the 1990 Census by using statistically valid methodology to correct for the undercount; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California urges the Congress of the United States to pass, and the President of the United States to sign, legislation requiring the Census Bureau to adjust the 1990 Census by using statistically valid methodology to correct for any undercount of minorities, the poor, the homeless, recent immigrants, and residents of remote rural areas; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, the United States Secretary of Commerce, the Speaker of the United States House of Representatives, and each representative and senator from California in the Congress of the United States."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 2477. A bill to amend the Public Health Service Act to modify the authority for the regulation of clinical laboratories to require licensed laboratories to qualify under proficiency testing programs, and for other purposes (Rept. No. 100-561).

By Mr. CRANSTON, from the Committee on Veterans' Affairs:

Special Report entitled "Report of the Committee on Veterans' Affairs Pursuant to Section 302(b) of the Congressional Budget Act of 1974 (Rept. No. 100-562).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LEAHY, from the Committee on Agriculture, Nutrition, and Forestry:

The following-named persons to the Members of the Board of Directors of the Federal Agricultural Mortgage Corporation:

John R. Dahl, of North Dakota;

Derryl McLaren, of Iowa;

Gordon Clyde Southern, of Missouri; and

Edward Charles Williamson, Jr., of Georgia.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. WILSON, from the Committee on Armed Services:

Milton L. Lohr, of California, to be Deputy Under Secretary of Defense for Acquisition.

(The above nomination was reported with the recommendation that it 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. WILSON. Mr. President, from the Committee on Armed Services, I report favorably the attached listing of nominations.

Those identified with a single asterisk (*) are to be placed on the Executive Calendar. Those identified with a double asterisk (**) are to lie on the Secretary's desk for the information of any Senator since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again.

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

**1. In the Marine Corps there are 78 appointments to the grade of colonel (list begins with James R. Acreback, but excludes the name of Lieutenant Colonel Robert L. Earl, 5372) (REF. 1132)

*2. Lieutenant General Leonard H. Perroots, U.S. Air Force, to be placed on the retired list in the grade of lieutenant general (REF. 1223)

*3. Lieutenant General Charles McCausland, U.S. Air Force, to be reassigned in the grade of lieutenant general (REF. 1224)

*4. Colonel Robert Everett Via, Jr., U.S. Army, to be brigadier general (REF. 1228)

*5. In the Navy Reserve there are 3 promotions to the grade of rear admiral (list begins with Samuel Edward McWilliams) (REF. 1229)

**6. In the Air Force there are 29 promotions to the grade of colonel (list begins with Marvin R. Bennett) (REF. 1230)

**7. In the Army there are 48 promotions to the grade of colonel and below (list begins with Lindel Anderson) (REF. 1231)

**8. In the Marine Corps there are 28 appointments to the grade of second lieutenant (list begins with Michael E. Corsey) (REF. 1232)

**9. In the Marine Corps Reserve there are 51 appointments to the grade of colonel (list begins with James C. Adamson) (REF. 1233)

**10. In the Navy there are 926 promotions to the grade of lieutenant commander (list begins with Scott Anthony Abbott) (REF. 1234)

**11. Admiral Ronald J. Hays, U.S. Navy, to be placed on the retired list in the grade of admiral (REF. 1259)

**12. In the Air Force there are 23 appointments to the grade of colonel and below (list begins with Thomas J. Conage) (REF. 1263)

**13. In the Air Force there are 3 promotions to the grade of major (list begins with Jimmie L. Benton) (REF. 1264)

**14. In the Army there are 15 promotions to the grade of colonel (list begins with William A. Aileo) (REF. 1265)

**15. In the Army there are 4 promotions to the grade of colonel and below (list begins with Morris H. Moses) (REF. 1266)

**16. In the Army there are 3 promotions to the grade of lieutenant colonel and below (list begins with Robert E. Williams) (REF. 1267)

**17. In the Air Force there are 3,363 promotions to the grade of major (list begins with Candace C. Abbott) (REF. 1268)

**18. In the Navy Reserve there are 1,292 appointments to the grade of captain and below (list begins with Jonathan C. Underwood) (REF. 1269)

**19. In the Navy there are 757 promotions to the grade of Lieutenant commander (list begins with Christopher R. Accetta) (REF. 1270)

*20. Admiral Lee Baggett, Jr., U.S. Navy, to be placed on the retired list in the grade of admiral (REF. 1273)

*21. Admiral Kinnaird R. McKee, U.S. Navy, to be placed on the retired list in the grade of admiral (REF. 1274)

*22. Vice Admiral Nils R. Thunman, U.S. Navy, to be placed on the retired list in the vice admiral (REF. 1275)

*23. Vice Admiral Daniel L. Cooper, U.S. Navy, to be reassigned in the grade of vice admiral (REF. 1276)

*24. David Elliott Bottorff, U.S. Navy, to be rear admiral (REF. 1277)

**25. In the Air Force there are 213 appointments to the grade no higher than major (list begins with Wiliam P. Bagley) (REF. 1278)

*26. Major General Robert P. McCoy, U.S. Air Force, to be lieutenant general (REF. 1288)

*27. In the Army National Guard there are 32 appointments to the grade of major general and below (list begins with Robert H. Appleby) (REF. 1289)

*28. James C. Rinaman, Jr., U.S. Army National Guard, to be brigadier general (REF. 1290)

**29. Thomas R. Blair, U.S. Air Force Reserve, to be lieutenant colonel (REF. 1291)

**30. In the Air National Guard there are 19 promotions to the grade of lieutenant colonel (list begins with Michael H. Abel) (REF. 1292)

**31. In the Army Reserve there are 18 appointments to the grade of colonel and below (list begins with Orlando T. Hines) (REF. 1293)

**32. In the Army National Guard there are 65 promotions to the grade of colonel and below (list begins with Willie L. Basler, Jr.) (REF. 1294)

*33. Vice Admiral Bruce Demars, U.S. Navy, to be admiral (REF. 1300)

*34. Lieutenant General H. Norman Schwarzkopf, U.S. Army, to be general (REF. 1311)

*35. Major General Carl W. Stiner, U.S. Army, to be lieutenant general (REF. 1312)

*36. Lieutenant General John W. Foss, U.S. Army, to be reassigned in the grade of lieutenant general and to be senior Army member of the Military Staff Committee of the United Nations (REF. 1313)

*37. In the Army there are 48 appointments to the grade of brigadier general (list

begins with Richard W. Potter, Jr., but excludes the names of Col. William J. Edwards, [redacted], United States Army and Col. James J. Steele, [redacted], United States Army) (REF. 1314)

*38. Lieutenant General Hansford T. Johnson, U.S. Air Force, to be reassigned in the grade of lieutenant general (REF. 1330)

*39. General Arthur E. Brown, Jr., U.S. Army, to be placed on the retired list in the grade of general (REF. 1331)

*40. Lieutenant General Robert W. RisCassi, U.S. Army, to be Vice Chief of Staff of the Army (REF. 1332)

*41. Colonel Bruce T. Miketinac, U.S. Army, to be brigadier general (REF. 1333)

*42. Vice Admiral Henry C. Mustin, U.S. Navy, to be placed on the retired list in the grade of vice admiral (REF. 1334)

**43. In the Air Force Reserve there are 16 promotions to the grade of lieutenant colonel (list begins with Jack S. Arnold) (REF. 1346)

**44. In the Air Force there are 2 promotions to the grade of major (list begins with Linda R. Beson) (REF. 1347)

**45. In the Marine Corps there are 47 appointments to the grade of second lieutenant (list begins with Carl T. Amodio) (REF. 1348)

**46. In the Navy there are 2 appointments to the grade of ensign (list begins with Albert M. Passy) (REF. 1349)

**47. In the Air Force there are 1,177 appointments to a grade no higher than captain (list begins with Lex A. Abadie) (REF. 1350)

**48. In the Marine Corps Reserve there are 113 appointments to the grade of lieutenant colonel (list begins with Larry D. Adams) (REF. 1351)

**49. In the Air Force Reserve there is one appointment to the grade of lieutenant colonel (Douglas G. Malloy) (REF. 1366)

**50. In the Naval Reserve there are 11 appointments to the grade of commander (list begins with Mack Bonner) (REF. 1367)

**51. In the Air Force Reserve there are 1,167 promotions to the grade of lieutenant colonel (list begins with David Abramson) (REF. 1368)

**52. In the Army Reserve there are 95 promotions to the grade of colonel and below (list begins with Leon D. Anderson) (REF. 1369)

**53. Vice Admiral George W. Davis, Jr., U.S. Navy, to be placed on the retired list in the grade of vice admiral (REF. 1374)

Total: 9,671.

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. LAUTENBERG (for himself and Mr. HEINZ):

S. 2844. A bill to provide for radon testing; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HECHT:

S. 2845. A bill to provide for the transfer of a certain parcel of land located in Clark County, Nevada; to the Committee on Energy and Natural Resources.

By Mr. WEICKER (for himself and Mr. KENNEDY):

S. 2846. A bill to provide for the awarding of grants for the purchase of drugs used in the treatment of AIDS; considered and passed.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MOYNIHAN:

S. Con. Res. 148. A concurrent resolution to correct technical errors in the enrollment of the bill H.R. 1720; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LAUTENBERG (for himself and Mr. HEINZ):

S. 2844. A bill to provide for radon testing; to the Committee on Banking, Housing, and Urban Affairs.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT RADON POLICY ACT

● Mr. LAUTENBERG. Mr. President, today I am introducing the Department of Housing and Urban Development Radon Policy Act. I am pleased that Senator HEINZ has joined me as a cosponsor of this legislation.

Two weeks ago, the U.S. Public Health Service announced a national radon advisory for everyone living in homes and up to the second floor in apartments to test their homes for radon. At the same second time, EPA released the results of surveys of radon contamination in seven States carried out in response to my 1986 legislation which requires EPA to conduct a national radon assessment. One in three houses in these States had radon levels in excess of the standard established by EPA for taking action. In my State of New Jersey, the department of environmental protection estimates that nearly 2 million of the State's dwellings may be at risk from high levels of radon. Nationally, EPA estimates that 1 in 8 of the Nation's 75 million homes may contain excessive levels of radon.

Scientists believe that radon causes up to 20,000 lung cancer deaths a year, the second leading cause of lung cancer after smoking. It's clear that the danger posed by radon requires a comprehensive Federal and State effort and that radon contamination is one of the most serious problems facing the Nation's housing policymakers.

While EPA has developed a reasonably successful radon program, the Nation's housing agency, the Department of Housing and Urban Development, has failed to act.

According to a GAO report, Indoor Radon: Limited Federal Response to Reduce Contamination in Housing, which I released in April and confirmed by testimony at a May hearing before the Senate Superfund and Environmental Oversight Committee which I chair, HUD: First, has reacted to radon in a limited, piecemeal manner and doesn't have a radon policy, second, hasn't asked for any funding for radon, third, has failed to implement its responsibilities under the 1986 Superfund Amendments and Reauthorization Act to work with EPA in radon research and fourth, hasn't implemented its existing authority to provide safe housing, housing which is safe from the threats of radon.

As former EPA Deputy Director Jim Barnes said at our May hearing, HUD has an important role to play in the Nation's radon program by serving as a model and leader for the private sector.

Yet, HUD takes the attitude that it won't act without a mandate. So the legislation I am introducing today provides HUD with that mandate.

And HUD says that it can't act because there is no Federal radon regulatory standard. So my legislation will require HUD to use whatever standards or guidelines EPA develops and which are being used by every other Federal agency and by State and local governments.

The bill does not authorize to duplicate the efforts already being made by EPA and other Federal agencies. The bill specifically requires HUD to use the information EPA develops in its program. But the bill does require HUD to take this information and use it to establish and apply a radon policy and program to certain housing programs specified in the bill.

My legislation also will require HUD to disseminate radon information, establish a radon testing program, advise Congress on the extent of radon contamination in dwellings covered by this legislation and the most effective ways to mitigate radon contaminated housing and enter into an agreement with EPA to more fully establish HUD's radon responsibilities, particularly its research responsibilities under title IV of the Superfund Amendments and Reauthorization Act of 1986. The bill gives HUD the flexibility to carry out the testing and information programs. HUD is to work with EPA and devise programs to carry out these mandates.

Radon poses a serious health threat. But we know how to test, detect, and mitigate elevated levels of radon. With strong national and State efforts, we will be able to protect our citizens from the threat posed by radon. HUD, as the Nation's housing agency, has an important role to play in this effort. My legislation is designed to require HUD to undertake that role. I urge my colleagues to support this bill.

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

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

S. 2844

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 "Department of Housing and Urban Development Radon Policy Act".

SEC. 2. FINDINGS.

The Congress finds that—

(1) exposure to radon poses a serious threat to public health in certain areas of the country and is estimated to cause between 5,000 and 20,000 lung cancer deaths each year;

(2) Federal response to the health threat posed by radon is essential;

(3) the Environmental Protection Agency, which is the lead Federal agency for addressing radon, with the assistance of other Federal agencies, State and local governments, and the private sector, is developing radon testing and mitigation techniques and identifying areas with elevated radon levels;

(4) the Department of Housing and Urban Development is responsible for assisting in the production of housing of sound standards of design, construction and livability;

(5) the Department of Housing and Urban Development does not have a comprehensive radon policy and program;

(6) the Department of Housing and Urban Development must participate in the Federal radon effort; and

(7) the Department of Housing and Urban Development, in coordination with the Environmental Protection Agency, must establish a comprehensive radon policy and program.

SEC. 3. PURPOSE.

The purposes of this Act are to—

(1) provide the Department of Housing and Urban Development with a mandate to establish a departmental radon policy and program;

(2) require the Department of Housing and Urban Development to use its programs to assist the Environmental Protection Agency address radon contamination; and

(3) require the Department of Housing and Urban Development, in coordination with the Environmental Protection Agency, to develop a radon assessment and mitigation program which utilizes Environmental Protection Agency recommended guidelines and standards to ensure that occupants of housing covered under this Act are not exposed to elevated levels of radon.

SEC. 4. DEFINITIONS.

As used in this Act:

(1) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) The term "Secretary" means the Secretary of Housing and Urban Development.

SEC. 5. PROGRAM.

(a) APPLICABILITY.—The housing covered under this Act is—

(1) housing owned by the Department of Housing and Urban Development;

(2) public housing and Indian housing assisted under the United States Housing Act of 1937;

(3) housing receiving project-based assistance under section 8 of the United States Housing Act of 1937;

(4) housing assisted under section 236 of the National Housing Act; and

(5) housing assisted under section 221(d)(3) of the National Housing Act.

(b) IN GENERAL.—The Secretary, in coordination with the Administrator, shall develop a radon contamination program which provides programs for education research, testing, and mitigation measures.

(c) STANDARDS.—In developing and implementing the program, the Secretary shall utilize any guidelines, information, or standards established by the Environmental Protection Agency for—

(1) testing residential and nonresidential structures for radon;

(2) identifying elevated radon levels;

(3) identifying when remedial actions should be taken; and

(4) identifying geographical areas which are likely to have elevated levels of radon.

(d) COORDINATION.—The Secretary shall coordinate the efforts of the Department of Housing and Urban Development to establish and implement the program with the Environmental Protection Agency, other Federal agencies, State and local governments, the housing industry, consumer groups, health organizations, academia, and appropriate professional organizations.

(e) TESTING.—The Secretary in consultation with the Administrator shall establish a schedule for and conduct testing of housing covered by this Act. The Secretary shall work with the Administrator to establish priorities for such testing.

(f) REPORT.—The Secretary shall submit a report to Congress within 1 year after the date of enactment of this Act which describes the actions and plans the Department has taken and proposes to take to implement the program established under this Act including the memorandum of understanding established between the Secretary and the Administrator pursuant to section 7. The report also shall include an estimate of the housing covered by this Act that is likely to have elevated levels of radon and the recommendations from the Department of Housing and Urban Development on remedial actions.

SEC. 6. INFORMATION.

The Secretary shall, in cooperation with the Administrator, assist in the dissemination of general radon information to the public.

SEC. 7. COOPERATION WITH ENVIRONMENTAL PROTECTION AGENCY.

(a) MEMORANDUM OF UNDERSTANDING.—Within 6 months after the date of enactment of this Act, the Secretary and the Administrator shall enter into a memorandum of understanding describing the Secretary's plan to assist the Administrator in carrying out the Environmental Protection Agency's authority to assess the extent of radon contamination in the United States and help develop measures to avoid and reduce radon contamination.

(b) CONTENTS.—The memorandum of understanding shall specify how the Secretary will assist the Administrator by using the Secretary's existing programs to incorporate radon mitigation techniques in a limited number of projects assisted by the Department and to evaluate the effectiveness of those techniques.

SEC. 8. AUTHORIZATION.

To carry out the purposes of this Act, the Secretary is authorized to use funds from the fiscal year 1989 budget of the Office of Community Planning and Development of the Department of Housing and Urban Development.●

By Mr. HECHT:

S. 2845. A bill to provide for the transfer of a certain parcel of land located in Clark County, NV; to the Committee on Energy and Natural Resources.

TRANSFER OF CERTAIN LAND IN NEVADA

● Mr. HECHT. Mr. President, on May 4, 1988, the residents of Clark County and Henderson, NV, were devastated when the PEPCON rocket fuel plant exploded leaving two dead and over $75,000,000 in property damage. Furthermore, the Nation lost approximately 60 percent of its capacity to produce ammonium perchlorate, vital to the Space Program and to our Nation's defense. We have learned from this terrible disaster and now, for the sake of our Nation's defense readiness, the Space Program, and for the residents of Clark County and Henderson, NV, must look ahead and develop a new site for the storing and blending of rocket fuels.

Today I am introducing a bill that would help facilitate the process to acquire Federal land to reconstruct this facility. The bill would transfer approximately 20,000 acres from the Bureau of Land Management to Clark County, NV. This land transfer would provide residents in the county with the jobs that were lost, provide a way for Nevada to expand and diversify its industrial resources as well as providing a secure site for the production of a product essential to the Nation's defense.

I ask that my colleagues support this bill and assist in enacting this vital legislation.●

ADDITIONAL COSPONSORS

S. 708

At the request of Mr. PROXMIRE, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 708, a bill to require annual appropriations of funds to support timber management and resource conservation on the Tongass National Forest.

S. 2584

At the request of Mr. LAUTENBERG, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of S. 2584, a bill to eliminate drug-related crime in public housing projects.

S. 2601

At the request of Mr. HEFLIN, the names of the Senator from Florida [Mr. GRAHAM], and the Senator from California [Mr. WILSON] were added as cosponsors of S. 2601, a bill to amend section 371 of title 28, United States Code, to allow a Federal judge who is at least 60 years of age and has completed 20 years of service to retire from regular active service.

S. 2775

At the request of Mr. COCHRAN, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 2775, a bill to create a Commission on the American Family and Employment.

SENATE CONCURRENT RESOLUTION 145

At the request of Mr. MITCHELL, the names of the Senator from Massachusetts [Mr. KERRY], and the Senator from Rhode Island [Mr. CHAFEE] were added as cosponsors of Senate Concurrent Resolution 145, a concurrent resolution expressing the sense of the Congress regarding the state of affairs in Lebanon and urging all parties in Lebanon to work together to resolve the constitutional crisis.

SENATE CONCURRENT RESOLUTION 148—CORRECTING TECHNICAL ERRORS IN THE ENROLLMENT OF THE BILL H.R. 1720

Mr. MOYNIHAN submitted the following concurrent resolution; which was considered and agreed to:

SENATE CONCURRENT RESOLUTION 148

Resolved by the Senate (the House of Representatives concurring), That, in the enrollment of the bill (H.R. 1720) to revise the AFDC program to emphasize work, child support, and family benefits, to amend title IV of the Social Security Act to encourage and assist needy children and parents under the new program to obtain the education, training, and employment needed to avoid long-term welfare dependence, and to make other necessary improvements to assure that the new program will be more effective in achieving its objectives, the Clerk of the House of Representatives shall make the following corrections:

(1) In section 111(f)(3) of the bill, strike "such date" and insert "such data".

(2) In paragraphs (2) and (4) of subsection (i) of the proposed new section 482 of the Social Security Act (as added by section 201(b) of the bill), strike "403(k)" and insert "403(l)".

(3) In paragraphs (1)(C)(i)(II) of the proposed new subsection (g) of section 402 of the Social Security Act (as added by section 301 of the bill), before the period insert ", or (if higher) an amount established by the State".

(4) In paragraphs (6)(D) of the proposed new subsection (g) of section 402 of the Social Security Act (as added by section 301 of the bill), strike "$13,000,000,000" and insert "$13,000,000".

(5) In section 403(a) of the bill (in the matter preceding paragraphs (1)), strike "402(f)" and insert "401(f)".

(6) In section 604(a) of the bill (in the matter preceding paragraphs (1)), strike "402(f)" and inserting "401(f)".

(7) In section 605(a) of the bill (in the matter preceding paragraphs (1)), strike "402(f)" and inserting "401(f)".

(8) In the proposed new subsection (e) of section 403 of the Social Security Act (as added by section 606 of the bill), immediately after "402(g)(1)(A)(i)", strike the brackets and the words included therein.

(9) In section 401(g)(2) of the bill, insert "Puerto Rico", after "respect to".

AMENDMENTS SUBMITTED

PARENTAL AND TEMPORARY MEDICAL LEAVE

D'AMATO AMENDMENT NO. 3307

(Ordered to lie on the table.)

Mr. D'AMATO submitted an amendment intended to be proposed by him to the bill (S. 2488) to grant employees parental and temporary medical leave under certain circumstances, and for other purposes, as follows:

On page 31, between lines 11 and 12, insert the following new section:

SEC. . ADMINISTRATION RESPECTING CERTAIN EDUCATIONAL EMPLOYEES.

(a) SPECIAL RULE.—In the case of any employee employed in an instructional capacity by a local educational agency (as defined in section 1471(12)) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(12)), if such employee intends to return from a period of leave within 28 days prior to the conclusion of an academic term—

(1)(A) under section 103(a)(1) (A) or (B); or

(B) under section 103(a)(1)(C) or 104 and the necessity for such period of leave is foreseeable based on planned medical treatment or supervision; and

(2) the return from leave may be scheduled so as not to be within 28 days prior to the conclusion of the relevant academic term;

the educational agency and the employee (or the employee's representative under the terms of a collective bargaining agreement) may mutually agree on the extension of the period of leave of the employee under any such section until the commencement of the succeeding relevant academic term and on the applicable terms and conditions of such extended leave.

(b) BENEFITS.—The protections provided in section 106 shall continue to apply in the case of any employee covered under an agreement described in subsection (a).

ARMSTRONG AMENDMENTS NOS. 3311 AND 3312

(Ordered to lie on the table.)

Mr. ARMSTRONG submitted two amendments intended to be proposed by him to the bill, S. 2488, supra, as follows:

AMENDMENT No. 3311

On page 14, strike out lines 11 through 13, and insert in lieu thereof:

"(1) IN GENERAL.—The employer may".

On page 15, between lines 11 and 12, insert the following new paragraph:

(3) FAILURE TO OBTAIN OPINION.—An employee who refuses to obtain a second opinion after a request by an employer under paragraph (1) shall not be eligible for parental or medical leave pertaining to the claim for which such second opinion was requested.

AMENDMENT No. 3312

On page 29, strike out line 24 and all that follows through line 5 on page 30, and insert in lieu thereof the following new subparagraph:

(B) an additional amount of actual damages.

TAX TECHNICAL CORRECTIONS ACT

SPECTER AMENDMENT NOS. 3313 AND 3314

(Ordered to lie on the table.)

Mr. SPECTER submitted two amendments intended to be proposed by him to the bill (S. 2238) to make technical corrections relating to the Tax Reform Act of 1986, and for other purposes, as follows:

AMENDMENT No. 3313

At the end of the matter add the following:

SEC. . PRIVATE ACTIONS FOR RELIEF FROM CUSTOMS FRAUD.

(a) IN GENERAL.—

(1) Chapter 95 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1586. Private enforcement action for customs fraud

"(a) Any interested party whose business or property is injured by a fraudulent, grossly negligent, or negligent violation of section 592(a) of the Tariff Act of 1930 (19 U.S.C. 1592) may bring a civil action in the district court of the District of Columbia or in the Court of International Trade, without respect to the amount in controversy.

"(b) Upon proof by an interested party that the business or property of such interested party has been injured by a fraudulent, grossly negligent, or negligent violation of section 592(a) of the Tariff Act of 1930, such interested party shall—

"(1) be granted such equitable relief as may be appropriate, which may include an injunction against further importation into the United States of the articles or products in question, or

"(2) if such injunctive relief cannot be timely provided or is otherwise inadequate, recover damages for the injuries sustained, and

"(3) recover the costs of suit, including reasonable attorney's fees.

"(c) For purposes of this section—

"(1) The term 'interested party' means—

"(A) A manufacturer, producer, or wholesaler in the United States of a like or competing product, or

"(B) a trade or business association a majority of whose members manufacture, produce, or wholesale a like product or a competing product in the United States.

"(2) The term 'like product' means a product which is like, or in the absence of like, most similar in characteristics and uses with products being imported into the United States in violation of section 592(a) of the Tariff Act of 1930.

"(3) The term 'competing product' means a product which competes with or is a substitute for products being imported into the United States in violation of section 592(a) of the Tariff Act of 1930.

"(d) The court shall permit the United States to intervene in any action brought under this section, as a matter of right. The United States shall have all the rights of a party.

"(e) Any order by a court under this section is subject to nullification by the President pursuant to the President's authority

under section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1702).".

(2) the table of contents for chapter 95 of title 28, United States Code, is amended by adding at the end thereof the following:

"1586. Private enforcement action for customs fraud.".

(b) ACCORDANCE WITH GATT.—It is the sense of the Congress that the provisions of this section are consistent with, and in accord with, the General Agreement on Tariffs and Trade (GATT).

AMENDMENT No. 3314

At the end of subtitle A of title III of the bill, add the following:

SEC. . PRIVATE ACTIONS FOR RELIEF FROM UNFAIR FOREIGN COMPETITION.

(a) CLAYTON ACT.—Section 1 of the Clayton Act (15 U.S.C. 12) is amended by inserting "section 801 of the Act of September 8, 1916, entitled 'An Act to raise revenue, and for other purposes' (39 Stat. 798; 15 U.S.C. 72);" after "nineteen hundred and thirteen;".

(b) ACTION FOR DUMPING VIOLATIONS.—Section 801 of the Act of September 8, 1916 (39 Stat. 798; 15 U.S.C. 72) is amended to read as follows:

"SEC. 801. (a) No person shall import or sell within the United States any article manufactured or produced in a foreign country if—

"(1) such article is imported or sold within the United States at a United States price which is less than the foreign market value or constructed value of such article, and

"(2) such importation or sale—

"(A) causes or threatens material injury to industry or labor in the United States, or

"(B) prevents, in whole or in part, the establishment or modernization of any industry in the United States.

"(b) Any interested party whose business or property is injured by reason of an importation or sale in violation of this section, may bring a civil action in the district court of the District of Columbia or in the Court of International Trade against—

"(1) any manufacturer or exporter of such article, or

"(2) any importer of such article into the United States who is related to the manufacturer or exporter of such article.

"(c) In any action brought under subsection (b), upon a finding of liability on the part of the defendant, the plaintiff shall—

"(1) be granted such equitable relief as may be appropriate, which may include an injunction against further importation into, or sale or distribution within, the United States by such defendant of the articles in question, or

"(2) if such injunctive relief cannot be timely provided or is otherwise inadequate, recover damages for the injuries sustained, and

"(3) recover the costs of the action, including reasonable attorney's fees.

"(d)(1) The standard of proof in any action filed under this section is a preponderance of the evidence.

"(2) Upon—

"(A) a prima facie showing of the elements set forth in subsection (a) in an action brought under subsection (b), or

"(B) affirmative final determinations adverse to the defendant that are made by the administering authority and the United States International Trade Commission under section 735 of the Tariff Act of 1930 (19 U.S.C. 1673d) relating to imports of the article in question for the country in which the manufacturer of the article is located,

the burden of proof in such action shall be upon the defendant.

"(e)(1) Whenever, in any action brought under subsection (b), it shall appear to the court that justice requires that other parties be brought before the court, the court may cause them to be summoned, without regard to where they reside, and the subpoenas to that end may be served and enforced in any district of the United States.

"(2) Any foreign manufacturer, producer, or exporter who sells products, or for whom products are sold by another party in the United States, shall be treated as having appointed the District Director of the United States Customs Service of the Department of the Treasury for the port through which the product is commonly imported as the true and lawful agent of such manufacturer, producer, or exporter upon whom may be served all lawful process in any action brought under subsection (b) against such manufacturer, producer, or exporter.

"(f)(1) An action may be brought under subsection (b) only if such action is commenced within 4 years after the date on which the cause of action accrued.

"(2) The running of the 4-year period provided in paragraph (1) shall be suspended while any administrative proceedings under subtitle B of title VII of the Tariff Act of 1930 (19 U.S.C. 1673, et seqq.) relating to the product that is the subject of the action brought under subsection (b), or any appeal of a final determination in such proceeding, is pending and for one year thereafter.

"(g) If a defendant in any action brought under subsection (b) fails to comply with any discovery order or other order or decree of the court, the court may—

"(1) enjoin the further importation into, or the sale or distribution within, the United States by such defendant of articles which are the same as, or similar to, those articles which are alleged in such action to have been sold or imported under the conditions described in subsection (a) until such time as the defendant complies with such order or decree, or

"(2) take any other action authorized by law or by the Federal Rules of Civil Procedure, including entering judgment for the plaintiff.

"(h)(1) Except as provided in paragraph (2), the confidential or privileged status accorded by law to any documents, evidence, comments, or information shall be preserved in any action brought under subsection (b).

"(2) The court in any action brought under subsection (b) may—

"(A) examine, in camera, any confidential or privileged material,

"(B) accept depositions, documents, affidavits, or other evidence under seal, and

"(C) disclose such material under such terms and conditions as the court may order.

"(i) Any action brought under subsection (b) shall be advanced on the docket and expedited in every way possible.

"(j) For purposes of this section—

"(1) Each of the terms 'United States price', 'foreign market value', 'constructed value', 'subsidy', and 'material injury', have the respective meaning given such term by title VII of the Tariff Act of 1930.

"(2) If—

"(A) a subsidy is provided to the manufacturer, producer, or exporter of any article, and

"(B) such subsidy is not included in the foreign market value or constructed value of such article (but for this paragraph),

the foreign market value of such article or the constructed value of such article shall be increased by the amount of such subsidy.".

"(k) The court shall permit the United States to intervene in any action brought under subsection (b), as a matter of right. The United States shall have all the rights of a party to such action.

"(l) Any order by a court under this section is subject to nullification by the President pursuant to the President's authority under section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1702).".

(c) ACTION FOR SUBSIDIES VIOLATIONS.—Title VIII of the Act of September 8, 1916 (39 Stat. 798; 15 U.S.C. 72 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 807. (a) No person shall import or sell within the United States any article manufactured or produced in a foreign country if—

"(1) the foreign country, any person who is a citizen or national of the foreign country, or a corporation, association, or other organization organized in the foreign country, is providing (directly or indirectly) a subsidy with respect to the manufacture, production, or exportation of such article, and

"(2) such importation or sale—

"(A) causes or threatens material injury to industry or labor in the United States, or

"(B) prevents, in whole or in part, the establishment or modernization of any industry in the United States.

"(b) Any interested party whose business or property is injured by reason of an importation or sale in violation of this section, may bring a civil action in the district court of the District of Columbia or in the Court of International Trade against—

"(1) any manufacturer or exporter of such article, or

"(2) any importer of such article into the United States who is related to the manufacturer or exporter of such article.

"(c) In any action brought under subsection (b), upon a finding of liability on the part of the defendant, the plaintiff shall—

"(1) be granted such equitable relief as may be appropriate, which may include an injunction against further importation into, or sale or distribution within, the United States by such defendant of the articles in question, or

"(2) if such injunctive relief cannot be timely provided or is otherwise inadequate, recover damages for the injuries sustained, and

"(3) recover the costs of the action, including reasonable attorney's fees.

"(d)(1) The standard of proof in any action filed under this section is a preponderance of the evidence.

"(2) Upon—

"(A) a prima facie showing of the elements set forth in subsection (a) in an action brought under subsection (b), or

"(B) affirmative final determinations adverse to the defendant that are made by the administering authority and the United States International Trade Commission under section 705 of the Tariff Act of 1930 (19 U.S.C. 1671d) relating to imports of the article in question for the country in which the manufacturer of the article is located,

the burden of proof in such action shall be upon the defendant.

"(e)(1) Whenever, in any action brought under subsection (b), it shall appear to the court that justice requires that other parties be brought before the court, the court may cause them to be summoned, without regard to where they reside, and the subpoenas to that end may be served and enforced in any district of the United States.

"(2) Any foreign manufacturer, producer, or exporter who sells products, or for whom products are sold by another party in the United States, shall be treated as having appointed the District Director of the United States Customs Service of the Department of the Treasury for the port through which the product is commonly imported as the true and lawful agent of such manufacturer, producer, or exporter upon whom may be served all lawful process in any action brought under subsection (b) against such manufacturer, producer, or exporter.

"(f)(1) An action may be brought under subsection (b) only if such action is commenced within 4 years after the date on which the cause of action accrued.

"(2) The running of the 4-year period provided in paragraph (1) shall be suspended while any administrative proceedings under subtitle A of title VII of the Tariff Act of 1930 (19 U.S.C. 1671, et seq.) relating to the product that is the subject of the action brought under subsection (b), or any appeal of a final determination in such proceeding, is pending and for one year thereafter.

"(g) If a defendant in any action brought under subsection (b) fails to comply with any discovery order or other order or decree of the court, the court may—

"(1) enjoin the further importation into, or the sale or distribution within, the United States by such defendant of articles which are the same as, or similar to, those articles which are alleged in such action to have been sold or imported under the conditions described in subsection (a) until such time as the defendant complies with such order or decree, or

"(2) take any other action authorized by law or by the Federal Rules of Civil Procedure, including entering judgment for the plaintiff.

"(h)(1) Except as provided in paragraph (2), the confidential or privileged status accorded by law to any documents, evidence, comments, or information shall be preserved in any action brought under subsection (b).

"(2) The court in any action brought under subsection (b) may—

"(A) examine, in camera, any confidential or privileged material,

"(B) accept depositions, documents, affidavits, or other evidence under seal, and

"(C) disclose such material under such terms and conditions as the court may order.

"(i) Any action brought under subsection (b) shall be advanced on the docket and expedited in every way possible.

"(j) For purposes of this section, each of the terms 'subsidy' and 'material injury' have the respective meaning given such term by title VII of the Tariff Act of 1930.

"(k) The court shall permit the United States to intervene in any action brought under subsection (b), as a matter of right. The United States shall have all the rights of a party to such action.

"(l) Any order by a court under this section is subject to nullification by the President pursuant to the President's authority under section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1702).".

(d) ACTION FOR CUSTOMS FRAUD.—

(1) Chapter 95 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1586. Private enforcement action for customs fraud

"(a) Any interested party whose business or property is injured by a fraudulent, grossly negligent, or negligent violation of section 592(a) of the Tariff Act of 1930 (19 U.S.C. 1592) may bring a civil action in the district court of the District of Columbia or in the Court of International Trade, without respect to the amount in controversy.

"(b) Upon proof by an interested party that the business or property of such interested party has been injured by a fraudulent, grossly negligent, or negligent violation of section 592(a) of the Tariff Act of 1930, such interested party shall—

"(1) be granted such equitable relief as may be appropriate, which may include an injunction against further importation into the United States of the articles or products in question, or

"(2) if such injunctive relief cannot be timely provided or is otherwise inadequate, recover damages for the injuries sustained, and

"(3) recover the costs of suit, including reasonable attorney's fees.

"(c) For purposes of this section—

"(1) The term 'interested party' means—

"(A) A manufacturer, producer, or wholesaler in the United States of a like or competing product, or

"(B) a trade or business association a majority of whose members manufacture, produce, or wholesale a like product or a competing product in the United States.

"(2) The term 'like product' means a product which is like, or in the absence of like, most similar in characteristics and uses with products being imported into the United States in violation of section 592(a) of the Tariff Act of 1930.

"(3) The term 'competing product' means a product which competes with or is a substitute for products being imported into the United States in violation of section 592(a) of the Tariff Act of 1930.

"(d) The court shall permit the United States to intervene in any action brought under this section, as a matter of right. The United States shall have all the rights of a party.

"(e) Any order by a court under this section is subject to nullification by the President pursuant to the President's authority under section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1702).".

(2) The table of contents for chapter 95 of title 28, United States Code, is amended by adding at the end thereof the following:

"1586. Private enforcement action for customs fraud.".

(e) ACCORDANCE WITH GATT.—It is the sense of the Congress that the provisions of this section are consistent with, and in accord with, the General Agreement on Tariffs and Trade (GATT).

VETERANS DISABILITY COMPENSATION

PRESSLER AMENDMENT NO. 3315

(Ordered to lie on the table.)

Mr. PRESSLER submitted an amendment intended to be proposed by him to the bill (S. 2011) to increase the rates of Veterans' Administration compensation for veterans with service-connected disabilities and dependency and indemnity compensation for the survivors of certain disabled veterans, as follows:

On page 6, insert before line 1, at the end of the matter relating to the table of contents the following:

"TITLE VIII—PAY OF MEMBERS OF CONGRESS

"Sec. 801. Pay of Members of Congress.".

At the end of the bill, add the following new title:

TITLE VIII—PAY OF MEMBERS OF CONGRESS

SEC. 801. PAY OF MEMBERS OF CONGRESS.

(a) SHORT TITLE.—This section may be cited as the "Congressional Pay Accountability Act of 1988".

(b) CONGRESSIONAL VOTE ON PRESIDENTIAL RECOMMENDATIONS TO INCREASE CONGRESSIONAL RATES OF PAY.—Section 225(i) of the Federal Salary Act of 1967 (2 U.S.C. 359) is amended to read as follows:

"(i) EFFECTIVE DATE OF PRESIDENTIAL RECOMMENDATIONS; CONGRESSIONAL VOTE ON INCREASES IN CONGRESSIONAL RATES OF PAY.—(1)(A) Except for the recommendations relating to Members of Congress (which shall be subject to the provisions of paragraph (2)), the recommendations of the President which are transmitted to the Congress pursuant to subsection (h) of this section shall be effective as provided in subparagraph (B) of this paragraph, unless any such recommendation is disapproved by a joint resolution agreed to by the Congress not later than the last day of the 30-day period which begins on the date on which such recommendations are transmitted to the Congress.

"(B) The effective date of the rate or rates of pay which take effect for an office or position under subparagraph (A) of this paragraph shall be the first day of the first pay period which begins for such office or position after the end of the 30-day period described in such paragraph.

"(2)(A) The recommendations of the President relating to the rates of pay of Members of Congress which are transmitted to the Congress under subsection (h) of this section shall become effective only after the enactment of a joint resolution as provided under subparagraph (B).

"(B) The joint resolution described under subparagraph (A) shall—

"(i) relate only to the issue of such recommendation to increase the rates of pay of Members of Congress; and

"(ii) be recorded to reflect the vote of each Member of Congress thereon.

"(C) For purposes of this paragraph the term "Members of Congress" includes all positions described under section 225(f)(A), except for the Vice President of the United States.".

(c) CONGRESSIONAL VOTE TO INCREASE CONGRESSIONAL RATES OF PAY WITH INCREASES IN THE GENERAL SCHEDULE.—Section 601(a)(2) of the Legislation Reorganization Act of 1946 (2 U.S.C. 31(2)) is amended to read as follows:

"(2)(A) Any increase in the rates of pay of Members of Congress which corresponds to an increase in the rates of pay in the General Schedule under section 5305 of title 5,

United States Code, in any fiscal year shall become effective only after enactment of a joint resolution as provided under subparagraph (B).

"(B) The joint resolution described under subparagraph (A) shall—

"(i) relate to the issue of the increase in the rates of pay of Members of Congress; and

"(ii) be recorded to reflect the vote of each Member of Congress thereon.

"(C) If a joint resolution is enacted as provided under subparagraphs (A) and (B), effective at the beginning of the first applicable pay period commencing on or after the first day of the month in which such joint resolution is enacted, each annual rate of pay of Members of Congress shall be adjusted by an amount, rounded to the nearest multiple of $100 (or if midway between multiples of $100, to the next higher multiple of $100), equal to the percentage of such annual rate which corresponds to the overall average percentage (as set forth in the report transmitted to the Congress under section 5305) of the adjustment in the rates of pay under the General Schedule.".

(d) CONGRESSIONAL VOTE ON ANY INCREASE IN THE RATES OF PAY OF MEMBERS OF CONGRESS.—(1) Notwithstanding any other provision of law, any increase in the rates of pay of Members of Congress shall become effective only after the enactment of a joint resolution as provided in subsection (b).

(2) The joint resolution described under subsection (a) shall—

(A) relate only to the issue of the increase in the rates of pay of Members of Congress; and

(B) be recorded to reflect the vote of each Member of Congress thereon.

TAX TECHNICAL CORRECTIONS ACT

PRESSLER AMENDMENT NO. 3316

(Ordered to lie on the table.)

Mr. PRESSLER submitted an amendment intended to be proposed by him to the bill S. 2238, supra, as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . PAY OF MEMBERS OF CONGRESS.

(a) SHORT TITLE.—This section may be cited as the "Congressional Pay Accountability Act of 1988".

(b) CONGRESSIONAL VOTE ON PRESIDENTIAL RECOMMENDATIONS TO INCREASE CONGRESSIONAL RATES OF PAY.—Section 225(i) of the Federal Salary Act of 1867 (2 U.S.C. 359) is amended to read as follows:

"(i) EFFECTIVE DATE OF PRESIDENTIAL RECOMMENDATIONS; CONGRESSIONAL VOTE ON INCREASES IN CONGRESSIONAL RATES OF PAY.—(1)(A) Except for the recommendations relating to Members of Congress (which shall be subject to the provisions of paragraph (2)), the recommendations of the President which are transmitted to the Congress pursuant to subsection (h) of this section shall be effective as provided in subparagraph (B) of this paragraph, unless any such recommendation is disapproved by a joint resolution agreed to by the Congress not later than the last day of the 30-day period which begins on the date on which such recommendations are transmitted to the Congress.

"(B) The effective date of the rate or rates of pay which take effect for an office or position under subparagraph (A) of this paragraph shall be the first day of the first pay period which begins for such office or position after the end of the 30-day period described in such paragraph.

"(2)(A) The recommendations of the President relating to the rates of pay of Members of Congress which are transmitted to the Congress under subsection (h) of this section shall become effective only after the enactment of a joint resolution as provided under subparagraph (B).

"(B) The joint resolution described under subparagraph (A) shall—

"(i) relate only to the issue of such recommendation to increase the rates of pay of Members of Congress; and

"(ii) be recorded to reflect the vote of each Member of Congress thereon.

"(C) For purposes of this paragraph the term "Members of Congress" includes all positions described under section 225(f)(A), except for the Vice President of the United States.".

(c) CONGRESSIONAL VOTE TO INCREASE CONGRESSIONAL RATES OF PAY WITH INCREASES IN THE GENERAL SCHEDULE.—Section 601(a)(2) of the Legislative Reognization Act of 1946 (2 U.S.C. 31(2)) is amended to read as follows:

"(2)(A) Any increase in the rates of pay of Members of Congress which corresponds to an increase in the rates of pay in the General Schedule under section 5305 of title 5, United States Code, in any fiscal year shall become effective only after enactment of a joint resolution as provided under subparagraph (B).

"(B) The joint resolution described under subparagrah (A) shall—

"(i) relate only to the issue of the increase in the rates of pay of Members of Congress; and

"(ii) be recorded to reflect the vote of each Member of Congress thereon.

"(C) If a joint resolution is enacted as provided under subparagraphs (A) and (B), effective at the beginning of the first applicable pay period commencing on or after the first day of the month in which such joint resolution is enacted, each annual rate of pay of Members of Congress shall be adjusted by an amount, rounded to the nearest multiple of $100 (or if midway between multiples of $100, to the next higher multiple of $100), equal to the percentage of such annual rate which corresponds to the overall average percentage (as set forth in the report transmitted to the Congress under section 5305) of the adjustment in the rates of pay under the General Schedule.".

(d) CONGRESSIONAL VOTE ON ANY INCREASE IN THE RATES OF PAY OF MEMBERS OF CONGRESS.—(1) Notwithstanding any other provision of law, any increase in the rates of pay of Members of Congress shall become effective only after the enactment of a joint resolution as provided in subsection (b).

(2) The joint resolution described under subsection (a) shall—

(A) relate only to the issue of the increase in the rates of pay of Members of Congress; and

(B) be recorded to reflect the vote of each Member of Congress thereon.

PARENTAL AND TEMPORARY MEDICAL LEAVE

BYRD AMENDMENT NO. 3308

Mr. BYRD proposed a motion to recommit with instructions to the bill, S. 2488, supra, as follows:

Mr. President, I move to recommit the bill S. 2488 to the Committee on Labor and Human Resources with instructions to report back forthwith with the following amendment.

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Parental and Medical Leave Act of 1988".

(b) TABLE OF CONTENTS.—

TITLE I—GENERAL REQUIREMENTS FOR PARENTAL LEAVE AND MEDICAL LEAVE

SEC. 101. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the number of two-parent households in which both parents work and the number of single-parent households in which the single parent works are increasing significantly;

(2) it is important for the development of children and the family unit that fathers and mothers be able to participate in early child rearing and the care of children who have serious health conditions;

(3) the lack of employment policies to accommodate working parents forces many individuals to choose between job security and parenting;

(4) there is inadequate job security for employees who have serious health condi-

tions that prevent the employees from working for temporary periods;

(5) due to the nature of the roles of men and women in our society, the primary responsibility for family caretaking often falls on women, and such responsibility affects their working lives more than it affects the working lives of men; and

(6) employment standards that apply to one gender only have serious potential for encouraging employers to discriminate against employees and applicants for employment who are of that gender.

(b) PURPOSES.—It is the purpose of this Act—

(1) to balance the demands of the workplace with the needs of families;

(2) to promote the economic security and stability of families;

(3) to entitle employees to take reasonable leave for medical reasons, for the birth or adoption of a child, and for the care of a child who has a serious health condition;

(4) to accomplish such purposes in a manner which accommodates the legitimate interests of employers;

(5) to accomplish such purposes in a manner which, consistent with the Equal Protection Clause of the Fourteenth Amendment, minimizes the potential for employment discrimination on the basis of sex by ensuring generally that leave is available for eligible medical reasons (including maternity-related disability) and for compelling family reasons, on a gender-neutral basis; and

(6) to promote the goal of equal employment opportunity for women and men, pursuant to such clause.

SEC. 102. DEFINITIONS.

As used in this title:

(1) COMMERCE.—The terms "commerce" and "industry or activity affecting commerce" mean any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce, including "commerce" and any activity or industry "affecting commerce" within the meaning of the Labor Management Relations Act, 1947 (29 U.S.C 141 et seq.).

(2) EMPLOY.—The term "employ" has the same meaning given the term in section 3(g) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(g)).

(3) EMPLOYEE.—

(A) IN GENERAL.—The term "employee" means an individual that is included under the definition of such term in section 3(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)) who has been employed by the employer with respect to whom benefits are sought under this Act for at least—

(i) 900 hours of service during the previous 12-month period; and

(ii) 12 months.

"(B) EXCLUSION.—The term "employee" does not include any Federal officer or employee covered under subchapter III of chapter 63 of title 5, United States Code (as added by title II of this Act).

(4) EMPLOYER.—The term "employer"—

(A) means any person engaged in commerce or in any industry or activity affecting commerce who employs 20 or more employees at any one worksite for each working day during each of 20 or more calendar workweeks in the current or preceding calendar year;

(B) includes—

(i) any person who acts directly or indirectly in the interest of an employer to one or more employees; and

(ii) any successor in interest of such an employer; and

(C) includes any public agency, as defined in section 3(x) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(x)).

(5) EMPLOYMENT BENEFITS.—The term "employment benefits" means all benefits provided or made available to employees by an employer, including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions, regardless of whether the benefits are provided by a policy or practice of an employer or by an employee benefit plan as defined in section 3(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(1)).

(6) HEALTH CARE PROVIDER.—The term "health care provider" means—

(A) any person licensed under Federal, State, or local law to provide health care services, or

(B) any other person determined by the Secretary to be capable of providing health care services.

(7) PERSON.—The term "person" has the same meaning given the term in section 3(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(a)).

(8) REDUCED LEAVE SCHEDULE.—The term "reduced leave schedule" means leave scheduled for fewer than the usual number of hours of an employee per workweek or hours per workday.

(9) SECRETARY.—The term "Secretary" means the Secretary of Labor.

(10) SERIOUS HEALTH CONDITION.—The term "serious health condition" means an illness, injury, impairment, or physical or mental condition that involves—

(A) inpatient care in a hospital, hospice, or residential medical care facility; or

(B) continuing treatment or continuing supervision by a health care provider.

(11) SON OR DAUGHTER.—The term "son or daughter" means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a de facto parent, who is—

(A) under 18 years of age; or

(B) 18 years of age or older and incapable of self-care because of a mental or physical disability.

(12) STATE.—The term "State" has the same meaning given the term in section 3(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(c)).

SEC. 103. PARENTAL LEAVE REQUIREMENT.

(a) IN GENERAL.—

(1) ENTITLEMENT TO LEAVE.—An employee shall be entitled, subject to section 105, to 10 workweeks of parental leave during any 24-month period—

(A) as the result of the birth of a son or daughter of the employee;

(B) as the result of the placement, for adoption or foster care, of a son or daughter with the employee; or

(C) in order to care for the employee's son or daughter who has a serious health condition.

(2) EXPIRATION OF ENTITLEMENT.—The entitlement to leave under paragraphs (1)(A) and (1)(B) shall expire at the end of the 12-month period beginning on the date of such birth or placement.

(3) INTERMITTENT LEAVE.—In the case of a son or daughter who has a serious health condition, such leave may be taken intermittently when medically necessary, subject to subsection (e).

(b) REDUCED LEAVE.—On agreement between the employer and the employee, leave under this section may be taken on a reduced leave schedule, however, such reduced leave schedule shall not result in a reduction in the total amount of leave to which the employee is entitled.

(c) UNPAID LEAVE PERMITTED.—Except as provided in subsection (d), leave granted under subsection (a) may consist of unpaid leave.

(d) RELATIONSHIP TO PAID LEAVE.—

(1) UNPAID LEAVE.—If an employer provides paid parental leave for fewer than 10 work-weeks, the additional weeks of leave added to attain the 10 work-week total may be unpaid.

(2) SUBSTITUTION OF PAID LEAVE.—An employee or employer may elect to substitute any of the employee's accrued paid vacation leave, personal leave, or other appropriate paid leave for any part of the 10-week period.

(e) FORESEEABLE LEAVE.—

(1) REQUIREMENT OF NOTICE.—In any case in which the necessity for leave under this section is foreseeable based on an expected birth or adoption, the employee shall provide the employer with prior notice of such expected birth or adoption in a manner which is reasonable and practicable.

(2) DUTIES OF EMPLOYEE.—In any case in which the necessity for leave under this section is foreseeable based on planned medical treatment or supervision, the employee shall—

(A) make a reasonable effort to schedule the treatment or supervision so as not to disrupt unduly the operations of the employer, subject to the approval of the health care provider of the employee's son or daughter; and

(B) provide the employer with prior notice of the treatment or supervision in a manner which is reasonable and practicable.

(3) REGULATIONS.—The Secretary shall promulgate regulations under section 108(a) that define the term "reasonable and practicable" for purposes of paragraphs (1) and (2)(B).

(f) SPOUSES EMPLOYED BY THE SAME EMPLOYER.—In any case in which a husband and wife entitled to parental leave under this section are employed by the same employer, the aggregate number of workweeks of parental leave to which both may be entitled may be limited to 10 workweeks during any 24-month period, if such leave is taken under subparagraph (A) or (B) of subsection (a)(1).

SEC. 104. TEMPORARY MEDICAL LEAVE REQUIREMENT.

(a) IN GENERAL.—

(1) ENTITLEMENT TO LEAVE.—Any employee who, as the result of a serious health condition, becomes unable to perform the functions of the position of the employee, shall be entitled to temporary medical leave, subject to section 105.

(2) PERIOD OF ENTITLEMENT.—The entitlement under paragraph (1) shall continue for as long as the employee is unable to perform the functions, except that the leave shall not exceed 13 workweeks during any 12-month period.

(3) INTERMITTENT LEAVE.—Leave taken under this subsection may be taken intermittently when medically necessary, subject to subsection (d).

(b) UNPAID LEAVE PERMITTED.—Except as provided in subsection (c), leave granted under subsection (a) may consist of unpaid leave.

(c) RELATIONSHIP TO PAID LEAVE.—

(1) IN GENERAL.—If an employer provides paid temporary medical leave or paid sick leave for fewer than 13 weeks, the addition-

al weeks of leave added to attain the 13-week total may be unpaid.

(2) SUBSTITUTION OF PAID LEAVE.—An employee or employer may elect to substitute the employee's accrued paid vacation leave, sick leave, or other appropriate paid leave for any part of the 13-week period, except that nothing in this Act shall require an employer to provide paid sick leave or paid medical leave in any situation in which such employer would not normally provide any such paid leave.

(d) FORESEEABLE LEAVE.—

(1) DUTIES OF EMPLOYEE.—In any case in which the necessity for leave under this section is foreseeable based on planned medical treatment or supervision, the employee shall—

(A) make a reasonable effort to schedule the treatment or supervision so as not to disrupt unduly the operations of the employer, subject to the approval of the employee's health care provider, and

(B) provide the employer with prior notice of the treatment or supervision in a manner which is reasonable and practicable.

(2) REGULATIONS.—The Secretary shall promulgate regulations under section 108(a) that define the term "reasonable and practicable" for purposes of paragraph (1).

SEC. 105. CERTIFICATION.

(a) IN GENERAL.—An employer may require that a claim for parental leave under section 103(a)(1)(C), or temporary medical leave under section 104, be supported by certification issued by the health care provider of the son, daughter, or employee, whichever is appropriate. The employee shall provide a copy of such certification to the employer.

(b) SUFFICIENT CERTIFICATION.—The certification shall be considered sufficient if it states—

(1) the date on which the serious health condition commenced;

(2) the probable duration of the condition;

(3) the appropriate medical facts within the knowledge of the provider regarding the condition; and

(4)(A) for purposes of leave under section 104, a statement that the employee is unable to perform the functions of the employee's position; and

(B) for purposes of leave under section 103(a)(1)(C), an estimate of the amount of time that the employee is needed to care for the son or daughter.

(c) SECOND OPINION.—

(1) IN GENERAL.—In any case in which the employer has reason to doubt the validity of the certification provided under subsection (a), the employer may require, at its own expense, that the employee obtain the opinion of a second health care provider designated or approved by the employer concerning the information certified under subsection (b).

(2) LIMITATION.—Any health care provider designated or approved under paragraph (1) may not be employed on a regular basis by the employer.

(d) RESOLUTION OF CONFLICTING OPINIONS.—

(1) IN GENERAL.—In any case in which the second opinion described in subsection (c) differs from the original certification provided under subsection (a), the employer may require, at its own expense, that the employee obtain the opinion of a third health care provider designated or approved jointly by the employer and the employee concerning the information certified under subsection (b).

(2) FINALITY.—The opinion of the third health care provider concerning the information certified under subsection (b) shall be considered to be final and shall be binding on the employer and the employee.

(e) SUBSEQUENT RECERTIFICATION.—The employer may require that the employee obtain subsequent recertifications on a reasonable basis.

SEC. 106. EMPLOYMENT AND BENEFITS PROTECTION.

(a) RESTORATION TO POSITION.—

(1) IN GENERAL.—Any employee who takes leave under section 103 or 104 for its intended purpose shall be entitled, on return from the leave—

(A) to be restored by the employer to the position of employment held by the employee when the leave commenced; or

(B) to be restored to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.

(2) LOSS OF BENEFITS.—The taking of leave under this title shall not result in the loss of any employment benefit accrued before the date on which the leave commenced.

(3) LIMITATIONS.—Except as provided in subsection (b), nothing in this section shall be considered to entitle any restored employee to—

(A) the accrual of any seniority or employment benefits during any period of leave; or

(B) any right, benefit, or position of employment other than that to which the employee was entitled to on the date the leave was commenced.

(4) CERTIFICATION.—As a condition to restoration under paragraph (1), the employer may have a policy that requires each employee to receive certification from the employee's health care provider that the employee is able to resume work.

(5) CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit an employer from requiring an employee on leave under section 103 or 104 to periodically report to the employer on the employee's status and intention to return to work.

(b) MAINTENANCE OF HEALTH BENEFITS.—During any period an employee takes leave under section 103 or 104, the employer shall maintain coverage under any group health plan (as defined in section 162(i)(3) of the Internal Revenue Code of 1954) for the duration of such leave at the level and under the conditions coverage would have been provided if the employee had continued in employment continuously from the date the employee commenced the leave until the date the employee is restored under subsection (a).

SEC. 107. PROHIBITED ACTS.

(a) INTERFERENCE WITH RIGHTS.—

(1) EXERCISE OF RIGHTS.—It shall be unlawful for any employer to interfere with, restrain, or deny the exercise of or the attempt to exercise, any right provided under this title.

(2) DISCRIMINATION.—It shall be unlawful for any employer to discharge or in any other manner discriminate against any individual for opposing any practice made unlawful by this title.

(b) INTERFERENCE WITH PROCEEDINGS OR INQUIRIES.—It shall be unlawful for any person to discharge or in any other manner discriminate against any individual because the individual—

(1) has filed any charge, or has instituted or caused to be instituted any proceeding, under or related to this title;

(2) has given or is about to give any information in connection with any inquiry or proceeding relating to any right provided under this title; or

(3) has testified or is about to testify in any inquiry or proceeding relating to any right provided under this title.

SEC. 108. ADMINISTRATIVE ENFORCEMENT.

(a) IN GENERAL.—The Secretary shall issue such rules and regulations as are necessary to carry out this section, including rules and regulations concerning service of complaints, notice of hearings, answers and amendments to complaints, and copies of orders and records of proceedings.

(b) CHARGES.—

(1) FILING.—Any person alleging an act that violates this title may file a charge respecting the violation with the Secretary. Charges shall be in such form and contain such information as the Secretary shall require by regulation.

(2) NOTIFICATION.—Not later than 15 days after the Secretary receives notice of a charge under paragraph (1), the Secretary shall—

(A) serve a notice of the charge on the person charged with the violation; and

(B) inform such person and the charging party as to the rights and procedures provided under this title.

(3) TIME OF FILING.—A charge may not be filed later than 1 year after the date of the last event constituting the alleged violation.

(c) PROCESS ON NOTICE OF A CHARGE.—Investigation; Complaint.—

(1) INVESTIGATION.—Within the 60-day period after the Secretary receives any charge, the Secretary shall investigate the charge and issue a complaint based on the charge or dismiss the charge.

(2) COMPLAINT BASED ON CHARGE.—If the Secretary determines that there is a reasonable basis for the charge, the Secretary shall issue a complaint based on the charge and promptly notify the charging party and the respondent as to the issuance.

(3) DISMISSAL.—If the Secretary determines that there is no reasonable basis for the charge, the Secretary shall dismiss the charge and promptly notify the charging party and the respondent as to the dismissal.

(4) SETTLEMENT AGREEMENTS.—

(A) WITH CHARGING PARTY.—The charging party and the respondent may enter into a settlement agreement concerning the violation alleged in the charge before any determination is reached by the Secretary under this subsection. To be effective such an agreement must be determined by the Secretary to be consistent with the purposes of this title.

(B) WITH SECRETARY.—On the issuance of a complaint, the Secretary and the respondent may enter into a settlement agreement concerning a violation alleged in the complaint. Any such settlement may not be entered into over the objection of the charging party, unless the Secretary determines that the settlement provides a full remedy for the charging party.

(5) CIVIL ACTIONS.—If, at the end of the 60-day period referred to in paragraph (1), the Secretary—

(A) has not issued a complaint under paragraph (2);

(B) has dismissed the charge under paragraph (3); or

(C) has not approved or entered into a settlement agreement under subparagraph (A) or (B) of paragraph (4);

the charging party may elect to bring a civil action under section 109.

(6) COMPLAINT AND RELIEF ON SECRETARY'S INITIATIVE.—

(A) ISSUANCE.—The Secretary may issue and serve a complaint alleging a violation of this title on the basis of information and evidence gathered as a result of an investigation initiated by the Secretary pursuant to section 110.

(B) RELIEF.—

(i) IN GENERAL.—On issuance of a complaint, the Secretary shall have the power to petition the United States district court for the district in which the violation is alleged to have occurred, or in which the respondent resides or transacts business, for appropriate temporary relief or a restraining order.

(ii) NOTICE.—On the filing of any such petition, the court shall cause notice of the petition to be served on the respondent.

(iii) TYPE OF RELIEF.—The court shall have jurisdiction to grant to the Secretary such temporary relief or restraining order as the court considers just and proper.

(d) RIGHTS OF PARTIES.—

(1) SERVICE OF COMPLAINT.—In any case in which a complaint is issued under subsection (c), the Secretary shall, not later than 10 days after the date on which the complaint is issued, cause to be served on the respondent a copy of the complaint.

(2) PARTIES TO COMPLAINT.—Any person filing a charge alleging a violation of this title may elect to be a party to any complaint filed by the Secretary alleging the violation. The election must be made before the commencement of a hearing.

(3) CIVIL ACTION.—The failure of the Secretary to comply in a timely manner with any obligation assigned to the Secretary under this title shall entitle the charging party to elect, at the time of such failure, to bring a civil action under section 109.

(e) CONDUCT OF HEARING.—

(1) PROSECUTION BY SECRETARY.—The Secretary shall prosecute any complaint issued under subsection (c).

(2) HEARING.—An administrative law judge shall conduct a hearing on the record with respect to a complaint issued under this title. The hearing shall be conducted in accordance with sections 554, 555, and 556 of title 5, United States Code, and shall be commenced within 60 days after the issuance of the complaint, unless the judge, in the judge's discretion, determines that the purposes of this Act would best be furthered by commencement of the action after the expiration of such period.

(f) FINDINGS AND CONCLUSIONS.—

(1) IN GENERAL.—After a hearing is conducted under this section, the administrative law judge shall promptly make findings of fact and conclusions of law, and, if appropriate, issue an order for relief as provided in section 111.

(2) NOTIFICATION CONCERNING DELAY.—The administrative law judge shall inform the parties, in writing, of the reason for any delay in making the findings and conclusions if the findings and conclusions are not made within 60 days after the conclusion of the hearing.

(g) FINALITY OF DECISION; REVIEW.—

(1) FINALITY.—The decision and order of the administrative law judge shall become the final decision and order of the Secretary unless, on appeal by an aggrieved party taken not later than 30 days after the action, the Secretary modifies or vacates the decision, in which case the decision of the Secretary shall be the final decision.

(2) REVIEW.—Not later than 60 days after the entry of the final order of the Secretary under paragraph (1), any person aggrieved by the final order may obtain a review of the order in the United States court of appeals for the circuit in which the violation is alleged to have occurred or in which the employer resides or transacts business.

(3) JURISDICTION.—On the filing of the record with the court, the jurisdiction of the court shall be exclusive and its judgment shall be final, except that the same shall be subject to review by the Supreme Court of the United States on writ of certiorari or certification as provided in section 1254 of title 28, United States Code.

(h) COURT ENFORCEMENT OF ADMINISTRATIVE ORDERS.—

(1) POWER OF SECRETARY.—If a respondent does not appeal an order of the Secretary under subsection (g)(2), the Secretary may petition the United States district court for the district in which the violation is alleged to have occurred, or in which the respondent resides or transacts business, for the enforcement of the order of the Secretary, by filing in the court a written petition praying that the order be enforced.

(2) JURISDICTION.—On the filing of the petition, the court shall have jurisdiction to make and enter a decree enforcing the order of the Secretary. In the proceeding, the order of the Secretary shall not be subject to review.

(3) DECREE OF ENFORCEMENT.—If, on appeal of an order under subsection (g)(2), the United States court of appeals does not reverse or modify the order, the court shall have the jurisdiction to make and enter a decree enforcing the order of the Secretary.

SEC. 109. ENFORCEMENT BY CIVIL ACTION.

(a) RIGHT TO BRING CIVIL ACTION.—

(1) IN GENERAL.—Subject to the limitations in this section, an employee or the Secretary may bring a civil action against any employer to enforce the provisions of this title in any appropriate court of the United States or in any State court of competent jurisdiction.

(2) NO CHARGE FILED.—Subject to paragraph (3), a civil action may be commenced under this subsection without regard to whether a charge has been filed under section 108(b).

(3) LIMITATIONS.—No civil action may be commenced under paragraph (1) if the Secretary—

(A) has approved, or has failed to disapprove, a settlement agreement under section 108(c)(4), in which case no civil action may be filed under this subsection if the action is based on a violation alleged in the charge and resolved by the agreement; or

(B) has issued a complaint under section 108(c)(2) or 108(c)(6), in which case no civil action may be filed under this subsection if the action is based on a violation alleged in the complaint.

(4) TO ENFORCE SETTLEMENT AGREEMENTS.—Notwithstanding paragraph (3)(A), a civil action may be commenced to enforce the terms of any such settlement agreement.

(5) TIMING OF COMMENCEMENT OF CIVIL ACTION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), no civil action may be commenced more than 1 year after the date on which the alleged violation occurred.

(B) EXCEPTION.—In any case in which—

(i) a timely charge is filed under section 108(b); and

(ii) the failure of the Secretary to issue a complaint or enter into a settlement agreement based on the charge (as provided under section 108(c)(4)) occurs more than 11 months after the date on which any alleged violation occurred,

the employee may commence a civil action not more than 30 days after the date on which the employee is notified of the failure.

(6) AGENCIES.—The Secretary may not bring a civil action against any agency of the United States.

(b) VENUE.—An action brought under subsection (a) in a district court of the United States may be brought—

(1) in any appropriate judicial district under section 1391 of title 28, United States Code; or

(2) in the judicial district in the State in which—

(A) the employment records relevant to the violation are maintained and administered; or

(B) the aggrieved person worked or would have worked but for the alleged violation.

(c) NOTIFICATION OF THE SECRETARY; RIGHT TO INTERVENE.—A copy of the complaint in any action brought by an employee under subsection (a) shall be served on the Secretary by certified mail. The Secretary shall have the right to intervene in a civil action brought by an employee under subsection (a).

(d) ATTORNEYS FOR THE SECRETARY.—In any civil action brought under subsection (a), attorneys appointed by the Secretary may appear for and represent the Secretary, except that the Attorney General and the Solicitor General shall conduct any litigation in the Supreme Court.

SEC. 110. INVESTIGATIVE AUTHORITY.

(a) IN GENERAL.—To ensure compliance with the provisions of this title, or any regulation or order issued under this title, subject to subsection (c), the Secretary shall have the investigative authority provided under section 11(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(a)).

(b) OBLIGATION TO KEEP AND PRESERVE RECORDS.—An employer shall keep and preserve records in accordance with section 11(c) of such Act, and in accordance with regulations issued by the Secretary.

(c) REQUIRED SUBMISSIONS GENERALLY LIMITED TO AN ANNUAL BASIS.—The Secretary may not under this section require any employer or any plan, fund, or program to submit to the Secretary any books or records more than once in any 12-month period, unless the Secretary has reasonable cause to believe there may exist a violation of this title or any regulation or order issued pursuant to this title, or is investigating a charge brought pursuant to section 108.

(d) SUBPOENA POWERS, ETC.—For purposes of any investigation conducted under this section, the Secretary shall have the subpoena authority provided under section 9 of the Fair Labor Standards Act of 1938 (29 U.S.C. 209).

(e) DISSEMINATION OF INFORMATION.—The Secretary may make available to any person substantially affected by any matter that is the subject of an investigation under this section, and to any department or agency of the United States, information concerning any matter that may be the subject of the investigation.

SEC. 111. RELIEF.

(a) INJUNCTIVE RELIEF.—

(1) CEASE AND DESIST.—On finding a violation under section 108 by a person, an administrative law judge shall issue an order requiring the person to cease and desist from any act or practice that violates this title.

(2) INJUNCTIONS.—In any civil action brought under section 109, a court may grant as relief any permanent or temporary injunction, temporary restraining order, or other equitable relief as the court considers appropriate.

(b) MONETARY DAMAGES.—

(1) IN GENERAL.—Any employer that violates this title shall be liable to the injured party in an amount equal to—

(A) any wages, salary, employment benefits, or other compensation denied or lost to the employee by reason of the violation, plus interest on the total monetary damages calculated at the prevailing rate; and

(B) an additional amount equal to the greater of—

(i) the amount determined under subparagraph (A), as liquidated damages; or

(ii) the amount of consequential damages but not to exceed three times the amount determined under subparagraph (A).

(2) GOOD FAITH.—If an employer who has violated this title proves to the satisfaction of the court that the act or omission which violated this title was in good faith and that the employer had reasonable grounds for believing that the act or omission was not a violation of this title, the court may, in its discretion, reduce the amount of the liability or penalty provided for under this subsection to the amount determined under paragraph (1)(A).

(c) ATTORNEYS' FEES.—A prevailing party (other than the United States) may be awarded a reasonable attorneys' fee as part of the costs, in addition to any relief awarded. The United States shall be liable for costs in the same manner as a private person.

(d) LIMITATION.—Damages awarded under subsection (b) may not accrue from a date more than 2 years before the date on which a charge is filed under section 108(b) or a civil action is brought under section 109.

SEC. 112. NOTICE.

(a) IN GENERAL.—Each employer shall post and keep posted, in conspicuous places on the premises of the employer where notices to employees and applicants for employment are customarily posted, a notice, approved by the Secretary, setting forth excerpts from, or summaries of, the pertinent provisions of this title and information pertaining to the filing of a charge.

(b) PENALTY.—Any employer who willfully violates this section shall be fined not more than $100 for each separate offense.

TITLE II—PARENTAL LEAVE AND TEMPORARY MEDICAL LEAVE FOR CIVIL SERVICE EMPLOYEES

SEC. 201. PARENTAL LEAVE AND TEMPORARY MEDICAL LEAVE.

(a) IN GENERAL.—(1) Chapter 63 of title 5, United States Code, is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER III—PARENTAL LEAVE AND TEMPORARY MEDICAL LEAVE

"§ 6331. Definitions

"For purposes of this subchapter:

"(1) 'employee' means—

"(A) an employee as defined by section 6301(2) of this title (excluding an individual employed by the government of the District of Columbia); and

"(B) an individual under clause (v) or (ix) of such section;

who has been employed for at least 12 months and completed at least 900 hours of service during the previous 12-month period.

"(2) 'serious health condition' means an illness, injury, impairment, or physical or mental condition that involves—

"(A) inpatient care in a hospital, hospice, or residential medical care facility; or

"(B) continuing treatment, or continuing supervision, by a health care provider; and

"(3) 'son or daughter' means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a de facto parent, who is—

"(A) under 18 years of age; or

"(B) 18 years of age or older and incapable of self-care because of a mental or physical disability.

"§ 6332. Parental leave requirement

"(a)(1) An employee shall be entitled, subject to section 6334, to 10 workweeks of parental leave during any 24-month period—

"(A) as the result of the birth of a son or daughter of the employee;

"(B) as the result of the placement, for adoption or foster care, of a son or daughter with the employee; or

"(C) in order to care for the employee's son or daughter who has a serious health condition.

"(2) The entitlement to leave under paragraphs (1)(A) and (1)(B) shall expire at the end of the 12-month period beginning on the date of such birth or placement.

"(3) In the case of a son or daughter who has a serious health condition, such leave may be taken intermittently when medically necessary, subject to subsection (e).

"(b) On agreement between the employing agency and the employee, leave under this section may be taken on a reduced leave schedule, however, such reduced leave schedule shall not result in a reduction in the total amount of leave to which the employee is entitled.

"(c) Except as provided in subsection (d), leave granted under subsection (a) may consist of unpaid leave.

"(d)(1) If an employing agency provides paid parental leave for fewer than 10 workweeks, the additional weeks of leave added to attain the 10 work-week total may be unpaid.

"(2) An employee or employing agency may elect to substitute any of the employee's accrued paid vacation leave, personal leave, or other appropriate paid leave for any part of the 10-week period.

"(e)(1) In any case in which the necessity for leave under this section is foreseeable based on an expected birth or adoption, the employee shall provide the employing agency with prior notice of such expected birth or adoption in a manner which is reasonable and practicable.

"(2) In any case in which the necessity for leave under this section is foreseeable based on planned medical treatment or supervision, the employee shall—

"(A) make a reasonable effort to schedule the treatment or supervision so as not to disrupt unduly the operations of the employing agency, subject to the approval of the health care provider of the employee's son or daughter; and

"(B) provide the employing agency with prior notice of the treatment or supervision in a manner which is reasonable and practicable.

"(3) The Director of the Office of Personnel Management shall promulgate regulations that define the term 'reasonable and practicable' for purposes of paragraphs (1) and (2)(B).

"§ 6333. Temporary medical leave requirement

"(a)(1) Any employee who, as the result of a serious health condition, becomes unable to perform the functions of the position of the employee, shall be entitled to temporary medical leave, subject to section 6334.

"(2) The entitlement under paragraph (1) shall continue for as long as the employee is unable to perform the functions, except that the leave shall not exceed 13 administrative workweeks of the employee during any 12-month period.

"(3) Leave taken under this subsection may be taken intermittently when medically necessary, subject to subsection (d).

"(b) Except as provided in subsection (c), leave granted under subsection (a) may consist of unpaid leave.

"(c)(1) If an employing agency provides paid temporary medical leave or paid sick leave for fewer than 13 weeks, the additional weeks of leave added to attain the 13-week total may be unpaid.

"(2) An employee or employing agency may elect to substitute the employee's accrued paid vacation leave, sick leave, or other appropriate paid leave for any part of the 13-week period, except that nothing in this Act shall require an employing agency to provide paid sick leave or paid medical leave in any situation in which such employing agency would not normally provide any such paid leave.

"(d)(1) In any case in which the necessity for leave under this section is foreseeable based on planned medical treatment or supervision, the employee shall—

"(A) make a reasonable effort to schedule the treatment or supervision so as not to disrupt unduly the operations of the employing agency, subject to the approval of the employee's health care provider, and

"(B) provide the employing agency with prior notice of the treatment or supervision in a manner which is reasonable and practicable.

"(2) The Director of the Office of Personnel Management shall promulgate regulations that define the term reasonable and practicable for purposes of paragraph (1).

"§ 6334. Certification

"(a) An employing agency may require that a claim for parental leave under section 6332(a)(10)(C), or temporary medical leave under section 6333, be supported by certification issued by the health care provider of the son, daughter, or employee, whichever is appropriate. The employee shall provide a copy of such certification to the employing agency.

"(b) The certification shall be considered sufficient if it states—

"(1) the date on which the serious health condition commenced;

"(2) the probable duration of the condition;

"(3) the appropriate medical facts within the knowledge of the provider regarding the condition; and

"(4)(A) for purposes of leave under section 6333, a statement that the employee is unable to perform the functions of the employee's position; and

"(B) for purposes of leave under section 6332(a)(1)(C), an estimate of the amount of time that the employee is needed to care for the son or daughter.

"(c)(1) In any case in which the employing agency has reason to doubt the validity of the certification provided under subsection (a), the employing agency may require, at its expense, that the employee obtain the opinion of a second health care provider designated or approved by the employing agency concerning the information certified under subsection (b).

"(2) Any health care provider designated or approved under paragraph (1) may not be employed on a regular basis by the employing agency.

"(d)(1) In any case in which the second opinion described in subsection (c) differs from the original certification provided under subsection (a), the employing agency may require, at its expense, that the employee obtain the opinion of a third health care provider designated or approved jointly by the employing agency and the employee concerning the information certified under subsection (b).

"(2) The opinion of the third health care provider concerning the information certified under subsection (b) shall be considered to be final and shall be binding on the employing agency and the employee.

"(e) The employing agency may require that the employee obtain subsequent recertifications on a reasonable basis.

"§ 6335. Job protection

"An employee who uses leave under section 6332 or 6333 of this title shall be entitled, on return from the leave—

"(1) to be restored to the position of employment held by the employee when the leave commenced; or

"(2) to be restored to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.

"§ 6336. Prohibition of coercion

"(a) An employee may not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any other employee for the purpose of interfering with the exercise of the rights of the employee under this subchapter.

"(b) For the purpose of this section, 'intimidate, threaten, or coerce' includes promising to confer or conferring any benefit (such as appointment, promotion, or compensation), or taking or threatening to take any reprisal (such as deprivation of appointment, promotion, or compensation).

"§ 6337. Health insurance

"An employee enrolled in a health benefits plan under chapter 89 of this title who is placed in a leave status under section 6332 or 6333 of this title may elect to continue the health benefits enrollment of the employee while in leave status and arrange to pay into the Employees Health Benefits Fund (described in section 8909 of this title), through the employing agency of the employee, the appropriate employee contributions.

"§ 6338. Regulations

"The Office of Personnel Management shall prescribe regulations necessary for the administration of this subchapter. The regulations prescribed under this subchapter shall be consistent with the regulations prescribed by the Secretary of Labor under title I of the Parental and Medical Leave Act of 1988.".

(2) The table of contents for chapter 63 of title 5, United States Code, is amended by adding at the end thereof the following:

"SUBCHAPTER III—PARENTAL LEAVE AND TEMPORARY MEDICAL LEAVE

"6331. Definitions.
"6332. Parental leave requirement.
"6333. Temporary medical leave requirement.
"6334. Certification.
"6335. Job protection.
"6336. Prohibition of coercion.
"6337. Health insurance.
"6338. Regulations.".

(b) EMPLOYEES PAID FROM NONAPPROPRIATED FUNDS.—Section 2105(c)(1) of title 5, United States Code, is amended by striking out "53" and inserting in lieu thereof "53, subchapter III of chapter 63,".

TITLE III—COMMISSION ON PARENTAL AND MEDICAL LEAVE

SEC. 301. ESTABLISHMENT.

(a) ESTABLISHMENT.—There is established a Commission to be known as the Commission on Parental and Medical Leave (hereinafter in this title referred to as the "Commission").

SEC. 302. DUTIES.

The Commission shall—

(1) conduct a comprehensive study of—

(A) existing and proposed policies relating to parental leave and temporary medical leave; and

(B) the potential costs, benefits, and impact on productivity of such policies on employers;

(2) to the extent practicable, include in the study of parental leave and temporary medical leave policies required under subsection (1)(A), a review of all studies of existing and proposed methods designed to provide workers with full or partial salary replacement or other income protection during periods of parental leave and temporary medical leave that are consistent with the legitimate business interests of employers;

(3) within 2 years after the date on which the Commission first meets, submit a report to Congress that outlines the findings of the Commission.

SEC. 303. MEMBERSHIP.

(a) COMPOSITION.—

(1) APPOINTMENTS.—The Commission shall be composed of 12 voting members and 2 ex-officio members appointed not more than 60 days after the date of the enactment of this Act as follows:

(A) One Senator shall be appointed by the majority leader of the Senate, and one Senator shall be appointed by the minority leader of the Senate.

(B) One member of the House of Representatives shall be appointed by the Speaker of the House of Representatives, and one member of the House of Representatives shall be appointed by the minority leader of the House of Representatives.

(C)(i) Two members each shall be appointed by—

(I) the Speaker of the House of Representatives,

(II) the majority leader of the Senate,

(III) the minority leader of the House of Representatives, and

(IV) the minority leader of the Senate.

(ii) Such members shall be appointed by virtue of demonstrated expertise in relevant family, temporary disability, and labor-management issues and shall include representatives of employers.

(2) EX-OFFICIO MEMBERS.—The Secretary of Health and Human Services and the Secretary of Labor shall serve on the Commission as nonvoting ex-officio members.

(b) VACANCIES.—Any vacancy on the Commission shall be filled in the same manner in which the original appointment was made.

(c) CHAIRPERSON AND VICE CHAIRPERSON.—The Commission shall elect a chairperson and a vice chairperson from among the members of the Commission.

(d) QUORUM.—Eight members of the Commission shall constitute a quorum for all purposes, except that a lesser number may constitute a quorum for the purpose of holding hearings.

SEC. 304. COMPENSATION.

(a) PAY.—Members of the Commission shall serve without compensation.

(b) TRAVEL EXPENSES.—Members of the Commission shall be allowed reasonable travel expenses, including a per diem allowance, in accordance with section 5703 of title 5, United States Code, while performing duties of the Commission.

SEC. 305. POWERS.

(a) MEETINGS.—The Commission shall first meet not more than 30 days after the date on which all members are appointed. The Commission shall meet thereafter on the call of the chairperson or a majority of the members.

(b) HEARINGS AND SESSIONS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before the Commission.

(c) ACCESS TO INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable the Commission to carry out this Act. On the request of the chairperson or vice chairperson of the Commission, the head of the agency shall furnish the information to the Commission.

(d) EXECUTIVE DIRECTOR.—The Commission may appoint an Executive Director from the personnel of any Federal agency to assist the Commission in carrying out the duties of the Commission.

(e) USE OF SERVICES AND FACILITIES.—On the request of the Commission, the head of any Federal agency may make available to the Commission any of the facilities and services of the agency.

(f) PERSONNEL FROM OTHER AGENCIES.—On the request of the Commission, the head of any Federal agency may detail any of the personnel of the agency to assist the Commission in carrying out the duties of the Commission.

SEC. 306. TERMINATION.

The Commission shall terminate 30 days after the date of the submission of the final report of the Commission to Congress.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. EFFECT ON OTHER LAWS.

(a) FEDERAL AND STATE ANTIDISCRIMINATION LAWS.—Nothing in this Act shall be construed to modify or affect any Federal or State law prohibiting discrimination on the basis of race, religion, color, national origin, sex, age, or handicapped status.

(b) STATE AND LOCAL LAWS.—Nothing in this Act shall be construed to supersede any provision of any State or local law that provides greater employee parental or medical leave rights than the rights established under this Act.

SEC. 402. EFFECT ON EXISTING EMPLOYMENT BENEFITS.

(a) MORE PROTECTIVE.—Nothing in this Act shall be construed to diminish the obligation of an employer to comply with any collective-bargaining agreement or any employment benefit program or plan that provides greater parental and medical leave rights to employees than the rights provided under this Act.

(b) LESS PROTECTIVE.—The rights provided to employees under this Act may not be diminished by any collective-bargaining agreement or any employment benefit program or plan.

SEC. 403. ENCOURAGEMENT OF MORE GENEROUS LEAVE POLICIES.

Nothing in this Act shall be construed to discourage employers from adopting or retaining leave policies more generous than any policies that comply with the requirements under this Act.

SEC. 404. REGULATIONS.

Not later than 60 days after the date of enactment of this Act, the Secretary shall prescribe such regulations as are necessary to carry out title I.

SEC. 405. EFFECTIVE DATES.

(a) ADVISORY COMMISSION.—Title III shall become effective on the date of enactment of this Act.

(b) OTHER TITLES.—

(1) IN GENERAL.—Except as provided in paragraph (2), titles I, II, and IV shall take effect 6 months after the date of the enactment of this Act.

(2) COLLECTIVE BARGAINING AGREEMENTS.—In the case of a collective bargaining agreement in effect on the effective date described in paragraph (1), title I shall apply on the earlier of—

(A) the date of the termination of such agreement, or

(B) the date which occurs 12 months after the date of the enactment of this Act.

Notwithstanding any other provision of this Act, the term "employer" means any person engaged in commerce or in any industry affecting commerce who employs 50 or more employees at any one worksite for each working day during each of 19 or more calendar workweeks in the current or preceding calendar year; and includes:

"(i) any person who acts directly or indirectly in the interest of an employer to one or more employees;

"(ii) any successor in interest of such an employer; and

"(iii) any public agency, as defined in section 3(x) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(x)): and

notwithstanding any other provision of this act, the period of entitlement described in Sec. 104(a)(2) of this act shall not exceed 10 workweeks during any 12-month period; and notwithstanding any other provision of this act, the entitlement under paragraph (a)(2), in "Sec. 6333" entitled "Temporary Medical Leave Requirement" contained in Sec. 201 of this act shall not exceed 10 administrative workweeks of the employee during any 12-month period.

[Corrected version will appear on pages 26653-26658.]

TITLE V—CHILD PORNOGRAPHY AND OBSCENITY

SEC. 501. SHORT TITLE.

This title may be cited as the "Child Protection and Obscenity Enforcement Act of 1988".

Subtitle A—Child Pornography

SEC. 511. AMENDMENTS TO EXISTING OFFENSES.

(a) SEXUAL EXPLOITATION OF CHILDREN.—Paragraph (2) of subsection 2251(c) of title 18, United States Code, is amended by inserting "by any means including by computer" after "interstate or foreign commerce" both places it appears.

(b) MATERIAL INVOLVING SEXUAL EXPLOITATION OF CHILDREN.—Subsection 2252(a) of title 18, United States Code, is amended by inserting "by any means including by computer" after "interstate or foreign commerce" each place it appears.

(c) DEFINITION.—Section 2256 of title 18, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (4);

(2) by striking out the period at the end of paragraph (5) and inserting in lieu thereof: "; and"; and

(3) by adding at the end the following:

"(6) 'computer' has the meaning given that term in section 1030 of this title.".

SEC. 512. SELLING OR BUYING OF CHILDREN.

(a) IN GENERAL.—Chapter 110 of title 18, United States Code, is amended by inserting after section 2251 the following:

"§ 2251A. Selling or buying of children

"(a) Any parent, legal guardian, or other person having custody or control of a minor who sells or otherwise transfers custody or control of such minor, or offers to sell or otherwise transfer custody of such minor either—

"(1) with knowledge that, as a consequence of the sale or transfer, the minor will be portrayed in a visual depiction engaging in, or assisting another person to engage in, sexually explicit conduct; or

"(2) with intent to promote either—

"(A) the engaging in of sexually explicit conduct by such minor for the purpose of producing any visual depiction of such conduct; or

"(B) the rendering of assistance by the minor to any other person to engage in sexually explicit conduct for the purpose of producing any visual depiction of such conduct;

shall be punished by imprisonment for not less than 20 years or for life and by a fine under this title, if any of the circumstances described in subsection (c) of this section exist.

"(b) Whoever purchases or otherwise obtains custody or control of a minor, or offers to purchase or otherwise obtain custody or control of a minor either—

"(1) with knowledge that, as a consequence of the purchase or obtaining of custody, the minor will be portrayed in a visual depiction engaging in, or assisting another person to engage in, sexually explicit conduct; or

"(2) with intent to promote either—

"(A) the engaging in of sexually explicit conduct by such minor for the purpose of producing any visual depiction of such conduct; or

"(B) the rendering of assistance by the minor to any other person to engage in sexually explicit conduct for the purpose of producing any visual depiction of such conduct;

shall be punished by imprisonment for not less than 20 years or for life and by a fine under this title, if any of the circumstances described in subsection (c) of this section exist.

"(c) The circumstances referred to in subsections (a) and (b) are that—

"(1) in the course of the conduct described in such subsections the minor or the actor traveled in or was transported in interstate or foreign commerce;

"(2) any offer described in such subsections was communicated or transported in interstate or foreign commerce by any means including by computer or mail; or

"(3) the conduct described in such subsections took place in any territory or possession of the United States.".

(b) DEFINITION.—Section 2256 of title 18, United States Code, as amended by section 201 of this Act, is further amended—

(1) by striking out "and" at the end of paragraph (5);

(2) by striking out the period at the end of paragraph (6) and inserting "; and" in lieu thereof; and

(3) by adding at the end the following:

"(7) 'custody or control' includes temporary supervision over or responsibility for a minor whether legally or illegally obtained.".

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 110 of title 18, United States Code, is amended by inserting after the item relating to section 2251 the following:

"2251A. Selling or buying of children.".

SEC. 513. RECORD KEEPING REQUIREMENTS.

(a) IN GENERAL.—Chapter 110 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 2257. Record keeping requirements

"(a) Whoever produces any book, magazine, periodical, film, videotape, or other matter which—

"(1) contains one or more visual depictions made after February 6, 1978 of actual sexually explicit conduct; and

"(2) is produced in whole or in part with materials which have been shipped in interstate or foreign commerce, or is shipped or transported or is intended for shipment or transportation in interstate or foreign commerce;

shall create and maintain individually identifiable records pertaining to every performer portrayed in such a visual depiction.

"(b) Any person to whom subsection (a) applies shall, with respect to every performer portrayed in a visual depiction of actual sexually explicit conduct—

"(1) ascertain, by examination of an identification document containing such information, the performer's name and date of birth, and require the performer to provide such other indicia of his or her identity as may be prescribed by regulations;

"(2) ascertain any name, other than the performer's present and correct name, ever used by the performer including maiden name, alias, nickname, stage, or professional name; and

"(3) record in the records required by subsection (a) the information required by paragraphs (1) and (2) of this subsection and such other identifying information as may be prescribed by regulation.

"(c) Any person to whom subsection (a) applies shall maintain the records required by this section at his business premises, or at such other place as the Attorney General may by regulation prescribe and shall make such records available to the Attorney General for inspection at all reasonable times.

"(d)(1) No information or evidence obtained from records required to be created or maintained by this section shall, except as provided in paragraphs (2) and (3), be used, directly or indirectly, as evidence against any person with respect to any violation of law.

"(2) Paragraph (1) of this subsection shall not preclude the use of such information or evidence in a prosecution or other action for a violation of any applicable provision of law with respect to the furnishing of false information.

"(3) In a prosecution of any person to whom subsection (a) applies for an offense in violation of subsection 2251(a) of this title which has as an element the production of a visual depiction of a minor engaging in or assisting another person to engage in sexually explicit conduct and in which that element is sought to be established by showing that a performer within the meaning of this section is a minor—

"(A) proof that the person failed to comply with the provisions of subsection (a) or (b) of this section concerning the creation and maintenance of records, or a regulation issued pursuant thereto, shall raise a rebuttable presumption that such performer was a minor; and

"(B) proof that the person failed to comply with the provisions of subsection (e) of this section concerning the statement required by that subsection shall raise the rebuttable presumption that every performer in the matter was a minor.

"(e)(1) Any person to whom subsection (a) applies shall cause to be affixed to every copy of any matter described in paragraph (1) of subsection (a) of this section, in such manner and in such form as the Attorney General shall by regulations prescribe, a statement describing where the records required by this section with respect to all performers depicted in that copy of the matter may be located.

"(2) If the person to whom subsection (a) of this section applies is an organization the statement required by this subsection shall include the name, title, and business address of the individual employed by such organization responsible for maintaining the records required by this section.

"(3) In any prosecution of a person for an offense in violation of section 2252 of this title which has as an element the transporting, mailing, or distribution of a visual depiction involving the use of a minor engaging in sexually explicit conduct, and in which that element is sought to be established by a showing that a performer within the meaning of this section is a minor, proof that the matter in which the visual depiction is contained did not contain the statement required by this section shall raise a rebuttable presumption that such performer was a minor.

"(f) The Attorney General shall issue appropriate regulations to carry out this section.

"(g) As used in this section—

"(1) the term 'actual sexually explicit conduct' means actual but not simulated conduct as defined in subparagraphs (A) through (E) of paragraph (2) of section 2256 of this title;

"(2) 'identification document' has the meaning given that term in subsection 1028(d) of this title;

"(3) the term 'produces' means to produce, manufacture, or publish and includes the duplication, reproduction, or reissuing of any material; and

"(4) the term 'performer' includes any person portrayed in a visual depiction engaging in, or assisting another person to engage in, actual sexually explicit conduct.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 110 of title 18, United States Code, is amended by adding after the item relating to section 2256 the following:

"2257. Record keeping requirements.".

(c) EFFECTIVE DATE.—Section 2257 of title 18, United States Code, as added by this section shall take effect 180 days after the date of the enactment of this Act except—

(1) the Attorney General shall prepare the initial set of regulations required or authorized by section 2257 within 90 days of the date of the enactment of this Act; and

(2) subsection (e) of section 2257 of this title and of any regulation issued pursuant thereto shall take effect 270 days after the date of the enactment of this Act.

SEC. 514. R.I.C.O. AMENDMENT.

Subsection 1961(1)(B) of title 18, United States Code, is amended by inserting after "section 1957 (relating to engaging in monetary transactions in property derived from specified unlawful activity)" the following: "sections 2251 through 2252 (relating to sexual exploitation of children),".

Subtitle B—Obscenity

SEC. 521. RECEIPT OR POSSESSION FOR SALE: PRESUMPTIONS FOR CHAPTER 71.

(a) RECEIPT OR POSSESSION FOR SALE.—Chapter 71 of title 18, United States Code, is amended by inserting after section 1465 the following:

"§ 1466. Receipt or possession of obscene matter for sale or distribution

"(a) Whoever is engaged in the business of selling or transferring books, magazines, pictures, papers, films, videotapes, or phonograph or other audio recordings, and knowingly receives or possesses with intent to distribute any obscene book, magazine, picture, paper, film, videotape, or phonograph or other audio recording, which has been shipped or transported in interstate or foreign commerce, shall be punished by imprisonment for not more than 5 years or by a fine under this title, or both.

"(b) As used in this subsection, the term 'engaged in the business' means that the person who sells or transfers or offers to sell or transfer books, magazines, pictures, papers, films, videotapes, or phonograph or other audio recordings, devotes time, attention, or labor to such activities, as a regular course of trade or business, with the objective of earning a profit, although it is not necessary that the person make a profit or that the selling or transferring or offering to sell or transfer such material be the person's sole or principal business or source of income. The offering for sale of or to transfer, at one time, two or more copies of any obscene publication, or two or more of any obscene article, or a combined total of five or more such publications and articles, shall create a rebuttable presumption that the person so offering them is 'engaged in the business' as defined in subsection (b).

"(c) In a prosecution for a violation of this section, it shall be an affirmative defense, on which the defendant has the burden of persuasion by a preponderance of the evidence, that the person—

"(1) ordered or received the obscene matter without examining the matter in advance;

"(2) did not in fact offer the matter for sale, or transfer or offer to transfer it to another person other than the sender; and

"(3) possessed the material less than 21 days.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 71 of title 18, United States Code, is amended by adding after the item relating to section 1465 the following:

"1466. Receipt or possession of obscene matter for sale or distribution.
"1467. Criminal forfeiture.".

(c) USE OF FACILITY OF COMMERCE.—The first paragraph of section 1465 of title 18, United States Code, is amended by inserting after the word distribution: ", or knowingly travels in interstate commerce, or uses a facility or means of commerce for the purpose of interstate or foreign sale or distribution of,".

(d) DISTRIBUTION OF PROCEEDS.—Section 1465 of title 18, United States Code, is amended by inserting "or the proceeds from the sale thereof" after "character,".

(e) PRESUMPTIONS.—Chapter 71 of title 18, United States Code, as amended by subsection (a) of this section and by section 302, is further amended by adding at the end the following:

"§ 1469. Presumptions

"(a) In any prosecution under this chapter in which an element of the offense is that the matter in question was transported, shipped, or carried in interstate commerce, proof, by either circumstantial or direct evidence, that such matter was produced or manufactured in one State and is subsequently located in another State shall raise a rebuttable presumption that such matter was transported, shipped, or carried in interstate commerce.

"(b) In any prosecution under this chapter in which an element of the offense is that the matter in question was transported, shipped, or carried in foreign commerce, proof, by either circumstantial or direct evidence, that such matter was produced or manufactured outside of the United States and is subsequently located in the United States shall raise a rebuttable presumption that such matter was transported, shipped, or carried in foreign commerce.".

(f) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 71 of title 18, United States Code, is amended by adding after the item relating to section 1468 the following:

"1469. Presumptions.".

SEC. 522. FORFEITURE IN OBSCENITY CASES.

(a) IN GENERAL.—Chapter 71 of title 18, United States Code, is amended by adding at the end the following:

"§ 1467. Criminal forfeiture

"(a) PROPERTY SUBJECT TO CRIMINAL FORFEITURE.—A person who is convicted of an offense involving obscene material under this chapter shall forfeit to the United States such person's interest in—

"(1) any obscene material produced, transported, mailed, shipped or received in violation of this chapter;

"(2) any property, real or personal, constituting or traceable to gross profits or other proceeds obtained from such offense; and

"(3) any property, real or personal, used or intended to be used to commit or to promote the commission of such offense. A forfeiture under this subparagraph shall be authorized only by the Attorney General, the Deputy Attorney General, the Associate Attorney General, or the Assistant Attorney General or the Acting Assistant Attorney General in the Criminal Division.

"(b) THIRD PARTY TRANSFERS.—All right, title, and interest in property described in subsection (a) of this section vests in the United States upon the commission of the act giving rise to forfeiture under this section. Any such property that is subsequently transferred to a person other than the defendant may be the subject of a special verdict of forfeiture and thereafter shall be ordered forfeited to the United States, unless the transferee establishes in a hearing pursuant to subsection (m) of this section that he is a bona fide purchaser for value of such property who at the time of purchase was reasonably without cause to believe that the property was subject to forfeiture under this section.

"(c) PROTECTIVE ORDERS.—(1) Upon application of the United States, the court may enter a restraining order or injunction, require the execution of a satisfactory performance bond, or take any other action to preserve the availability of property de-

scribed in subsection (a) of this section for forfeiture under this section—

"(A) upon the filing of an indictment or information charging a violation of this chapter for which criminal forfeiture may be ordered under this section and alleging that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section; or

"(B) prior to the filing of such an indictment or information, if, after notice to persons appearing to have an interest in the property and opportunity for a hearing, the court determines that—

"(i) there is a substantial probability that the United States will prevail on the issue of forfeiture and that failure to enter the order will result in the property being destroyed, removed from the jurisdiction of the court, or otherwise made unavailable for forfeiture; and

"(ii) the need to preserve the availability of the property through the entry of the requested order outweighs the hardship on any party against whom the order is to be entered;

except that an order entered under subparagraph (B) shall be effective for not more than 90 days, unless extended by the court for good cause shown or unless an indictment or information described in subparagraph (A) has been filed.

"(2) A temporary restraining order under this subsection may be entered upon application of the United States without notice or opportunity for a hearing when an information or indictment has not yet been filed with respect to the property, if the United States demonstrates that there is probable cause to believe that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section and that provision of notice will jeopardize the availability of the property for forfeiture. Such a temporary order shall expire not more than 10 days after the date on which it is entered, unless extended for good cause shown or unless the party against whom it is entered consents to an extension for a longer period. A hearing requested concerning an order entered under this paragraph shall be held at the earliest possible time and prior to the expiration of the temporary order.

"(3) The court may receive and consider, at a hearing held pursuant to this subsection, evidence and information that would be inadmissible under the Federal Rules of Evidence.

"(d) WARRANT OF SEIZURE.—The Government may request the issuance of a warrant authorizing the seizure of property subject to forfeiture under this section in the same manner as provided for a search warrant. If the court determines that there is probable cause to believe that the property to be seized would, in the event of conviction, be subject to forfeiture and that an order under subsection (c) of this section may not be sufficient to assure the availability of the property for forfeiture, the court shall issue a warrant authorizing the seizure of such property.

"(e) ORDER OF FORFEITURE.—The court shall order forfeiture of property referred to in subsection (a) if the trier of fact determines, beyond a reasonable doubt, that such property is subject to forfeiture.

"(f) EXECUTION.—Upon entry of an order of forfeiture under this section, the court shall authorize the Attorney General to seize all property ordered forfeited upon such terms and conditions as the court shall deem proper. Following entry of an order declaring the property forfeited, the court may, upon application of the United States, enter such appropriate restraining orders or injunctions, require the execution of satisfactory performance bonds, appoint receivers, conservators, appraisers, accountants, or trustees, or take any other action to protect the interest of the United States in the property ordered forfeited. Any income accruing to or derived from property ordered forfeited under this section may be used to offset ordinary and necessary expenses to the property which are required by law, or which are necessary to protect the interests of the United States or third parties.

"(g) DISPOSITION OF PROPERTY.—Following the seizure of property ordered forfeited under this section, the Attorney General shall destroy or retain for official use any property described in paragraph (1) of subsection (a) and shall direct the disposition of any property described in paragraph (2) of subsection (a) by sale or any other commercially feasible means, making due provision for the rights of any innocent persons. Any property right or interest not exercisable by, or transferable for value to, the United States shall expire and shall not revert to the defendant, nor shall the defendant or any person acting in concert with him or on his behalf be eligible to purchase forfeited property at any sale held by the United States. Upon application of a person, other than the defendant or person acting in concert with him or on his behalf, the court may restrain or stay the sale or disposition of the property pending the conclusion of any appeal of the criminal case giving rise to the forfeiture, if the applicant demonstrates that proceeding with the sale or disposition of the property will result in irreparable injury, harm, or loss to him.

"(h) AUTHORITY OF ATTORNEY GENERAL.—With respect to property ordered forfeited under this section, the Attorney General is authorized to—

"(1) grant petitions for mitigation or remission of forfeiture, restore forfeited property to victims of a violation of this chapter, or take any other action to protect the rights of innocent persons which is in the interest of justice and which is not inconsistent with the provisions of this section;

"(2) comprise claims arising under this section;

"(3) award compensation to persons providing information resulting in a forfeiture under this section;

"(4) direct the disposition by the United States, in accordance with the provisions of section 1616, title 19, United States Code, of all property ordered forfeited under this section by public sale or any other commercially feasible means, making due provision for the rights of innocent persons; and

"(5) take appropriate measures necessary to safeguard and maintain property ordered forfeited under this section pending its disposition.

"(i) APPLICABILITY OF CIVIL FORFEITURE PROVISIONS.—Except to the extent that they are inconsistent with the provisions of this section, the provisions of section 1468(d) of this title (18 U.S.C. 1468(d)) shall apply to a criminal forfeiture under this section.

"(j) BAR ON INTERVENTION.—Except as provided in subsection (m) of this section, no party claiming an interest in property subject to forfeiture under this section may—

"(1) intervene in a trial or appeal of a criminal case involving the forfeiture of such property under this section; or

"(2) commence an action at law or equity against the United States concerning the validity of his alleged interest in the property subsequent to the filing of an indictment or information alleging that the property is subject to forfeiture under this section.

"(k) JURISDICTION TO ENTER ORDERS.—The district courts of the United States shall have jurisdiction to enter orders as provided in this section without regard to the location of any property which may be subject to forfeiture under this section or which has been ordered forfeited under this section.

"(l) DEPOSITIONS.—In order to facilitate the identification and location of property declared forfeited and to facilitate the disposition of petitions for remission or mitigation of forfeiture, after the entry of an order declaring property forfeited to the United States, the court may, upon application of the United States, order that the testimony of any witness relating to the property forfeited be taken by deposition and that any designated book, paper, document, record, recording, or other material not privileged be produced at the same time and place, in the same manner as provided for the taking of depositions under Rule 15 of the Federal Rules of Criminal Procedure.

"(m) THIRD PARTY INTERESTS.—(1) Following the entry of an order of forfeiture under this section, the United States shall publish notice of the order and of its intent to dispose of the property in such manner as the Attorney General may direct. The Government may also, to the extent practicable, provide direct written notice to any person known to have alleged an interest in the property that is the subject of the order of forfeiture as a substitute for published notice as to those persons so notified.

SEC. 524. COMMUNICATIONS ACT AMENDMENT.

Section 223(b) of the Communications Act of 1934 (47 U.S.C. 223(b)) is amended to read as follows:

"(b)(1)(A) Whoever knowingly—

"(i) in the District of Columbia or in interstate or foreign communication, by means of telephone, makes (directly or by recording device) any obscene communication for commercial purposes to any person, regardless of whether the maker of such communication placed the call; or

"(ii) permits any telephone facility under such person's control to be used for an activity prohibited by clause (i);

shall be fined in accordance with title 18 of the United States Code, or imprisoned not more than two years, or both.

"(2)(A) Whoever knowingly—

"(i) in the District of Columbia or in interstate or foreign communication, by means of telephone, makes (directly or by recording device) any indecent communication for commercial purposes to any person, regardless of whether the maker of such communication placed the call; or

"(ii) permits any telephone facility under such person's control to be used for an activity prohibited by clause (i),

shall be fined not more than $50,000 or imprisoned not more than six months, or both.".

SEC. 525. ELECTRONIC SURVEILLANCE.

Subsection (1) of section 2516 of title 18, United States Code, is amended by redesignating paragraphs (i) and (j) as (j) and (k), respectively, and by adding a new paragraph (i) as follows:

"(i) any felony violation of chapter 71 (relating to obscenity) of this title;".

SEC. 526. POSSESSION AND SALE OF OBSCENE MATTERS IN FEDERAL JURISDICTION OR ON FEDERAL PROPERTY.

(a) IN GENERAL.—Chapter 71 of title 18, United States Code, is amended by inserting before section 1461 the following:

"§ 1460. Possession and sale of obscene matter on Federal property

"(a) Whoever, either—

"(1) in the special maritime and territorial jurisdiction of the United States, or on any land or building owned by, leased to, or otherwise used by or under the control of the Government of the United States; or

"(2) in the Indian country as defined in section 1151 of this title,

knowingly sells or possesses with intent to sell an obscene visual depiction or a visual depiction of a minor engaging in or assisting another person to engage in sexually explicit conduct, shall be punished by a fine in accordance with the provisions of this title or imprisoned for not more than 2 years, or both.

"(b) Except as provided in subsection (c), whoever, in an area described in subparagraph (1) or (2) of subsection (a) knowingly possesses an obscene visual depiction or a visual depiction of a minor engaging in or assisting another person to engage in sexually explicit conduct shall be punished by imprisonment for not more than 6 months or a fine of not more than $5,000 for an individual or $10,000 for a person other than an individual, or both.

"(c) Subsection (b) shall not apply in the case of a person who possesses an obscene visual depiction in any place where such person lives or resides.

"(d) For the purposes of this section—

"(1) the term 'visual depiction' includes undeveloped film and videotape but does not include mere words; and

"(2) the terms 'minor' and 'sexually explicit conduct' have the meaning given those terms in chapter 110 of this title.

"(e) In a prosecution for a violation of this section involving an obscene visual depiction, it shall be an affirmative defense, on which the defendant has the burden of persuasion by a preponderance of the evidence, that the person—

"(1) ordered or received the obscene matter without examining the matter in advance;

"(2) did not in fact offer the matter for sale, or transfer or offer to transfer it to another person other than the sender; and

"(3) possessed the material less than 21 days.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 71 of title 18, United States Code, is amended by adding before the item relating to section 1461 the following:

"1460. Possession and sale of obscene matter on Federal property.".

SEC. 527. CIVIL FORFEITURE.

(a) IN GENERAL.—Chapter 71 of title 18, United States Code, is amended by adding the following new section at the end thereof:

"§ 1470. Civil forfeiture

"(a) PROPERTY SUBJECT TO CIVIL FORFEITURE.—The following property shall be subject to forfeiture by the United States:

"(1) Any material that has been adjudged obscene in any criminal case, Federal or State, that is produced, transported, mailed, shipped, or received in violation of this chapter.

"(2) Any property, real or personal, constituting or traceable to gross profits or other proceeds obtained from a violation of this chapter involving material that has been adjudged obscene in any criminal case, State or Federal, except that no property shall be forfeited under this paragraph, to the extent of the interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner.

"(b) SEIZURE PURSUANT TO SUPPLEMENTAL RULES FOR CERTAIN ADMIRALTY AND MARITIME CLAIMS.—Any property subject to forfeiture to the United States under this section may be seized by the Attorney General upon process issued pursuant to the Supplemental Rules for Certain Admiralty and Maritime Claims by any district court of the United States having jurisdiction over the property, except that seizure without such process may be made when the seizure is pursuant to a search under a search warrant. The government may request the issuance of a warrant authorizing the seizure of property subject to forfeiture under this section in the same manner as provided for a search warrant under the Federal Rules of Criminal Procedure.

"(c) CUSTODY OF ATTORNEY GENERAL.—Property taken or detained under this section shall not be repleviable, but shall be deemed to be in the custody of the Attorney General, subject only to the orders and decrees of the court or the official having jurisdiction thereof. Whenever property is seized under any of the provisions of this subchapter, the Attorney General may—

"(1) place the property under seal;

"(2) remove the property to a place designated by him; or

"(3) require that the General Services Administration take custody of the property and remove it, if practicable, to an appropriate location for disposition in accordance with law.

"(d) OTHER LAWS AND PROCEEDINGS APPLICABLE.—All provisions of the customs laws relating to the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws, the disposition of such property or the proceeds from the sale thereof, the remission or mitigation of such forfeitures, and the compromise of claims, shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under this section, insofar as applicable and not inconsistent with the provisions of this section, except that such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this section by such officers, agents, or other persons as may be authorized or designated for that purpose by the Attorney General or the Postal Service, except to the extent that such duties arise from seizures and forfeitures effected by any customs officer.

"(e) APPLICABILITY OF CERTAIN SECTIONS.—Sections 1606, 1607, 1608, 1609, 1613, 1614, 1617, and 1618 of title 19 shall not apply with respect to obscene material subject to forfeiture under subsection (a)(1) of this section.

"(f) DISPOSITION OF FORFEITED PROPERTY.—Whenever property is forfeited under this section the Attorney General shall destroy or retain for official use any article described in paragraph (1) of subsection (a), and with respect to property described in paragraphs (2) and (3) of subsection (a) may—

"(1) retain the property for official use or transfer the custody or ownership of any forfeited property to a Federal, State, or local agency pursuant to section 1616 of title 19;

"(2) sell any forfeited property which is not required to be destroyed by law and which is not harmful to the public; or

"(3) require that the General Services Administration take custody of the property and dispose of it in accordance with law.

The Attorney General shall ensure the equitable transfer pursuant to paragraph (1) of any forfeited property to the appropriate State or local law enforcement agency so as to reflect generally the contribution of any such agency participating directly in any of the acts which led to the seizure or forfeiture of such property. A decision by the Attorney General pursuant to paragraph (1) shall not be subject to judicial review. The Attorney General shall forward to the Treasurer of the United States for deposit in accordance with section 524(c) of title 28 the proceeds from any sale under paragraph (2) and any moneys forfeited under this subchapter.

"(g) TITLE TO PROPERTY.—All right, title, and interest in property described in subsection (a) of this section shall vest in the United States upon commission of the act giving rise to forfeiture under this section.

"(h) STAY OF PROCEEDINGS.—The filing of an indictment or information alleging a violation of this chapter which is also related to a civil forfeiture proceeding under this section shall, upon motion of the United States and for good cause shown, stay the civil forfeiture proceeding.

"(i) VENUE.—In addition to the venue provided for in section 1395 of title 28 or any other provision of law, in the case of property of a defendant charged with a violation that is the basis for forfeiture of the property under this section, a proceeding for forfeiture under this section may be brought in the judicial district in which the defendant owning such property is found or in the judicial district in which the criminal prosecution is brought.".

(b) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 71 of title 18, United States Code, is amended by inserting after the item relating to section 1469 the following:

"1470. Civil forfeiture.".

(c) REPEAL.—The last paragraph of section 1465 of title 18, United States Code, is repealed.

SEC. 528. CIVIL FINES.

Chapter 71 of title 18, United States Code, is amended by inserting at the end the following new section:

"Section 1471. Civil fines.

"(a) Whoever produces, transports, mails, ships or receives any article that has been adjudged obscene in any state or federal criminal case shall be subject to a civil penalty of—

"(1) for a first violation, not more than $10,000;

"(2) for a second violation, not more than $50,000; and

"(3) for a third or subsequent violation, not more than $250,000 in the case of an individual, or $500,000 in the case of an organization.

"(b) An action to recover a fine imposable under subsection (a) shall be brought in the name of the United States. The Attorney General may commence such a civil action in the district court in any district where the violation occurs. Such an action must be

commenced within 5 years of the violation. The Attorney General may compromise, modify, or remit with or without condition any civil penalty imposed under this section.

"(c) In any civil action under this section, the defendant shall have a right to a trial by jury, and the government shall have the burden of proof, by a preponderance of the evidence, that the article is obscene under the standards of the community in which the trial takes place."

SEC. 529. SEVERABILITY.

If any of the provisions of this Act are found invalid, such finding shall not affect the validity or effect of the remaining provisions thereof.

TITLE V—CHILD CARE PROVISIONS

SEC. 501. SHORT TITLE.

This title may be cited as the "Act for Better Child Care Services of 1988".

SEC. 502. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the number of children living in homes where both parents work, or living in homes with a single parent who works, has increased dramatically over the last decade;

(2) the availability of quality child care is critical to the self-sufficiency and independence of millions of American families, including the growing number of mothers with young children who work out of economic necessity;

(3) high quality child care programs can strengthen our society by providing young children with the foundation on which to learn the basic skills necessary to be productive workers;

(4) the years from birth to age 6 are a critical period in the development of a young child;

(5) a significant number of parents do not have a real choice as they seek adequate child care for their young children because of limited incomes, insufficient State child care standards, and the inadequate supply of child care services in their community;

(6) high quality early childhood development programs provided during such period are cost effective because such programs can reduce the chances of juvenile delinquency and adolescent pregnancy and can improve the likelihood that children will finish high school and become employed;

(7) the number of quality child care arrangements falls far short of the number required for children in need of child care services;

(8) the rapid growth of participation in the labor force by mothers of children under the age of 1 has resulted in a critical shortage of quality child care arrangements for infants and toddlers;

(9) the lack of available child care services results in many preschool and school-age children being left without adequate supervision for significant parts of the day;

(10) many working parents who are unable to afford adequate child care services do not receive adequate financial assistance for such services from employers or public sources;

(11) because of the lack of affordable child care, a large number of parents are not able to work or to seek the training or education they need to become self sufficient;

(12) making adequate child care services available for parents who are employed, seeking employment, or seeking to develop employment skills promotes and strengthens the well-being of families and the national economy;

(13) the payment of the exceptionally low salaries to child care workers adversely affects the quality of child care services by making it difficult to retain qualified staff;

(14) several factors result in the shortage of quality child care options for children and parents, including—

(A) the inability of parents to pay for child care services;

(B) the lack of up-to-date information on child care services;

(C) the lack of training opportunities for staff in child care programs;

(D) the high rate of staff turnover in child care facilities; and

(E) the wide differences among the States in child care licensing and enforcement policies; and

(15) improved coordination of child care services will help to promote the most efficient use of child care resources.

(b) PURPOSES.—The purposes of this subtitle are—

(1) to build on and to strengthen the role of the family by seeking to ensure that parents are not forced by lack of available programs or financial resources to place a child in an unsafe or unhealthy child care facility or arrangement;

(2) to promote the availability and diversity of quality child care services to expand child care options available to all families who need such services;

(3) to provide assistance to families whose financial resources are not sufficient to enable such families to pay the full cost of necessary child care services;

(4) to lessen the chances that children will be left to fend for themselves for significant parts of the day;

(5) to improve the productivity of parents in the labor force by lessening the stresses related to the absence of adequate child care services;

(6) to provide assistance to States to improve the quality of, and coordination among, child care programs;

(7) to increase the opportunities for attracting and retaining qualified staff in the field of child care to provide high quality child care services to children; and

(8) to strengthen the competitiveness of the United States by providing young children with a sound early childhood development experience.

SEC. 503. DEFINITIONS.

As used in this subtitle:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of Child Care appointed under section 514(a).

(2) CAREGIVER.—The term "caregiver" means an individual who provides a service directly to an eligible child on a person-to-person basis.

(3) CENTER-BASED CHILD CARE PROVIDER.—The term "center-based child care provider" means a child care provider that provides child care services in a nonresidential facility.

(4) CHILD CARE CERTIFICATE.—The term "child care certificate" means a certificate that is issued by the State to parents who may use such certificate only as payment for child care services for an eligible child and that provides to an eligible child care provider a right to reimbursement for such services at the same rate charged by that provider for comparable services to children whose parents are not eligible for certificates under this subtitle or for child care assistance under any other Federal or State program.

(5) COMMUNITY-BASED ORGANIZATION.—The term "community-based organization" has the meaning given such term by section 4(5) of the Job Training and Partnership Act (29 U.S.C. 1503(5)).

(6) ELEMENTARY SCHOOL.—The term "elementary school" means a day or residential school that provides elementary education, as determined under State law.

(7) ELIGIBLE CHILD.—The term "eligible child" means an individual—

(A) who is less than 16 years of age;

(B) whose family income does not exceed 100 percent of the State median income for a family of the same size; and

(C) who—

(i) resides with a parent or parents who are working, seeking employment, or enrolled in a job training or educational program; or

(ii) is receiving, or needs to receive, protective services and resides with a parent or parents not described in clause (i).

(8) ELIGIBLE CHILD CARE PROVIDER.—The term "eligible child care provider" means a center-based child care provider, a group home child care provider, a family child care provider, or other provider of child care services for compensation that—

(A) is licensed or regulated under State law;

(B) satisfies—

(i) the Federal requirements, except as provided in subparagraph (C); and

(ii) the State and local requirements;

applicable to the child care services it provides; and

(C) after the expiration of the 4-year period beginning on the date the Secretary establishes minimum child care standards under section 517(e)(2), complies with such standards that are applicable to the child care services it provides.

(9) FAMILY CHILD CARE PROVIDER.—The term "family child care provider" means 1 individual who provides child care services for fewer than 24 hours per day, as the sole caregiver, and in the private residence of such individual.

(10) FAMILY SUPPORT SERVICES.—The term "family support services" means services that assist parents by providing support in parenting and by linking parents with community resources and with other parents.

(11) FULL-WORKING-DAY.—The term "full-working-day" means at least 10 hours per day.

(12) GROUP HOME CHILD CARE PROVIDER.—The term "group home child care provider" means 2 or more individuals who jointly provide child care services for fewer than 24 hours per day and in a private residence.

(13) HANDICAPPING CONDITION.—The term "handicapping condition" means any condition set forth in section 602(a)(1) of the Education of the Handicapped Act (20 U.S.C. 1401(a)(1)) or section 672(1) of the Education of the Handicapped Act (20 U.S.C. 1471(a)).

(14) INDIAN TRIBE.—The term "Indian tribe" has the meaning given it in section 4(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(b)).

(15) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" has the meaning given such term in section 481(a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1088(a)(1)), except that with respect to a tribally controlled community college such term has the meaning given it in section 2(a)(5) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801(a)(5)).

(16) LEAD AGENCY.—The term "lead agency" means the agency designated under section 506(a).

(17) LOCAL EDUCATIONAL AGENCY.—The term "local educational agency" has the meaning given that term in section 198(a)(10) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2854(a)(10)).

(18) PARENT.—The term "parent" includes a legal guardian or other person standing in loco parentis.

(19) SCHOOL-AGE CHILD CARE SERVICES.—The term "school-age child care services" means child care services that are—

"(A) provided during such times of the school day when regular instructional services are not in session; and

"(B) not intended as an extension of or replacement for the regular academic program, but are intended to provide an environment which enhances the social, emotional, and recreational development of children of school age;

(20) SECONDARY SCHOOL.—The term "secondary school" means a day or residential school which provides secondary education, as determined under State law.

(21) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services unless the context specifies otherwise.

(22) SCHOOL FACILITIES.—The term "school facilities" means classrooms and related facilities used to provide education.

(23) SLIDING FEE SCALE.—The term "sliding fee scale" means a system of cost sharing between the State and a family based on income and size of the family with the very low income families having to pay no cost.

(24) STATE.—The term "State" means any of the several States, the District of Columbia, the Virgin Islands of the United States, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, or Palau.

(25) UNIT OF GENERAL PURPOSE LOCAL GOVERNMENT.—The term "unit of general purpose local government" means any city, county, town, township, parish, village, a combination of such general purpose political subdivisions including those in two or more States, or other general purpose political subdivisions of a State.

(26) TRIBAL ORGANIZATION.—The term "tribal organization" has the meaning given it in section 4(c) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(c)).

(27) TRIBALLY CONTROLLED COMMUNITY COLLEGE.—The term "tribally controlled community college" has the meaning given it in section 2(a)(4) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801(a)(4)).

SEC. 504. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—To carry out this subtitle, other than section 521, there are authorized to be appropriated $2,500,000,000 for the fiscal year 1990 and such sums as may be necessary in each of the fiscal years 1991 through 1994.

SEC. 505. AMOUNTS RESERVED; ALLOTMENTS.

(a) AMOUNTS RESERVED.—

(1) TERRITORIES AND POSSESSIONS.—The Secretary shall reserve not to exceed one half of 1 percent of the amount appropriated under section 504(a) in each fiscal year for payments to Guam, American Samoa, the Virgin Islands of the United States, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, and Palau, to be allotted in accordance with their respective needs.

(2) INDIANS.—The Secretary shall reserve an amount, not less than 1.5 percent and not more than 3 percent of the amount appropriated under section 504(a) in each fiscal year, to carry out subsection (c) regarding Indian children.

(b) STATE ALLOTMENT.—

(1) GENERAL RULE.—From the remainder of the sums appropriated under section 504(a) for each fiscal year, the Secretary shall allot to each State (excluding jurisdictions referred to in subsection (a)(1)) an amount equal to the sum of—

(A) an amount that bears the same ratio to 50 percent of such remainder as the product of the young child factor of the State and the allotment percentage bears to the sum of the corresponding products for all States; and

(B) an amount that bears the same ratio to 50 percent of such remainder as the product of the school lunch factor of the State and the allotment percentage bears to the sum of the corresponding products for all the States.

(2) YOUNG CHILD FACTOR.—The term "young child factor" means the ratio of the number of children in the State who are less than 5 years of age to the number of children in all the States who are less than 5 years of age.

(3) SCHOOL LUNCH FACTOR.—The term "school lunch factor" means the ratio of the number of children in the State who are receiving free or reduced price lunches under the school lunch program established under the National School Lunch Act (42 U.S.C. 1751 et seq.) to the number of children in all the States who are receiving free or reduced price lunches under such program.

(4) ALLOTMENT PERCENTAGE.—

(A) IN GENERAL.—The allotment percentage for a State is determined by dividing—

(i) the per capita income of all individuals in the United States; by

(ii) the per capita income of all individuals in the State.

(B) LIMITATIONS.—If a sum determined under subparagraph (A)—

(i) exceeds 1.2, then the allotment percentage of that State shall be considered to be 1.2; and

(ii) is less that 0.8, then the allotment percentage of the State shall be considered to be 0.8.

(C) PER CAPITA INCOME.—For purposes of subparagraph (A), per capita income shall be—

(i) determined at 2-year intervals;

(ii) applied for the 2-year period beginning on October 1 of the first fiscal year beginning on the date such determination is made; and

(iii) equal to the average of the annual per capita incomes for the most recent period of 3 consecutive years for which satisfactory data are available from the Department of Commerce at the time such determination is made.

(c) PAYMENTS FOR THE BENEFIT OF INDIAN CHILDREN.—

(1) TRIBAL ORGANIZATIONS.—From the funds reserved under subsection (a)(2), the Secretary may, upon the application of a Indian tribe or tribal organization enter into a contract with, or make a grant to such Indian tribe or tribal organization for a period of 3 years, subject to satisfactory performance, to plan and carry out programs and activities that are consistent with this subtitle. Such contract or grant shall be subject to the terms and conditions of section 102 of the Indian Self-Determination Act (25 U.S.C. 450f) and shall be conducted in accordance with sections 4, 5, and 6 of the Act of April 16, 1934 (48 Stat. 596; 25 U.S.C. 655-657), that are relevant to such programs and activities.

(2) INDIAN RESERVATIONS.—In the case of an Indian tribe in a State other than the States of Oklahoma, Alaska, and California, such programs and activities shall be carried out on the Indian reservation for the benefit of Indian children.

(3) STANDARDS.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall establish, through the application process, standards applicable to child care services provided under such programs and activities. For purposes of establishing such standards, the Secretary shall take into consideration—

(i) the codes, regulations, and cultural factors of the Indian tribe involved, as expressed by such tribe or the tribal organization that represents such tribe; and

(ii) the State licensing and regulatory requirements applicable to child care services provided in the State in which such program and activities are carried out.

(B) APPLICATION.—

(i) RULE.—Except as provided in clause (ii), after the Secretary establishes minimum child care standards under section 517(e)(2), such minimum standards shall apply with respect to child care services provided under such programs and activities.

(ii) WAIVERS AND MODIFICATIONS.—The Secretary may waive or modify, for a period not to exceed 5 years beginning on the date such minimum standards are established, any of such minimum standards that would limit the capacity of an Indian tribe or tribal organization to receive funds under this subtitle if the Secretary determines that there is a reasonable expectation that each of such standards requested to be waived will be met by the applicant by the end of the period for which the waiver is requested.

(4) AVAILABILITY OF STATE CHILD CARE SERVICES.—For the purpose of determining whether to approve an application for a contract or grant under this subsection, the Secretary shall take into consideration the availability of child care services provided in accordance with this subtitle by the State in which the applicant proposes to carry out a program to provide child care services.

(5) RULE OF CONSTRUCTION.—This subsection shall not be construed—

(A) to limit the eligibility of any individual to participate in any program carried out with assistance received under this subtitle by a State; or

(B) to modify any requirement imposed on a State by any provision of this subtitle.

(6) COORDINATION.—To the maximum extent practicable, the applicant for a grant or contract under this subsection and the State in which the applicant is located shall coordinate with each other their respective child care programs and activities, including child care programs and activities carried out with assistance received under this subtitle.

(d) DATA AND INFORMATION.—The Secretary shall obtain from each appropriate Federal agency, the most recent data and information necessary to determine the allotments provided for in subsection (b).

(e) REALLOTMENTS.—

(1) IN GENERAL.—Any portion of the allotment under subsection (b) to a State that the Secretary determines is not required to carry out a State plan approved under sec-

tion 507(d), in the period for which the allotment is made available, shall be reallotted by the Secretary to other States in proportion to the original allotments to the other States.

(2) LIMITATIONS.—

(A) REDUCTION.—The amount of any reallotment to which a State is entitled to under paragraph (1) shall be reduced to the extent that it exceeds the amount that the Secretary estimates will be used in the State to carry out a State plan approved under section 507(d).

(B) REALLOTMENTS.—The amount of such reduction shall be similarly reallotted among States for which no reduction in an allotment or reallotment is required by this subsection.

(3) AMOUNTS REALLOTTED.—For purposes of any other section of this subtitle, any amount reallotted to a State under this subsection shall be considered to be part of the allotment made under subsection (b) to the State.

(f) DEFINITION.—For the purposes of this section, the term "State" means any of the several 50 States, the District of Columbia, or the Commonwealth of Puerto Rico.

SEC. 506. LEAD AGENCY.

(a) DESIGNATION.—The chief executive officer of a State desiring to participate in the program authorized by this subtitle shall designate, in an application submitted to the Secretary under section 507(a), an appropriate State agency that meets the requirements of subsection (b) to act as the lead agency.

(b) REQUIREMENTS.—

(1) ADMINISTRATION OF FUNDS.—The lead agency shall have the capacity to administer the funds provided under this subtitle to support programs and services authorized under this subtitle and to oversee the plan submitted under section 507(b).

(2) COORDINATION.—The lead agency shall have the capacity to coordinate the services for which assistance is provided under this subtitle with the services of other State and local agencies involved in providing services to children.

(3) ESTABLISHMENT OF POLICIES.—The lead agency shall have the authority to establish policies and procedures for developing and implementing interagency agreements with other agencies of the State to carry out the purposes of this subtitle.

(c) DUTIES.—The lead agency shall—

(1) assess child care needs and resources in the State, and assess the effectiveness of existing child care services and services for which assistance is provided under this subtitle or under other laws, in meeting such needs;

(2) develop a plan designed to meet the need for child care services in the State for eligible children, including infants, preschool children, and school-age children, giving special attention to meeting the needs for services for low-income children, migrant children, children with a handicapping condition, foster children, children in need of protective services, children of adolescent parents who need child care to remain in school, and children with limited English-language proficiency;

(3) develop, in consultation with the State advisory committee on child care established under section 511, the State plan submitted to the Secretary under section 507(b);

(4) hold hearings, in cooperation with such State advisory committee on child care, annually in each region of the State in order to provide to the public an opportunity to comment on the provision of child care services in the State under the proposed State plan;

(5) make such periodic reports to the Secretary as the Secretary may by rule require;

(6) coordinate the provision of services under this subtitle with—

(A) other child care programs and services, and with educational programs, for which assistance is provided under any State, local, or other Federal law, including the State Dependent Care Development Grants Act (42 U.S.C. 9871 et seq.); and

(B) other appropriate services, including social, health, mental health, protective, and nutrition services, available to eligible children under other Federal, State, and local programs; and

(7) identify resource and referral programs for particular geographical areas in the State that meet the requirements of section 512.

SEC. 507. APPLICATION AND PLAN.

(a) APPLICATION.—To be eligible to receive assistance under this subtitle, a State shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require by rule.

(b) PLAN.—The application of a State submitted under subsection (a) shall include an assurance that the State will comply with the requirements of this subtitle and a State plan that is designed to be implemented during a 4-year period and that meets the requirements of subsection (c).

(c) REQUIREMENTS OF A PLAN.—

(1) LEAD AGENCY.—The plan shall identify the lead agency designated in accordance with section 506(a).

(2) ADVISORY BODIES.—The plan shall demonstrate that the State will establish in accordance with section 511 a State advisory committee on child care.

(3) POLICIES AND PROCEDURES.—The plan shall set forth policies and procedures designed to ensure all of the following:

(A) That—

(i) all providers of child care services for which assistance is provided under this subtitle comply with all licensing and regulatory requirements (including registration requirements) applicable under State and local law; and

(ii) such requirements are imposed and enforced by the State uniformly on all child care providers that provide child care services under similar child care arrangements.

This subparagraph shall not be construed to prohibit a State from imposing more stringent standards or requirements on child care providers who provide services for which assistance is provided under this subtitle and who also receive State funds under any other law to provide child care services under a contract or other arrangement with the State.

(B) That procedures will be established to ensure that child care providers receiving assistance under this subtitle or under other publicly-assisted child care programs comply with the minimum child care standards established under section 517(e)(2) after the expiration of the 5-year period beginning on the date the Secretary establishes such standards, and comply with all applicable State and local licensing and regulatory requirements (including registration requirements).

(C) That the State will not—

(i) reduce the categories of child care providers licensed or regulated by the State on the date of enactment of this subtitle; or

(ii) reduce the level of standards applicable to child care services provided in the State and to the matters specified in sections 513(a) and 517(d), even if such standards exceed the minimum standards established under section 517(e)(2) by the Secretary unless the State demonstrates, to the satisfaction of both the Secretary and the State advisory committee on child care established under section 511, that the reduction is based on positive developmental practice.

(D) That funds received under this subtitle by the State will be used only to supplement, not to supplant, the amount of Federal, State, and local funds expended for the support of child care services and related programs in the State, except that States may use existing expenditures in support of child care services to satisfy the State matching requirement under section 516(b).

(E) That for each fiscal year the State will use an amount not to exceed 10 percent of the amount of funds received under section 505 by the State for such fiscal year to administer the State plan.

(F) That the State will pay funds under this subtitle to eligible child care providers in a timely fashion to ensure the continuity of child care services to eligible children.

(G) That resource and referral agencies will be made available to families in all regions of the State.

(H) That each eligible child care provider who provides services for which assistance is provided under paragraph (4)—

(i) provides services to children of families with very low income, taking into account family size;

(ii) after the expiration of the 4-year period beginning on the date the Secretary establishes minimum child care standards under section 517(e)(2), complies with such standards except as provided in clause (iv);

(iii) if such eligible child care provider is regulated by a State educational agency that—

(I) administers any State law applicable to child care services;

(II) develops child care standards that meet or exceed the minimum standards established under section 517(e)(2) and the State licensing or regulatory requirements (including registration requirements); and

(III) enforces the standards described in subclause (II) that are developed by such agency, using policies and practices that meet or exceed the requirements specified in subparagraphs (A) through (K) of paragraph (11);

complies with the standards described in subclause (II) that are developed by such agency; and

(iv) complies with the State plan and the requirements of this subtitle.

(I) That child care services for which assistance is provided under paragraph (4) are available to children with a handicapping condition.

(J) That State regulations will be issued governing the provision of school-age child care services if the State does not already have such regulations.

(K) That child care providers in the State are encouraged to develop personnel policies that include compensated time for staff undergoing training required under this subtitle.

(L) Encourage the payment of adequate salaries and other compensation—

(i) to full- and part-time staff of child care providers who provide child care services for

which assistance is provided under paragraph (4);

(ii) to the extent practicable, to such staff in other major Federal and State child care programs; and

(iii) to other child care personnel, at the option of the State.

(M) That child care services for which assistance is provided under paragraph (4) are available for an adequate number of hours and days to serve the needs of parents of eligible children, including parents who work nontraditional hours.

(4) CHILD CARE SERVICES.—The plan shall provide that—

(A) subject to subparagraph (B), the State will use at least 70 percent of the amount allotted to the State in any fiscal year to provide child care services that meet the requirements of this subtitle to eligible children in the State on a sliding fee scale basis and using funding methods provided for in section 508(a)(1), with priority being given for services to children of families with very low family incomes, taking into consideration the size of the family; and

(B) the State will use at least 10 percent of the funds reserved for the purposes specified in subparagraph (A) in any fiscal year to provide for the extension of part-day programs as described in section 508(b).

(5) ACTIVITIES TO IMPROVE THE QUALITY OF CHILD CARE.—The plan shall provide that the State will use not more than 10 percent of the amount allotted to it in any fiscal year to do each of the following:

(A) Provide financial assistance, pursuant to procedures established under the State Dependent Care Development Grants Act (42 U.S.C. 9801 note), to private nonprofit organizations or public organizations (including units of general purpose local government) that meet the requirements of section 512 for the development, establishment, expansion, operation, and coordination of resource and referral programs specifically related to child care.

(B) Improve the monitoring of compliance with, and enforcement of, the licensing and regulatory requirements (including registration requirements) of the State.

(C) Provide training, technical assistance, and scholarship assistance in accordance with the requirements of subsections (b), (c), and (d) of section 513.

(D) Ensure that adequate salaries and other compensation are paid to full- and part-time staff who provide child care services for which assistance is provided under paragraph (4).

(6) ACTIVITIES TO INCREASE THE AVAILABILITY OF CHILD CARE.—The plan shall provide that the State will use not more than 10 percent of the amount allotted to it in any fiscal year for any of the following activities, together with an assurance that the State will give priority to the activities described in subparagraphs (A) and (B):

(A) Making grants and low interest loans to family child care providers and nonprofit child care providers to help such providers pay the cost of—

(i) establishing child care programs; and

(ii) making renovations and improvements in existing facilities to be used to carry out such programs.

(B) Making grants and low-interest loans to child care providers to assist such providers in meeting Federal, State, and local child care standards, giving priority to providers receiving assistance under this subtitle or under other publicly assisted child care programs and which serve children of families that have very low incomes.

(C) Providing assistance for the establishment and operation of after school child care programs.

(D) Making grants or loans to fund the start up costs of employer sponsored child care programs.

(E) Providing assistance for the temporary care of children who are sick and unable to attend child care programs in which such children are enrolled.

(F) Providing assistance for the establishment and operation of child care programs for homeless children.

(G) Providing assistance to link child care programs with programs designed to assist the elderly.

(H)(i) Establishing and administering a revolving loan fund from which any person desiring to make capital improvements to the principal residence of such person (within the meaning of section 1034 of the Internal Revenue Code of 1986) may obtain a loan in order to become a licensed family child care provider, pursuant to State and local law, and to comply with the minimum standards applicable to such providers as established under section 517(e)(2).

(ii) To permit the use of funds provided under this subtitle for the activity described in clause (i), the State shall set forth procedures and guidelines to carry out the purposes of such clause, including procedures—

(I) that provide assurances that only applicants who obtain a license for the operation of a child care facility in accordance with the provisions of State and local law and who will meet the minimum standards applicable to family child care services established under section 517(e)(2), benefit from loans made available pursuant to the provisions of clause (i);

(II) to assure that the revolving fund will be administered by the State and will provide loans to qualified applicants, pursuant to the terms and conditions established by such State, in an amount, determined by such State, that is not in excess of $1,500;

(III) to assure that funds used to carry out the purpose of clause (i) are transferred to such fund to provide capital for making loans;

(IV) to assure that interest and principal payments on loans and any other moneys, property, or assets derived from any action concerning such funds are deposited into such fund;

(V) to assure that all loans, expenses, and payments pursuant to the operation of the revolving loan fund are paid from such fund;

(VI) to assure that loans made from such fund are made to qualified applicants to enable such applicants to make capital improvements so that such applicant may obtain a State or local family child care provider license and so that such applicant may meet the minimum standards applicable to such providers established under section 517(e)(2); and

(VII) that specify how such revolving loan fund will continue to be financed in subsequent years, such as through contributions by the State or by some other entity.

(7) DISTRIBUTION OF FUNDS.—The plan shall provide that funds will be distributed—

(A) to a variety of types of child care providers in each community, including center-based child care providers, group home child care providers, and family child care providers; and

(B) equitably among child care providers to provide child care services in rural and urban areas.

(8) REIMBURSEMENTS.—The plan shall provide that for child care services for which assistance is provided under this subtitle, an eligible child care provider shall have a right to reimbursement at the same rate charged by that provider for comparable services to children of comparable ages and special needs whose parents are not eligible for certificates under this subtitle or for child care assistance under any other Federal or State program.

(9) PRIORITY.—The plan shall provide that priority will be given, in distributing funds in the State, to child care providers that—

(A) in providing child care services assisted by such funds, will give priority to eligible children of families with very low income;

(B) to the maximum extent feasible, provide child care services to a reasonable mix of children, including children from different socioeconomic backgrounds and children with a handicapping condition;

(C) provide opportunities for parent involvement in all aspects of providing such services; and

(D) to the maximum extent feasible, offer family support services.

(10) SLIDING FEE SCALE.—The plan shall provide for the establishment of a sliding fee scale that requires cost sharing based on the services provided to and the income of the families (adjusted for family size) of eligible children who receive services for which assistance is provided under this subtitle.

(11) PARENTAL INVOLVEMENT.—The plan shall establish procedures for parental involvement in State and local planning, monitoring, and evaluation of child care programs and services in the State.

(12) ENFORCEMENT OF LICENSING AND OTHER REGULATORY REQUIREMENTS (INCLUDING REGISTRATION REQUIREMENTS).—The plan shall provide that the State, not later than 4 years after the date of enactment of this subtitle, shall have in effect enforcement policies and practices that will be applicable to all licensed or regulated child care providers (including child care providers required to register) in the State, including policies and practices that—

(A) require personnel who perform inspection functions with respect to licensed or regulated child care services to have or receive training in health and safety, child abuse prevention and detection, program management, and relevant law enforcement;

(B) to the maximum extent feasible, have personnel requirements to ensure that individuals who are hired as licensing inspectors are qualified to inspect and have inspection responsibility exclusively for children's services;

(C) require—

(i) personnel who perform inspection functions with respect to licensed or regulated child care services to make not less than 1 unannounced inspection of each center-based child care provider and each group home child care provider in the State annually; and

(ii) personnel who perform inspection functions with respect to licensed or regulated child care services to make unannounced inspections annually of not less than 20 percent of licensed and regulated family child care providers in the State;

(D) require licensed or regulated child care providers (including registered child care providers) in the State—

(i) to have written policies and program goals and to make a copy of such policies and goals available to parents; and

(ii) to provide parents with unlimited access to their children and to providers caring for their children, during normal hours of operation of such providers and whenever children of such parents are in the care of such providers;

(E) implement a procedure to address complaints that will provide a reasonable opportunity for a parent, or child care provider, that is adversely affected or aggrieved by a decision of the lead agency or any program assisted under this subtitle, to be heard by the State;

(F) prohibit the operator of a child care facility to take any action against an employee of such operator that would adversely affect the employment, or terms or conditions of employment, of such employee because such employee communicates a failure of such operator to comply with any applicable licensing or regulatory requirement;

(G) implement a consumer education program designed to inform parents and the general public about licensing requirements, complaint procedures, and policies and practices required by this paragraph;

(H) require a child care provider to post, on the premises where child care services are provided, the telephone number of the appropriate licensing or regulatory agency that parents may call regarding a failure of such provider to comply with any applicable licensing or regulatory requirement; and

(I) require the State to maintain a record of parental complaints and to make information regarding substantiated parental complaints available to the public on request.

(13) DATA COLLECTION.—The plan shall provide for the establishment of procedures for data collection by the State designed to show—

(A) by race, sex, ethnic origin, handicapping condition, and family income, how the child care needs of families in the State are being fulfilled, including information on—

(i) the number of children being assisted with funds provided under this subtitle, and under other State and Federal child care and preschool programs;

(ii) the type and number of child care programs, child care providers, caregivers, and support personnel located in the State;

(iii) the regional cost of child care; and

(iv) such other information as the Secretary considers necessary to establish how funds provided under this subtitle are being used;

(B) the extent to which the availability of child care has been increased; and

(C) how the purposes of this subtitle and the objectives of the State set forth in the State plan are being met, including efforts to improve the quality, availability, and accessibility of child care;

and shall provide that data collected by the State under this paragraph shall be submitted to the Secretary.

(d) APPROVAL OF APPLICATION.—The Secretary shall approve an application that satisfies the requirements of this section.

(e) SPECIAL RULE.—In carrying out the provisions of this section, the Secretary shall approve any application with respect to the activities described in the plan submitted under paragraph (5) of subsection (c), if the Secretary determines that the State is making reasonable progress in carrying out the activities which are described in subparagraphs (A) and (D) of paragraph (5).

SEC. 508. SPECIAL RULES FOR USE OF STATE ALLOTMENTS.

(a) FUNDING OF CHILD CARE SERVICES.—

(1) IN GENERAL.—The child care services referred to in section 507(c)(4) that are to be provided out of the allotment to a State, shall be provided—

(A) by contracts with or grants to eligible child care providers who agree to provide such services directly to eligible children;

(B) by grants to units of general purpose local government that agree to enter into contracts with eligible child care providers who agree to provide such services directly to eligible children; or

(C) by distributing child care certificates to parents of eligible children under such terms as the Secretary may prescribe to enable the recipients of such certificates to purchase child care services from eligible child care providers.

(2) LIMITATION ON CERTIFICATES.—Child care certificates authorized by paragraph (1)(C) may be issued by a State only if a resource and referral program carried out by an organization that meets the requirements of section 512 is available to help parents locate child care services made available by eligible child care providers.

(3) NO ENTITLEMENT TO CONTRACT OR GRANT.—Nothing in this subtitle shall be construed to entitle any child care provider or recipient of a child care certificate to any contract, grant or benefit, or to limit the right of any State to impose additional limitations or conditions on contracts or grants funded under this subtitle.

(b) PART-DAY PROGRAMS.—

(1) IN GENERAL.—At least 10 percent of the funds available for activities under section 507(c)(4)(A) shall be used by the State to enable child care providers to extend the hours of operation of the part-day programs described in paragraph (2) to provide full-working-day child care services throughout the year, in order to meet the needs of parents of eligible children.

(2) ELIGIBLE PROGRAMS.—As used in paragraph (1), the term "part-day programs" means—

(A) programs of schools and nonprofit child care providers (including community-based organizations) receiving State or local funds designated for preschool;

(B) programs established under the Head Start Act (42 U.S.C. 9831 et seq.);

(C) preschool programs for which assistance is provided under chapter 1 of the Education Consolidation and Improvement Act of 1981 (20 U.S.C. 3801 et seq.); and

(D) preschool programs for children with a handicapping condition.

(c) FACILITIES.—

(1) NEW FACILITIES.—No financial assistance provided under this subtitle shall be expended for the construction of a new facility.

(2) EXISTING FACILITIES.—No financial assistance provided under this subtitle shall be expended to renovate or repair any facility unless—

(A) the child care provider that receives such financial assistance agrees—

(i) in the case of a grant, to repay to the Secretary or the State, as the case may be, the amount that bears the same ratio to the amount of such grant as the value of the renovation or repair, as of the date such provider ceases to provide child care services in such facility in accordance with this subtitle, bears to the original value of the renovation or repair; and

(ii) in the case of a loan, to repay immediately to the Secretary or the State, as the case may be, the principal amount of such loan outstanding and any interest accrued, as of the date such provider ceases to provide child care services in such facility in accordance with this subtitle;

if such provider does not provide child care services in such facility in accordance with this subtitle throughout the useful life of the renovation or repair; and

(B) if such provider is a sectarian agency or organization, the renovation or repair is necessary to bring such facility into compliance with health and safety requirements imposed by this subtitle.

SEC. 509. PLANNING GRANTS.

(a) IN GENERAL.—A State desiring to participate in the programs authorized by this subtitle that cannot fully satisfy the requirements of the State plan under section 507(b) without financial assistance may, in the first year that the State participates in the programs, apply to the Secretary for a planning grant.

(b) AUTHORIZATION.—The Secretary is authorized to make a planning grant to a State described in subsection (a) if the Secretary determines that—

(1) the grant would enable the State to fully satisfy the requirements of a State plan under section 507(b); and

(2) the State will apply, for the remainder of the allotment that the State is entitled to receive for such fiscal year.

(c) AMOUNT OF GRANT.—A grant made to a State under this section shall not exceed 1 percent of the total allotment that the State would qualify to receive in the fiscal year involved if the State fully satisfied the requirements of section 507.

(d) LIMITATION ON ADMINISTRATIVE COSTS.—A grant made under this section shall be considered to be expended for administrative costs by the State for purposes of determining the compliance by the State with the limitation on administrative costs imposed by section 507(c)(3)(E).

SEC. 510. CONTINUING ELIGIBILITY OF STATES.

A State shall be ineligible for assistance under this subtitle after the expiration of the 4-year period beginning on the date the Secretary establishes minimum child care standards under section 517(e)(2) unless the State demonstrates to the satisfaction of the Secretary that—

(1) all child care providers required to be licensed and regulated in the State—

(A) are so licensed and regulated; and

(B) are subject to the enforcement provisions referred to in the State plan; and

(2) all such providers who are receiving assistance under this subtitle or under other publicly-assisted child care programs—

(A) satisfy the requirements of subparagraphs (A) and (B) of paragraph (1); and

(B) satisfy the minimum child care standards established by the Secretary under section 517(e)(2) of this subtitle.

SEC. 511. STATE ADVISORY COMMITTEE ON CHILD CARE.

(a) ESTABLISHMENT.—The chief executive officer of a State participating in the program authorized by this subtitle shall—

(1) establish a State advisory committee on child care (hereinafter in this section referred to as the "committee") to assist the lead agency in carrying out the responsibilities of the lead agency under this subtitle; and

(2) appoint the members of the committee.

(b) COMPOSITION.—The State committee shall be composed of not fewer than 21 and not more than 30 members who shall include—

(1) at least 1 representative of the lead agency designated under section 506(a);

(2) 1 representative of each of—
(A) the State departments of—
(i) human resources or social services;
(ii) education;
(iii) economic development; and
(iv) health; and
(B) other State agencies having responsibility for the regulation, funding, or provision of child care services in the State;
(3) at least 1 representative of providers of different types of child care services, including caregivers and directors;
(4) at least 1 representative of early childhood development experts;
(5) at least 1 representative of school districts and teachers involved in the provision of child care services and preschool programs;
(6) at least 1 representative of resource and referral programs;
(7) 1 pediatrician;
(8) 1 representative of a citizen group concerned with child care;
(9) at least 1 representative of an organization representing child care employees;
(10) at least 1 representative of the Head Start agencies in the State;
(11) parents of children receiving, or in need of, child care services, including at least 2 parents whose children are receiving or are in need of subsidized child care services;
(12) 1 representative of specialists concerned with children who have a handicapping condition;
(13) 1 representative of individuals engaged in business;
(14) 1 representative of fire marshals and building inspectors;
(15) 1 representative of child protective services; and
(16) 1 representative of units of general purpose local government.

(c) FUNCTIONS.—The committee shall—
(1) advise the lead agency on child care policies;
(2) provide the lead agency with information necessary to coordinate the provision of child care services in the State;
(3) otherwise assist the lead agency in carrying out the functions assigned to the lead agency under section 506(c);
(4) review and evaluate child services for which assistance is provided under this subtitle or under State law, in meeting the objectives of the State plan and the purposes of this subtitle;
(5) make recommendations on the development of State child care standards and policies;
(6) participate in the regional public hearings required under section 506(c)(5); and
(7) perform other functions to improve the quantity and quality of child care services in the State.

(d) MEETINGS AND HEARINGS.—
(1) IN GENERAL.—Not later than 30 days after the beginning of each fiscal year, the committee shall meet and establish the time, place, and manner of future meetings of the committee.
(2) MINIMUM NUMBER OF HEARINGS.—The committee shall have at least 2 public hearings each year at which the public shall be given an opportunity to express views concerning the administration and operation of the State plan.

(e) USE OF EXISTING COMMITTEES.—To the extent that a State has established a broadly representative State advisory group, prior to the date of enactment of this subtitle, that is comparable to the advisory committee described in this section and focused exclusively on child care and early childhood development programs, such State shall be considered to be in compliance with subsections (a) through (c).

(f) SUBCOMMITTEE ON LICENSING.—
(1) COMPOSITION.—The committee shall have a subcommittee on licensing (hereinafter in this section referred to as the "subcommittee") that shall be composed of the members appointed under paragraphs (2)(A)(iv), (3), (6), (7), (11), (14), and (15) of subsection (b).
(2) FUNCTIONS.—
(A) REVIEW OF LICENSING AUTHORITY.—The subcommittee shall review the law applicable to, and the licensing requirements and the policies of, each licensing agency that regulates child care services and programs in the State unless the State has reviewed such law, requirements, and policies in the 4-year period ending on the date of the establishment of the committee under subsection (a).
(B) REPORT.—Not later than 1 year after establishment of the committee under subsection (a), the subcommittee shall prepare and submit to the chief executive officer of the State involved a report.
(C) CONTENTS OF REPORT.—A report prepared under subparagraph (B) shall contain—
(i) an analysis of information on child care services provided by center-based child care providers, group home child care providers, and family child care providers;
(ii) a detailed statement of the findings and recommendations that result from the subcommittee review under subparagraph (A), including a description of the current status of child care licensing, regulating, monitoring, and enforcement in the State;
(iii) a detailed statement identifying and describing the deficiencies in the existing licensing, regulating, and monitoring programs of the State involved, including an assessment of the adequacy of staff to carry out such programs effectively, and recommendations to correct such deficiencies or to improve such programs; and
(iv) comments on the minimum child care standards established by the Secretary under section 517(e)(2).
(3) RECEIPT OF REPORT BY THE CHIEF EXECUTIVE OFFICER OF THE STATE.—Not later than 60 days after receiving the report from the subcommittee, the chief executive officer of the State shall transmit such report to the Secretary with—
(A) the comments of the chief executive officer of the State; and
(B) a plan for correcting deficiencies in, or improving the licensing, regulating, and monitoring, of the child care services and programs referred to in paragraph (2)(A).
(4) TERMINATION OF ASSISTANCE.—None of the funds received under this subtitle may be used to carry out any activity under this section occurring more than 90 days after the State submits a report required by subsection (d).

(g) SERVICES AND PERSONNEL.—
(1) AUTHORITY.—The lead agency is authorized to provide the services of such personnel, and to contract for such other services as may be necessary, to enable the committee and the subcommittee to carry out their functions under this subtitle.
(2) REIMBURSEMENT.—Members of the committee shall be reimbursed, in accordance with standards established by the Secretary, for necessary expenses incurred by such members in carrying out the functions of the committee and the subcommittee.
(3) SUFFICIENCY OF FUNDS.—The Secretary shall ensure that sufficient funds are made available, from funds available for the administration of the State plan, to the committee and the subcommittee to carry out the requirements of this section.

SEC. 512. RESOURCE AND REFERRAL PROGRAMS.

(a) ELIGIBILITY FOR ASSISTANCE.—Each State receiving funds under this subtitle shall, pursuant to section 507(c)(5)(A), make grants to or enter into contracts with private nonprofit organizations or public organizations (including units of general purpose local government), as resource and referral agencies to ensure that resource and referral services are available to families in all geographical areas in the State.

(b) FUNDING.—Organizations that receive assistance under subsection (a) shall carry out resource and referral programs—
(1) to identify all types of existing child care services, including services provided by individual family child care providers and by child care providers who provide child care services to children with a handicapping condition;
(2) to provide to interested parents information and referral regarding such services, including the availability of public funds to obtain such services;
(3) to provide or arrange for the provision of information, training, and technical assistance to existing and potential child care providers and to others (including businesses) concerned with the availability of child care services; and
(4) to provide information on the demand for and supply of child care services located in a community.

(c) REQUIREMENTS.—To be eligible for assistance as a resource and referral agency under subsection (a), an organization shall—
(1) have or acquire a data base of information on child care services in the State or in a particular geographical area that the organization continually updates, including child care services provided in centers, group home child care settings, nursery schools, and family child care settings;
(2) have the capability to provide resource and referral services in a particular geographical area;
(3) be able to provide parents with information to assist them in identifying quality child care services;
(4) to the maximum extent practicable, notify all eligible child care providers in such area of the functions it performs and solicit such providers to request to be listed to receive referrals made by such organization; and
(5) otherwise comply with regulations promulgated by the State in accordance with subsection (d).

(d) LIMITATION ON INFORMATION.—In carrying out this section, an organization receiving assistance under subsection (a) as a resource and referral agency shall not provide information concerning any child care program or services which are not in compliance with the laws of the State and localities in which such services are provided.

SEC. 513. TRAINING AND TECHNICAL ASSISTANCE.

(a) MINIMUM REQUIREMENT.—A State receiving funds under this subtitle shall require, not later than 2 years after the date of the enactment of this subtitle, that all employed or self-employed individuals who provide licensed or regulated child care services (including registered child care services) in a State complete at least 40 hours of training over a 2-year period in areas appropriate to the provision of child care services, including training in health and safety, nutrition, first aid, the recognition of commu-

nicable diseases, child abuse detection and prevention, and the needs of special populations of children.

(b) GRANTS AND CONTRACTS FOR TRAINING AND TECHNICAL ASSISTANCE.—

(1) GRANTS AND CONTRACTS.—The State shall make grants to, and enter into contracts with State agencies, units of general purpose local government, institutions of higher education, and nonprofit organizations (including resource and referral organizations, child care food program sponsors, and family child care associations, as appropriate) to develop and carry out child care training and technical assistance programs under which preservice and continuing in-service training is provided to eligible child care providers, including family child care providers, and the staff of such providers including teachers, administrative personnel, and staff of resource and referral programs involved in providing child care services in the State.

(2) ELIGIBILITY REQUIREMENTS FOR GRANTS AND CONTRACTS RELATING TO TRAINING FOR FAMILY CHILD CARE PROVIDERS.—To be eligible to receive a grant or enter into a contract for a training and technical assistance program for family child care providers under paragraph (1), a nonprofit organization shall—

(A) recruit and train family child care providers, including providers with the capacity to provide night-time and emergency child care services;

(B) operate resource centers to make developmentally appropriate curriculum materials available to family child care providers;

(C) provide grants to family child care providers for the purchase of moderate cost equipment to be used to provide child care services; and

(D) operate a system of substitute caregivers.

(3) ELIGIBILITY REQUIREMENTS FOR GRANTS AND CONTRACTS RELATING TO TECHNICAL ASSISTANCE.—To be eligible to receive a grant, or enter into a contract under subsection (b) to provide technical assistance, an agency, organization, or institution shall agree to furnish technical assistance to child care providers to assist such providers—

(A) in understanding and complying with local regulations and relevant tax and other policies;

(B) in meeting State licensing, regulatory, and other requirements (including registration) pertaining to family child care providers.

(c) SCHOLARSHIP ASSISTANCE.—The State shall provide scholarship assistance to—

(1) individuals who seek a nationally recognized child development associate credential for center-based or family child care and whose income does not exceed the poverty line (as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) by more than 50 percent, in amounts sufficient to cover the costs involved in securing such credential; and

(2) caregivers who seek to obtain the training referred to in subsection (a) and whose income does not exceed such poverty line.

(d) CLEARINGHOUSE.—The State shall establish in the lead agency a clearinghouse to collect and disseminate training materials to resource and referral agencies and child care providers throughout the State.

SEC. 514. FEDERAL ADMINISTRATION OF CHILD CARE.

(a) ADMINISTRATOR OF CHILD CARE.—There is hereby established in the Department of Health and Human Services the position of Administrator of Child Care (hereinafter in this section referred to as the "Administrator"). The Secretary shall appoint an individual to serve as the Administrator at the pleasure of the Secretary.

(b) DUTIES.—The Administrator shall—

(1) coordinate all activities of the Department of Health and Human Services relating to child care, and coordinate such activities with similar activities of other Federal entities;

(2) annually collect and publish State child care standards, including periodic modifications to such standards;

(3) evaluate activities carried out with funds provided under this subtitle;

(4) act as a clearinghouse to collect and disseminate materials that relate to—

(A) the matters required by section 513(b)(1) to be addressed by training required by section 513 to be provided; and

(B) studies that relate to the salaries paid to individuals employed to provide child care services; and

(5) provide technical assistance to assist States to carry out this subtitle.

SEC. 515. FEDERAL ENFORCEMENT.

(a) REVIEW OF COMPLIANCE WITH STATE PLAN.—The Secretary shall review and monitor State compliance with this subtitle and the plan approved under section 507(d) for the State.

(b) NONCOMPLIANCE.—

(1) IN GENERAL.—If the Secretary, after reasonable notice and opportunity for a hearing to a State, finds that—

(A) there has been a failure by the State to comply substantially with any provision or any requirements set forth in the plan approved under section 507(d) for the State; or

(B) in the operation of any program or project for which assistance is provided under this subtitle there is a failure by the State to comply substantially with any provision of this subtitle;

the Secretary shall notify the State of the finding and that no further payments may be made to such State under this subtitle (or, in the case of noncompliance in the operation of a program or activity, that no further payments to the State will be made with respect to such program or activity) until the Secretary is satisfied that there is no longer any such failure to comply or that the noncompliance will be promptly corrected.

(2) ADDITIONAL SANCTIONS.—In the case of a finding of noncompliance made pursuant to this paragraph (1), the Secretary may, in addition to imposing the sanctions described in such paragraph, impose other appropriate sanctions, including recoupment of money improperly expended for purposes prohibited or not authorized by this subtitle, and disqualification from the receipt of financial assistance under this subtitle.

(3) NOTICE.—The notice required under paragraph (1) shall include a specific identification of any additional sanction being imposed under paragraph (2).

(c) ISSUANCE OF RULES.—The Secretary shall establish by rule procedures for—

(1) receiving, processing, and determining the validity of complaints concerning any failure of a State to comply with the State plan or any requirement of this subtitle; and

(2) imposing sanctions under this section.

SEC. 516. PAYMENTS.

(a) IN GENERAL.—

(1) AMOUNT OF PAYMENT.—Each State that—

(A) has an application approved by the Secretary under section 507(d); and

(B) demonstrates to the satisfaction of the Secretary that it will provide from non-Federal sources the State share of the aggregate amount to be expended by the State under the State plan for the fiscal year for which it requests a grant;

shall receive a payment under this section for such fiscal year in an amount (not to exceed its allotment under section 505 for such fiscal year) equal to the Federal share of the aggregate amount to be expended by the State under the State plan for such fiscal year.

(2) FEDERAL SHARE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Federal share for each fiscal year shall be 80 percent.

(B) EXCEPTION.—If a State makes the demonstration specified in section 510 throughout a fiscal year for which it requests a grant, then the Federal share shall be 85 percent.

(3) STATE SHARE.—The State share equals 100 percent minus the Federal share.

(4) LIMITATION.—A State may not require any private provider of child care services that receives or seeks funds made available under this subtitle to contribute in cash or in kind to the State contribution required by this subsection.

(b) METHOD OF PAYMENT.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary may make payments to a State in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

(2) LIMITATION.—The Secretary may not make such payments in a manner that prevents the State from complying with the requirement specified in section 507(c)(3)(F).

(c) SPENDING OF FUNDS BY STATE.—Payments to a State from the allotment under section 505 for any fiscal year may be expended by the State in that fiscal year or in the succeeding fiscal year.

SEC. 517. NATIONAL ADVISORY COMMITTEE ON CHILD CARE STANDARDS.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—In order to improve the quality of child care services, the Secretary shall establish, not later than 60 days after the date of the enactment of this subtitle, a National Advisory Committee on Child Care Standards (hereinafter in this section referred to as the "Committee"), the members of which shall be appointed from among representatives of—

(A) the chief executive officers of the several States;

(B) State legislatures;

(C) local governments;

(D) businesses;

(E) State individuals responsible for regulating the insurance industry within the State;

(F) religious institutions;

(G) persons who carry out different types of child care programs;

(H) persons who carry out resource and referral programs;

(I) child care and early childhood development specialists;

(J) early childhood education specialists;

(K) individuals who have expertise in pediatric health care, handicapping conditions, and related fields;

(L) organizations representing child care employees;

(M) individuals who have experience in the regulation of child care services; and

(N) parents who have been actively involved in community child care programs.

(2) APPOINTMENT OF MEMBERS.—The Committee shall be composed of 15 members of which—

(A) 5 members shall be appointed by the President;

(B) 3 members shall be appointed by the majority leader of the Senate;

(C) 2 members shall be appointed by the minority leader of the Senate;

(D) 3 members shall be appointed by the Speaker of the House of Representatives; and

(E) 2 members shall be appointed by the minority leader of the House of Representatives.

(3) CHAIRMAN.—The President shall appoint a chairman from among the members of the Committee.

(4) VACANCIES.—A vacancy occurring on the Committee shall be filled in the same manner as that in which the original appointment was made.

(b) PERSONNEL, REIMBURSEMENT, AND OVERSIGHT.—

(1) PERSONNEL.—The Secretary shall make available to the Committee office facilities, personnel who are familiar with child development and with developing and implementing regulatory requirements, technical assistance, and funds as are necessary to enable the Committee to carry out effectively its functions.

(2) REIMBURSEMENT.—

(A) COMPENSATION.—Members of the Committee who are not regular full-time employees of the United States Government shall, while attending meetings and conferences of the Committee or otherwise engaged in the business of the Committee (including traveltime), be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding the rate specified at the time of such service under GS-18 of the General Schedule established under section 5332 of title 5, United States Code.

(B) EXPENSES.—While away from their homes or regular places of business on the business of the Committee, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(3) OVERSIGHT.—The Secretary shall ensure that the Committee is established and operated in accordance with the Federal Advisory Committee Act (5 U.S.C. App.).

(c) FUNCTIONS.—The Committee shall—

(1) review Federal policies with respect to child care services and such other data as the Committee may deem appropriate;

(2) not later than 180 days after the date on which a majority of the members of the Committee are first appointed, submit to the Secretary proposed minimum standards described in subsection (d) for child care services, taking into account the different needs of infants, toddlers, preschool and school-age children; and

(3) develop and make available to lead agencies, for distribution to resource and referral agencies in the State, model requirements for resource and referral agencies.

(d) MINIMUM CHILD CARE STANDARDS.—The proposed child care standards submitted pursuant to subsection (c)(2) shall be minimum standards and shall consist of only the following:

(1) CENTER-BASED CHILD CARE SERVICES.—Such standards submitted with respect to child care services provided by center-based child care providers shall be limited to—

(A) group size limits in terms of the number of caregivers and the number and ages of children;

(B) the maximum appropriate child-staff ratios;

(C) qualifications and background of child care personnel;

(D) health and safety requirements for children and caregivers; and

(E) parental involvement in licensed and regulated child care services.

The standards described in subparagraphs (A) and (B) shall reflect the median standards for all States (using for States which apply separate standards to publicly-assisted programs the most comprehensive or stringent of such standards) as of the date of enactment of this subtitle.

(2) FAMILY CHILD CARE SERVICES.—Such standards submitted with respect to child care services provided by family child care providers shall be limited to—

(A) the maximum number of children for which child care services may be provided and the total number of infants for which child care services may be provided;

(B) the minimum age for caregivers; and

(C) health and safety requirements for children and caregivers.

(3) GROUP HOME CHILD CARE SERVICES.—Such standards submitted with respect to child care services provided by group home child care providers shall be limited to the matters specified in paragraphs (1)(B) and (2).

(4) LIMITATION.—The Committee shall not submit any standard under subsection (c)(2) that is less or more rigorous than the least or most rigorous standard that exists in all States at the time of the submission of such recommendation.

(e) CONSIDERATION AND ESTABLISHMENT OF STANDARDS.—

(1) NOTICE OF PROPOSED RULEMAKING.—Not later than 90 days after receiving the recommendations of the committee, the Secretary shall—

(A) publish in the Federal Register—

(i) a notice of proposed rulemaking concerning the minimum standards proposed under subsection (d) to the Secretary; and

(ii) such proposed minimum standards for public comment for a period of at least 60 days; and

(B) distribute such proposed minimum standards to each lead agency and each State subcommittee on licensing for comment.

(2) ESTABLISHMENT OF MINIMUM CHILD CARE STANDARDS.—

(A) ISSUANCE OF RULES.—The Secretary shall, in consultation with the committee—

(i) take into consideration any comments received by the Secretary with respect to the standards proposed under subsection (d); and

(ii) not later than 180 days after publication of such standards, shall issue rules establishing minimum child care standards for purposes of this subtitle. Such standards shall include the nutrition requirements issued, and revised from time to time, under section 17(g)(1) of the National School Lunch Act (42 U.S.C. 1766(g)(1)).

(B) AMENDING STANDARDS.—The Secretary may amend any standard first established under subparagraph (A), except that such standard may not be modified, by amendment or otherwise, to make such standard less comprehensive or less stringent than it is when first established.

(C) EXTENDED PERIOD FOR COMMENT.—If the Committee recommends a standard under subsection (c)(2) that no State has a requirement concerning, as of the time that such standard is recommended, the Secretary shall provide an additional 30 days during which States may submit comments concerning such standard.

(3) ADDITIONAL COMMENTS.—The National Committee may submit to the Secretary and to the Congress such additional comments on the minimum child care standards established under paragraph (2) as the National Committee considers appropriate.

(f) VARIANCES.—

(1) TIME FOR COMPLIANCE WITH STANDARDS.—Not later than the end of the 4-year period referred to in section 510, States shall comply with the standards established under this section.

(2) EXCEPTION.—At the expiration of the 4-year period referred to in paragraph (1) the chief executive officer, in consultation with the State advisory committee, may submit a request to the Secretary for a 1 year variance from the requirements of one or more particular standards.

(3) REQUIREMENTS.—A request for a variance under this subsection shall include—

(A) a statement by the chief executive officer of the State of any steps taken to implement the relevant standards in the State within the 4-year period;

(B) the specific reasons for the submission of the variance request; and

(C) a detailed plan that outlines the additional procedures and resources to be used to come into compliance with the standards at the end of the variance period.

(4) PERIOD OF VARIANCE.—A variance granted by the Secretary shall be for a 1-year period and may be renewed at the discretion of the Secretary for an additional 1-year period if requested by the State.

(g) TERMINATION OF COMMITTEE.—The National Committee shall cease to exist 90 days after the date the Secretary establishes minimum child care standards under subsection (e)(3).

SEC. 518. LIMITATIONS ON USE OF FINANCIAL ASSISTANCE FOR CERTAIN PURPOSES.

(a) SECTARIAN PURPOSES AND ACTIVITIES.—No financial assistance provided under this subtitle shall be expended for any sectarian purpose or activity, including sectarian worship and instruction.

(b) TUITION.—With regard to services provided to students enrolled in grades 1 through 12, no financial assistance provided under this subtitle shall be expended for—

(1) any services provided to such students during the regular school day;

(2) any services for which such students receive academic credit toward graduation; or

(3) any instructional services which supplant or duplicate the academic program of any public or private school.

SEC. 519. NONDISCRIMINATION.

(a) FEDERAL FINANCIAL ASSISTANCE.—Any financial assistance provided under this subtitle, including a loan, grant, or child care certificate, shall constitute Federal financial assistance for purposes of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title IX of the Education Amendments of 1972 (20 U.S.C. 1681, et seq.), the Rehabilitation Act of 1973 (29 U.S.C. 794 et seq.), the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), and the regulations issued thereunder.

(b) RELIGIOUS DISCRIMINATION.—A child care provider may not discriminate against

any child on the basis of religion in providing child care services in return for a fee paid, reimbursement received, or certificate redeemed, in whole or in part with financial assistance provided under this subtitle.

SEC. 520. PRESERVATION OF PARENTAL RIGHTS AND RESPONSIBILITIES.

Nothing in this subtitle shall be construed or applied in any manner to infringe upon or usurp the moral and legal rights and responsibilities of parents or legal guardians.

BYRD AMENDMENT NO. 3309

Mr. BYRD proposed an amendment to amendment No. 3308 to the bill, S. 2488, supra, as follows:

Strike all after "Human Resources" and insert in lieu thereof the following:

with instructions to report back forthwith with the following amendment,

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Parental and Medical Leave Act of 1988".

(b) TABLE OF CONTENTS.—

TITLE I—GENERAL REQUIREMENTS FOR PARENTAL LEAVE AND MEDICAL LEAVE

SEC. 101. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the number of two-parent households in which both parents work and the number of single-parent households in which the single parent works are increasing significantly;

(2) it is important for the development of children and the family unit that fathers and mothers be able to participate in early child rearing and the care of children who have serious health conditions;

(3) the lack of employment policies to accommodate working parents forces many individuals to choose between job security and parenting;

(4) there is inadequate job security for employees who have serious health conditions that prevent the employees from working for temporary periods;

(5) due to the nature of the roles of men and women in our society, the primary responsibility for family caretaking often falls on women, and such responsibility affects their working lives more than it affects the working lives of men; and

(6) employment standards that apply to one gender only have serious potential for encouraging employers to discriminate against employees and applicants for employment who are of that gender.

(b) PURPOSES.—It is the purpose of this Act—

(1) to balance the demands of the workplace with the needs of families;

(2) to promote the economic security and stability of families;

(3) to entitle employees to take reasonable leave for medical reasons, for the birth or adoption of a child, and for the care of a child who has a serious health condition;

(4) to accomplish such purposes in a manner which accommodates the legitimate interests of employers;

(5) to accomplish such purposes in a manner which, consistent with the Equal Protection Clause of the Fourteenth Amendment, minimizes the potential for employment discrimination on the basis of sex by ensuring generally that leave is available for eligible medical reasons (including maternity-related disability) and for compelling family reasons, on a gender-neutral basis; and

(6) to promote the goal of equal employment opportunity for women and men, pursuant to such clause.

SEC. 102. DEFINITIONS.

As used in this title:

(1) COMMERCE.—The terms "commerce" and "industry or activity affecting commerce" mean any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce, including "commerce" and any activity or industry "affecting commerce" within the meaning of the Labor Management Relations Act, 1947 (29 U.S.C 141 et seq.).

(2) EMPLOY.—The term "employ" has the same meaning given the term in section 3(g) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(g)).

(3) EMPLOYEE.—

(A) IN GENERAL.—The term "employee" means an individual that is included under the definition of such term in section 3(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)) who has been employed by the employer with respect to whom benefits are sought under this Act for at least—

(i) 900 hours of service during the previous 12-month period; and

(ii) 12 months.

"(B) EXCLUSION.—The term "employee" does not include any Federal officer or employee covered under subchapter III of chapter 63 of title 5, United States Code (as added by title II of this Act).

(4) EMPLOYER.—The term "employer"—

(A) means any person engaged in commerce or in any industry or activity affecting commerce who employs 20 or more employees at any one worksite for each working day during each of 20 or more calendar workweeks in the current or preceding calendar year;

(B) includes—

(i) any person who acts directly or indirectly in the interest of an employer to one or more employees; and

(ii) any successor in interest of such an employer; and

(C) includes any public agency, as defined in section 3(x) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(x)).

(5) EMPLOYMENT BENEFITS.—The term "employment benefits" means all benefits provided or made available to employees by an employer, including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions, regardless of whether the benefits are provided by a policy or practice of an employer or by an employee benefit plan as defined in section 3(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(1)).

(6) HEALTH CARE PROVIDER.—The term "health care provider" means—

(A) any person licensed under Federal, State, or local law to provide health care services, or

(B) any other person determined by the Secretary to be capable of providing health care services.

(7) PERSON.—The term "person" has the same meaning given the term in section 3(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(a)).

(8) REDUCED LEAVE SCHEDULE.—The term "reduced leave schedule" means leave scheduled for fewer than the usual number of hours of an employee per workweek or hours per workday.

(9) SECRETARY.—The term "Secretary" means the Secretary of Labor.

(10) SERIOUS HEALTH CONDITION.—The term "serious health condition" means an illness, injury, impairment, or physical or mental condition that involves—

(A) inpatient care in a hospital, hospice, or residential medical care facility; or

(B) continuing treatment or continuing supervision by a health care provider.

(11) SON OR DAUGHTER.—The term "son or daughter" means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a de facto parent, who is—

(A) under 18 years of age; or

(B) 18 years of age or older and incapable of self-care because of a mental or physical disability.

(12) STATE.—The term "State" has the same meaning given the term in section 3(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(c)).

SEC. 103. PARENTAL LEAVE REQUIREMENT.

(a) IN GENERAL.—

(1) ENTITLEMENT TO LEAVE.—An employee shall be entitled, subject to section 105, to 10 workweeks of parental leave during any 24-month period—

(A) as the result of the birth of a son or daughter of the employee;

(B) as the result of the placement, for adoption or foster care, of a son or daughter with the employee; or

(C) in order to care for the employee's son or daughter who has a serious health condition.

(2) EXPIRATION OF ENTITLEMENT.—The entitlement to leave under paragraphs (1)(A) and (1)(B) shall expire at the end of the 12-month period beginning on the date of such birth or placement.

(3) INTERMITTENT LEAVE.—In the case of a son or daughter who has a serious health condition, such leave may be taken intermit-

tently when medically necessary, subject to subsection (e).

(b) REDUCED LEAVE.—On agreement between the employer and the employee, leave under this section may be taken on a reduced leave schedule, however, such reduced leave schedule shall not result in a reduction in the total amount of leave to which the employee is entitled.

(c) UNPAID LEAVE PERMITTED.—Except as provided in subsection (d), leave granted under subsection (a) may consist of unpaid leave.

(d) RELATIONSHIP TO PAID LEAVE.—

(1) UNPAID LEAVE.—If an employer provides paid parental leave for fewer than 10 work-weeks, the additional weeks of leave added to attain the 10 work-week total may be unpaid.

(2) SUBSTITUTION OF PAID LEAVE.—An employee or employer may elect to substitute any of the employee's accrued paid vacation leave, personal leave, or other appropriate paid leave for any part of the 10-week period.

(e) FORESEEABLE LEAVE.—

(1) REQUIREMENT OF NOTICE.—In any case in which the necessity for leave under this section is foreseeable based on an expected birth or adoption, the employee shall provide the employer with prior notice of such expected birth or adoption in a manner which is reasonable and practicable.

(2) DUTIES OF EMPLOYEE.—In any case in which the necessity for leave under this section is foreseeable based on planned medical treatment or supervision, the employee shall—

(A) make a reasonable effort to schedule the treatment or supervision so as not to disrupt unduly the operations of the employer, subject to the approval of the health care provider of the employee's son or daughter; and

(B) provide the employer with prior notice of the treatment or supervision in a manner which is reasonable and practicable.

(3) REGULATIONS.—The Secretary shall promulgate regulations under section 108(a) that define the term "reasonable and practicable" for purposes of paragraphs (1) and (2)(B).

(f) SPOUSES EMPLOYED BY THE SAME EMPLOYER.—In any case in which a husband and wife entitled to parental leave under this section are employed by the same employer, the aggregate number of workweeks of parental leave to which both may be entitled may be limited to 10 workweeks during any 24-month period, if such leave is taken under subparagraph (A) or (B) of subsection (a)(1).

SEC. 104. TEMPORARY MEDICAL LEAVE REQUIREMENT.

(a) IN GENERAL.—

(1) ENTITLEMENT TO LEAVE.—Any employee who, as the result of a serious health condition, becomes unable to perform the functions of the position of the employee, shall be entitled to temporary medical leave, subject to section 105.

(2) PERIOD OF ENTITLEMENT.—The entitlement under paragraph (1) shall continue for as long as the employee is unable to perform the functions, except that the leave shall not exceed 13 workweeks during any 12-month period.

(3) INTERMITTENT LEAVE.—Leave taken under this subsection may be taken intermittently when medically necessary, subject to subsection (d).

(b) UNPAID LEAVE PERMITTED.—Except as provided in subsection (c), leave granted under subsection (a) may consist of unpaid leave.

(c) RELATIONSHIP TO PAID LEAVE.—

(1) IN GENERAL.—If an employer provides paid temporary medical leave or paid sick leave for fewer than 13 weeks, the additional weeks of leave added to attain the 13-week total may be unpaid.

(2) SUBSTITUTION OF PAID LEAVE.—An employee or employer may elect to substitute the employee's accrued paid vacation leave, sick leave, or other appropriate paid leave for any part of the 13-week period, except that nothing in this Act shall require an employer to provide paid sick leave or paid medical leave in any situation in which such employer would not normally provide any such paid leave.

(d) FORESEEABLE LEAVE.—

(1) DUTIES OF EMPLOYEE.—In any case in which the necessity for leave under this section is foreseeable based on planned medical treatment or supervision, the employee shall—

(A) make a reasonable effort to schedule the treatment or supervision so as not to disrupt unduly the operations of the employer, subject to the approval of the employee's health care provider, and

(B) provide the employer with prior notice of the treatment or supervision in a manner which is reasonable and practicable.

(2) REGULATIONS.—The Secretary shall promulgate regulations under section 108(a) that define the term "reasonable and practicable" for purposes of paragraph (1).

SEC. 105. CERTIFICATION.

(a) IN GENERAL.—An employer may require that a claim for parental leave under section 103(a)(1)(C), or temporary medical leave under section 104, be supported by certification issued by the health care provider of the son, daughter, or employee, whichever is appropriate. The employee shall provide a copy of such certification to the employer.

(b) SUFFICIENT CERTIFICATION.—The certification shall be considered sufficient if it states—

(1) the date on which the serious health condition commenced;

(2) the probable duration of the condition;

(3) the appropriate medical facts within the knowledge of the provider regarding the condition; and

(4)(A) for purposes of leave under section 104, a statement that the employee is unable to perform the functions of the employee's position; and

(B) for purposes of leave under section 103(a)(1)(C), an estimate of the amount of time that the employee is needed to care for the son or daughter.

(c) SECOND OPINION.—

(1) IN GENERAL.—In any case in which the employer has reason to doubt the validity of the certification provided under subsection (a), the employer may require, at its own expense, that the employee obtain the opinion of a second health care provider designated or approved by the employer concerning the information certified under subsection (b).

(2) LIMITATION.—Any health care provider designated or approved under paragraph (1) may not be employed on a regular basis by the employer.

(d) RESOLUTION OF CONFLICTING OPINIONS.—

(1) IN GENERAL.—In any case in which the second opinion described in subsection (c) differs from the original certification provided under subsection (a), the employer may require, at its own expense, that the employee obtain the opinion of a third health care provider designated or approved jointly by the employer and the employee concerning the information certified under subsection (b).

(2) FINALITY.—The opinion of the third health care provider concerning the information certified under subsection (b) shall be considered to be final and shall be binding on the employer and the employee.

(e) SUBSEQUENT RECERTIFICATION.—The employer may require that the employee obtain subsequent recertifications on a reasonable basis.

SEC. 106. EMPLOYMENT AND BENEFITS PROTECTION.

(a) RESTORATION TO POSITION.—

(1) IN GENERAL.—Any employee who takes leave under section 103 or 104 for its intended purpose shall be entitled, on return from the leave—

(A) to be restored by the employer to the position of employment held by the employee when the leave commenced; or

(B) to be restored to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.

(2) LOSS OF BENEFITS.—The taking of leave under this title shall not result in the loss of any employment benefit accrued before the date on which the leave commenced.

(3) LIMITATIONS.—Except as provided in subsection (b), nothing in this section shall be considered to entitle any restored employee to—

(A) the accrual of any seniority or employment benefits during any period of leave; or

(B) any right, benefit, or position of employment other than that to which the employee was entitled to on the date the leave was commenced.

(4) CERTIFICATION.—As a condition to restoration under paragraph (1), the employer may have a policy that requires each employee to receive certification from the employee's health care provider that the employee is able to resume work.

(5) CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit an employer from requiring an employee on leave under section 103 or 104 to periodically report to the employer on the employee's status and intention to return to work.

(b) MAINTENANCE OF HEALTH BENEFITS.—During any period an employee takes leave under section 103 or 104, the employer shall maintain coverage under any group health plan (as defined in section 162(i)(3) of the Internal Revenue Code of 1954) for the duration of such leave at the level and under the conditions coverage would have been provided if the employee had continued in employment continuously from the date the employee commenced the leave until the date the employee is restored under subsection (a).

SEC. 107. PROHIBITED ACTS.

(a) INTERFERENCE WITH RIGHTS.—

(1) EXERCISE OF RIGHTS.—It shall be unlawful for any employer to interfere with, restrain, or deny the exercise of or the attempt to exercise, any right provided under this title.

(2) DISCRIMINATION.—It shall be unlawful for any employer to discharge or in any other manner discriminate against any individual for opposing any practice made unlawful by this title.

(b) INTERFERENCE WITH PROCEEDINGS OR INQUIRIES.—It shall be unlawful for any person to discharge or in any other manner discriminate against any individual because the individual—

(1) has filed any charge, or has instituted or caused to be instituted any proceeding, under or related to this title;

(2) has given or is about to give any information in connection with any inquiry or proceeding relating to any right provided under this title; or

(3) has testified or is about to testify in any inquiry or proceeding relating to any right provided under this title.

SEC. 108. ADMINISTRATIVE ENFORCEMENT.

(a) IN GENERAL.—The Secretary shall issue such rules and regulations as are necessary to carry out this section, including rules and regulations concerning service of complaints, notice of hearings, answers and amendments to complaints, and copies of orders and records of proceedings.

(b) CHARGES.—

(1) FILING.—Any person alleging an act that violates this title may file a charge respecting the violation with the Secretary. Charges shall be in such form and contain such information as the Secretary shall require by regulation.

(2) NOTIFICATION.—Not later than 15 days after the Secretary receives notice of a charge under paragraph (1), the Secretary shall—

(A) serve a notice of the charge on the person charged with the violation; and

(B) inform such person and the charging party as to the rights and procedures provided under this title.

(3) TIME OF FILING.—A charge may not be filed later than 1 year after the date of the last event constituting the alleged violation.

(c) PROCESS ON NOTICE OF A CHARGE.—Investigation; Complaint.—

(1) INVESTIGATION.—Within the 60-day period after the Secretary receives any charge, the Secretary shall investigate the charge and issue a complaint based on the charge or dismiss the charge.

(2) COMPLAINT BASED ON CHARGE.—If the Secretary determines that there is a reasonable basis for the charge, the Secretary shall issue a complaint based on the charge and promptly notify the charging party and the respondent as to the issuance.

(3) DISMISSAL.—If the Secretary determines that there is no reasonable basis for the charge, the Secretary shall dismiss the charge and promptly notify the charging party and the respondent as to the dismissal.

(4) SETTLEMENT AGREEMENTS.—

(A) WITH CHARGING PARTY.—The charging party and the respondent may enter into a settlement agreement concerning the violation alleged in the charge before any determination is reached by the Secretary under this subsection. To be effective such an agreement must be determined by the Secretary to be consistent with the purposes of this title.

(B) WITH SECRETARY.—On the issuance of a complaint, the Secretary and the respondent may enter into a settlement agreement concerning a violation alleged in the complaint. Any such settlement may not be entered into over the objection of the charging party, unless the Secretary determines that the settlement provides a full remedy for the charging party.

(5) CIVIL ACTIONS.—If, at the end of the 60-day period referred to in paragraph (1), the Secretary—

(A) has not issued a complaint under paragraph (2);

(B) has dismissed the charge under paragraph (3); or

(C) has not approved or entered into a settlement agreement under subparagraph (A) or (B) of paragraph (4);

the charging party may elect to bring a civil action under section 109.

(6) COMPLAINT AND RELIEF ON SECRETARY'S INITIATIVE.—

(A) ISSUANCE.—The Secretary may issue and serve a complaint alleging a violation of this title on the basis of information and evidence gathered as a result of an investigation initiated by the Secretary pursuant to section 110.

(B) RELIEF.—

(i) IN GENERAL.—On issuance of a complaint, the Secretary shall have the power to petition the United States district court for the district in which the violation is alleged to have occurred, or in which the respondent resides or transacts business, for appropriate temporary relief or a restraining order.

(ii) NOTICE.—On the filing of any such petition, the court shall cause notice of the petition to be served on the respondent.

(iii) TYPE OF RELIEF.—The court shall have jurisdiction to grant to the Secretary such temporary relief or restraining order as the court considers just and proper.

(d) RIGHTS OF PARTIES.—

(1) SERVICE OF COMPLAINT.—In any case in which a complaint is issued under subsection (c), the Secretary shall, not later than 10 days after the date on which the complaint is issued, cause to be served on the respondent a copy of the complaint.

(2) PARTIES TO COMPLAINT.—Any person filing a charge alleging a violation of this title may elect to be a party to any complaint filed by the Secretary alleging the violation. The election must be made before the commencement of a hearing.

(3) CIVIL ACTION.—The failure of the Secretary to comply in a timely manner with any obligation assigned to the Secretary under this title shall entitle the charging party to elect, at the time of such failure, to bring a civil action under section 109.

(e) CONDUCT OF HEARING.—

(1) PROSECUTION BY SECRETARY.—The Secretary shall prosecute any complaint issued under subsection (c).

(2) HEARING.—An administrative law judge shall conduct a hearing on the record with respect to a complaint issued under this title. The hearing shall be conducted in accordance with sections 554, 555, and 556 of title 5, United States Code, and shall be commenced within 60 days after the issuance of the complaint, unless the judge, in the judge's discretion, determines that the purposes of this Act would best be furthered by commencement of the action after the expiration of such period.

(f) FINDINGS AND CONCLUSIONS.—

(1) IN GENERAL.—After a hearing is conducted under this section, the administrative law judge shall promptly make findings of fact and conclusions of law, and, if appropriate, issue an order for relief as provided in section 111.

(2) NOTIFICATION CONCERNING DELAY.—The administrative law judge shall inform the parties, in writing, of the reason for any delay in making the findings and conclusions if the findings and conclusions are not made within 60 days after the conclusion of the hearing.

(g) FINALITY OF DECISION; REVIEW.—

(1) FINALITY.—The decision and order of the administrative law judge shall become the final decision and order of the Secretary unless, on appeal by an aggrieved party taken not later than 30 days after the action, the Secretary modifies or vacates the decision, in which case the decision of the Secretary shall be the final decision.

(2) REVIEW.—Not later than 60 days after the entry of the final order of the Secretary under paragraph (1), any person aggrieved by the final order may obtain a review of the order in the United States court of appeals for the circuit in which the violation is alleged to have occurred or in which the employer resides or transacts business.

(3) JURISDICTION.—On the filing of the record with the court, the jurisdiction of the court shall be exclusive and its judgment shall be final, except that the same shall be subject to review by the Supreme Court of the United States on writ of certiorari or certification as provided in section 1254 of title 28, United States Code.

(h) COURT ENFORCEMENT OF ADMINISTRATIVE ORDERS.—

(1) POWER OF SECRETARY.—If a respondent does not appeal an order of the Secretary under subsection (g)(2), the Secretary may petition the United States district court for the district in which the violation is alleged to have occurred, or in which the respondent resides or transacts business, for the enforcement of the order of the Secretary, by filing in the court a written petition praying that the order be enforced.

(2) JURISDICTION.—On the filing of the petition, the court shall have jurisdiction to make and enter a decree enforcing the order of the Secretary. In the proceeding, the order of the Secretary shall not be subject to review.

(3) DECREE OF ENFORCEMENT.—If, on appeal of an order under subsection (g)(2), the United States court of appeals does not reverse or modify the order, the court shall have the jurisdiction to make and enter a decree enforcing the order of the Secretary.

SEC. 109. ENFORCEMENT BY CIVIL ACTION.

(a) RIGHT TO BRING CIVIL ACTION.—

(1) IN GENERAL.—Subject to the limitations in this section, an employee or the Secretary may bring a civil action against any employer to enforce the provisions of this title in any appropriate court of the United States or in any State court of competent jurisdiction.

(2) NO CHARGE FILED.—Subject to paragraph (3), a civil action may be commenced under this subsection without regard to whether a charge has been filed under section 108(b).

(3) LIMITATIONS.—No civil action may be commenced under paragraph (1) if the Secretary—

(A) has approved, or has failed to disapprove, a settlement agreement under section 108(c)(4), in which case no civil action may be filed under this subsection if the action is based on a violation alleged in the charge and resolved by the agreement; or

(B) has issued a complaint under section 108(c)(2) or 108(c)(6), in which case no civil action may be filed under this subsection if the action is based on a violation alleged in the complaint.

(4) TO ENFORCE SETTLEMENT AGREEMENTS.—Notwithstanding paragraph (3)(A), a civil action may be commenced to enforce the terms of any such settlement agreement.

(5) TIMING OF COMMENCEMENT OF CIVIL ACTION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), no civil action may be commenced more than 1 year after the date on which the alleged violation occurred.

(B) EXCEPTION.—In any case in which—

(i) a timely charge is filed under section 108(b); and

(ii) the failure of the Secretary to issue a complaint or enter into a settlement agreement based on the charge (as provided under section 108(c)(4)) occurs more than 11 months after the date on which any alleged violation occurred,

the employee may commence a civil action not more than 30 days after the date on which the employee is notified of the failure.

(6) AGENCIES.—The Secretary may not bring a civil action against any agency of the United States.

(b) VENUE.—An action brought under subsection (a) in a district court of the United States may be brought—

(1) in any appropriate judicial district under section 1391 of title 28, United States Code; or

(2) in the judicial district in the State in which—

(A) the employment records relevant to the violation are maintained and administered; or

(B) the aggrieved person worked or would have worked but for the alleged violation.

(c) NOTIFICATION OF THE SECRETARY; RIGHT TO INTERVENE.—A copy of the complaint in any action brought by an employee under subsection (a) shall be served on the Secretary by certified mail. The Secretary shall have the right to intervene in a civil action brought by an employee under subsection (a).

(d) ATTORNEYS FOR THE SECRETARY.—In any civil action brought under subsection (a), attorneys appointed by the Secretary may appear for and represent the Secretary, except that the Attorney General and the Solicitor General shall conduct any litigation in the Supreme Court.

SEC. 110. INVESTIGATIVE AUTHORITY.

(a) IN GENERAL.—To ensure compliance with the provisions of this title, or any regulation or order issued under this title, subject to subsection (c), the Secretary shall have the investigative authority provided under section 11(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(a)).

(b) OBLIGATION TO KEEP AND PRESERVE RECORDS.—An employer shall keep and preserve records in accordance with section 11(c) of such Act, and in accordance with regulations issued by the Secretary.

(c) REQUIRED SUBMISSIONS GENERALLY LIMITED TO AN ANNUAL BASIS.—The Secretary may not under this section require any employer or any plan, fund, or program to submit to the Secretary any books or records more than once in any 12-month period, unless the Secretary has reasonable cause to believe there may exist a violation of this title or any regulation or order issued pursuant to this title, or is investigating a charge brought pursuant to section 108.

(d) SUBPOENA POWERS, ETC.—For purposes of any investigation conducted under this section, the Secretary shall have the subpoena authority provided under section 9 of the Fair Labor Standards Act of 1938 (29 U.S.C. 209).

(e) DISSEMINATION OF INFORMATION.—The Secretary may make available to any person substantially affected by any matter that is the subject of an investigation under this section, and to any department or agency of the United States, information concerning any matter that may be the subject of the investigation.

SEC. 111. RELIEF.

(a) INJUNCTIVE RELIEF.—

(1) CEASE AND DESIST.—On finding a violation under section 108 by a person, an administrative law judge shall issue an order requiring the person to cease and desist from any act or practice that violates this title.

(2) INJUNCTIONS.—In any civil action brought under section 109, a court may grant as relief any permanent or temporary injunction, temporary restraining order, or other equitable relief as the court considers appropriate.

(b) MONETARY DAMAGES.—

(1) IN GENERAL.—Any employer that violates this title shall be liable to the injured party in an amount equal to—

(A) any wages, salary, employment benefits, or other compensation denied or lost to the employee by reason of the violation, plus interest on the total monetary damages calculated at the prevailing rate; and

(B) an additional amount equal to the greater of—

(i) the amount determined under subparagraph (A), as liquidated damages; or

(ii) the amount of consequential damages but not to exceed three times the amount determined under subparagraph (A).

(2) GOOD FAITH.—If an employer who has violated this title proves to the satisfaction of the court that the act or omission which violated this title was in good faith and that the employer had reasonable grounds for believing that the act or omission was not a violation of this title, the court may, in its discretion, reduce the amount of the liability or penalty provided for under this subsection to the amount determined under paragraph (1)(A).

(c) ATTORNEYS' FEES.—A prevailing party (other than the United States) may be awarded a reasonable attorneys' fee as part of the costs, in addition to any relief awarded. The United States shall be liable for costs in the same manner as a private person.

(d) LIMITATION.—Damages awarded under subsection (b) may not accrue from a date more than 2 years before the date on which a charge is filed under section 108(b) or a civil action is brought under section 109.

SEC. 112. NOTICE.

(a) IN GENERAL.—Each employer shall post and keep posted, in conspicuous places on the premises of the employer where notices to employees and applicants for employment are customarily posted, a notice, approved by the Secretary, setting forth excerpts from, or summaries of, the pertinent provisions of this title and information pertaining to the filing of a charge.

(b) PENALTY.—Any employer who willfully violates this section shall be fined not more than $100 for each separate offense.

TITLE II—PARENTAL LEAVE AND TEMPORARY MEDICAL LEAVE FOR CIVIL SERVICE EMPLOYEES

SEC. 201. PARENTAL LEAVE AND TEMPORARY MEDICAL LEAVE.

(a) IN GENERAL.—(1) Chapter 63 of title 5, United States Code, is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER III—PARENTAL LEAVE AND TEMPORARY MEDICAL LEAVE

"§ 6331. Definitions

"For purposes of this subchapter:

"(1) 'employee' means—

"(A) an employee as defined by section 6301(2) of this title (excluding an individual employed by the government of the District of Columbia); and

"(B) an individual under clause (v) or (ix) of such section;

who has been employed for at least 12 months and completed at least 900 hours of service during the previous 12-month period.

"(2) 'serious health condition' means an illness, injury, impairment, or physical or mental condition that involves—

"(A) inpatient care in a hospital, hospice, or residential medical care facility; or

"(B) continuing treatment, or continuing supervision, by a health care provider; and

"(3) 'son or daughter' means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a de facto parent, who is—

"(A) under 18 years of age; or

"(B) 18 years of age or older and incapable of self-care because of a mental or physical disability.

"§ 6332. Parental leave requirement

"(a)(1) An employee shall be entitled, subject to section 6334, to 10 workweeks of parental leave during any 24-month period—

"(A) as the result of the birth of a son or daughter of the employee;

"(B) as the result of the placement, for adoption or foster care, of a son or daughter with the employee; or

"(C) in order to care for the employee's son or daughter who has a serious health condition.

"(2) The entitlement to leave under paragraphs (1)(A) and (1)(B) shall expire at the end of the 12-month period beginning on the date of such birth or placement.

"(3) In the case of a son or daughter who has a serious health condition, such leave may be taken intermittently when medically necessary, subject to subsection (e).

"(b) On agreement between the employing agency and the employee, leave under this section may be taken on a reduced leave schedule, however, such reduced leave schedule shall not result in a reduction in the total amount of leave to which the employee is entitled.

"(c) Except as provided in subsection (d), leave granted under subsection (a) may consist of unpaid leave.

"(d)(1) If an employing agency provides paid parental leave for fewer than 10 workweeks, the additional weeks of leave added to attain the 10 work-week total may be unpaid.

"(2) An employee or employing agency may elect to substitute any of the employee's accrued paid vacation leave, personal leave, or other appropriate paid leave for any part of the 10-week period.

"(e)(1) In any case in which the necessity for leave under this section is foreseeable based on an expected birth or adoption, the employee shall provide the employing agency with prior notice of such expected birth or adoption in a manner which is reasonable and practicable.

"(2) In any case in which the necessity for leave under this section is foreseeable based on planned medical treatment or supervision, the employee shall—

"(A) make a reasonable effort to schedule the treatment or supervision so as not to disrupt unduly the operations of the employing agency, subject to the approval of the health care provider of the employee's son or daughter; and

"(B) provide the employing agency with prior notice of the treatment or supervision in a manner which is reasonable and practicable.

"(3) The Director of the Office of Personnel Management shall promulgate regulations that define the term 'reasonable and practicable' for purposes of paragraphs (1) and (2)(B).

"§ 6333. Temporary medical leave requirement

"(a)(1) Any employee who, as the result of a serious health condition, becomes unable to perform the functions of the position of the employee, shall be entitled to temporary medical leave, subject to section 6334.

"(2) The entitlement under paragraph (1) shall continue for as long as the employee is unable to perform the functions, except that the leave shall not exceed 13 administrative workweeks of the employee during any 12-month period.

"(3) Leave taken under this subsection may be taken intermittently when medically necessary, subject to subsection (d).

"(b) Except as provided in subsection (c), leave granted under subsection (a) may consist of unpaid leave.

"(c)(1) If an employing agency provides paid temporary medical leave or paid sick leave for fewer than 13 weeks, the additional weeks of leave added to attain the 13-week total may be unpaid.

"(2) An employee or employing agency may elect to substitute the employee's accrued paid vacation leave, sick leave, or other appropriate paid leave for any part of the 13-week period, except that nothing in this Act shall require an employing agency to provide paid sick leave or paid medical leave in any situation in which such employing agency would not normally provide any such paid leave.

"(d)(1) In any case in which the necessity for leave under this section is foreseeable based on planned medical treatment or supervision, the employee shall—

"(A) make a reasonable effort to schedule the treatment or supervision so as not to disrupt unduly the operations of the employing agency, subject to the approval of the employee's health care provider, and

"(B) provide the employing agency with prior notice of the treatment or supervision in a manner which is reasonable and practicable.

"(2) The Director of the Office of Personnel Management shall promulgate regulations that define the term "reasonable and practicable" for purposes of paragraph (1).

"§ 6334. Certification

"(a) An employing agency may require that a claim for parental leave under section 6332(a)(10)(C), or temporary medical leave under section 6333, be supported by certification issued by the health care provider of the son, daughter, or employee, whichever is appropriate. The employee shall provide a copy of such certification to the employing agency.

"(b) The certification shall be considered sufficient if it states—

"(1) the date on which the serious health condition commenced;

"(2) the probable duration of the condition;

"(3) the appropriate medical facts within the knowledge of the provider regarding the condition; and

"(4)(A) for purposes of leave under section 6333, a statement that the employee is unable to perform the functions of the employee's position; and

"(B) for purposes of leave under section 6332(a)(1)(C), an estimate of the amount of time that the employee is needed to care for the son or daughter.

"(c)(1) In any case in which the employing agency has reason to doubt the validity of the certification provided under subsection (a), the employing agency may require, at its expense, that the employee obtain the opinion of a second health care provider designated or approved by the employing agency concerning the information certified under subsection (b).

"(2) Any health care provider designated or approved under paragraph (1) may not be employed on a regular basis by the employing agency.

"(d)(1) In any case in which the second opinion described in subsection (c) differs from the original certification provided under subsection (a), the employing agency may require, at its expense, that the employee obtain the opinion of a third health care provider designated or approved jointly by the employing agency and the employee concerning the information certified under subsection (b).

"(2) The opinion of the third health care provider concerning the information certified under subsection (b) shall be considered to be final and shall be binding on the employing agency and the employee.

"(e) The employing agency may require that the employee obtain subsequent recertifications on a reasonable basis.

"§ 6335. Job protection

"An employee who uses leave under section 6332 or 6333 of this title shall be entitled, on return from the leave—

"(1) to be restored to the position of employment held by the employee when the leave commenced; or

"(2) to be restored to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.

"§ 6336. Prohibition of coercion

"(a) An employee may not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any other employee for the purpose of interfering with the exercise of the rights of the employee under this subchapter.

"(b) For the purpose of this section, 'intimidate, threaten, or coerce' includes promising to confer or conferring any benefit (such as appointment, promotion, or compensation), or taking or threatening to take any reprisal (such as deprivation of appointment, promotion, or compensation).

"§ 6337. Health insurance

"An employee enrolled in a health benefits plan under chapter 89 of this title who is placed in a leave status under section 6332 or 6333 of this title may elect to continue the health benefits enrollment of the employee while in leave status and arrange to pay into the Employees Health Benefits Fund (described in section 8909 of this title), through the employing agency of the employee, the appropriate employee contributions.

"§ 6338. Regulations

"The Office of Personnel Management shall prescribe regulations necessary for the administration of this subchapter. The regulations prescribed under this subchapter shall be consistent with the regulations prescribed by the Secretary of Labor under title I of the Parental and Medical Leave Act of 1988.".

(2) The table of contents for chapter 63 of title 5, United States Code, is amended by adding at the end thereof the following:

"SUBCHAPTER III—PARENTAL LEAVE AND TEMPORARY MEDICAL LEAVE

"6331. Definitions.
"6332. Parental leave requirement.
"6333. Temporary medical leave requirement.
"6334. Certification.
"6335. Job protection.
"6336. Prohibition of coercion.
"6337. Health insurance.
"6338. Regulations.".

(b) EMPLOYEES PAID FROM NONAPPROPRIATED FUNDS.—Section 2105(c)(1) of title 5, United States Code, is amended by striking out "53" and inserting in lieu thereof "53, subchapter III of chapter 63,".

TITLE III—COMMISSION ON PARENTAL AND MEDICAL LEAVE

SEC. 301. ESTABLISHMENT.

(a) ESTABLISHMENT.—There is established a Commission to be known as the Commission on Parental and Medical Leave (hereinafter in this title referred to as the "Commission").

SEC. 302. DUTIES.

The Commission shall—

(1) conduct a comprehensive study of—

(A) existing and proposed policies relating to parental leave and temporary medical leave; and

(B) the potential costs, benefits, and impact on productivity of such policies on employers;

(2) to the extent practicable, include in the study of parental leave and temporary medical leave policies required under subsection (1)(A), a review of all studies of existing and proposed methods designed to provide workers with full or partial salary replacement or other income protection during periods of parental leave and temporary medical leave that are consistent with the legitimate business interests of employers;

(3) within 2 years after the date on which the Commission first meets, submit a report to Congress that outlines the findings of the Commission.

SEC. 303. MEMBERSHIP.

(a) COMPOSITION.—

(1) APPOINTMENTS.—The Commission shall be composed of 12 voting members and 2 ex-officio members appointed not more than 60 days after the date of the enactment of this Act as follows:

(A) One Senator shall be appointed by the majority leader of the Senate, and one Senator shall be appointed by the minority leader of the Senate.

(B) One member of the House of Representatives shall be appointed by the Speaker of the House of Representatives, and one member of the House of Representatives shall be appointed by the minority leader of the House of Representatives.

(C)(i) Two members each shall be appointed by—

(I) the Speaker of the House of Representatives,

(II) the majority leader of the Senate,

(III) the minority leader of the House of Representatives, and

(IV) the minority leader of the Senate.

(ii) Such members shall be appointed by virtue of demonstrated expertise in relevant family, temporary disability, and labor-management issues and shall include representatives of employers.

(2) EX-OFFICIO MEMBERS.—The Secretary of Health and Human Services and the Secretary of Labor shall serve on the Commission as nonvoting ex-officio members.

(b) VACANCIES.—Any vacancy on the Commission shall be filled in the same manner

in which the original appointment was made.

(c) CHAIRPERSON AND VICE CHAIRPERSON.—The Commission shall elect a chairperson and a vice chairperson from among the members of the Commission.

(d) QUORUM.—Eight members of the Commission shall constitute a quorum for all purposes, except that a lesser number may constitute a quorum for the purpose of holding hearings.

SEC. 304. COMPENSATION.

(a) PAY.—Members of the Commission shall serve without compensation.

(b) TRAVEL EXPENSES.—Members of the Commission shall be allowed reasonable travel expenses, including a per diem allowance, in accordance with section 5703 of title 5, United States Code, while performing duties of the Commission.

SEC. 305. POWERS.

(a) MEETINGS.—The Commission shall first meet not more than 30 days after the date on which all members are appointed. The Commission shall meet thereafter on the call of the chairperson or a majority of the members.

(b) HEARINGS AND SESSIONS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before the Commission.

(c) ACCESS TO INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable the Commission to carry out this Act. On the request of the chairperson or vice chairperson of the Commission, the head of the agency shall furnish the information to the Commission.

(d) EXECUTIVE DIRECTOR.—The Commission may appoint an Executive Director from the personnel of any Federal agency to assist the Commission in carrying out the duties of the Commission.

(e) USE OF SERVICES AND FACILITIES.—On the request of the Commission, the head of any Federal agency may make available to the Commission any of the facilities and services of the agency.

(f) PERSONNEL FROM OTHER AGENCIES.—On the request of the Commission, the head of any Federal agency may detail any of the personnel of the agency to assist the Commission in carrying out the duties of the Commission.

SEC. 306. TERMINATION.

The Commission shall terminate 30 days after the date of the submission of the final report of the Commission to Congress.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. EFFECT ON OTHER LAWS.

(a) FEDERAL AND STATE ANTIDISCRIMINATION LAWS.—Nothing in this Act shall be construed to modify or affect any Federal or State law prohibiting discrimination on the basis of race, religion, color, national origin, sex, age, or handicapped status.

(b) STATE AND LOCAL LAWS.—Nothing in this Act shall be construed to supersede any provision of any State or local law that provides greater employee parental or medical leave rights than the rights established under this Act.

SEC. 402. EFFECT ON EXISTING EMPLOYMENT BENEFITS.

(a) MORE PROTECTIVE.—Nothing in this Act shall be construed to diminish the obligation of an employer to comply with any collective-bargaining agreement or any employment benefit program or plan that provides greater parental and medical leave rights to employees than the rights provided under this Act.

(b) LESS PROTECTIVE.—The rights provided to employees under this Act may not be diminished by any collective-bargaining agreement or any employment benefit program or plan.

SEC. 403. ENCOURAGEMENT OF MORE GENEROUS LEAVE POLICIES.

Nothing in this Act shall be construed to discourage employers from adopting or retaining leave policies more generous than any policies that comply with the requirements under this Act.

SEC. 404. REGULATIONS.

Not later than 60 days after the date of enactment of this Act, the Secretary shall prescribe such regulations as are necessary to carry out title I.

SEC. 405. EFFECTIVE DATES.

(a) ADVISORY COMMISSION.—Title III shall become effective on the date of enactment of this Act.

(b) OTHER TITLES.—

(1) IN GENERAL.—Except as provided in paragraph (2), titles I, II, and IV shall take effect 6 months after the date of the enactment of this Act.

(2) COLLECTIVE BARGAINING AGREEMENTS.—In the case of a collective bargaining agreement in effect on the effective date described in paragraph (1), title I shall apply on the earlier of—

(A) the date of the termination of such agreement, or

(B) the date which occurs 12 months after the date of the enactment of this Act.

Notwithstanding any other provision of this Act, the term "employer" means any person engaged in commerce or in any industry affecting commerce who employs 50 or more employees at any one worksite for each working day during each of 20 or more calendar workweeks in the current or preceding calendar year; and includes:

"(i) any person who acts directly or indirectly in the interest of an employer to one or more employees;

"(ii) any successor in interest of such an employer; and

"(iii) any public agency, as defined in section 3(x) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(x)): and

notwithstanding any other provision of this act, the period of entitlement described in Sec. 104(a)(2) of this act shall not exceed 10 workweeks during any 12-month period; and notwithstanding any other provision of this act, the entitlement under paragraph (a)(2), in "Sec. 6333" entitled "Temporary Medical Leave Requirement" contained in Sec. 201 of this act shall not exceed 10 administrative workweeks of the employee during any 12-month period.

[Corrected version will appear on pages 26653-26658.]

TITLE V—CHILD PORNOGRAPHY AND OBSCENITY

SEC. 501. SHORT TITLE.

This title may be cited as the "Child Protection and Obscenity Enforcement Act of 1988".

Subtitle A—Child Pornography

SEC. 511. AMENDMENTS TO EXISTING OFFENSES.

(a) SEXUAL EXPLOITATION OF CHILDREN.—Paragraph (2) of subsection 2251(c) of title 18, United States Code, is amended by inserting "by any means including by computer" after "interstate or foreign commerce" both places it appears.

(b) MATERIAL INVOLVING SEXUAL EXPLOITATION OF CHILDREN.—Subsection 2252(a) of title 18, United States Code, is amended by inserting "by any means including by computer" after "interstate or foreign commerce" each place it appears.

(c) DEFINITION.—Section 2256 of title 18, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (4);

(2) by striking out the period at the end of paragraph (5) and inserting in lieu thereof: "; and"; and

(3) by adding at the end the following:

"(6) 'computer' has the meaning given that term in section 1030 of this title.".

SEC. 512. SELLING OR BUYING OF CHILDREN.

(a) IN GENERAL.—Chapter 110 of title 18, United States Code, is amended by inserting after section 2251 the following:

"§ 2251A. Selling or buying of children

"(a) Any parent, legal guardian, or other person having custody or control of a minor who sells or otherwise transfers custody or control of such minor, or offers to sell or otherwise transfer custody of such minor either—

"(1) with knowledge that, as a consequence of the sale or transfer, the minor will be portrayed in a visual depiction engaging in, or assisting another person to engage in, sexually explicit conduct; or

"(2) with intent to promote either—

"(A) the engaging in of sexually explicit conduct by such minor for the purpose of producing any visual depiction of such conduct; or

"(B) the rendering of assistance by the minor to any other person to engage in sexually explicit conduct for the purpose of producing any visual depiction of such conduct;

shall be punished by imprisonment for not less than 20 years or for life and by a fine under this title, if any of the circumstances described in subsection (c) of this section exist.

"(b) Whoever purchases or otherwise obtains custody or control of a minor, or offers to purchase or otherwise obtain custody or control of a minor either—

"(1) with knowledge that, as a consequence of the purchase or obtaining of custody, the minor will be portrayed in a visual depiction engaging in, or assisting another person to engage in, sexually explicit conduct; or

"(2) with intent to promote either—

"(A) the engaging in of sexually explicit conduct by such minor for the purpose of producing any visual depiction of such conduct; or

"(B) the rendering of assistance by the minor to any other person to engage in sexually explicit conduct for the purpose of producing any visual depiction of such conduct;

shall be punished by imprisonment for not less than 20 years or for life and by a fine under this title, if any of the circumstances described in subsection (c) of this section exist.

"(c) The circumstances referred to in subsections (a) and (b) are that—

"(1) in the course of the conduct described in such subsections the minor or the actor traveled in or was transported in interstate or foreign commerce;

"(2) any offer described in such subsections was communicated or transported in interstate or foreign commerce by any means including by computer or mail; or

"(3) the conduct described in such subsections took place in any territory or possession of the United States.".

(b) DEFINITION.—Section 2256 of title 18, United States Code, as amended by section 201 of this Act, is further amended—

(1) by striking out "and" at the end of paragraph (5);

(2) by striking out the period at the end of paragraph (6) and inserting "; and" in lieu thereof; and

(3) by adding at the end the following:

"(7) 'custody or control' includes temporary supervision over or responsibility for a minor whether legally or illegally obtained.".

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 110 of title 18, United States Code, is amended by inserting after the item relating to section 2251 the following:

"2251A. Selling or buying of children.".

SEC. 513. RECORD KEEPING REQUIREMENTS.

(a) IN GENERAL.—Chapter 110 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 2257. Record keeping requirements

"(a) Whoever produces any book, magazine, periodical, film, videotape, or other matter which—

"(1) contains one or more visual depictions made after February 6, 1978 of actual sexually explicit conduct; and

"(2) is produced in whole or in part with materials which have been shipped in interstate or foreign commerce, or is shipped or transported or is intended for shipment or transportation in interstate or foreign commerce;

shall create and maintain individually identifiable records pertaining to every performer portrayed in such a visual depiction.

"(b) Any person to whom subsection (a) applies shall, with respect to every performer portrayed in a visual depiction of actual sexually explicit conduct—

"(1) ascertain, by examination of an identification document containing such information, the performer's name and date of birth, and require the performer to provide such other indicia of his or her identity as may be prescribed by regulations;

"(2) ascertain any name, other than the performer's present and correct name, ever used by the performer including maiden name, alias, nickname, stage, or professional name; and

"(3) record in the records required by subsection (a) the information required by paragraphs (1) and (2) of this subsection and such other identifying information as may be prescribed by regulation.

"(c) Any person to whom subsection (a) applies shall maintain the records required by this section at his business premises, or at such other place as the Attorney General may by regulation prescribe and shall make such records available to the Attorney General for inspection at all reasonable times.

"(d)(1) No information or evidence obtained from records required to be created or maintained by this section shall, except as provided in paragraphs (2) and (3), be used, directly or indirectly, as evidence against any person with respect to any violation of law.

"(2) Paragraph (1) of this subsection shall not preclude the use of such information or evidence in a prosecution or other action for a violation of any applicable provision of law with respect to the furnishing of false information.

"(3) In a prosecution of any person to whom subsection (a) applies for an offense in violation of subsection 2251(a) of this title which has as an element the production of a visual depiction of a minor engaging in or assisting another person to engage in sexually explicit conduct and in which that element is sought to be established by showing that a performer within the meaning of this section is a minor—

"(A) proof that the person failed to comply with the provisions of subsection (a) or (b) of this section concerning the creation and maintenance of records, or a regulation issued pursuant thereto, shall raise a rebuttable presumption that such performer was a minor; and

"(B) proof that the person failed to comply with the provisions of subsection (e) of this section concerning the statement required by that subsection shall raise the rebuttable presumption that every performer in the matter was a minor.

"(e)(1) Any person to whom subsection (a) applies shall cause to be affixed to every copy of any matter described in paragraph (1) of subsection (a) of this section, in such manner and in such form as the Attorney General shall by regulations prescribe, a statement describing where the records required by this section with respect to all performers depicted in that copy of the matter may be located.

"(2) If the person to whom subsection (a) of this section applies is an organization the statement required by this subsection shall include the name, title, and business address of the individual employed by such organization responsible for maintaining the records required by this section.

"(3) In any prosecution of a person for an offense in violation of section 2252 of this title which has as an element the transporting, mailing, or distribution of a visual depiction involving the use of a minor engaging in sexually explicit conduct, and in which that element is sought to be established by a showing that a performer within the meaning of this section is a minor, proof that the matter in which the visual depiction is contained did not contain the statement required by this section shall raise a rebuttable presumption that such performer was a minor.

"(f) The Attorney General shall issue appropriate regulations to carry out this section.

"(g) As used in this section—

"(1) the term 'actual sexually explicit conduct' means actual but not simulated conduct as defined in subparagraphs (A) through (E) of paragraph (2) of section 2256 of this title;

"(2) 'identification document' has the meaning given that term in subsection 1028(d) of this title;

"(3) the term 'produces' means to produce, manufacture, or publish and includes the duplication, reproduction, or reissuing of any material; and

"(4) the term 'performer' includes any person portrayed in a visual depiction engaging in, or assisting another person to engage in, actual sexually explicit conduct.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 110 of title 18, United States Code, is amended by adding after the item relating to section 2256 the following:

"2257. Record keeping requirements.".

(c) EFFECTIVE DATE.—Section 2257 of title 18, United States Code, as added by this section shall take effect 180 days after the date of the enactment of this Act except—

(1) the Attorney General shall prepare the initial set of regulations required or authorized by section 2257 within 90 days of the date of the enactment of this Act; and

(2) subsection (e) of section 2257 of this title and of any regulation issued pursuant thereto shall take effect 270 days after the date of the enactment of this Act.

SEC. 514. R.I.C.O. AMENDMENT.

Subsection 1961(1)(B) of title 18, United States Code, is amended by inserting after "section 1957 (relating to engaging in monetary transactions in property derived from specified unlawful activity)" the following: "sections 2251 through 2252 (relating to sexual exploitation of children),".

Subtitle B—Obscenity

SEC. 521. RECEIPT OR POSSESSION FOR SALE; PRESUMPTIONS FOR CHAPTER 71.

(a) RECEIPT OR POSSESSION FOR SALE.—Chapter 71 of title 18, United States Code, is amended by inserting after section 1465 the following:

"§ 1466. Receipt or possession of obscene matter for sale or distribution

"(a) Whoever is engaged in the business of selling or transferring books, magazines, pictures, papers, films, videotapes, or phonograph or other audio recordings, and knowingly receives or possesses with intent to distribute any obscene book, magazine, picture, paper, film, videotape, or phonograph or other audio recording, which has been shipped or transported in interstate or foreign commerce, shall be punished by imprisonment for not more than 5 years or by a fine under this title, or both.

"(b) As used in this subsection, the term 'engaged in the business' means that the person who sells or transfers or offers to sell or transfer books, magazines, pictures, papers, films, videotapes, or phonograph or other audio recordings, devotes time, attention, or labor to such activities, as a regular course of trade or business, with the objective of earning a profit, although it is not necessary that the person make a profit or that the selling or transferring or offering to sell or transfer such material be the person's sole or principal business or source of income. The offering for sale of or to transfer, at one time, two or more copies of any obscene publication, or two or more of any obscene article, or a combined total of five or more such publications and articles, shall create a rebuttable presumption that the person so offering them is 'engaged in the business' as defined in subsection (b).

"(c) In a prosecution for a violation of this section, it shall be an affirmative defense, on which the defendant has the burden of persuasion by a preponderance of the evidence, that the person—

"(1) ordered or received the obscene matter without examining the matter in advance;

"(2) did not in fact offer the matter for sale, or transfer or offer to transfer it to another person other than the sender; and

"(3) possessed the material less than 21 days.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 71 of title 18, United States Code, is amended by adding after the item relating to section 1465 the following:

"1466. Receipt or possession of obscene matter for sale or distribution.

"1467. Criminal forfeiture.".

(c) USE OF FACILITY OF COMMERCE.—The first paragraph of section 1465 of title 18, United States Code, is amended by inserting

after the word distribution: ", or knowingly travels in interstate commerce, or uses a facility or means of commerce for the purpose of interstate or foreign sale or distribution of,".

(d) DISTRIBUTION OF PROCEEDS.—Section 1465 of title 18, United States Code, is amended by inserting "or the proceeds from the sale thereof" after "character,".

(e) PRESUMPTIONS.—Chapter 71 of title 18, United States Code, as amended by subsection (a) of this section and by section 302, is further amended by adding at the end the following:

"§ 1469. Presumptions

"(a) In any prosecution under this chapter in which an element of the offense is that the matter in question was transported, shipped, or carried in interstate commerce, proof, by either circumstantial or direct evidence, that such matter was produced or manufactured in one State and is subsequently located in another State shall raise a rebuttable presumption that such matter was transported, shipped, or carried in interstate commerce.

"(b) In any prosecution under this chapter in which an element of the offense is that the matter in question was transported, shipped, or carried in foreign commerce, proof, by either circumstantial or direct evidence, that such matter was produced or manufactured outside of the United States and is subsequently located in the United States shall raise a rebuttable presumption that such matter was transported, shipped, or carried in foreign commerce.".

(f) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 71 of title 18, United States Code, is amended by adding after the item relating to section 1468 the following:

"1469. Presumptions.".

SEC. 522. FORFEITURE IN OBSCENITY CASES.

(a) IN GENERAL.—Chapter 71 of title 18, United States Code, is amended by adding at the end the following:

"§ 1467. Criminal forfeiture

"(a) PROPERTY SUBJECT TO CRIMINAL FORFEITURE.—A person who is convicted of an offense involving obscene material under this chapter shall forfeit to the United States such person's interest in—

"(1) any obscene material produced, transported, mailed, shipped or received in violation of this chapter;

"(2) any property, real or personal, constituting or traceable to gross profits or other proceeds obtained from such offense; and

"(3) any property, real or personal, used or intended to be used to commit or to promote the commission of such offense. A forfeiture under this subparagraph shall be authorized only by the Attorney General, the Deputy Attorney General, the Associate Attorney General, or the Assistant Attorney General or the Acting Assistant Attorney General in the Criminal Division.

"(b) THIRD PARTY TRANSFERS.—All right, title, and interest in property described in subsection (a) of this section vests in the United States upon the commission of the act giving rise to forfeiture under this section. Any such property that is subsequently transferred to a person other than the defendant may be the subject of a special verdict of forfeiture and thereafter shall be ordered forfeited to the United States, unless the transferee establishes in a hearing pursuant to subsection (m) of this section that he is a bona fide purchaser for value of such property who at the time of purchase was reasonably without cause to believe that the property was subject to forfeiture under this section.

"(c) PROTECTIVE ORDERS.—(1) Upon application of the United States, the court may enter a restraining order or injunction, require the execution of a satisfactory performance bond, or take any other action to preserve the availability of property described in subsection (a) of this section for forfeiture under this section—

"(A) upon the filing of an indictment or information charging a violation of this chapter for which criminal forfeiture may be ordered under this section and alleging that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section; or

"(B) prior to the filing of such an indictment or information, if, after notice to persons appearing to have an interest in the property and opportunity for a hearing, the court determines that—

"(i) there is a substantial probability that the United States will prevail on the issue of forfeiture and that failure to enter the order will result in the property being destroyed, removed from the jurisdiction of the court, or otherwise made unavailable for forfeiture; and

"(ii) the need to preserve the availability of the property through the entry of the requested order outweighs the hardship on any party against whom the order is to be entered;

except that an order entered under subparagraph (B) shall be effective for not more than 90 days, unless extended by the court for good cause shown or unless an indictment or information described in subparagraph (A) has been filed.

"(2) A temporary restraining order under this subsection may be entered upon application of the United States without notice or opportunity for a hearing when an information or indictment has not yet been filed with respect to the property, if the United States demonstrates that there is probable cause to believe that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section and that provision of notice will jeopardize the availability of the property for forfeiture. Such a temporary order shall expire not more than 10 days after the date on which it is entered, unless extended for good cause shown or unless the party against whom it is entered consents to an extension for a longer period. A hearing requested concerning an order entered under this paragraph shall be held at the earliest possible time and prior to the expiration of the temporary order.

"(3) The court may receive and consider, at a hearing held pursuant to this subsection, evidence and information that would be inadmissible under the Federal Rules of Evidence.

"(d) WARRANT OF SEIZURE.—The Government may request the issuance of a warrant authorizing the seizure of property subject to forfeiture under this section in the same manner as provided for a search warrant. If the court determines that there is probable cause to believe that the property to be seized would, in the event of conviction, be subject to forfeiture and that an order under subsection (c) of this section may not be sufficient to assure the availability of the property for forfeiture, the court shall issue a warrant authorizing the seizure of such property.

"(e) ORDER OF FORFEITURE.—The court shall order forfeiture of property referred to in subsection (a) if the trier of fact determines, beyond a reasonable doubt, that such property is subject to forfeiture.

"(f) EXECUTION.—Upon entry of an order of forfeiture under this section, the court shall authorize the Attorney General to seize all property ordered forfeited upon such terms and conditions as the court shall deem proper. Following entry of an order declaring the property forfeited, the court may, upon application of the United States, enter such appropriate restraining orders or injunctions, require the execution of satisfactory performance bonds, appoint receivers, conservators, appraisers, accountants, or trustees, or take any other action to protect the interest of the United States in the property ordered forfeited. Any income accruing to or derived from property ordered forfeited under this section may be used to offset ordinary and necessary expenses to the property which are required by law, or which are necessary to protect the interests of the United States or third parties.

"(g) DISPOSITION OF PROPERTY.—Following the seizure of property ordered forfeited under this section, the Attorney General shall destroy or retain for official use any property described in paragraph (1) of subsection (a) and shall direct the disposition of any property described in paragraph (2) of subsection (a) by sale or any other commercially feasible means, making due provision for the rights of any innocent persons. Any property right or interest not exercisable by, or transferable for value to, the United States shall expire and shall not revert to the defendant, nor shall the defendant or any person acting in concert with him or on his behalf be eligible to purchase forfeited property at any sale held by the United States. Upon application of a person, other than the defendant or person acting in concert with him or on his behalf, the court may restrain or stay the sale or disposition of the property pending the conclusion of any appeal of the criminal case giving rise to the forfeiture, if the applicant demonstrates that proceeding with the sale or disposition of the property will result in irreparable injury, harm, or loss to him.

"(h) AUTHORITY OF ATTORNEY GENERAL.—With respect to property ordered forfeited under this section, the Attorney General is authorized to—

"(1) grant petitions for mitigation or remission of forfeiture, restore forfeited property to victims of a violation of this chapter, or take any other action to protect the rights of innocent persons which is in the interest of justice and which is not inconsistent with the provisions of this section;

"(2) comprise claims arising under this section;

"(3) award compensation to persons providing information resulting in a forfeiture under this section;

"(4) direct the disposition by the United States, in accordance with the provisions of section 1616, title 19, United States Code, of all property ordered forfeited under this section by public sale or any other commercially feasible means, making due provision for the rights of innocent persons; and

"(5) take appropriate measures necessary to safeguard and maintain property ordered forfeited under this section pending its disposition.

"(i) APPLICABILITY OF CIVIL FORFEITURE PROVISIONS.—Except to the extent that they are inconsistent with the provisions of this section, the provisions of section 1468(d) of this title (18 U.S.C. 1468(d)) shall

apply to a criminal forfeiture under this section.

"(j) BAR ON INTERVENTION.—Except as provided in subsection (m) of this section, no party claiming an interest in property subject to forfeiture under this section may—

"(1) intervene in a trial or appeal of a criminal case involving the forfeiture of such property under this section; or

"(2) commence an action at law or equity against the United States concerning the validity of his alleged interest in the property subsequent to the filing of an indictment or information alleging that the property is subject to forfeiture under this section.

"(k) JURISDICTION TO ENTER ORDERS.—The district courts of the United States shall have jurisdiction to enter orders as provided in this section without regard to the location of any property which may be subject to forfeiture under this section or which has been ordered forfeited under this section.

"(l) DEPOSITIONS.—In order to facilitate the identification and location of property declared forfeited and to facilitate the disposition of petitions for remission or mitigation of forfeiture, after the entry of an order declaring property forfeited to the United States, the court may, upon application of the United States, order that the testimony of any witness relating to the property forfeited be taken by deposition and that any designated book, paper, document, record, recording, or other material not privileged be produced at the same time and place, in the same manner as provided for the taking of depositions under Rule 15 of the Federal Rules of Criminal Procedure.

"(m) THIRD PARTY INTERESTS.—(1) Following the entry of an order of forfeiture under this section, the United States shall publish notice of the order and of its intent to dispose of the property in such manner as the Attorney General may direct. The Government may also, to the extent practicable, provide direct written notice to any person known to have alleged an interest in the property that is the subject of the order of forfeiture as a substitute for published notice as to those persons so notified.

SEC. 524. COMMUNICATIONS ACT AMENDMENT.

Section 223(b) of the Communications Act of 1934 (47 U.S.C. 223(b)) is amended to read as follows:

"(b)(1)(A) Whoever knowingly—

"(i) in the District of Columbia or in interstate or foreign communication, by means of telephone, makes (directly or by recording device) any obscene communication for commercial purposes to any person, regardless of whether the maker of such communication placed the call; or

"(ii) permits any telephone facility under such person's control to be used for an activity prohibited by clause (i);

shall be fined in accordance with title 18 of the United States Code, or imprisoned not more than two years, or both.

"(2)(A) Whoever knowingly—

"(i) in the District of Columbia or in interstate or foreign communication, by means of telephone, makes (directly or by recording device) any indecent communication for commercial purposes to any person, regardless of whether the maker of such communication placed the call; or

"(ii) permits any telephone facility under such person's control to be used for an activity prohibited by clause (i),

shall be fined not more than $50,000 or imprisoned not more than six months, or both.".

SEC. 525. ELECTRONIC SURVEILLANCE.

Subsection (1) of section 2516 of title 18, United States Code, is amended by redesignating paragraphs (i) and (j) as (j) and (k), respectively, and by adding a new paragraph (i) as follows:

"(i) any felony violation of chapter 71 (relating to obscenity) of this title;".

SEC. 526. POSSESSION AND SALE OF OBSCENE MATTERS IN FEDERAL JURISDICTION OR ON FEDERAL PROPERTY.

(a) IN GENERAL.—Chapter 71 of title 18, United States Code, is amended by inserting before section 1461 the following:

"§ 1460. Possession and sale of obscene matter on Federal property

"(a) Whoever, either—

"(1) in the special maritime and territorial jurisdiction of the United States, or on any land or building owned by, leased to, or otherwise used by or under the control of the Government of the United States; or

"(2) in the Indian country as defined in section 1151 of this title,

knowingly sells or possesses with intent to sell an obscene visual depiction or a visual depiction of a minor engaging in or assisting another person to engage in sexually explicit conduct, shall be punished by a fine in accordance with the provisions of this title or imprisoned for not more than 2 years, or both.

"(b) Except as provided in subsection (c), whoever, in an area described in subparagraph (1) or (2) of subsection (a) knowingly possesses an obscene visual depiction or a visual depiction of a minor engaging in or assisting another person to engage in sexually explicit conduct shall be punished by imprisonment for not more than 6 months or a fine of not more than $5,000 for an individual or $10,000 for a person other than an individual, or both.

"(c) Subsection (b) shall not apply in the case of a person who possesses an obscene visual depiction in any place where such person lives or resides.

"(d) For the purposes of this section—

"(1) the term 'visual depiction' includes undeveloped film and videotape but does not include mere words; and

"(2) the terms 'minor' and 'sexually explicit conduct' have the meaning given those terms in chapter 110 of this title.

"(e) In a prosecution for a violation of this section involving an obscene visual depiction, it shall be an affirmative defense, on which the defendant has the burden of persuasion by a preponderance of the evidence, that the person—

"(1) ordered or received the obscene matter without examining the matter in advance;

"(2) did not in fact offer the matter for sale, or transfer or offer to transfer it to another person other than the sender; and

"(3) possessed the material less than 21 days.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 71 of title 18, United States Code, is amended by adding before the item relating to section 1461 the following:

"1460. Possession and sale of obscene matter on Federal property.".

SEC. 527. CIVIL FORFEITURE.

(a) IN GENERAL.—Chapter 71 of title 18, United States Code, is amended by adding the following new section at the end thereof:

"§ 1470. Civil forfeiture

"(a) PROPERTY SUBJECT TO CIVIL FORFEITURE.—The following property shall be subject to forfeiture by the United States:

"(1) Any material that has been adjudged obscene in any criminal case, Federal or State, that is produced, transported, mailed, shipped, or received in violation of this chapter.

"(2) Any property, real or personal, constituting or traceable to gross profits or other proceeds obtained from a violation of this chapter involving material that has been adjudged obscene in any criminal case, State or Federal, except that no property shall be forfeited under this paragraph, to the extent of the interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner.

"(b) SEIZURE PURSUANT TO SUPPLEMENTAL RULES FOR CERTAIN ADMIRALTY AND MARITIME CLAIMS.—Any property subject to forfeiture to the United States under this section may be seized by the Attorney General upon process issued pursuant to the Supplemental Rules for Certain Admiralty and Maritime Claims by any district court of the United States having jurisdiction over the property, except that seizure without such process may be made when the seizure is pursuant to a search under a search warrant. The government may request the issuance of a warrant authorizing the seizure of property subject to forfeiture under this section in the same manner as provided for a search warrant under the Federal Rules of Criminal Procedure.

"(c) CUSTODY OF ATTORNEY GENERAL.—Property taken or detained under this section shall not be repleviable, but shall be deemed to be in the custody of the Attorney General, subject only to the orders and decrees of the court or the official having jurisdiction thereof. Whenever property is seized under any of the provisions of this subchapter, the Attorney General may—

"(1) place the property under seal;

"(2) remove the property to a place designated by him; or

"(3) require that the General Services Administration take custody of the property and remove it, if practicable, to an appropriate location for disposition in accordance with law.

"(d) OTHER LAWS AND PROCEEDINGS APPLICABLE.—All provisions of the customs laws relating to the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws, the disposition of such property or the proceeds from the sale thereof, the remission or mitigation of such forfeitures, and the compromise of claims, shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under this section, insofar as applicable and not inconsistent with the provisions of this section, except that such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this section by such officers, agents, or other persons as may be authorized or designated for that purpose by the Attorney General or the Postal Service, except to the extent that such duties arise from seizures and forfeitures effected by any customs officer.

"(e) APPLICABILITY OF CERTAIN SECTIONS.—Sections 1606, 1607, 1608, 1609, 1613, 1614,

1617, and 1618 of title 19 shall not apply with respect to obscene material subject to forfeiture under subsection (a)(1) of this section.

"(f) DISPOSITION OF FORFEITED PROPERTY.—Whenever property is forfeited under this section the Attorney General shall destroy or retain for official use any article described in paragraph (1) of subsection (a), and with respect to property described in paragraphs (2) and (3) of subsection (a) may—

"(1) retain the property for official use or transfer the custody or ownership of any forfeited property to a Federal, State, or local agency pursuant to section 1616 of title 19;

"(2) sell any forfeited property which is not required to be destroyed by law and which is not harmful to the public; or

"(3) require that the General Services Administration take custody of the property and dispose of it in accordance with law.

The Attorney General shall ensure the equitable transfer pursuant to paragraph (1) of any forfeited property to the appropriate State or local law enforcement agency so as to reflect generally the contribution of any such agency participating directly in any of the acts which led to the seizure or forfeiture of such property. A decision by the Attorney General pursuant to paragraph (1) shall not be subject to judicial review. The Attorney General shall forward to the Treasurer of the United States for deposit in accordance with section 524(c) of title 28 the proceeds from any sale under paragraph (2) and any moneys forfeited under this subchapter.

"(g) TITLE TO PROPERTY.—All right, title, and interest in property described in subsection (a) of this section shall vest in the United States upon commission of the act giving rise to forfeiture under this section.

"(h) STAY OF PROCEEDINGS.—The filing of an indictment or information alleging a violation of this chapter which is also related to a civil forfeiture proceeding under this section shall, upon motion of the United States and for good cause shown, stay the civil forfeiture proceeding.

"(i) VENUE.—In addition to the venue provided for in section 1395 of title 28 or any other provision of law, in the case of property of a defendant charged with a violation that is the basis for forfeiture of the property under this section, a proceeding for forfeiture under this section may be brought in the judicial district in which the defendant owning such property is found or in the judicial district in which the criminal prosecution is brought.".

(b) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 71 of title 18, United States Code, is amended by inserting after the item relating to section 1469 the following:

"1470. Civil forfeiture.".

(c) REPEAL.—The last paragraph of section 1465 of title 18, United States Code, is repealed.

SEC. 528. CIVIL FINES.

Chapter 71 of title 18, United States Code, is amended by inserting at the end the following new section:

"Section 1471. Civil fines.

"(a) Whoever produces, transports, mails, ships or receives any article that has been adjudged obscene in any state or federal criminal case shall be subject to a civil penalty of—

"(1) for a first violation, not more than $10,000;

"(2) for a second violation, not more than $50,000; and

"(3) for a third or subsequent violation, not more than $250,000 in the case of an individual, or $500,000 in the case of an organization.

"(b) An action to recover a fine imposable under subsection (a) shall be brought in the name of the United States. The Attorney General may commence such a civil action in the district court in any district where the violation occurs. Such an action must be commenced within 5 years of the violation. The Attorney General may compromise, modify, or remit with or without condition any civil penalty imposed under this section.

"(c) In any civil action under this section, the defendant shall have a right to a trial by jury, and the government shall have the burden of proof, by a preponderance of the evidence, that the article is obscene under the standards of the community in which the trial takes place."

SEC. 529. SEVERABILITY.

If any of the provisions of this Act are found invalid, such finding shall not affect the validity or effect of the remaining provisions thereof.

TITLE V—CHILD CARE PROVISIONS

SEC. 501. SHORT TITLE.

This title may be cited as the "Act for Better Child Care Services of 1988".

SEC. 502. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the number of children living in homes where both parents work, or living in homes with a single parent who works, has increased dramatically over the last decade;

(2) the availability of quality child care is critical to the self-sufficiency and independence of millions of American families, including the growing number of mothers with young children who work out of economic necessity;

(3) high quality child care programs can strengthen our society by providing young children with the foundation on which to learn the basic skills necessary to be productive workers;

(4) the years from birth to age 6 are a critical period in the development of a young child;

(5) a significant number of parents do not have a real choice as they seek adequate child care for their young children because of limited incomes, insufficient State child care standards, and the inadequate supply of child care services in their community;

(6) high quality early childhood development programs provided during such period are cost effective because such programs can reduce the chances of juvenile delinquency and adolescent pregnancy and can improve the likelihood that children will finish high school and become employed;

(7) the number of quality child care arrangements falls far short of the number required for children in need of child care services;

(8) the rapid growth of participation in the labor force by mothers of children under the age of 1 has resulted in a critical shortage of quality child care arrangements for infants and toddlers;

(9) the lack of available child care services results in many preschool and school-age children being left without adequate supervision for significant parts of the day;

(10) many working parents who are unable to afford adequate child care services do not receive adequate financial assistance for such services from employers or public sources;

(11) because of the lack of affordable child care, a large number of parents are not able to work or to seek the training or education they need to become self sufficient;

(12) making adequate child care services available for parents who are employed, seeking employment, or seeking to develop employment skills promotes and strengthens the well-being of families and the national economy;

(13) the payment of the exceptionally low salaries to child care workers adversely affects the quality of child care services by making it difficult to retain qualified staff;

(14) several factors result in the shortage of quality child care options for children and parents, including—

(A) the inability of parents to pay for child care services;

(B) the lack of up-to-date information on child care services;

(C) the lack of training opportunities for staff in child care programs;

(D) the high rate of staff turnover in child care facilities; and

(E) the wide differences among the States in child care licensing and enforcement policies; and

(15) improved coordination of child care services will help to promote the most efficient use of child care resources.

(b) PURPOSES.—The purposes of this subtitle are—

(1) to build on and to strengthen the role of the family by seeking to ensure that parents are not forced by lack of available programs or financial resources to place a child in an unsafe or unhealthy child care facility or arrangement;

(2) to promote the availability and diversity of quality child care services to expand child care options available to all families who need such services;

(3) to provide assistance to families whose financial resources are not sufficient to enable such families to pay the full cost of necessary child care services;

(4) to lessen the chances that children will be left to fend for themselves for significant parts of the day;

(5) to improve the productivity of parents in the labor force by lessening the stresses related to the absence of adequate child care services;

(6) to provide assistance to States to improve the quality of, and coordination among, child care programs;

(7) to increase the opportunities for attracting and retaining qualified staff in the field of child care to provide high quality child care services to children; and

(8) to strengthen the competitiveness of the United States by providing young children with a sound early childhood development experience.

SEC. 503. DEFINITIONS.

As used in this subtitle:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of Child Care appointed under section 514(a).

(2) CAREGIVER.—The term "caregiver" means an individual who provides a service directly to an eligible child on a person-to-person basis.

(3) CENTER-BASED CHILD CARE PROVIDER.—The term "center-based child care provider" means a child care provider that provides child care services in a nonresidential facility.

(4) CHILD CARE CERTIFICATE.—The term "child care certificate" means a certificate that is issued by the State to parents who

may use such certificate only as payment for child care services for an eligible child and that provides to an eligible child care provider a right to reimbursement for such services at the same rate charged by that provider for comparable services to children whose parents are not eligible for certificates under this subtitle or for child care assistance under any other Federal or State program.

(5) COMMUNITY-BASED ORGANIZATION.—The term "community-based organization" has the meaning given such term by section 4(5) of the Job Training and Partnership Act (29 U.S.C. 1503(5)).

(6) ELEMENTARY SCHOOL.—The term "elementary school" means a day or residential school that provides elementary education, as determined under State law.

(7) ELIGIBLE CHILD.—The term "eligible child" means an individual—

(A) who is less than 16 years of age;

(B) whose family income does not exceed 100 percent of the State median income for a family of the same size; and

(C) who—

(i) resides with a parent or parents who are working, seeking employment, or enrolled in a job training or educational program; or

(ii) is receiving, or needs to receive, protective services and resides with a parent or parents not described in clause (i).

(8) ELIGIBLE CHILD CARE PROVIDER.—The term "eligible child care provider" means a center-based child care provider, a group home child care provider, a family child care provider, or other provider of child care services for compensation that—

(A) is licensed or regulated under State law;

(B) satisfies—

(i) the Federal requirements, except as provided in subparagraph (C); and

(ii) the State and local requirements;

applicable to the child care services it provides; and

(C) after the expiration of the 4-year period beginning on the date the Secretary establishes minimum child care standards under section 517(e)(2), complies with such standards that are applicable to the child care services it provides.

(9) FAMILY CHILD CARE PROVIDER.—The term "family child care provider" means 1 individual who provides child care services for fewer than 24 hours per day, as the sole caregiver, and in the private residence of such individual.

(10) FAMILY SUPPORT SERVICES.—The term "family support services" means services that assist parents by providing support in parenting and by linking parents with community resources and with other parents.

(11) FULL-WORKING-DAY.—The term "full-working-day" means at least 10 hours per day.

(12) GROUP HOME CHILD CARE PROVIDER.—The term "group home child care provider" means 2 or more individuals who jointly provide child care services for fewer than 24 hours per day and in a private residence.

"(13) HANDICAPPING CONDITION.—The term "handicapping condition" means any condition set forth in section 602(a)(1) of the Education of the Handicapped Act (20 U.S.C. 1401(a)(1)) or section 672(1) of the Education of the Handicapped Act (20 U.S.C. 1471(a)).

(14) INDIAN TRIBE.—The term "Indian tribe" has the meaning given it in section 4(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(b)).

(15) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" has the meaning given such term in section 481(a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1088(a)(1)), except that with respect to a tribally controlled community college such term has the meaning given it in section 2(a)(5) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801(a)(5)).

(16) LEAD AGENCY.—The term "lead agency" means the agency designated under section 506(a).

(17) LOCAL EDUCATIONAL AGENCY.—The term "local educational agency" has the meaning given that term in section 198(a)(10) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2854(a)(10)).

(18) PARENT.—The term "parent" includes a legal guardian or other person standing in loco parentis.

(19) SCHOOL-AGE CHILD CARE SERVICES.—The term "school-age child care services" means child care services that are—

"(A) provided during such times of the school day when regular instructional services are not in session; and

"(B) not intended as an extension of or replacement for the regular academic program, but are intended to provide an environment which enhances the social, emotional, and recreational development of children of school age;

(20) SECONDARY SCHOOL.—The term "secondary school" means a day or residential school which provides secondary education, as determined under State law.

(21) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services unless the context specifies otherwise.

(22) SCHOOL FACILITIES.—The term "school facilities" means classrooms and related facilities used to provide education.

(23) SLIDING FEE SCALE.—The term "sliding fee scale" means a system of cost sharing between the State and a family based on income and size of the family with the very low income families having to pay no cost.

(24) STATE.—The term "State" means any of the several States, the District of Columbia, the Virgin Islands of the United States, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, or Palau.

(25) UNIT OF GENERAL PURPOSE LOCAL GOVERNMENT.—The term "unit of general purpose local government" means any city, county, town, township, parish, village, a combination of such general purpose political subdivisions including those in two or more States, or other general purpose political subdivisions of a State.

(26) TRIBAL ORGANIZATION.—The term "tribal organization" has the meaning given it in section 4(c) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(c)).

(27) TRIBALLY CONTROLLED COMMUNITY COLLEGE.—The term "tribally controlled community college" has the meaning given it in section 2(a)(4) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801(a)(4)).

SEC. 504. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—To carry out this subtitle, other than section 521, there are authorized to be appropriated $2,500,000,000 for the fiscal year 1989 and such sums as may be necessary in each of the fiscal years 1990 through 1993.

SEC. 505. AMOUNTS RESERVED; ALLOTMENTS.

(a) AMOUNTS RESERVED.—

(1) TERRITORIES AND POSSESSIONS.—The Secretary shall reserve not to exceed one half of 1 percent of the amount appropriated under section 504(a) in each fiscal year for payments to Guam, American Samoa, the Virgin Islands of the United States, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, and Palau, to be allotted in accordance with their respective needs.

(2) INDIANS.—The Secretary shall reserve an amount, not less than 1.5 percent and not more than 3 percent of the amount appropriated under section 504(a) in each fiscal year, to carry out subsection (c) regarding Indian children.

(b) STATE ALLOTMENT.—

(1) GENERAL RULE.—From the remainder of the sums appropriated under section 504(a) for each fiscal year, the Secretary shall allot to each State (excluding jurisdictions referred to in subsection (a)(1)) an amount equal to the sum of—

(A) an amount that bears the same ratio to 50 percent of such remainder as the product of the young child factor of the State and the allotment percentage bears to the sum of the corresponding products for all States; and

(B) an amount that bears the same ratio to 50 percent of such remainder as the product of the school lunch factor of the State and the allotment percentage bears to the sum of the corresponding products for all the States.

(2) YOUNG CHILD FACTOR.—The term "young child factor" means the ratio of the number of children in the State who are less than 5 years of age to the number of children in all the States who are less than 5 years of age.

(3) SCHOOL LUNCH FACTOR.—The term "school lunch factor" means the ratio of the number of children in the State who are receiving free or reduced price lunches under the school lunch program established under the National School Lunch Act (42 U.S.C. 1751 et seq.) to the number of children in all the States who are receiving free or reduced price lunches under such program.

(4) ALLOTMENT PERCENTAGE.—

(A) IN GENERAL.—The allotment percentage for a State is determined by dividing—

(i) the per capita income of all individuals in the United States; by

(ii) the per capita income of all individuals in the State.

(B) LIMITATIONS.—If a sum determined under subparagraph (A)—

(i) exceeds 1.2, then the allotment percentage of that State shall be considered to be 1.2; and

(ii) is less that 0.8, then the allotment percentage of the State shall be considered to be 0.8.

(C) PER CAPITA INCOME.—For purposes of subparagraph (A), per capita income shall be—

(i) determined at 2-year intervals;

(ii) applied for the 2-year period beginning on October 1 of the first fiscal year beginning on the date such determination is made; and

(iii) equal to the average of the annual per capita incomes for the most recent period of 3 consecutive years for which satisfactory data are available from the Department of Commerce at the time such determination is made.

(c) PAYMENTS FOR THE BENEFIT OF INDIAN CHILDREN.—

(1) TRIBAL ORGANIZATIONS.—From the funds reserved under subsection (a)(2), the Secretary may, upon the application of a Indian tribe or tribal organization enter into a contract with, or make a grant to such Indian tribe or tribal organization for a period of 3 years, subject to satisfactory performance, to plan and carry out programs and activities that are consistent with this subtitle. Such contract or grant shall be subject to the terms and conditions of section 102 of the Indian Self-Determination Act (25 U.S.C. 450f) and shall be conducted in accordance with sections 4, 5, and 6 of the Act of April 16, 1934 (48 Stat. 596; 25 U.S.C. 655-657), that are relevant to such programs and activities.

(2) INDIAN RESERVATIONS.—In the case of an Indian tribe in a State other than the States of Oklahoma, Alaska, and California, such programs and activities shall be carried out on the Indian reservation for the benefit of Indian children.

(3) STANDARDS.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall establish, through the application process, standards applicable to child care services provided under such programs and activities. For purposes of establishing such standards, the Secretary shall take into consideration—

(i) the codes, regulations, and cultural factors of the Indian tribe involved, as expressed by such tribe or the tribal organization that represents such tribe; and

(ii) the State licensing and regulatory requirements applicable to child care services provided in the State in which such program and activities are carried out.

(B) APPLICATION.—

(i) RULE.—Except as provided in clause (ii), after the Secretary establishes minimum child care standards under section 517(e)(2), such minimum standards shall apply with respect to child care services provided under such programs and activities.

(ii) WAIVERS AND MODIFICATIONS.—The Secretary may waive or modify, for a period not to exceed 5 years beginning on the date such minimum standards are established, any of such minimum standards that would limit the capacity of an Indian tribe or tribal organization to receive funds under this subtitle if the Secretary determines that there is a reasonable expectation that each of such standards requested to be waived will be met by the applicant by the end of the period for which the waiver is requested.

(4) AVAILABILITY OF STATE CHILD CARE SERVICES.—For the purpose of determining whether to approve an application for a contract or grant under this subsection, the Secretary shall take into consideration the availability of child care services provided in accordance with this subtitle by the State in which the applicant proposes to carry out a program to provide child care services.

(5) RULE OF CONSTRUCTION.—This subsection shall not be construed—

(A) to limit the eligibility of any individual to participate in any program carried out with assistance received under this subtitle by a State; or

(B) to modify any requirement imposed on a State by any provision of this subtitle.

(6) COORDINATION.—To the maximum extent practicable, the applicant for a grant or contract under this subsection and the State in which the applicant is located shall coordinate with each other their respective child care programs and activities, including child care programs and activities carried out with assistance received under this subtitle.

(d) DATA AND INFORMATION.—The Secretary shall obtain from each appropriate Federal agency, the most recent data and information necessary to determine the allotments provided for in subsection (b).

(e) REALLOTMENTS.—

(1) IN GENERAL.—Any portion of the allotment under subsection (b) to a State that the Secretary determines is not required to carry out a State plan approved under section 507(d), in the period for which the allotment is made available, shall be reallotted by the Secretary to other States in proportion to the original allotments to the other States.

(2) LIMITATIONS.—

(A) REDUCTION.—The amount of any reallotment to which a State is entitled to under paragraph (1) shall be reduced to the extent that it exceeds the amount that the Secretary estimates will be used in the State to carry out a State plan approved under section 507(d).

(B) REALLOTMENTS.—The amount of such reduction shall be similarly reallotted among States for which no reduction in an allotment or reallotment is required by this subsection.

(3) AMOUNTS REALLOTTED.—For purposes of any other section of this subtitle, any amount reallotted to a State under this subsection shall be considered to be part of the allotment made under subsection (b) to the State.

(f) DEFINITION.—For the purposes of this section, the term "State" means any of the several 50 States, the District of Columbia, or the Commonwealth of Puerto Rico.

SEC. 506. LEAD AGENCY.

(a) DESIGNATION.—The chief executive officer of a State desiring to participate in the program authorized by this subtitle shall designate, in an application submitted to the Secretary under section 507(a), an appropriate State agency that meets the requirements of subsection (b) to act as the lead agency.

(b) REQUIREMENTS.—

(1) ADMINISTRATION OF FUNDS.—The lead agency shall have the capacity to administer the funds provided under this subtitle to support programs and services authorized under this subtitle and to oversee the plan submitted under section 507(b).

(2) COORDINATION.—The lead agency shall have the capacity to coordinate the services for which assistance is provided under this subtitle with the services of other State and local agencies involved in providing services to children.

(3) ESTABLISHMENT OF POLICIES.—The lead agency shall have the authority to establish policies and procedures for developing and implementing interagency agreements with other agencies of the State to carry out the purposes of this subtitle.

(c) DUTIES.—The lead agency shall—

(1) assess child care needs and resources in the State, and assess the effectiveness of existing child care services and services for which assistance is provided under this subtitle or under other laws, in meeting such needs;

(2) develop a plan designed to meet the need for child care services in the State for eligible children, including infants, preschool children, and school-age children, giving special attention to meeting the needs for services for low-income children, migrant children, children with a handicapping condition, foster children, children in need of protective services, children of adolescent parents who need child care to remain in school, and children with limited English-language proficiency;

(3) develop, in consultation with the State advisory committee on child care established under section 511, the State plan submitted to the Secretary under section 507(b);

(4) hold hearings, in cooperation with such State advisory committee on child care, annually in each region of the State in order to provide to the public an opportunity to comment on the provision of child care services in the State under the proposed State plan;

(5) make such periodic reports to the Secretary as the Secretary may by rule require;

(6) coordinate the provision of services under this subtitle with—

(A) other child care programs and services, and with educational programs, for which assistance is provided under any State, local, or other Federal law, including the State Dependent Care Development Grants Act (42 U.S.C. 9871 et seq.); and

(B) other appropriate services, including social, health, mental health, protective, and nutrition services, available to eligible children under other Federal, State, and local programs; and

(7) identify resource and referral programs for particular geographical areas in the State that meet the requirements of section 512.

SEC. 507. APPLICATION AND PLAN.

(a) APPLICATION.—To be eligible to receive assistance under this subtitle, a State shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require by rule.

(b) PLAN.—The application of a State submitted under subsection (a) shall include an assurance that the State will comply with the requirements of this subtitle and a State plan that is designed to be implemented during a 4-year period and that meets the requirements of subsection (c).

(c) REQUIREMENTS OF A PLAN.—

(1) LEAD AGENCY.—The plan shall identify the lead agency designated in accordance with section 506(a).

(2) ADVISORY BODIES.—The plan shall demonstrate that the State will establish in accordance with section 511 a State advisory committee on child care.

(3) POLICIES AND PROCEDURES.—The plan shall set forth policies and procedures designed to ensure all of the following:

(A) That—

(i) all providers of child care services for which assistance is provided under this subtitle comply with all licensing and regulatory requirements (including registration requirements) applicable under State and local law; and

(ii) such requirements are imposed and enforced by the State uniformly on all child care providers that provide child care services under similar child care arrangements. This subparagraph shall not be construed to prohibit a State from imposing more stringent standards or requirements on child care providers who provide services for which assistance is provided under this subtitle and who also receive State funds under any other law to provide child care services under a contract or other arrangement with the State.

(B) That procedures will be established to ensure that child care providers receiving assistance under this subtitle or under other publicly-assisted child care programs comply with the minimum child care stand-

ards established under section 517(e)(2) after the expiration of the 5-year period beginning on the date the Secretary establishes such standards, and comply with all applicable State and local licensing and regulatory requirements (including registration requirements).

(C) That the State will not—

(i) reduce the categories of child care providers licensed or regulated by the State on the date of enactment of this subtitle; or

(ii) reduce the level of standards applicable to child care services provided in the State and to the matters specified in sections 513(a) and 517(d), even if such standards exceed the minimum standards established under section 517(e)(2) by the Secretary unless the State demonstrates, to the satisfaction of both the Secretary and the State advisory committee on child care established under section 511, that the reduction is based on positive developmental practice.

(D) That funds received under this subtitle by the State will be used only to supplement, not to supplant, the amount of Federal, State, and local funds expended for the support of child care services and related programs in the State, except that States may use existing expenditures in support of child care services to satisfy the State matching requirement under section 516(b).

(E) That for each fiscal year the State will use an amount not to exceed 10 percent of the amount of funds received under section 505 by the State for such fiscal year to administer the State plan.

(F) That the State will pay funds under this subtitle to eligible child care providers in a timely fashion to ensure the continuity of child care services to eligible children.

(G) That resource and referral agencies will be made available to families in all regions of the State.

(H) That each eligible child care provider who provides services for which assistance is provided under paragraph (4)—

(i) provides services to children of families with very low income, taking into account family size;

(ii) after the expiration of the 4-year period beginning on the date the Secretary establishes minimum child care standards under section 517(e)(2), complies with such standards except as provided in clause (iv);

(iii) if such eligible child care provider is regulated by a State educational agency that—

(I) administers any State law applicable to child care services;

(II) develops child care standards that meet or exceed the minimum standards established under section 517(e)(2) and the State licensing or regulatory requirements (including registration requirements); and

(III) enforces the standards described in subclause (II) that are developed by such agency, using policies and practices that meet or exceed the requirements specified in subparagraphs (A) through (K) of paragraph (11);

complies with the standards described in subclause (II) that are developed by such agency; and

(iv) complies with the State plan and the requirements of this subtitle.

(I) That child care services for which assistance is provided under paragraph (4) are available to children with a handicapping condition.

(J) That State regulations will be issued governing the provision of school-age child care services if the State does not already have such regulations.

(K) That child care providers in the State are encouraged to develop personnel policies that include compensated time for staff undergoing training required under this subtitle.

(L) Encourage the payment of adequate salaries and other compensation—

(i) to full and part-time staff of child care providers who provide child care services for which assistance is provided under paragraph (4);

(ii) to the extent practicable, to such staff in other major Federal and State child care programs; and

(iii) to other child care personnel, at the option of the State.

(M) That child care services for which assistance is provided under paragraph (4) are available for an adequate number of hours and days to serve the needs of parents of eligible children, including parents who work nontraditional hours.

(4) CHILD CARE SERVICES.—The plan shall provide that—

(A) subject to subparagraph (B), the State will use at least 70 percent of the amount allotted to the State in any fiscal year to provide child care services that meet the requirements of this subtitle to eligible children in the State on a sliding fee scale basis and using funding methods provided for in section 508(a)(1), with priority being given for services to children of families with very low family incomes, taking into consideration the size of the family; and

(B) the State will use at least 10 percent of the funds reserved for the purposes specified in subparagraph (A) in any fiscal year to provide for the extension of part-day programs as described in section 508(b).

(5) ACTIVITIES TO IMPROVE THE QUALITY OF CHILD CARE.—The plan shall provide that the State will use not more than 10 percent of the amount allotted to it in any fiscal year to do each of the following:

(A) Provide financial assistance, pursuant to procedures established under the State Dependent Care Development Grants Act (42 U.S.C. 9801 note), to private nonprofit organizations or public organizations (including units of general purpose local government) that meet the requirements of section 512 for the development, establishment, expansion, operation, and coordination of resource and referral programs specifically related to child care.

(B) Improve the monitoring of compliance with, and enforcement of, the licensing and regulatory requirements (including registration requirements) of the State.

(C) Provide training, technical assistance, and scholarship assistance in accordance with the requirements of subsections (b), (c), and (d) of section 513.

(D) Ensure that adequate salaries and other compensation are paid to full- and part-time staff who provide child care services for which assistance is provided under paragraph (4).

(6) ACTIVITIES TO INCREASE THE AVAILABILITY OF CHILD CARE.—The plan shall provide that the State will use not more than 10 percent of the amount allotted to it in any fiscal year for any of the following activities, together with an assurance that the State will give priority to the activities described in subparagraphs (A) and (B):

(A) Making grants and low interest loans to family child care providers and nonprofit child care providers to help such providers pay the cost of—

(i) establishing child care programs; and

(ii) making renovations and improvements in existing facilities to be used to carry out such programs.

(B) Making grants and low-interest loans to child care providers to assist such providers in meeting Federal, State, and local child care standards, giving priority to providers receiving assistance under this subtitle or under other publicly assisted child care programs and which serve children of families that have very low incomes.

(C) Providing assistance for the establishment and operation of after school child care programs.

(D) Making grants or loans to fund the start up costs of employer sponsored child care programs.

(E) Providing assistance for the temporary care of children who are sick and unable to attend child care programs in which such children are enrolled.

(F) Providing assistance for the establishment and operation of child care programs for homeless children.

(G) Providing assistance to link child care programs with programs designed to assist the elderly.

(H)(i) Establishing and administering a revolving loan fund from which any person desiring to make capital improvements to the principal residence of such person (within the meaning of section 1034 of the Internal Revenue Code of 1986) may obtain a loan in order to become a licensed family child care provider, pursuant to State and local law, and to comply with the minimum standards applicable to such providers as established under section 517(e)(2).

(ii) To permit the use of funds provided under this subtitle for the activity described in clause (i), the State shall set forth procedures and guidelines to carry out the purposes of such clause, including procedures—

(I) that provide assurances that only applicants who obtain a license for the operation of a child care facility in accordance with the provisions of State and local law and who will meet the minimum standards applicable to family child care services established under section 517(e)(2), benefit from loans made available pursuant to the provisions of clause (i);

(II) to assure that the revolving fund will be administered by the State and will provide loans to qualified applicants, pursuant to the terms and conditions established by such State, in an amount, determined by such State, that is not in excess of $1,500;

(III) to assure that funds used to carry out the purpose of clause (i) are transferred to such fund to provide capital for making loans;

(IV) to assure that interest and principal payments on loans and any other moneys, property, or assets derived from any action concerning such funds are deposited into such fund;

(V) to assure that all loans, expenses, and payments pursuant to the operation of the revolving loan fund are paid from such fund;

(VI) to assure that loans made from such fund are made to qualified applicants to enable such applicants to make capital improvements so that such applicant may obtain a State or local family child care provider license and so that such applicant may meet the minimum standards applicable to such providers established under section 517(e)(2); and

(VII) that specify how such revolving loan fund will continue to be financed in subsequent years, such as through contributions by the State or by some other entity.

(7) DISTRIBUTION OF FUNDS.—The plan shall provide that funds will be distributed—

(A) to a variety of types of child care providers in each community, including center-based child care providers, group home child care providers, and family child care providers; and

(B) equitably among child care providers to provide child care services in rural and urban areas.

(8) REIMBURSEMENTS.—The plan shall provide that for child care services for which assistance is provided under this subtitle, an eligible child care provider shall have a right to reimbursement at the same rate charged by that provider for comparable services to children of comparable ages and special needs whose parents are not eligible for certificates under this subtitle or for child care assistance under any other Federal or State program.

(9) PRIORITY.—The plan shall provide that priority will be given, in distributing funds in the State, to child care providers that—

(A) in providing child care services assisted by such funds, will give priority to eligible children of families with very low income;

(B) to the maximum extent feasible, provide child care services to a reasonable mix of children, including children from different socioeconomic backgrounds and children with a handicapping condition;

(C) provide opportunities for parent involvement in all aspects of providing such services; and

(D) to the maximum extent feasible, offer family support services.

(10) SLIDING FEE SCALE.—The plan shall provide for the establishment of a sliding fee scale that requires cost sharing based on the services provided to and the income of the families (adjusted for family size) of eligible children who receive services for which assistance is provided under this subtitle.

(11) PARENTAL INVOLVEMENT.—The plan shall establish procedures for parental involvement in State and local planning, monitoring, and evaluation of child care programs and services in the State.

(12) ENFORCEMENT OF LICENSING AND OTHER REGULATORY REQUIREMENTS (INCLUDING REGISTRATION REQUIREMENTS).—The plan shall provide that the State, not later than 4 years after the date of enactment of this subtitle, shall have in effect enforcement policies and practices that will be applicable to all licensed or regulated child care providers (including child care providers required to register) in the State, including policies and practices that—

(A) require personnel who perform inspection functions with respect to licensed or regulated child care services to have or receive training in health and safety, child abuse prevention and detection, program management, and relevant law enforcement;

(B) to the maximum extent feasible, have personnel requirements to ensure that individuals who are hired as licensing inspectors are qualified to inspect and have inspection responsibility exclusively for children's services;

(C) require—

(i) personnel who perform inspection functions with respect to licensed or regulated child care services to make not less than 1 unannounced inspection of each center-based child care provider and each group home child care provider in the State annually; and

(ii) personnel who perform inspection functions with respect to licensed or regulated child care services to make unannounced inspections annually of not less than 20 percent of licensed and regulated family child care providers in the State;

(D) require licensed or regulated child care providers (including registered child care providers) in the State—

(i) to have written policies and program goals and to make a copy of such policies and goals available to parents; and

(ii) to provide parents with unlimited access to their children and to providers caring for their children, during normal hours of operation of such providers and whenever children of such parents are in the care of such providers;

(E) implement a procedure to address complaints that will provide a reasonable opportunity for a parent, or child care provider, that is adversely affected or aggrieved by a decision of the lead agency or any program assisted under this subtitle, to be heard by the State;

(F) prohibit the operator of a child care facility to take any action against an employee of such operator that would adversely affect the employment, or terms or conditions of employment, of such employee because such employee communicates a failure of such operator to comply with any applicable licensing or regulatory requirement;

(G) implement a consumer education program designed to inform parents and the general public about licensing requirements, complaint procedures, and policies and practices required by this paragraph;

(H) require a child care provider to post, on the premises where child care services are provided, the telephone number of the appropriate licensing or regulatory agency that parents may call regarding a failure of such provider to comply with any applicable licensing or regulatory requirement; and

(I) require the State to maintain a record of parental complaints and to make information regarding substantiated parental complaints available to the public on request.

(13) DATA COLLECTION.—The plan shall provide for the establishment of procedures for data collection by the State designed to show—

(A) by race, sex, ethnic origin, handicapping condition, and family income, how the child care needs of families in the State are being fulfilled, including information on—

(i) the number of children being assisted with funds provided under this subtitle, and under other State and Federal child care and preschool programs;

(ii) the type and number of child care programs, child care providers, caregivers, and support personnel located in the State;

(iii) the regional cost of child care; and

(iv) such other information as the Secretary considers necessary to establish how funds provided under this subtitle are being used;

(B) the extent to which the availability of child care has been increased; and

(C) how the purposes of this subtitle and the objectives of the State set forth in the State plan are being met, including efforts to improve the quality, availability, and accessibility of child care;

and shall provide that data collected by the State under this paragraph shall be submitted to the Secretary.

(d) APPROVAL OF APPLICATION.—The Secretary shall approve an application that satisfies the requirements of this section.

(e) SPECIAL RULE.—In carrying out the provisions of this section, the Secretary shall approve any application with respect to the activities described in the plan submitted under paragraph (5) of subsection (c), if the Secretary determines that the State is making reasonable progress in carrying out the activities which are described in subparagraphs (A) and (D) of paragraph (5).

SEC. 508. SPECIAL RULES FOR USE OF STATE ALLOTMENTS.

(a) FUNDING OF CHILD CARE SERVICES.—

(1) IN GENERAL.—The child care services referred to in section 507(c)(4) that are to be provided out of the allotment to a State, shall be provided—

(A) by contracts with or grants to eligible child care providers who agree to provide such services directly to eligible children;

(B) by grants to units of general purpose local government that agree to enter into contracts with eligible child care providers who agree to provide such services directly to eligible children; or

(C) by distributing child care certificates to parents of eligible children under such terms as the Secretary may prescribe to enable the recipients of such certificates to purchase child care services from eligible child care providers.

(2) LIMITATION ON CERTIFICATES.—Child care certificates authorized by paragraph (1)(C) may be issued by a State only if a resource and referral program carried out by an organization that meets the requirements of section 512 is available to help parents locate child care services made available by eligible child care providers.

(3) NO ENTITLEMENT TO CONTRACT OR GRANT.—Nothing in this subtitle shall be construed to entitle any child care provider or recipient of a child care certificate to any contract, grant or benefit, or to limit the right of any State to impose additional limitations or conditions on contracts or grants funded under this subtitle.

(b) PART-DAY PROGRAMS.—

(1) IN GENERAL.—At least 10 percent of the funds available for activities under section 507(c)(4)(A) shall be used by the State to enable child care providers to extend the hours of operation of the part-day programs described in paragraph (2) to provide full-working-day child care services throughout the year, in order to meet the needs of parents of eligible children.

(2) ELIGIBLE PROGRAMS.—As used in paragraph (1), the term "part-day programs" means—

(A) programs of schools and nonprofit child care providers (including community-based organizations) receiving State or local funds designated for preschool;

(B) programs established under the Head Start Act (42 U.S.C. 9831 et seq.);

(C) preschool programs for which assistance is provided under chapter 1 of the Education Consolidation and Improvement Act of 1981 (20 U.S.C. 3801 et seq.); and

(D) preschool programs for children with a handicapping condition.

(c) FACILITIES.—

(1) NEW FACILITIES.—No financial assistance provided under this subtitle shall be expended for the construction of a new facility.

(2) EXISTING FACILITIES.—No financial assistance provided under this subtitle shall be expended to renovate or repair any facility unless—

(A) the child care provider that receives such financial assistance agrees—

(i) in the case of a grant, to repay to the Secretary or the State, as the case may be, the amount that bears the same ratio to the amount of such grant as the value of the renovation or repair, as of the date such

provider ceases to provide child care services in such facility in accordance with this subtitle, bears to the original value of the renovation or repair; and

(ii) in the case of a loan, to repay immediately to the Secretary or the State, as the case may be, the principal amount of such loan outstanding and any interest accrued, as of the date such provider ceases to provide child care services in such facility in accordance with this subtitle;

if such provider does not provide child care services in such facility in accordance with this subtitle throughout the useful life of the renovation or repair; and

(B) if such provider is a sectarian agency or organization, the renovation or repair is necessary to bring such facility into compliance with health and safety requirements imposed by this subtitle.

SEC. 509. PLANNING GRANTS.

(a) IN GENERAL.—A State desiring to participate in the programs authorized by this subtitle that cannot fully satisfy the requirements of the State plan under section 507(b) without financial assistance may, in the first year that the State participates in the programs, apply to the Secretary for a planning grant.

(b) AUTHORIZATION.—The Secretary is authorized to make a planning grant to a State described in subsection (a) if the Secretary determines that—

(1) the grant would enable the State to fully satisfy the requirements of a State plan under section 507(b); and

(2) the State will apply, for the remainder of the allotment that the State is entitled to receive for such fiscal year.

(c) AMOUNT OF GRANT.—A grant made to a State under this section shall not exceed 1 percent of the total allotment that the State would qualify to receive in the fiscal year involved if the State fully satisfied the requirements of section 507.

(d) LIMITATION ON ADMINISTRATIVE COSTS.—A grant made under this section shall be considered to be expended for administrative costs by the State for purposes of determining the compliance by the State with the limitation on administrative costs imposed by section 507(c)(3)(E).

SEC. 510. CONTINUING ELIGIBILITY OF STATES.

A State shall be ineligible for assistance under this subtitle after the expiration of the 4-year period beginning on the date the Secretary establishes minimum child care standards under section 517(e)(2) unless the State demonstrates to the satisfaction of the Secretary that—

(1) all child care providers required to be licensed and regulated in the State—

(A) are so licensed and regulated; and

(B) are subject to the enforcement provisions referred to in the State plan; and

(2) all such providers who are receiving assistance under this subtitle or under other publicly-assisted child care programs—

(A) satisfy the requirements of subparagraphs (A) and (B) of paragraph (1); and

(B) satisfy the minimum child care standards established by the Secretary under section 517(e)(2) of this subtitle.

SEC. 511. STATE ADVISORY COMMITTEE ON CHILD CARE.

(a) ESTABLISHMENT.—The chief executive officer of a State participating in the program authorized by this subtitle shall—

(1) establish a State advisory committee on child care (hereinafter in this section referred to as the "committee") to assist the lead agency in carrying out the responsibilities of the lead agency under this subtitle; and

(2) appoint the members of the committee.

(b) COMPOSITION.—The State committee shall be composed of not fewer than 21 and not more than 30 members who shall include—

(1) at least 1 representative of the lead agency designated under section 506(a);

(2) 1 representative of each of—

(A) the State departments of—

(i) human resources or social services;

(ii) education;

(iii) economic development; and

(iv) health; and

(B) other State agencies having responsibility for the regulation, funding, or provision of child care services in the State;

(3) at least 1 representative of providers of different types of child care services, including caregivers and directors;

(4) at least 1 representative of early childhood development experts;

(5) at least 1 representative of school districts and teachers involved in the provision of child care services and preschool programs;

(6) at least 1 representative of resource and referral programs;

(7) 1 pediatrician;

(8) 1 representative of a citizen group concerned with child care;

(9) at least 1 representative of an organization representing child care employees;

(10) at least 1 representative of the Head Start agencies in the State;

(11) parents of children receiving, or in need of, child care services, including at least 2 parents whose children are receiving or are in need of subsidized child care services;

(12) 1 representative of specialists concerned with children who have a handicapping condition;

(13) 1 representative of individuals engaged in business;

(14) 1 representative of fire marshals and building inspectors;

(15) 1 representative of child protective services; and

(16) 1 representative of units of general purpose local government.

(c) FUNCTIONS.—The committee shall—

(1) advise the lead agency on child care policies;

(2) provide the lead agency with information necessary to coordinate the provision of child care services in the State;

(3) otherwise assist the lead agency in carrying out the functions assigned to the lead agency under section 506(c);

(4) review and evaluate child services for which assistance is provided under this subtitle or under State law, in meeting the objectives of the State plan and the purposes of this subtitle;

(5) make recommendations on the development of State child care standards and policies;

(6) participate in the regional public hearings required under section 506(c)(5); and

(7) perform other functions to improve the quantity and quality of child care services in the State.

(d) MEETINGS AND HEARINGS.—

(1) IN GENERAL.—Not later than 30 days after the beginning of each fiscal year, the committee shall meet and establish the time, place, and manner of future meetings of the committee.

(2) MINIMUM NUMBER OF HEARINGS.—The committee shall have at least 2 public hearings each year at which the public shall be given an opportunity to express views concerning the administration and operation of the State plan.

(e) USE OF EXISTING COMMITTEES.—To the extent that a State has established a broadly representative State advisory group, prior to the date of enactment of this subtitle, that is comparable to the advisory committee described in this section and focused exclusively on child care and early childhood development programs, such State shall be considered to be in compliance with subsections (a) through (c).

(f) SUBCOMMITTEE ON LICENSING.—

(1) COMPOSITION.—The committee shall have a subcommittee on licensing (hereinafter in this section referred to as the "subcommittee") that shall be composed of the members appointed under paragraphs (2)(A)(iv), (3), (6), (7), (11), (14), and (15) of subsection (b).

(2) FUNCTIONS.—

(A) REVIEW OF LICENSING AUTHORITY.—The subcommittee shall review the law applicable to, and the licensing requirements and the policies of, each licensing agency that regulates child care services and programs in the State unless the State has reviewed such law, requirements, and policies in the 4-year period ending on the date of the establishment of the committee under subsection (a).

(B) REPORT.—Not later than 1 year after establishment of the committee under subsection (a), the subcommittee shall prepare and submit to the chief executive officer of the State involved a report.

(C) CONTENTS OF REPORT.—A report prepared under subparagraph (B) shall contain—

(i) an analysis of information on child care services provided by center-based child care providers, group home child care providers, and family child care providers;

(ii) a detailed statement of the findings and recommendations that result from the subcommittee review under subparagraph (A), including a description of the current status of child care licensing, regulating, monitoring, and enforcement in the State;

(iii) a detailed statement identifying and describing the deficiencies in the existing licensing, regulating, and monitoring programs of the State involved, including an assessment of the adequacy of staff to carry out such programs effectively, and recommendations to correct such deficiencies or to improve such programs; and

(iv) comments on the minimum child care standards established by the Secretary under section 517(e)(2).

(3) RECEIPT OF REPORT BY THE CHIEF EXECUTIVE OFFICER OF THE STATE.—Not later than 60 days after receiving the report from the subcommittee, the chief executive officer of the State shall transmit such report to the Secretary with—

(A) the comments of the chief executive officer of the State; and

(B) a plan for correcting deficiencies in, or improving the licensing, regulating, and monitoring, of the child care services and programs referred to in paragraph (2)(A).

(4) TERMINATION OF ASSISTANCE.—None of the funds received under this subtitle may be used to carry out any activity under this section occurring more than 90 days after the State submits a report required by subsection (d).

(g) SERVICES AND PERSONNEL.—

(1) AUTHORITY.—The lead agency is authorized to provide the services of such personnel, and to contract for such other services as may be necessary, to enable the committee and the subcommittee to carry out their functions under this subtitle.

(2) REIMBURSEMENT.—Members of the committee shall be reimbursed, in accordance with standards established by the Secretary, for necessary expenses incurred by such members in carrying out the functions of the committee and the subcommittee.

(3) SUFFICIENCY OF FUNDS.—The Secretary shall ensure that sufficient funds are made available, from funds available for the administration of the State plan, to the committee and the subcommittee to carry out the requirements of this section.

SEC. 512. RESOURCE AND REFERRAL PROGRAMS.

(a) ELIGIBILITY FOR ASSISTANCE.—Each State receiving funds under this subtitle shall, pursuant to section 507(c)(5)(A), make grants to or enter into contracts with private nonprofit organizations or public organizations (including units of general purpose local government), as resource and referral agencies to ensure that resource and referral services are available to families in all geographical areas in the State.

(b) FUNDING.—Organizations that receive assistance under subsection (a) shall carry out resource and referral programs—

(1) to identify all types of existing child care services, including services provided by individual family child care providers and by child care providers who provide child care services to children with a handicapping condition;

(2) to provide to interested parents information and referral regarding such services, including the availability of public funds to obtain such services;

(3) to provide or arrange for the provision of information, training, and technical assistance to existing and potential child care providers and to others (including businesses) concerned with the availability of child care services; and

(4) to provide information on the demand for and supply of child care services located in a community.

(c) REQUIREMENTS.—To be eligible for assistance as a resource and referral agency under subsection (a), an organization shall—

(1) have or acquire a database of information on child care services in the State or in a particular geographical area that the organization continually updates, including child care services provided in centers, group home child care settings, nursery schools, and family child care settings;

(2) have the capability to provide resource and referral services in a particular geographical area;

(3) be able to provide parents with information to assist them in identifying quality child care services;

(4) to the maximum extent practicable, notify all eligible child care providers in such area of the functions it performs and solicit such providers to request to be listed to receive referrals made by such organization; and

(5) otherwise comply with regulations promulgated by the State in accordance with subsection (d).

(d) LIMITATION ON INFORMATION.—In carrying out this section, an organization receiving assistance under subsection (a) as a resource and referral agency shall not provide information concerning any child care program or services which are not in compliance with the laws of the State and localities in which such services are provided.

SEC. 513. TRAINING AND TECHNICAL ASSISTANCE.

(a) MINIMUM REQUIREMENT.—A State receiving funds under this subtitle shall require, not later than 2 years after the date of the enactment of this subtitle, that all employed or self-employed individuals who provide licensed or regulated child care services (including registered child care services) in a State complete at least 40 hours of training over a 2-year period in areas appropriate to the provision of child care services, including training in health and safety, nutrition, first aid, the recognition of communicable diseases, child abuse detection and prevention, and the needs of special populations of children.

(b) GRANTS AND CONTRACTS FOR TRAINING AND TECHNICAL ASSISTANCE.—

(1) GRANTS AND CONTRACTS.—The State shall make grants to, and enter into contracts with State agencies, units of general purpose local government, institutions of higher education, and nonprofit organizations (including resource and referral organizations, child care food program sponsors, and family child care associations, as appropriate) to develop and carry out child care training and technical assistance programs under which preservice and continuing inservice training is provided to eligible child care providers, including family child care providers, and the staff of such providers including teachers, administrative personnel, and staff of resource and referral programs involved in providing child care services in the State.

(2) ELIGIBILITY REQUIREMENTS FOR GRANTS AND CONTRACTS RELATING TO TRAINING FOR FAMILY CHILD CARE PROVIDERS.—To be eligible to receive a grant or enter into a contract for a training and technical assistance program for family child care providers under paragraph (1), a nonprofit organization shall—

(A) recruit and train family child care providers, including providers with the capacity to provide night-time and emergency child care services;

(B) operate resource centers to make developmentally appropriate curriculum materials available to family child care providers;

(C) provide grants to family child care providers for the purchase of moderate cost equipment to be used to provide child care services; and

(D) operate a system of substitute caregivers.

(3) ELIGIBILITY REQUIREMENTS FOR GRANTS AND CONTRACTS RELATING TO TECHNICAL ASSISTANCE.—To be eligible to receive a grant, or enter into a contract under subsection (b) to provide technical assistance, an agency, organization, or institution shall agree to furnish technical assistance to child care providers to assist such providers—

(A) in understanding and complying with local regulations and relevant tax and other policies;

(B) in meeting State licensing, regulatory, and other requirements (including registration) pertaining to family child care providers.

(c) SCHOLARSHIP ASSISTANCE.—The State shall provide scholarship assistance to—

(1) individuals who seek a nationally recognized child development associate credential for center-based or family child care and whose income does not exceed the poverty line (as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) by more than 50 percent, in amounts sufficient to cover the costs involved in securing such credential; and

(2) caregivers who seek to obtain the training referred to in subsection (a) and whose income does not exceed such poverty line.

(d) CLEARINGHOUSE.—The State shall establish in the lead agency a clearinghouse to collect and disseminate training materials to resource and referral agencies and child care providers throughout the State.

SEC. 514. FEDERAL ADMINISTRATION OF CHILD CARE.

(a) ADMINISTRATOR OF CHILD CARE.—There is hereby established in the Department of Health and Human Services the position of Administrator of Child Care (hereinafter in this section referred to as the "Administrator"). The Secretary shall appoint an individual to serve as the Administrator at the pleasure of the Secretary.

(b) DUTIES.—The Administrator shall—

(1) coordinate all activities of the Department of Health and Human Services relating to child care, and coordinate such activities with similar activities of other Federal entities;

(2) annually collect and publish State child care standards, including periodic modifications to such standards;

(3) evaluate activities carried out with funds provided under this subtitle;

(4) act as a clearinghouse to collect and disseminate materials that relate to—

(A) the matters required by section 513(b)(1) to be addressed by training required by section 513 to be provided; and

(B) studies that relate to the salaries paid to individuals employed to provide child care services; and

(5) provide technical assistance to assist States to carry out this subtitle.

SEC. 515. FEDERAL ENFORCEMENT.

(a) REVIEW OF COMPLIANCE WITH STATE PLAN.—The Secretary shall review and monitor State compliance with this subtitle and the plan approved under section 507(d) for the State.

(b) NONCOMPLIANCE.—

(1) IN GENERAL.—If the Secretary, after reasonable notice and opportunity for a hearing to a State, finds that—

(A) there has been a failure by the State to comply substantially with any provision or any requirements set forth in the plan approved under section 507(d) for the State; or

(B) in the operation of any program or project for which assistance is provided under this subtitle there is a failure by the State to comply substantially with any provision of this subtitle;

the Secretary shall notify the State of the finding and that no further payments may be made to such State under this subtitle (or, in the case of noncompliance in the operation of a program or activity, that no further payments to the State will be made with respect to such program or activity) until the Secretary is satisfied that there is no longer any such failure to comply or that the noncompliance will be promptly corrected.

(2) ADDITIONAL SANCTIONS.—In the case of a finding of noncompliance made pursuant to this paragraph (1), the Secretary may, in addition to imposing the sanctions described in such paragraph, impose other appropriate sanctions, including recoupment of money improperly expended for purposes prohibited or not authorized by this subtitle, and disqualification from the receipt of financial assistance under this subtitle.

(3) NOTICE.—The notice required under paragraph (1) shall include a specific identification of any additional sanction being imposed under paragraph (2).

(c) ISSUANCE OF RULES.—The Secretary shall establish by rule procedures for—

(1) receiving, processing, and determining the validity of complaints concerning any failure of a State to comply with the State

plan or any requirement of this subtitle; and

(2) imposing sanctions under this section.

SEC. 516. PAYMENTS.

(a) IN GENERAL.—

(1) AMOUNT OF PAYMENT.—Each State that—

(A) has an application approved by the Secretary under section 507(d); and

(B) demonstrates to the satisfaction of the Secretary that it will provide from non-Federal sources the State share of the aggregate amount to be expended by the State under the State plan for the fiscal year for which it requests a grant;

shall receive a payment under this section for such fiscal year in an amount (not to exceed its allotment under section 505 for such fiscal year) equal to the Federal share of the aggregate amount to be expended by the State under the State plan for such fiscal year.

(2) FEDERAL SHARE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Federal share for each fiscal year shall be 80 percent.

(B) EXCEPTION.—If a State makes the demonstration specified in section 510 throughout a fiscal year for which it requests a grant, then the Federal share shall be 85 percent.

(3) STATE SHARE.—The State share equals 100 percent minus the Federal share.

(4) LIMITATION.—A State may not require any private provider of child care services that receives or seeks funds made available under this subtitle to contribute in cash or in kind to the State contribution required by this subsection.

(b) METHOD OF PAYMENT.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary may make payments to a State in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

(2) LIMITATION.—The Secretary may not make such payments in a manner that prevents the State from complying with the requirement specified in section 507(c)(3)(F).

(c) SPENDING OF FUNDS BY STATE.—Payments to a State from the allotment under section 505 for any fiscal year may be expended by the State in that fiscal year or in the succeeding fiscal year.

SEC. 517. NATIONAL ADVISORY COMMITTEE ON CHILD CARE STANDARDS.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—In order to improve the quality of child care services, the Secretary shall establish, not later than 60 days after the date of the enactment of this subtitle, a National Advisory Committee on Child Care Standards (hereinafter in this section referred to as the "Committee"), the members of which shall be appointed from among representatives of—

(A) the chief executive officers of the several States;

(B) State legislatures;

(C) local governments;

(D) businesses;

(E) State individuals responsible for regulating the insurance industry within the State;

(F) religious institutions;

(G) persons who carry out different types of child care programs;

(H) persons who carry out resource and referral programs;

(I) child care and early childhood development specialists;

(J) early childhood education specialists;

(K) individuals who have expertise in pediatric health care, handicapping conditions, and related fields;

(L) organizations representing child care employees;

(M) individuals who have experience in the regulation of child care services; and

(N) parents who have been actively involved in community child care programs.

(2) APPOINTMENT OF MEMBERS.—The Committee shall be composed of 15 members of which—

(A) 5 members shall be appointed by the President;

(B) 3 members shall be appointed by the majority leader of the Senate;

(C) 2 members shall be appointed by the minority leader of the Senate;

(D) 3 members shall be appointed by the Speaker of the House of Representatives; and

(E) 2 members shall be appointed by the minority leader of the House of Representatives.

(3) CHAIRMAN.—The President shall appoint a chairman from among the members of the Committee.

(4) VACANCIES.—A vacancy occurring on the Committee shall be filled in the same manner as that in which the original appointment was made.

(b) PERSONNEL, REIMBURSEMENT, AND OVERSIGHT.—

(1) PERSONNEL.—The Secretary shall make available to the Committee office facilities, personnel who are familiar with child development and with developing and implementing regulatory requirements, technical assistance, and funds as are necessary to enable the Committee to carry out effectively its functions.

(2) REIMBURSEMENT.—

(A) COMPENSATION.—Members of the Committee who are not regular full-time employees of the United States Government shall, while attending meetings and conferences of the Committee or otherwise engaged in the business of the Committee (including traveltime), be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding the rate specified at the time of such service under GS-18 of the General Schedule established under section 5332 of title 5, United States Code.

(B) EXPENSES.—While away from their homes or regular places of business on the business of the Committee, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(3) OVERSIGHT.—The Secretary shall ensure that the Committee is established and operated in accordance with the Federal Advisory Committee Act (5 U.S.C. App.).

(c) FUNCTIONS.—The Committee shall—

(1) review Federal policies with respect to child care services and such other data as the Committee may deem appropriate;

(2) not later than 180 days after the date on which a majority of the members of the Committee are first appointed, submit to the Secretary proposed minimum standards described in subsection (d) for child care services, taking into account the different needs of infants, toddlers, preschool and school-age children; and

(3) develop and make available to lead agencies, for distribution to resource and referral agencies in the State, model requirements for resource and referral agencies.

(d) MINIMUM CHILD CARE STANDARDS.—The proposed child care standards submitted pursuant to subsection (c)(2) shall be minimum standards and shall consist of only the following:

(1) CENTER-BASED CHILD CARE SERVICES.—Such standards submitted with respect to child care services provided by center-based child care providers shall be limited to—

(A) group size limits in terms of the number of caregivers and the number and ages of children;

(B) the maximum appropriate child-staff ratios;

(C) qualifications and background of child care personnel;

(D) health and safety requirements for children and caregivers; and

(E) parental involvement in licensed and regulated child care services.

The standards described in subparagraphs (A) and (B) shall reflect the median standards for all States (using for States which apply separate standards to publicly-assisted programs the most comprehensive or stringent of such standards) as of the date of enactment of this subtitle.

(2) FAMILY CHILD CARE SERVICES.—Such standards submitted with respect to child care services provided by family child care providers shall be limited to—

(A) the maximum number of children for which child care services may be provided and the total number of infants for which child care services may be provided;

(B) the minimum age for caregivers; and

(C) health and safety requirements for children and caregivers.

(3) GROUP HOME CHILD CARE SERVICES.—Such standards submitted with respect to child care services provided by group home child care providers shall be limited to the matters specified in paragraphs (1)(B) and (2).

(4) LIMITATION.—The Committee shall not submit any standard under subsection (c)(2) that is less or more rigorous than the least or most rigorous standard that exists in all States at the time of the submission of such recommendation.

(e) CONSIDERATION AND ESTABLISHMENT OF STANDARDS.—

(1) NOTICE OF PROPOSED RULEMAKING.—Not later than 90 days after receiving the recommendations of the committee, the Secretary shall—

(A) publish in the Federal Register—

(i) a notice of proposed rulemaking concerning the minimum standards proposed under subsection (d) to the Secretary; and

(ii) such proposed minimum standards for public comment for a period of at least 60 days; and

(B) distribute such proposed minimum standards to each lead agency and each State subcommittee on licensing for comment.

(2) ESTABLISHMENT OF MINIMUM CHILD CARE STANDARDS.—

(A) ISSUANCE OF RULES.—The Secretary shall, in consultation with the committee—

(i) take into consideration any comments received by the Secretary with respect to the standards proposed under subsection (d); and

(ii) not later than 180 days after publication of such standards, shall issue rules establishing minimum child care standards for purposes of this subtitle. Such standards shall include the nutrition requirements issued, and revised from time to time, under section 17(g)(1) of the National School Lunch Act (42 U.S.C. 1766(g)(1)).

(B) AMENDING STANDARDS.—The Secretary may amend any standard first established

under subparagraph (A), except that such standard may not be modified, by amendment or otherwise, to make such standard less comprehensive or less stringent than it is when first established.

(C) EXTENDED PERIOD FOR COMMENT.—If the Committee recommends a standard under subsection (c)(2) that no State has a requirement concerning, as of the time that such standard is recommended, the Secretary shall provide an additional 30 days during which States may submit comments concerning such standard.

(3) ADDITIONAL COMMENTS.—The National Committee may submit to the Secretary and to the Congress such additional comments on the minimum child care standards established under paragraph (2) as the National Committee considers appropriate.

(f) VARIANCES.—

(1) TIME FOR COMPLIANCE WITH STANDARDS.—Not later than the end of the 4-year period referred to in section 510, States shall comply with the standards established under this section.

(2) EXCEPTION.—At the expiration of the 4-year period referred to in paragraph (1) the chief executive officer, in consultation with the State advisory committee, may submit a request to the Secretary for a 1 year variance from the requirements of one or more particular standards.

(3) REQUIREMENTS.—A request for a variance under this subsection shall include—

(A) a statement by the chief executive officer of the State of any steps taken to implement the relevant standards in the State within the 4-year period;

(B) the specific reasons for the submission of the variance request; and

(C) a detailed plan that outlines the additional procedures and resources to be used to come into compliance with the standards at the end of the variance period.

(4) PERIOD OF VARIANCE.—A variance granted by the Secretary shall be for a 1-year period and may be renewed at the discretion of the Secretary for an additional 1-year period if requested by the State.

(g) TERMINATION OF COMMITTEE.—The National Committee shall cease to exist 90 days after the date the Secretary establishes minimum child care standards under subsection (e)(3).

SEC. 518. LIMITATIONS ON USE OF FINANCIAL ASSISTANCE FOR CERTAIN PURPOSES.

(a) SECTARIAN PURPOSES AND ACTIVITIES.—No financial assistance provided under this subtitle shall be expended for any sectarian purpose or activity, including sectarian worship and instruction.

(b) TUITION.—With regard to services provided to students enrolled in grades 1 through 12, no financial assistance provided under this subtitle shall be expended for—

(1) any services provided to such students during the regular school day;

(2) any services for which such students receive academic credit toward graduation; or

(3) any instructional services which supplant or duplicate the academic program of any public or private school.

SEC. 519. NONDISCRIMINATION.

(a) FEDERAL FINANCIAL ASSISTANCE.—Any financial assistance provided under this subtitle, including a loan, grant, or child care certificate, shall constitute Federal financial assistance for purposes of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title IX of the Education Amendments of 1972 (20 U.S.C. 1681, et seq.), the Rehabilitation Act of 1973 (29 U.S.C. 794 et seq.), the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), and the regulations issued thereunder.

(b) RELIGIOUS DISCRIMINATION.—A child care provider may not discriminate against any child on the basis of religion in providing child care services in return for a fee paid, reimbursement received, or certificate redeemed, in whole or in part with financial assistance provided under this subtitle.

SEC. 520. PRESERVATION OF PARENTAL RIGHTS AND RESPONSIBILITIES.

Nothing in this subtitle shall be construed or applied in any manner to infringe upon or usurp the moral and legal rights and responsibilities of parents or legal guardians.

BYRD AMENDMENT NO. 3310

Mr. BYRD proposed an amendment to amendment No. 3309 to the bill, S. 2488, supra; as follows:

Strike all after "with" and insert in lieu thereof the following:

instructions to report back forthwith with the following amendment,

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Parental and Medical Leave Act of 1988".

(b) TABLE OF CONTENTS.—

TITLE I—GENERAL REQUIREMENTS FOR PARENTAL LEAVE AND MEDICAL LEAVE

SEC. 101. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the number of two-parent households in which both parents work and the number of single-parent households in which the single parent works are increasing significantly;

(2) it is important for the development of children and the family unit that fathers and mothers be able to participate in early child rearing and the care of children who have serious health conditions;

(3) the lack of employment policies to accommodate working parents forces many individuals to choose between job security and parenting;

(4) there is inadequate job security for employees who have serious health conditions that prevent the employees from working for temporary periods;

(5) due to the nature of the roles of men and women in our society, the primary responsibility for family caretaking often falls on women, and such responsibility affects their working lives more than it affects the working lives of men; and

(6) employment standards that apply to one gender only have serious potential for encouraging employers to discriminate against employees and applicants for employment who are of that gender.

(b) PURPOSES.—It is the purpose of this Act—

(1) to balance the demands of the workplace with the needs of families;

(2) to promote the economic security and stability of families;

(3) to entitle employees to take reasonable leave for medical reasons, for the birth or adoption of a child, and for the care of a child who has a serious health condition;

(4) to accomplish such purposes in a manner which accommodates the legitimate interests of employers;

(5) to accomplish such purposes in a manner which, consistent with the Equal Protection Clause of the Fourteenth Amendment, minimizes the potential for employment discrimination on the basis of sex by ensuring generally that leave is available for eligible medical reasons (including maternity-related disability) and for compelling family reasons, on a gender-neutral basis; and

(6) to promote the goal of equal employment opportunity for women and men, pursuant to such clause.

SEC. 102. DEFINITIONS.

As used in this title:

(1) COMMERCE.—The terms "commerce" and "industry or activity affecting commerce" mean any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce, including "commerce" and any activity or industry "affecting commerce" within the meaning of the Labor Management Relations Act, 1947 (29 U.S.C 141 et seq.).

(2) EMPLOY.—The term "employ" has the same meaning given the term in section 3(g) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(g)).

(3) EMPLOYEE.—

(A) IN GENERAL.—The term "employee" means an individual that is included under the definition of such term in section 3(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)) who has been employed by the employer with respect to whom benefits are sought under this Act for at least—

(i) 900 hours of service during the previous 12-month period; and

(ii) 12 months.

"(B) EXCLUSION.—The term "employee" does not include any Federal officer or employee covered under subchapter III of chapter 63 of title 5, United States Code (as added by title II of this Act).

(4) EMPLOYER.—The term "employer"—

(A) means any person engaged in commerce or in any industry or activity affecting commerce who employs 20 or more employees at any one worksite for each working day during each of 20 or more calendar workweeks in the current or preceding calendar year;

(B) includes—

(i) any person who acts directly or indirectly in the interest of an employer to one or more employees; and

(ii) any successor in interest of such an employer; and

(C) includes any public agency, as defined in section 3(x) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(x)).

(5) EMPLOYMENT BENEFITS.—The term "employment benefits" means all benefits provided or made available to employees by an employer, including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions, regardless of whether the benefits are provided by a policy or practice of an employer or by an employee benefit plan as defined in section 3(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(1)).

(6) HEALTH CARE PROVIDER.—The term "health care provider" means—

(A) any person licensed under Federal, State, or local law to provide health care services, or

(B) any other person determined by the Secretary to be capable of providing health care services.

(7) PERSON.—The term "person" has the same meaning given the term in section 3(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(a)).

(8) REDUCED LEAVE SCHEDULE.—The term "reduced leave schedule" means leave scheduled for fewer than the usual number of hours of an employee per workweek or hours per workday.

(9) SECRETARY.—The term "Secretary" means the Secretary of Labor.

(10) SERIOUS HEALTH CONDITION.—The term "serious health condition" means an illness, injury, impairment, or physical or mental condition that involves—

(A) inpatient care in a hospital, hospice, or residential medical care facility; or

(B) continuing treatment or continuing supervision by a health care provider.

(11) SON OR DAUGHTER.—The term "son or daughter" means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a de facto parent, who is—

(A) under 18 years of age; or

(B) 18 years of age or older and incapable of self-care because of a mental or physical disability.

(12) STATE.—The term "State" has the same meaning given the term in section 3(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(c)).

SEC. 103. PARENTAL LEAVE REQUIREMENT.

(a) IN GENERAL.—

(1) ENTITLEMENT TO LEAVE.—An employee shall be entitled, subject to section 105, to 10 workweeks of parental leave during any 24-month period—

(A) as the result of the birth of a son or daughter of the employee;

(B) as the result of the placement, for adoption or foster care, of a son or daughter with the employee; or

(C) in order to care for the employee's son or daughter who has a serious health condition.

(2) EXPIRATION OF ENTITLEMENT.—The entitlement to leave under paragraphs (1)(A) and (1)(B) shall expire at the end of the 12-month period beginning on the date of such birth or placement.

(3) INTERMITTENT LEAVE.—In the case of a son or daughter who has a serious health condition, such leave may be taken intermittently when medically necessary, subject to subsection (e).

(b) REDUCED LEAVE.—On agreement between the employer and the employee, leave under this section may be taken on a reduced leave schedule, however, such reduced leave schedule shall not result in a reduction in the total amount of leave to which the employee is entitled.

(c) UNPAID LEAVE PERMITTED.—Except as provided in subsection (d), leave granted under subsection (a) may consist of unpaid leave.

(d) RELATIONSHIP TO PAID LEAVE.—

(1) UNPAID LEAVE.—If an employer provides paid parental leave for fewer than 10 work-weeks, the additional weeks of leave added to attain the 10 work-week total may be unpaid.

(2) SUBSTITUTION OF PAID LEAVE.—An employee or employer may elect to substitute any of the employee's accrued paid vacation leave, personal leave, or other appropriate paid leave for any part of the 10-week period.

(e) FORESEEABLE LEAVE.—

(1) REQUIREMENT OF NOTICE.—In any case in which the necessity for leave under this section is foreseeable based on an expected birth or adoption, the employee shall provide the employer with prior notice of such expected birth or adoption in a manner which is reasonable and practicable.

(2) DUTIES OF EMPLOYEE.—In any case in which the necessity for leave under this section is foreseeable based on planned medical treatment or supervision, the employee shall—

(A) make a reasonable effort to schedule the treatment or supervision so as not to disrupt unduly the operations of the employer, subject to the approval of the health care provider of the employee's son or daughter; and

(B) provide the employer with prior notice of the treatment or supervision in a manner which is reasonable and practicable.

(3) REGULATIONS.—The Secretary shall promulgate regulations under section 108(a) that define the term "reasonable and practicable" for purposes of paragraphs (1) and (2)(B).

(f) SPOUSES EMPLOYED BY THE SAME EMPLOYER.—In any case in which a husband and wife entitled to parental leave under this section are employed by the same employer, the aggregate number of workweeks of parental leave to which both may be entitled may be limited to 10 workweeks during any 24-month period, if such leave is taken under subparagraph (A) or (B) of subsection (a)(1).

SEC. 104. TEMPORARY MEDICAL LEAVE REQUIREMENT.

(a) IN GENERAL.—

(1) ENTITLEMENT TO LEAVE.—Any employee who, as the result of a serious health condition, becomes unable to perform the functions of the position of the employee, shall be entitled to temporary medical leave, subject to section 105.

(2) PERIOD OF ENTITLEMENT.—The entitlement under paragraph (1) shall continue for as long as the employee is unable to perform the functions, except that the leave shall not exceed 13 workweeks during any 12-month period.

(3) INTERMITTENT LEAVE.—Leave taken under this subsection may be taken intermittently when medically necessary, subject to subsection (d).

(b) UNPAID LEAVE PERMITTED.—Except as provided in subsection (c), leave granted under subsection (a) may consist of unpaid leave.

(c) RELATIONSHIP TO PAID LEAVE.—

(1) IN GENERAL.—If an employer provides paid temporary medical leave or paid sick leave for fewer than 13 weeks, the additional weeks of leave added to attain the 13-week total may be unpaid.

(2) SUBSTITUTION OF PAID LEAVE.—An employee or employer may elect to substitute the employee's accrued paid vacation leave, sick leave, or other appropriate paid leave for any part of the 13-week period, except that nothing in this Act shall require an employer to provide paid sick leave or paid medical leave in any situation in which such employer would not normally provide any such paid leave.

(d) FORESEEABLE LEAVE.—

(1) DUTIES OF EMPLOYEE.—In any case in which the necessity for leave under this section is foreseeable based on planned medical treatment or supervision, the employee shall—

(A) make a reasonable effort to schedule the treatment or supervision so as not to disrupt unduly the operations of the employer, subject to the approval of the employee's health care provider, and

(B) provide the employer with prior notice of the treatment or supervision in a manner which is reasonable and practicable.

(2) REGULATIONS.—The Secretary shall promulgate regulations under section 108(a) that define the term "reasonable and practicable" for purposes of paragraph (1).

SEC. 105. CERTIFICATION.

(a) IN GENERAL.—An employer may require that a claim for parental leave under section 103(a)(1)(C), or temporary medical leave under section 104, be supported by certification issued by the health care provider of the son, daughter, or employee, whichever is appropriate. The employee shall provide a copy of such certification to the employer.

(b) SUFFICIENT CERTIFICATION.—The certification shall be considered sufficient if it states—

(1) the date on which the serious health condition commenced;

(2) the probable duration of the condition;

(3) the appropriate medical facts within the knowledge of the provider regarding the condition; and

(4)(A) for purposes of leave under section 104, a statement that the employee is unable to perform the functions of the employee's position; and

(B) for purposes of leave under section 103(a)(1)(C), an estimate of the amount of time that the employee is needed to care for the son or daughter.

(c) SECOND OPINION.—

(1) IN GENERAL.—In any case in which the employer has reason to doubt the validity of the certification provided under subsection (a), the employer may require, at its own expense, that the employee obtain the opinion of a second health care provider designated or approved by the employer concerning the information certified under subsection (b).

(2) LIMITATION.—Any health care provider designated or approved under paragraph (1) may not be employed on a regular basis by the employer.

(d) RESOLUTION OF CONFLICTING OPINIONS.—

(1) IN GENERAL.—In any case in which the second opinion described in subsection (c) differs from the original certification provided under subsection (a), the employer may require, at its own expense, that the employee obtain the opinion of a third health care provider designated or approved jointly by the employer and the employee concerning the information certified under subsection (b).

(2) FINALITY.—The opinion of the third health care provider concerning the information certified under subsection (b) shall be considered to be final and shall be binding on the employer and the employee.

(e) SUBSEQUENT RECERTIFICATION.—The employer may require that the employee obtain subsequent recertifications on a reasonable basis.

SEC. 106. EMPLOYMENT AND BENEFITS PROTECTION.

(a) RESTORATION TO POSITION.—

(1) IN GENERAL.—Any employee who takes leave under section 103 or 104 for its intended purpose shall be entitled, on return from the leave—

(A) to be restored by the employer to the position of employment held by the employee when the leave commenced; or

(B) to be restored to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.

(2) LOSS OF BENEFITS.—The taking of leave under this title shall not result in the loss of any employment benefit accrued before the date on which the leave commenced.

(3) LIMITATIONS.—Except as provided in subsection (b), nothing in this section shall be considered to entitle any restored employee to—

(A) the accrual of any seniority or employment benefits during any period of leave; or

(B) any right, benefit, or position of employment other than that to which the employee was entitled to on the date the leave was commenced.

(4) CERTIFICATION.—As a condition to restoration under paragraph (1), the employer may have a policy that requires each employee to receive certification from the employee's health care provider that the employee is able to resume work.

(5) CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit an employer from requiring an employee on leave under section 103 or 104 to periodically report to the employer on the employee's status and intention to return to work.

(b) MAINTENANCE OF HEALTH BENEFITS.—During any period an employee takes leave under section 103 or 104, the employer shall maintain coverage under any group health plan (as defined in section 162(i)(3) of the Internal Revenue Code of 1954) for the duration of such leave at the level and under the conditions coverage would have been provided if the employee had continued in employment continuously from the date the employee commenced the leave until the date the employee is restored under subsection (a).

SEC. 107. PROHIBITED ACTS.

(a) INTERFERENCE WITH RIGHTS.—

(1) EXERCISE OF RIGHTS.—It shall be unlawful for any employer to interfere with, restrain, or deny the exercise of or the attempt to exercise, any right provided under this title.

(2) DISCRIMINATION.—It shall be unlawful for any employer to discharge or in any other manner discriminate against any individual for opposing any practice made unlawful by this title.

(b) INTERFERENCE WITH PROCEEDINGS OR INQUIRIES.—It shall be unlawful for any person to discharge or in any other manner discriminate against any individual because the individual—

(1) has filed any charge, or has instituted or caused to be instituted any proceeding, under or related to this title;

(2) has given or is about to give any information in connection with any inquiry or proceeding relating to any right provided under this title; or

(3) has testified or is about to testify in any inquiry or proceeding relating to any right provided under this title.

SEC. 108. ADMINISTRATIVE ENFORCEMENT.

(a) IN GENERAL.—The Secretary shall issue such rules and regulations as are necessary to carry out this section, including rules and regulations concerning service of complaints, notice of hearings, answers and amendments to complaints, and copies of orders and records of proceedings.

(b) CHARGES.—

(1) FILING.—Any person alleging an act that violates this title may file a charge respecting the violation with the Secretary. Charges shall be in such form and contain such information as the Secretary shall require by regulation.

(2) NOTIFICATION.—Not later than 15 days after the Secretary receives notice of a charge under paragraph (1), the Secretary shall—

(A) serve a notice of the charge on the person charged with the violation; and

(B) inform such person and the charging party as to the rights and procedures provided under this title.

(3) TIME OF FILING.—A charge may not be filed later than 1 year after the date of the last event constituting the alleged violation.

(c) PROCESS ON NOTICE OF A CHARGE.—Investigation; Complaint.—

(1) INVESTIGATION.—Within the 60-day period after the Secretary receives any charge, the Secretary shall investigate the charge and issue a complaint based on the charge or dismiss the charge.

(2) COMPLAINT BASED ON CHARGE.—If the Secretary determines that there is a reasonable basis for the charge, the Secretary shall issue a complaint based on the charge and promptly notify the charging party and the respondent as to the issuance.

(3) DISMISSAL.—If the Secretary determines that there is no reasonable basis for the charge, the Secretary shall dismiss the charge and promptly notify the charging party and the respondent as to the dismissal.

(4) SETTLEMENT AGREEMENTS.—

(A) WITH CHARGING PARTY.—The charging party and the respondent may enter into a settlement agreement concerning the violation alleged in the charge before any determination is reached by the Secretary under this subsection. To be effective such an agreement must be determined by the Secretary to be consistent with the purposes of this title.

(B) WITH SECRETARY.—On the issuance of a complaint, the Secretary and the respondent may enter into a settlement agreement concerning a violation alleged in the complaint. Any such settlement may not be entered into over the objection of the charging party, unless the Secretary determines that the settlement provides a full remedy for the charging party.

(5) CIVIL ACTIONS.—If, at the end of the 60-day period referred to in paragraph (1), the Secretary—

(A) has not issued a complaint under paragraph (2);

(B) has dismissed the charge under paragraph (3); or

(C) has not approved or entered into a settlement agreement under subparagraph (A) or (B) of paragraph (4);

the charging party may elect to bring a civil action under section 109.

(6) COMPLAINT AND RELIEF ON SECRETARY'S INITIATIVE.—

(A) ISSUANCE.—The Secretary may issue and serve a complaint alleging a violation of this title on the basis of information and evidence gathered as a result of an investigation initiated by the Secretary pursuant to section 110.

(B) RELIEF.—

(i) IN GENERAL.—On issuance of a complaint, the Secretary shall have the power to petition the United States district court for the district in which the violation is alleged to have occurred, or in which the respondent resides or transacts business, for appropriate temporary relief or a restraining order.

(ii) NOTICE.—On the filing of any such petition, the court shall cause notice of the petition to be served on the respondent.

(iii) TYPE OF RELIEF.—The court shall have jurisdiction to grant to the Secretary such temporary relief or restraining order as the court considers just and proper.

(d) RIGHTS OF PARTIES.—

(1) SERVICE OF COMPLAINT.—In any case in which a complaint is issued under subsection (c), the Secretary shall, not later than 10 days after the date on which the complaint is issued, cause to be served on the respondent a copy of the complaint.

(2) PARTIES TO COMPLAINT.—Any person filing a charge alleging a violation of this title may elect to be a party to any complaint filed by the Secretary alleging the violation. The election must be made before the commencement of a hearing.

(3) CIVIL ACTION.—The failure of the Secretary to comply in a timely manner with any obligation assigned to the Secretary under this title shall entitle the charging party to elect, at the time of such failure, to bring a civil action under section 109.

(e) CONDUCT OF HEARING.—

(1) PROSECUTION BY SECRETARY.—The Secretary shall prosecute any complaint issued under subsection (c).

(2) HEARING.—An administrative law judge shall conduct a hearing on the record with respect to a complaint issued under this title. The hearing shall be conducted in accordance with sections 554, 555, and 556 of title 5, United States Code, and shall be commenced within 60 days after the issuance of the complaint, unless the judge, in the judge's discretion, determines that the purposes of this Act would best be furthered by commencement of the action after the expiration of such period.

(f) FINDINGS AND CONCLUSIONS.—

(1) IN GENERAL.—After a hearing is conducted under this section, the administrative law judge shall promptly make findings of fact and conclusions of law, and, if appropriate, issue an order for relief as provided in section 111.

(2) NOTIFICATION CONCERNING DELAY.—The administrative law judge shall inform the parties, in writing, of the reason for any delay in making the findings and conclusions if the findings and conclusions are not made within 60 days after the conclusion of the hearing.

(g) FINALITY OF DECISION; REVIEW.—

(1) FINALITY.—The decision and order of the administrative law judge shall become the final decision and order of the Secretary unless, on appeal by an aggrieved party taken not later than 30 days after the action, the Secretary modifies or vacates the decision, in which case the decision of the Secretary shall be the final decision.

(2) REVIEW.—Not later than 60 days after the entry of the final order of the Secretary under paragraph (1), any person aggrieved by the final order may obtain a review of the order in the United States court of appeals for the circuit in which the violation is alleged to have occurred or in which the employer resides or transacts business.

(3) JURISDICTION.—On the filing of the record with the court, the jurisdiction of the court shall be exclusive and its judgment shall be final, except that the same shall be subject to review by the Supreme Court of the United States on writ of certiorari or certification as provided in section 1254 of title 28, United States Code.

(h) COURT ENFORCEMENT OF ADMINISTRATIVE ORDERS.—

(1) POWER OF SECRETARY.—If a respondent does not appeal an order of the Secretary under subsection (g)(2), the Secretary may petition the United States district court for the district in which the violation is alleged to have occurred, or in which the respondent resides or transacts business, for the enforcement of the order of the Secretary, by filing in the court a written petition praying that the order be enforced.

(2) JURISDICTION.—On the filing of the petition, the court shall have jurisdiction to make and enter a decree enforcing the order of the Secretary. In the proceeding, the order of the Secretary shall not be subject to review.

(3) DECREE OF ENFORCEMENT.—If, on appeal of an order under subsection (g)(2), the United States court of appeals does not reverse or modify the order, the court shall have the jurisdiction to make and enter a decree enforcing the order of the Secretary.

SEC. 109. ENFORCEMENT BY CIVIL ACTION.

(a) RIGHT TO BRING CIVIL ACTION.—

(1) IN GENERAL.—Subject to the limitations in this section, an employee or the Secretary may bring a civil action against any employer to enforce the provisions of this title in any appropriate court of the United States or in any State court of competent jurisdiction.

(2) NO CHARGE FILED.—Subject to paragraph (3), a civil action may be commenced under this subsection without regard to whether a charge has been filed under section 108(b).

(3) LIMITATIONS.—No civil action may be commenced under paragraph (1) if the Secretary—

(A) has approved, or has failed to disapprove, a settlement agreement under section 108(c)(4), in which case no civil action may be filed under this subsection if the action is based on a violation alleged in the charge and resolved by the agreement; or

(B) has issued a complaint under section 108(c)(2) or 108(c)(6), in which case no civil action may be filed under this subsection if the action is based on a violation alleged in the complaint.

(4) TO ENFORCE SETTLEMENT AGREEMENTS.—Notwithstanding paragraph (3)(A), a civil action may be commenced to enforce the terms of any such settlement agreement.

(5) TIMING OF COMMENCEMENT OF CIVIL ACTION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), no civil action may be commenced more than 1 year after the date on which the alleged violation occurred.

(B) EXCEPTION.—In any case in which—

(i) a timely charge is filed under section 108(b); and

(ii) the failure of the Secretary to issue a complaint or enter into a settlement agreement based on the charge (as provided under section 108(c)(4)) occurs more than 11 months after the date on which any alleged violation occurred,

the employee may commence a civil action not more than 30 days after the date on which the employee is notified of the failure.

(6) AGENCIES.—The Secretary may not bring a civil action against any agency of the United States.

(b) VENUE.—An action brought under subsection (a) in a district court of the United States may be brought—

(1) in any appropriate judicial district under section 1391 of title 28, United States Code; or

(2) in the judicial district in the State in which—

(A) the employment records relevant to the violation are maintained and administered; or

(B) the aggrieved person worked or would have worked but for the alleged violation.

(c) NOTIFICATION OF THE SECRETARY; RIGHT TO INTERVENE.—A copy of the complaint in any action brought by an employee under subsection (a) shall be served on the Secretary by certified mail. The Secretary shall have the right to intervene in a civil action brought by an employee under subsection (a).

(d) ATTORNEYS FOR THE SECRETARY.—In any civil action brought under subsection (a), attorneys appointed by the Secretary may appear for and represent the Secretary, except that the Attorney General and the Solicitor General shall conduct any litigation in the Supreme Court.

SEC. 110. INVESTIGATIVE AUTHORITY.

(a) IN GENERAL.—To ensure compliance with the provisions of this title, or any regulation or order issued under this title, subject to subsection (c), the Secretary shall have the investigative authority provided under section 11(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(a)).

(b) OBLIGATION TO KEEP AND PRESERVE RECORDS.—An employer shall keep and preserve records in accordance with section 11(c) of such Act, and in accordance with regulations issued by the Secretary.

(c) REQUIRED SUBMISSIONS GENERALLY LIMITED TO AN ANNUAL BASIS.—The Secretary may not under this section require any employer or any plan, fund, or program to submit to the Secretary any books or records more than once in any 12-month period, unless the Secretary has reasonable cause to believe there may exist a violation of this title or any regulation or order issued pursuant to this title, or is investigating a charge brought pursuant to section 108.

(d) SUBPOENA POWERS, ETC.—For purposes of any investigation conducted under this section, the Secretary shall have the subpoena authority provided under section 9 of the Fair Labor Standards Act of 1938 (29 U.S.C. 209).

(e) DISSEMINATION OF INFORMATION.—The Secretary may make available to any person substantially affected by any matter that is the subject of an investigation under this section, and to any department or agency of the United States, information concerning any matter that may be the subject of the investigation.

SEC. 111. RELIEF.

(a) INJUNCTIVE RELIEF.—

(1) CEASE AND DESIST.—On finding a violation under section 108 by a person, an administrative law judge shall issue an order requiring the person to cease and desist from any act or practice that violates this title.

(2) INJUNCTIONS.—In any civil action brought under section 109, a court may grant as relief any permanent or temporary injunction, temporary restraining order, or other equitable relief as the court considers appropriate.

(b) MONETARY DAMAGES.—

(1) IN GENERAL.—Any employer that violates this title shall be liable to the injured party in an amount equal to—

(A) any wages, salary, employment benefits, or other compensation denied or lost to the employee by reason of the violation, plus interest on the total monetary damages calculated at the prevailing rate; and

(B) an additional amount equal to the greater of—

(i) the amount determined under subparagraph (A), as liquidated damages; or

(ii) the amount of consequential damages but not to exceed three times the amount determined under subparagraph (A).

(2) GOOD FAITH.—If an employer who has violated this title proves to the satisfaction of the court that the act or omission which violated this title was in good faith and that the employer had reasonable grounds for believing that the act or omission was not a violation of this title, the court may, in its discretion, reduce the amount of the liability or penalty provided for under this subsection to the amount determined under paragraph (1)(A).

(c) ATTORNEYS' FEES.—A prevailing party (other than the United States) may be awarded a reasonable attorneys' fee as part of the costs, in addition to any relief awarded. The United States shall be liable for costs in the same manner as a private person.

(d) LIMITATION.—Damages awarded under subsection (b) may not accrue from a date more than 2 years before the date on which a charge is filed under section 108(b) or a civil action is brought under section 109.

SEC. 112. NOTICE.

(a) IN GENERAL.—Each employer shall post and keep posted, in conspicuous places on the premises of the employer where notices to employees and applicants for employment are customarily posted, a notice, approved by the Secretary, setting forth excerpts from, or summaries of, the pertinent provisions of this title and information pertaining to the filing of a charge.

(b) PENALTY.—Any employer who willfully violates this section shall be fined not more than $100 for each separate offense.

TITLE II—PARENTAL LEAVE AND TEMPORARY MEDICAL LEAVE FOR CIVIL SERVICE EMPLOYEES

SEC. 201. PARENTAL LEAVE AND TEMPORARY MEDICAL LEAVE.

(a) IN GENERAL.—(1) Chapter 63 of title 5, United States Code, is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER III—PARENTAL LEAVE AND TEMPORARY MEDICAL LEAVE

"§ 6331. Definitions

"For purposes of this subchapter:

"(1) 'employee' means—

"(A) an employee as defined by section 6301(2) of this title (excluding an individual employed by the government of the District of Columbia); and

"(B) an individual under clause (v) or (ix) of such section;

who has been employed for at least 12 months and completed at least 900 hours of service during the previous 12-month period.

"(2) 'serious health condition' means an illness, injury, impairment, or physical or mental condition that involves—

"(A) inpatient care in a hospital, hospice, or residential medical care facility; or

"(B) continuing treatment, or continuing supervision, by a health care provider; and

"(3) 'son or daughter' means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a de facto parent, who is—

"(A) under 18 years of age; or

"(B) 18 years of age or older and incapable of self-care because of a mental or physical disability.

"§ 6332. Parental leave requirement

"(a)(1) An employee shall be entitled, subject to section 6334, to 10 workweeks of parental leave during any 24-month period—

"(A) as the result of the birth of a son or daughter of the employee;

"(B) as the result of the placement, for adoption or foster care, of a son or daughter with the employee; or

"(C) in order to care for the employee's son or daughter who has a serious health condition.

"(2) The entitlement to leave under paragraphs (1)(A) and (1)(B) shall expire at the end of the 12-month period beginning on the date of such birth or placement.

"(3) In the case of a son or daughter who has a serious health condition, such leave may be taken intermittently when medically necessary, subject to subsection (e).

"(b) On agreement between the employing agency and the employee, leave under this section may be taken on a reduced leave schedule, however, such reduced leave schedule shall not result in a reduction in the total amount of leave to which the employee is entitled.

"(c) Except as provided in subsection (d), leave granted under subsection (a) may consist of unpaid leave.

"(d)(1) If an employing agency provides paid parental leave for fewer than 10 workweeks, the additional weeks of leave added to attain the 10 work-week total may be unpaid.

"(2) An employee or employing agency may elect to substitute any of the employee's accrued paid vacation leave, personal leave, or other appropriate paid leave for any part of the 10-week period.

"(e)(1) In any case in which the necessity for leave under this section is foreseeable based on an expected birth or adoption, the employee shall provide the employing agency with prior notice of such expected birth or adoption in a manner which is reasonable and practicable.

"(2) In any case in which the necessity for leave under this section is foreseeable based on planned medical treatment or supervision, the employee shall—

"(A) make a reasonable effort to schedule the treatment or supervision so as not to disrupt unduly the operations of the employing agency, subject to the approval of the health care provider of the employee's son or daughter; and

"(B) provide the employing agency with prior notice of the treatment or supervision in a manner which is reasonable and practicable.

"(3) The Director of the Office of Personnel Management shall promulgate regulations that define the term 'reasonable and practicable' for purposes of paragraphs (1) and (2)(B).

"§ 6333. Temporary medical leave requirement

"(a)(1) Any employee who, as the result of a serious health condition, becomes unable to perform the functions of the position of the employee, shall be entitled to temporary medical leave, subject to section 6334.

"(2) The entitlement under paragraph (1) shall continue for as long as the employee is unable to perform the functions, except that the leave shall not exceed 13 administrative workweeks of the employee during any 12-month period.

"(3) Leave taken under this subsection may be taken intermittently when medically necessary, subject to subsection (d).

"(b) Except as provided in subsection (c), leave granted under subsection (a) may consist of unpaid leave.

"(c)(1) If an employing agency provides paid temporary medical leave or paid sick leave for fewer than 13 weeks, the additional weeks of leave added to attain the 13-week total may be unpaid.

"(2) An employee or employing agency may elect to substitute the employee's accrued paid vacation leave, sick leave, or other appropriate paid leave for any part of the 13-week period, except that nothing in this Act shall require an employing agency to provide paid sick leave or paid medical leave in any situation in which such employing agency would not normally provide any such paid leave.

"(d)(1) In any case in which the necessity for leave under this section is foreseeable based on planned medical treatment or supervision, the employee shall—

"(A) make a reasonable effort to schedule the treatment or supervision so as not to disrupt unduly the operations of the employing agency, subject to the approval of the employee's health care provider, and

"(B) provide the employing agency with prior notice of the treatment or supervision in a manner which is reasonable and practicable.

"(2) The Director of the Office of Personnel Management shall promulgate regulations that define the term "reasonable and practicable" for purposes of paragraph (1).

"§ 6334. Certification

"(a) An employing agency may require that a claim for parental leave under section 6332(a)(10)(C), or temporary medical leave under section 6333, be supported by certification issued by the health care provider of the son, daughter, or employee, whichever is appropriate. The employee shall provide a copy of such certification to the employing agency.

"(b) The certification shall be considered sufficient if it states—

"(1) the date on which the serious health condition commenced;

"(2) the probable duration of the condition;

"(3) the appropriate medical facts within the knowledge of the provider regarding the condition; and

"(4)(A) for purposes of leave under section 6333, a statement that the employee is unable to perform the functions of the employee's position; and

"(B) for purposes of leave under section 6332(a)(1)(C), an estimate of the amount of time that the employee is needed to care for the son or daughter.

"(c)(1) In any case in which the employing agency has reason to doubt the validity of the certification provided under subsection (a), the employing agency may require, at its expense, that the employee obtain the opinion of a second health care provider designated or approved by the employing agency concerning the information certified under subsection (b).

"(2) Any health care provider designated or approved under paragraph (1) may not be employed on a regular basis by the employing agency.

"(d)(1) In any case in which the second opinion described in subsection (c) differs from the original certification provided under subsection (a), the employing agency may require, at its expense, that the employee obtain the opinion of a third health care provider designated or approved jointly by the employing agency and the employee concerning the information certified under subsection (b).

"(2) The opinion of the third health care provider concerning the information certified under subsection (b) shall be considered to be final and shall be binding on the employing agency and the employee.

"(e) The employing agency may require that the employee obtain subsequent recertifications on a reasonable basis.

"§ 6335. Job protection

"An employee who uses leave under section 6332 or 6333 of this title shall be entitled, on return from the leave—

"(1) to be restored to the position of employment held by the employee when the leave commenced; or

"(2) to be restored to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.

"§ 6336. Prohibition of coercion

"(a) An employee may not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any other employee for the purpose of interfering with the exercise of the rights of the employee under this subchapter.

"(b) For the purpose of this section, 'intimidate, threaten, or coerce' includes promising to confer or conferring any benefit (such as appointment, promotion, or compensation), or taking or threatening to take any reprisal (such as deprivation of appointment, promotion, or compensation).

"§ 6337. Health insurance

"An employee enrolled in a health benefits plan under chapter 89 of this title who is placed in a leave status under section 6332 or 6333 of this title may elect to continue the health benefits enrollment of the employee while in leave status and arrange to pay into the Employees Health Benefits Fund (described in section 8909 of this title), through the employing agency of the employee, the appropriate employee contributions.

"§ 6338. Regulations

"The Office of Personnel Management shall prescribe regulations necessary for the administration of this subchapter. The regulations prescribed under this subchapter shall be consistent with the regulations prescribed by the Secretary of Labor under title I of the Parental and Medical Leave Act of 1988.".

(2) The table of contents for chapter 63 of title 5, United States Code, is amended by adding at the end thereof the following:

"SUBCHAPTER III—PARENTAL LEAVE AND TEMPORARY MEDICAL LEAVE

"6331. Definitions.
"6332. Parental leave requirement.
"6333. Temporary medical leave requirement.
"6334. Certification.
"6335. Job protection.
"6336. Prohibition of coercion.
"6337. Health insurance.
"6338. Regulations.".

(b) EMPLOYEES PAID FROM NONAPPROPRIATED FUNDS.—Section 2105(c)(1) of title 5, United States Code, is amended by striking out "53" and inserting in lieu thereof "53, subchapter III of chapter 63,".

TITLE III—COMMISSION ON PARENTAL AND MEDICAL LEAVE

SEC. 301. ESTABLISHMENT.

(a) ESTABLISHMENT.—There is established a Commission to be known as the Commission on Parental and Medical Leave (hereinafter in this title referred to as the "Commission").

SEC. 302. DUTIES.

The Commission shall—

(1) conduct a comprehensive study of—

(A) existing and proposed policies relating to parental leave and temporary medical leave; and

(B) the potential costs, benefits, and impact on productivity of such policies on employers;

(2) to the extent practicable, include in the study of parental leave and temporary medical leave policies required under subsection (1)(A), a review of all studies of existing and proposed methods designed to provide workers with full or partial salary replacement or other income protection during periods of parental leave and temporary medical leave that are consistent with the legitimate business interests of employers;

(3) within 2 years after the date on which the Commission first meets, submit a report to Congress that outlines the findings of the Commission.

SEC. 303. MEMBERSHIP.

(a) COMPOSITION.—

(1) APPOINTMENTS.—The Commission shall be composed of 12 voting members and 2 ex-officio members appointed not more than 60 days after the date of the enactment of this Act as follows:

(A) One Senator shall be appointed by the majority leader of the Senate, and one Senator shall be appointed by the minority leader of the Senate.

(B) One member of the House of Representatives shall be appointed by the Speaker of the House of Representatives, and one member of the House of Representatives shall be appointed by the minority leader of the House of Representatives.

(C)(i) Two members each shall be appointed by—

(I) the Speaker of the House of Representatives,

(II) the majority leader of the Senate,

(III) the minority leader of the House of Representatives, and

(IV) the minority leader of the Senate.

(ii) Such members shall be appointed by virtue of demonstrated expertise in relevant family, temporary disability, and labor-management issues and shall include representatives of employers.

(2) EX-OFFICIO MEMBERS.—The Secretary of Health and Human Services and the Secretary of Labor shall serve on the Commission as nonvoting ex-officio members.

(b) VACANCIES.—Any vacancy on the Commission shall be filled in the same manner in which the original appointment was made.

(c) CHAIRPERSON AND VICE CHAIRPERSON.—The Commission shall elect a chairperson and a vice chairperson from among the members of the Commission.

(d) QUORUM.—Eight members of the Commission shall constitute a quorum for all purposes, except that a lesser number may constitute a quorum for the purpose of holding hearings.

SEC. 304. COMPENSATION.

(a) PAY.—Members of the Commission shall serve without compensation.

(b) TRAVEL EXPENSES.—Members of the Commission shall be allowed reasonable travel expenses, including a per diem allowance, in accordance with section 5703 of title 5, United States Code, while performing duties of the Commission.

SEC. 305. POWERS.

(a) MEETINGS.—The Commission shall first meet not more than 30 days after the date on which all members are appointed. The Commission shall meet thereafter on the call of the chairperson or a majority of the members.

(b) HEARINGS AND SESSIONS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before the Commission.

(c) ACCESS TO INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable the Commission to carry out this Act. On the request of the chairperson or vice chairperson of the Commission, the head of the agency shall furnish the information to the Commission.

(d) EXECUTIVE DIRECTOR.—The Commission may appoint an Executive Director from the personnel of any Federal agency to assist the Commission in carrying out the duties of the Commission.

(e) USE OF SERVICES AND FACILITIES.—On the request of the Commission, the head of any Federal agency may make available to the Commission any of the facilities and services of the agency.

(f) PERSONNEL FROM OTHER AGENCIES.—On the request of the Commission, the head of any Federal agency may detail any of the personnel of the agency to assist the Commission in carrying out the duties of the Commission.

SEC. 306. TERMINATION.

The Commission shall terminate 30 days after the date of the submission of the final report of the Commission to Congress.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. EFFECT ON OTHER LAWS.

(a) FEDERAL AND STATE ANTIDISCRIMINATION LAWS.—Nothing in this Act shall be construed to modify or affect any Federal or State law prohibiting discrimination on the basis of race, religion, color, national origin, sex, age, or handicapped status.

(b) STATE AND LOCAL LAWS.—Nothing in this Act shall be construed to supersede any provision of any State or local law that provides greater employee parental or medical leave rights than the rights established under this Act.

SEC. 402. EFFECT ON EXISTING EMPLOYMENT BENEFITS.

(a) MORE PROTECTIVE.—Nothing in this Act shall be construed to diminish the obligation of an employer to comply with any collective-bargaining agreement or any employment benefit program or plan that provides greater parental and medical leave rights to employees than the rights provided under this Act.

(b) LESS PROTECTIVE.—The rights provided to employees under this Act may not be diminished by any collective-bargaining agreement or any employment benefit program or plan.

SEC. 403. ENCOURAGEMENT OF MORE GENEROUS LEAVE POLICIES.

Nothing in this Act shall be construed to discourage employers from adopting or retaining leave policies more generous than any policies that comply with the requirements under this Act.

SEC. 404. REGULATIONS.

Not later than 60 days after the date of enactment of this Act, the Secretary shall prescribe such regulations as are necessary to carry out title I.

SEC. 405. EFFECTIVE DATES.

(a) ADVISORY COMMISSION.—Title III shall become effective on the date of enactment of this Act.

(b) OTHER TITLES.—

(1) IN GENERAL.—Except as provided in paragraph (2), titles I, II, and IV shall take effect 6 months after the date of the enactment of this Act.

(2) COLLECTIVE BARGAINING AGREEMENTS.—In the case of a collective bargaining agreement in effect on the effective date described in paragraph (1), title I shall apply on the earlier of—

(A) the date of the termination of such agreement, or

(B) the date which occurs 12 months after the date of the enactment of this Act.

Notwithstanding any other provision of this Act, the term "employer" means any person engaged in commerce or in any industry affecting commerce who employs 50 or more employees at any one worksite for each working day during each of 20 or more calendar workweeks in the current or preceding calendar year; and includes:

"(i) any person who acts directly or indirectly in the interest of an employer to one or more employees;

"(ii) any successor in interest of such an employer; and

"(iii) any public agency, as defined in section 3(x) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(x)): and

notwithstanding any other provision of this act, the period of entitlement described in Sec. 104 (a)(2) of this act shall not exceed 10 workweeks during any 12-month period; and notwithstanding any other provision of this act, the entitlement under paragraph (a)(2), in "Sec. 6333" entitled "Temporary Medical Leave Requirement" contained in Sec. 201 of this act shall not exceed 10 administrative workweeks of the employee during any 12-month period.

TITLE V—CHILD PORNOGRAPHY AND OBSCENITY

SEC. 501. SHORT TITLE.

This title may be cited as the "Child Protection and Obscenity Enforcement Act of 1988".

Subtitle A—Child Pornography

SEC. 511. AMENDMENTS TO EXISTING OFFENSES.

(a) SEXUAL EXPLOITATION OF CHILDREN.—Paragraph (2) of subsection 2251(c) of title 18, United States Code, is amended by inserting "by any means including by computer" after "interstate or foreign commerce" both places it appears.

(b) MATERIAL INVOLVING SEXUAL EXPLOITATION OF CHILDREN.—Subsection 2252(a) of

title 18, United States Code, is amended by inserting "by any means including by computer" after "interstate or foreign commerce" each place it appears.

(c) DEFINITION.—Section 2256 of title 18, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (4);

(2) by striking out the period at the end of paragraph (5) and inserting in lieu thereof: "; and"; and

(3) by adding at the end the following:

"(6) 'computer' has the meaning given that term in section 1030 of this title.".

SEC. 512. SELLING OR BUYING OF CHILDREN.

(a) IN GENERAL.—Chapter 110 of title 18, United States Code, is amended by inserting after section 2251 the following:

"§ 2251A. Selling or buying of children

"(a) Any parent, legal guardian, or other person having custody or control of a minor who sells or otherwise transfers custody or control of such minor, or offers to sell or otherwise transfer custody of such minor either—

"(1) with knowledge that, as a consequence of the sale or transfer, the minor will be portrayed in a visual depiction engaging in, or assisting another person to engage in, sexually explicit conduct; or

"(2) with intent to promote either—

"(A) the engaging in of sexually explicit conduct by such minor for the purpose of producing any visual depiction of such conduct; or

"(B) the rendering of assistance by the minor to any other person to engage in sexually explicit conduct for the purpose of producing any visual depiction of such conduct;

shall be punished by imprisonment for not less than 20 years or for life and by a fine under this title, if any of the circumstances described in subsection (c) of this section exist.

"(b) Whoever purchases or otherwise obtains custody or control of a minor, or offers to purchase or otherwise obtain custody or control of a minor either—

"(1) with knowledge that, as a consequence of the purchase or obtaining of custody, the minor will be portrayed in a visual depiction engaging in, or assisting another person to engage in, sexually explicit conduct; or

"(2) with intent to promote either—

"(A) the engaging in of sexually explicit conduct by such minor for the purpose of producing any visual depiction of such conduct; or

"(B) the rendering of assistance by the minor to any other person to engage in sexually explicit conduct for the purpose of producing any visual depiction of such conduct;

shall be punished by imprisonment for not less than 20 years or for life and by a fine under this title, if any of the circumstances described in subsection (c) of this section exist.

"(c) The circumstances referred to in subsections (a) and (b) are that—

"(1) in the course of the conduct described in such subsections the minor or the actor traveled in or was transported in interstate or foreign commerce;

"(2) any offer described in such subsections was communicated or transported in interstate or foreign commerce by any means including by computer or mail; or

"(3) the conduct described in such subsections took place in any territory or possession of the United States.".

(b) DEFINITION.—Section 2256 of title 18, United States Code, as amended by section 201 of this Act, is further amended—

(1) by striking out "and" at the end of paragraph (5);

(2) by striking out the period at the end of paragraph (6) and inserting "; and" in lieu thereof; and

(3) by adding at the end the following:

"(7) 'custody or control' includes temporary supervision over or responsibility for a minor whether legally or illegally obtained.".

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 110 of title 18, United States Code, is amended by inserting after the item relating to section 2251 the following:

"2251A. Selling or buying of children.".

SEC. 513. RECORD KEEPING REQUIREMENTS.

(a) IN GENERAL.—Chapter 110 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 2257. Record keeping requirements

"(a) Whoever produces any book, magazine, periodical, film, videotape, or other matter which—

"(1) contains one or more visual depictions made after February 6, 1978 of actual sexually explicit conduct; and

"(2) is produced in whole or in part with materials which have been shipped in interstate or foreign commerce, or is shipped or transported or is intended for shipment or transportation in interstate or foreign commerce;

shall create and maintain individually identifiable records pertaining to every performer portrayed in such a visual depiction.

"(b) Any person to whom subsection (a) applies shall, with respect to every performer portrayed in a visual depiction of actual sexually explicit conduct—

"(1) ascertain, by examination of an identification document containing such information, the performer's name and date of birth, and require the performer to provide such other indicia of his or her identity as may be prescribed by regulations;

"(2) ascertain any name, other than the performer's present and correct name, ever used by the performer including maiden name, alias, nickname, stage, or professional name; and

"(3) record in the records required by subsection (a) the information required by paragraphs (1) and (2) of this subsection and such other identifying information as may be prescribed by regulation.

"(c) Any person to whom subsection (a) applies shall maintain the records required by this section at his business premises, or at such other place as the Attorney General may by regulation prescribe and shall make such records available to the Attorney General for inspection at all reasonable times.

"(d)(1) No information or evidence obtained from records required to be created or maintained by this section shall, except as provided in paragraphs (2) and (3), be used, directly or indirectly, as evidence against any person with respect to any violation of law.

"(2) Paragraph (1) of this subsection shall not preclude the use of such information or evidence in a prosecution or other action for a violation of any applicable provision of law with respect to the furnishing of false information.

"(3) In a prosecution of any person to whom subsection (a) applies for an offense in violation of subsection 2251(a) of this title which has as an element the production of a visual depiction of a minor engaging in or assisting another person to engage in sexually explicit conduct and in which that element is sought to be established by showing that a performer within the meaning of this section is a minor—

"(A) proof that the person failed to comply with the provisions of subsection (a) or (b) of this section concerning the creation and maintenance of records, or a regulation issued pursuant thereto, shall raise a rebuttable presumption that such performer was a minor; and

"(B) proof that the person failed to comply with the provisions of subsection (e) of this section concerning the statement required by that subsection shall raise the rebuttable presumption that every performer in the matter was a minor.

"(e)(1) Any person to whom subsection (a) applies shall cause to be affixed to every copy of any matter described in paragraph (1) of subsection (a) of this section, in such manner and in such form as the Attorney General shall by regulations prescribe, a statement describing where the records required by this section with respect to all performers depicted in that copy of the matter may be located.

"(2) If the person to whom subsection (a) of this section applies is an organization the statement required by this subsection shall include the name, title, and business address of the individual employed by such organization responsible for maintaining the records required by this section.

"(3) In any prosecution of a person for an offense in violation of section 2252 of this title which has as an element the transporting, mailing, or distribution of a visual depiction involving the use of a minor engaging in sexually explicit conduct, and in which that element is sought to be established by a showing that a performer within the meaning of this section is a minor, proof that the matter in which the visual depiction is contained did not contain the statement required by this section shall raise a rebuttable presumption that such performer was a minor.

"(f) The Attorney General shall issue appropriate regulations to carry out this section.

"(g) As used in this section—

"(1) the term 'actual sexually explicit conduct' means actual but not simulated conduct as defined in subparagraphs (A) through (E) of paragraph (2) of section 2256 of this title;

"(2) 'identification document' has the meaning given that term in subsection 1028(d) of this title;

"(3) the term 'produces' means to produce, manufacture, or publish and includes the duplication, reproduction, or reissuing of any material; and

"(4) the term 'performer' includes any person portrayed in a visual depiction engaging in, or assisting another person to engage in, actual sexually explicit conduct.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 110 of title 18, United States Code, is amended by adding after the item relating to section 2256 the following:

"2257. Record keeping requirements.".

(c) EFFECTIVE DATE.—Section 2257 of title 18, United States Code, as added by this section shall take effect 180 days after the date of the enactment of this Act except—

(1) the Attorney General shall prepare the initial set of regulations required or au-

thorized by section 2257 within 90 days of the date of the enactment of this Act; and

(2) subsection (e) of section 2257 of this title and of any regulation issued pursuant thereto shall take effect 270 days after the date of the enactment of this Act.

SEC. 514. R.I.C.O. AMENDMENT.

Subsection 1961(1)(B) of title 18, United States Code, is amended by inserting after "section 1957 (relating to engaging in monetary transactions in property derived from specified unlawful activity)" the following: "sections 2251 through 2252 (relating to sexual exploitation of children),".

Subtitle B—Obscenity

SEC. 521. RECEIPT OR POSSESSION FOR SALE; PRESUMPTIONS FOR CHAPTER 71.

(a) RECEIPT OR POSSESSION FOR SALE.—Chapter 71 of title 18, United States Code, is amended by inserting after section 1465 the following:

"§ 1466. Receipt or possession of obscene matter for sale or distribution

"(a) Whoever is engaged in the business of selling or transferring books, magazines, pictures, papers, films, videotapes, or phonograph or other audio recordings, and knowingly receives or possesses with intent to distribute any obscene book, magazine, picture, paper, film, videotape, or phonograph or other audio recording, which has been shipped or transported in interstate or foreign commerce, shall be punished by imprisonment for not more than 5 years or by a fine under this title, or both.

"(b) As used in this subsection, the term 'engaged in the business' means that the person who sells or transfers or offers to sell or transfer books, magazines, pictures, papers, films, videotapes, or phonograph or other audio recordings, devotes time, attention, or labor to such activities, as a regular course of trade or business, with the objective of earning a profit, although it is not necessary that the person make a profit or that the selling or transferring or offering to sell or transfer such material be the person's sole or principal business or source of income. The offering for sale of or to transfer, at one time, two or more copies of any obscene publication, or two or more of any obscene article, or a combined total of five or more such publications and articles, shall create a rebuttable presumption that the person so offering them is 'engaged in the business' as defined in subsection (b).

"(c) In a prosecution for a violation of this section, it shall be an affirmative defense, on which the defendant has the burden of persuasion by a preponderance of the evidence, that the person—

"(1) ordered or received the obscene matter without examining the matter in advance;

"(2) did not in fact offer the matter for sale, or transfer or offer to transfer it to another person other than the sender; and

"(3) possessed the material less than 21 days.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 71 of title 18, United States Code, is amended by adding after the item relating to section 1465 the following:

"1466. Receipt or possession of obscene matter for sale or distribution.
"1467. Criminal forfeiture.".

(c) USE OF FACILITY OF COMMERCE.—The first paragraph of section 1465 of title 18, United States Code, is amended by inserting after the word distribution: ", or knowingly travels in interstate commerce, or uses a facility or means of commerce for the purpose of interstate or foreign sale or distribution of,".

(d) DISTRIBUTION OF PROCEEDS.—Section 1465 of title 18, United States Code, is amended by inserting "or the proceeds from the sale thereof" after "character,".

(e) PRESUMPTIONS.—Chapter 71 of title 18, United States Code, as amended by subsection (a) of this section and by section 302, is further amended by adding at the end the following:

"§ 1469. Presumptions

"(a) In any prosecution under this chapter in which an element of the offense is that the matter in question was transported, shipped, or carried in interstate commerce, proof, by either circumstantial or direct evidence, that such matter was produced or manufactured in one State and is subsequently located in another State shall raise a rebuttable presumption that such matter was transported, shipped, or carried in interstate commerce.

"(b) In any prosecution under this chapter in which an element of the offense is that the matter in question was transported, shipped, or carried in foreign commerce, proof, by either circumstantial or direct evidence, that such matter was produced or manufactured outside of the United States and is subsequently located in the United States shall raise a rebuttable presumption that such matter was transported, shipped, or carried in foreign commerce.".

(f) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 71 of title 18, United States Code, is amended by adding after the item relating to section 1468 the following:

"1469. Presumptions.".

SEC. 522. FORFEITURE IN OBSCENITY CASES.

(a) IN GENERAL.—Chapter 71 of title 18, United States Code, is amended by adding at the end the following:

"§ 1467. Criminal forfeiture

"(a) PROPERTY SUBJECT TO CRIMINAL FORFEITURE.—A person who is convicted of an offense involving obscene material under this chapter shall forfeit to the United States such person's interest in—

"(1) any obscene material produced, transported, mailed, shipped or received in violation of this chapter;

"(2) any property, real or personal, constituting or traceable to gross profits or other proceeds obtained from such offense; and

"(3) any property, real or personal, used or intended to be used to commit or to promote the commission of such offense. A forfeiture under this subparagraph shall be authorized only by the Attorney General, the Deputy Attorney General, the Associate Attorney General, or the Assistant Attorney General or the Acting Assistant Attorney General in the Criminal Division.

"(b) THIRD PARTY TRANSFERS.—All right, title, and interest in property described in subsection (a) of this section vests in the United States upon the commission of the act giving rise to forfeiture under this section. Any such property that is subsequently transferred to a person other than the defendant may be the subject of a special verdict of forfeiture and thereafter shall be ordered forfeited to the United States, unless the transferee establishes in a hearing pursuant to subsection (m) of this section that he is a bona fide purchaser for value of such property who at the time of purchase was reasonably without cause to believe that the property was subject to forfeiture under this section.

"(c) PROTECTIVE ORDERS.—(1) Upon application of the United States, the court may enter a restraining order or injunction, require the execution of a satisfactory performance bond, or take any other action to preserve the availability of property described in subsection (a) of this section for forfeiture under this section—

"(A) upon the filing of an indictment or information charging a violation of this chapter for which criminal forfeiture may be ordered under this section and alleging that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section; or

"(B) prior to the filing of such an indictment or information, if, after notice to persons appearing to have an interest in the property and opportunity for a hearing, the court determines that—

"(i) there is a substantial probability that the United States will prevail on the issue of forfeiture and that failure to enter the order will result in the property being destroyed, removed from the jurisdiction of the court, or otherwise made unavailable for forfeiture; and

"(ii) the need to preserve the availability of the property through the entry of the requested order outweighs the hardship on any party against whom the order is to be entered;

except that an order entered under subparagraph (B) shall be effective for not more than 90 days, unless extended by the court for good cause shown or unless an indictment or information described in subparagraph (A) has been filed.

"(2) A temporary restraining order under this subsection may be entered upon application of the United States without notice or opportunity for a hearing when an information or indictment has not yet been filed with respect to the property, if the United States demonstrates that there is probable cause to believe that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section and that provision of notice will jeopardize the availability of the property for forfeiture. Such a temporary order shall expire not more than 10 days after the date on which it is entered, unless extended for good cause shown or unless the party against whom it is entered consents to an extension for a longer period. A hearing requested concerning an order entered under this paragraph shall be held at the earliest possible time and prior to the expiration of the temporary order.

"(3) The court may receive and consider, at a hearing held pursuant to this subsection, evidence and information that would be inadmissible under the Federal Rules of Evidence.

"(d) WARRANT OF SEIZURE.—The Government may request the issuance of a warrant authorizing the seizure of property subject to forfeiture under this section in the same manner as provided for a search warrant. If the court determines that there is probable cause to believe that the property to be seized would, in the event of conviction, be subject to forfeiture and that an order under subsection (c) of this section may not be sufficient to assure the availability of the property for forfeiture, the court shall issue a warrant authorizing the seizure of such property.

"(e) ORDER OF FORFEITURE.—The court shall order forfeiture of property referred to in subsection (a) if the trier of fact deter-

mines, beyond a reasonable doubt, that such property is subject to forfeiture.

"(f) EXECUTION.—Upon entry of an order of forfeiture under this section, the court shall authorize the Attorney General to seize all property ordered forfeited upon such terms and conditions as the court shall deem proper. Following entry of an order declaring the property forfeited, the court may, upon application of the United States, enter such appropriate restraining orders or injunctions, require the execution of satisfactory performance bonds, appoint receivers, conservators, appraisers, accountants, or trustees, or take any other action to protect the interest of the United States in the property ordered forfeited. Any income accruing to or derived from property ordered forfeited under this section may be used to offset ordinary and necessary expenses to the property which are required by law, or which are necessary to protect the interests of the United States or third parties.

"(g) DISPOSITION OF PROPERTY.—Following the seizure of property ordered forfeited under this section, the Attorney General shall destroy or retain for official use any property described in paragraph (1) of subsection (a) and shall direct the disposition of any property described in paragraph (2) of subsection (a) by sale or any other commercially feasible means, making due provision for the rights of any innocent persons. Any property right or interest not exercisable by, or transferable for value to, the United States shall expire and shall not revert to the defendant, nor shall the defendant or any person acting in concert with him or on his behalf be eligible to purchase forfeited property at any sale held by the United States. Upon application of a person, other than the defendant or person acting in concert with him or on his behalf, the court may restrain or stay the sale or disposition of the property pending the conclusion of any appeal of the criminal case giving rise to the forfeiture, if the applicant demonstrates that proceeding with the sale or disposition of the property will result in irreparable injury, harm, or loss to him.

"(h) AUTHORITY OF ATTORNEY GENERAL.—With respect to property ordered forfeited under this section, the Attorney General is authorized to—

"(1) grant petitions for mitigation or remission of forfeiture, restore forfeited property to victims of a violation of this chapter, or take any other action to protect the rights of innocent persons which is in the interest of justice and which is not inconsistent with the provisions of this section;

"(2) comprise claims arising under this section;

"(3) award compensation to persons providing information resulting in a forfeiture under this section;

"(4) direct the disposition by the United States, in accordance with the provisions of section 1616, title 19, United States Code, of all property ordered forfeited under this section by public sale or any other commercially feasible means, making due provision for the rights of innocent persons; and

"(5) take appropriate measures necessary to safeguard and maintain property ordered forfeited under this section pending its disposition.

"(i) APPLICABILITY OF CIVIL FORFEITURE PROVISIONS.—Except to the extent that they are inconsistent with the provisions of this section, the provisions of section 1468(d) of this title (18 U.S.C. 1468(d)) shall apply to a criminal forfeiture under this section.

"(j) BAR ON INTERVENTION.—Except as provided in subsection (m) of this section, no party claiming an interest in property subject to forfeiture under this section may—

"(1) intervene in a trial or appeal of a criminal case involving the forfeiture of such property under this section; or

"(2) commence an action at law or equity against the United States concerning the validity of his alleged interest in the property subsequent to the filing of an indictment or information alleging that the property is subject to forfeiture under this section.

"(k) JURISDICTION TO ENTER ORDERS.—The district courts of the United States shall have jurisdiction to enter orders as provided in this section without regard to the location of any property which may be subject to forfeiture under this section or which has been ordered forfeited under this section.

"(l) DEPOSITIONS.—In order to facilitate the identification and location of property declared forfeited and to facilitate the disposition of petitions for remission or mitigation of forfeiture, after the entry of an order declaring property forfeited to the United States, the court may, upon application of the United States, order that the testimony of any witness relating to the property forfeited be taken by deposition and that any designated book, paper, document, record, recording, or other material not privileged be produced at the same time and place, in the same manner as provided for the taking of depositions under Rule 15 of the Federal Rules of Criminal Procedure.

"(m) THIRD PARTY INTERESTS.—(1) Following the entry of an order of forfeiture under this section, the United States shall publish notice of the order and of its intent to dispose of the property in such manner as the Attorney General may direct. The Government may also, to the extent practicable, provide direct written notice to any person known to have alleged an interest in the property that is the subject of the order of forfeiture as a substitute for published notice as to those persons so notified.

"(2) Any person, other than the defendant, asserting a legal interest in property which has been ordered forfeited to the United States pursuant to this section may, within 30 days of the final publication of notice or his receipt of notice under paragraph (1), whichever is earlier, petition the court for a hearing to adjudicate the validity of his alleged interest in the property. The hearing shall be held before the court alone, without a jury.

"(3) The petition shall be signed by the petitioner under penalty of perjury and shall set forth the nature and extent of the petitioner's right, title, or interest in the property, the time and circumstances of the petitioner's acquisition of the right, title, or interest in the property, any additional facts supporting the petitioner's claim, and the relief sought.

"(4) The hearing on the petition shall, to the extent practicable and consistent with the interests of justice, be held within 30 days of the filing of the petition. The court may consolidate the hearing on the petition with a hearing on any other petition filed by a person other than the defendant under this subsection.

"(5) At the hearing, the petitioner may testify and present evidence and witnesses on his own behalf, and cross-examine witnesses who appear at the hearing. The United States may present evidence and witnesses in rebuttal and in defense of its claim to the property and cross-examine witnesses who appear at the hearing. In addition to testimony and evidence presented at the hearing, the court shall consider the relevant portions of the record of the criminal case which resulted in the order of forfeiture.

"(6) If, after the hearing, the court determines that the petitioner has established by a preponderance of the evidence that—

"(A) the petitioner has a legal right, title, or interest in the property, and such right, title, or interest renders the order of forfeiture invalid in whole or in part because the right, title, or interest was vested in the petitioner rather than the defendant or was superior to any right, title, or interest of the defendant at the time of the commission of the acts which gave rise to the forfeiture of the property under this section; or

"(B) the petitioner is a bona fide purchaser for value of the right, title, or interest in the property and was at the time of purchase reasonably without cause to believe that the property was subject to forfeiture under this section;

the court shall amend the order of forfeiture in accordance with its determination.

"(7) Following the court's disposition of all petitions filed under this subsection, or if no such petitions are filed following the expiration of the period provided in paragraph (2) for the filing of such petitions, the United States shall have clear title to property that is the subject of the order of forfeiture and may warrant good title to any subsequent purchaser or transferee.

"(n) CONSTRUCTION.—The provisions of this section shall be liberally construed to effectuate its remedial purposes.

"(o) SUBSTITUTE ASSETS.—If any of the property described in subsection (a), as a result of any act or omission of the defendant—

"(1) cannot be located upon the exercise of due diligence;

"(2) has been transferred or sold to, or deposited with, a third party;

"(3) has been placed beyond the jurisdiction of the court;

"(4) has been substantially diminished in value; or

"(5) has been commingled with other property which cannot be divided without difficulty;

the court shall order the forfeiture of any other property of the defendant up to the value of any property described in paragraphs (1) through (5).".

(b) REPEAL.—The last paragraph of section 1465 of title 18, United States Code, is repealed.

(c) SEXUAL ABUSE OF CHILDREN.—Sections 2253 through 2254 of title 18, United States Code, are amended to read as follows:

"§ 2253. Criminal forfeiture

"(a) PROPERTY SUBJECT TO CRIMINAL FORFEITURE.—A person who is convicted of an offense under this chapter involving a visual depiction described in sections 2251, 2251A, or 2252 of this chapter shall forfeit to the United States such person's interest in—

"(1) any visual depiction described in sections 2251, 2251A, or 2252 of this chapter, or any book, magazine, periodical, film, videotape, or other matter which contains any such visual depiction, which was produced, transported, mailed, shipped or received in violation of this chapter;

"(2) any property, real or personal, constituting or traceable to gross profits or other proceeds obtained from such offense; and

"(3) any property, real or personal, used or intended to be used to commit or to promote the commission of such offense.

"(b) THIRD PARTY TRANSFERS.—All right, title, and interest in property described in subsection (a) of this section vests in the United States upon the commission of the act giving rise to forfeiture under this section. Any such property that is subsequently transferred to a person other than the defendant may be the subject of a special verdict of forfeiture and thereafter shall be ordered forfeited to the United States, unless the transferee establishes in a hearing pursuant to subsection (m) of this section that he is a bona fide purchaser for value of such property who at the time of purchase was reasonably without cause to believe that the property was subject to forfeiture under this section.

"(c) PROTECTIVE ORDERS.—(1) Upon application of the United States, the court may enter a restraining order or injunction, require the execution of a satisfactory performance bond, or take any other action to preserve the availability of property described in subsection (a) of this section for forfeiture under this section—

"(A) upon the filing of an indictment or information charging a violation of this chapter for which criminal forfeiture may be ordered under this section and alleging that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section; or

"(B) prior to the filing of such an indictment or information, if, after notice to persons appearing to have an interest in the property and opportunity for a hearing, the court determines that—

(i) there is a substantial probability that the United States will prevail on the issue of forfeiture and that failure to enter the order will result in the property being destroyed, removed from the jurisdiction of the court, or otherwise made unavailable for forfeiture; and

(ii) the need to preserve the availability of the property through the entry of the requested order outweighs the hardship on any party against whom the order is to be entered;

except that an order entered pursuant to subparagraph (B) shall be effective for not more than 90 days, unless extended by the court for good cause shown or unless an indictment or information described in subparagraph (A) has been filed.

"(2) A temporary restraining order under this subsection may be entered upon application of the United States without notice or opportunity for a hearing when an information or indictment has not yet been filed with respect to the property, if the United States demonstrates that there is probable cause to believe that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section and that provision of notice will jeopardize the availability of the property for forfeiture. Such a temporary order shall expire not more than 10 days after the date on which is it entered, unless extended for good cause shown or unless the party against whom it is entered consents to an extension for a longer period. A hearing requested concerning an order entered under this paragraph shall be held at the earliest possible time and prior to the expiration of the temporary order.

"(3) The court may receive and consider, at a hearing held pursuant to this subsection, evidence and information that would be inadmissible under the Federal Rules of Evidence.

"(d) WARRANT OF SEIZURE.—The Government may request the issuance of a warrant authorizing the seizure of property subject to forfeiture under this section in the same manner as provided for a search warrant. If the court determines that there is probable cause to believe that the property to be seized would, in the event of conviction, be subject to forfeiture and that an order under subsection (c) of this section may not be sufficient to assure the availability of the property for forfeiture, the court shall issue a warrant authorizing the seizure of such property.

"(e) ORDER OF FORFEITURE.—The court shall order forfeiture of property referred to in subsection (a) if the trier of fact determines, beyond a reasonable doubt, that such property is subject to forfeiture.

"(f) EXECUTION.—Upon entry of an order of forfeiture under this section, the court shall authorize the Attorney General to seize all property ordered forfeited upon such terms and conditions as the court shall deem proper. Following entry of an order declaring the property forfeited, the court may, upon application of the United States, enter such appropriate restraining orders or injunctions, require the execution of satisfactory performance bonds, appoint receivers, conservators, appraisers, accountants, or trustees, or take any other action to protect the interest of the United States in the property ordered forfeited. Any income accruing to or derived from property ordered forfeited under this section may be used to offset ordinary and necessary expenses to the property which are required by law, or which are necessary to protect the interests of the United States or third parties.

"(g) DISPOSITION OF PROPERTY.—Following the seizure of property ordered forfeited under this section, the Attorney General shall destroy or retain for official use any article described in paragraph (1) of subsection (a), and shall retain for official use or direct the disposition of any property described in paragraph (2) or (3) of subsection (a) by sale or any other commercially feasible means, making due provision for the rights of any innocent persons. Any property right or interest not exercisable by, or transferable for value to, the United States shall expire and shall not revert to the defendant, nor shall the defendant or any person acting in concert with him or on his behalf be eligible to purchase forfeited property at any sale held by the United States. Upon application of a person, other than the defendant or person acting in concert with him or on his behalf, the court may restrain or stay the sale or disposition of the property pending the conclusion of any appeal of the criminal case giving rise to the forfeiture, if the applicant demonstrates that proceeding with the sale or disposition of the property will result in irreparable injury, harm, or loss to him.

"(h) AUTHORITY OF ATTORNEY GENERAL.—With respect to property ordered forfeited under this section, the Attorney General is authorized to—

"(1) grant petitions for mitigation or remission of forfeiture, restore forfeited property to victims of a violation of this chapter, or take any other action to protect the rights of innocent persons which is in the interest of justice and which is not inconsistent with the provisions of this section;

"(2) compromise claims arising under this section;

"(3) award compensation to persons providing information resulting in a forfeiture under this section;

"(4) direct the disposition by the United States, in accordance with the provisions of section 1616, title 19, United States Code, of all property ordered forfeited under this section by public sale or any other commercially feasible means, making due provision for the rights of innocent persons; and

"(5) take appropriate measures necessary to safeguard and maintain property ordered forfeited under this section pending its disposition.

"(i) APPLICABILITY OF CIVIL FORFEITURE PROVISIONS.—Except to the extent that they are inconsistent with the provisions of this section, the provisions of section 2254(d) of this title (18 U.S.C. 2254(d)) shall apply to a criminal forfeiture under this section.

"(j) BAR ON INTERVENTION.—Except as provided in subsection (m) of this section, no party claiming an interest in property subject to forfeiture under this section may—

"(1) intervene in a trial or appeal of a criminal case involving the forfeiture of such property under this section; or

"(2) commence an action at law or equity against the United States concerning the validity of his alleged interest in the property subsequent to the filing of an indictment or information alleging that the property is subject to forfeiture under this section.

"(k) JURISDICTION TO ENTER ORDERS.—The district courts of the United States shall have jurisdiction to enter orders as provided in this section without regard to the location of any property which may be subject to forfeiture under this section or which has been ordered forfeited under this section.

"(l) DEPOSITIONS.—In order to facilitate the identification and location of property declared forfeited and to facilitate the disposition of petitions for remission or mitigation of forfeiture, after the entry of an order declaring property forfeited to the United States, the court may, upon application of the United States, order that the testimony of any witness relating to the property forfeited be taken by deposition and that any designated book, paper, document, record, recording, or other material not privileged be produced at the same time and place, in the same manner as provided for the taking of depositions under rule 15 of the Federal Ruled of Criminal Procedure.

"(m) THIRD PARTY INTERESTS.—(1) Following the entry of an order of forfeiture under this section, the United States shall publish notice of the order and of its intent to dispose of the property in such manner as the Attorney General may direct. The Government may also, to the extent practicable, provide direct written notice to any person known to have alleged an interest in the property that is the subject of the order of forfeiture as a substitute for published notice as to those person so notified.

SEC. 524. COMMUNICATIONS ACT AMENDMENT.

Section 223(b) of the Communications Act of 1934 (47 U.S.C. 223(b)) is amended to read as follows:

"(b)(1)(A) Whoever knowingly—

"(i) in the District of Columbia or in interstate or foreign communication, by means of telephone, makes (directly or by recording device) any obscene communication for commercial purposes to any person, regardless of whether the maker of such communication placed the call; or

"(ii) permits any telephone facility under such person's control to be used for an activity prohibited by clause (i);

shall be fined in accordance with title 18 of the United States Code, or imprisoned not more than two years, or both.

"(2)(A) Whoever knowingly—

"(i) in the District of Columbia or in interstate or foreign communication, by means of telephone, makes (directly or by recording device) any indecent communication for commercial purposes to any person, regardless of whether the maker of such communication placed the call; or

"(ii) permits any telephone facility under such person's control to be used for an activity prohibited by clause (i),

shall be fined not more than $50,000 or imprisoned not more than six months, or both.".

SEC. 525. ELECTRONIC SURVEILLANCE.

Subsection (1) of section 2516 of title 18, United States Code, is amended by redesignating paragraphs (i) and (j) as (j) and (k), respectively, and by adding a new paragraph (i) as follows:

"(i) any felony violation of chapter 71 (relating to obscenity) of this title;".

SEC. 526. POSSESSION AND SALE OF OBSCENE MATTERS IN FEDERAL JURISDICTION OR ON FEDERAL PROPERTY.

(a) IN GENERAL.—Chapter 71 of title 18, United States Code, is amended by inserting before section 1461 the following:

"§ 1460. Possession and sale of obscene matter on Federal property

"(a) Whoever, either—

"(1) in the special maritime and territorial jurisdiction of the United States, or on any land or building owned by, leased to, or otherwise used by or under the control of the Government of the United States; or

"(2) in the Indian country as defined in section 1151 of this title,

knowingly sells or possesses with intent to sell an obscene visual depiction or a visual depiction of a minor engaging in or assisting another person to engage in sexually explicit conduct, shall be punished by a fine in accordance with the provisions of this title or imprisoned for not more than 2 years, or both.

"(b) Except as provided in subsection (c), whoever, in an area described in subparagraph (1) or (2) of subsection (a) knowingly possesses an obscene visual depiction or a visual depiction of a minor engaging in or assisting another person to engage in sexually explicit conduct shall be punished by imprisonment for not more than 6 months or a fine of not more than $5,000 for an individual or $10,000 for a person other than an individual, or both.

"(c) Subsection (b) shall not apply in the case of a person who possesses an obscene visual depiction in any place where such person lives or resides.

"(d) For the purposes of this section—

"(1) the term 'visual depiction' includes undeveloped film and videotape but does not include mere words; and

"(2) the terms 'minor' and 'sexually explicit conduct' have the meaning given those terms in chapter 110 of this title.

"(e) In a prosecution for a violation of this section involving an obscene visual depiction, it shall be an affirmative defense, on which the defendant has the burden of persuasion by a preponderance of the evidence, that the person—

"(1) ordered or received the obscene matter without examining the matter in advance;

"(2) did not in fact offer the matter for sale, or transfer or offer to transfer it to another person other than the sender; and

"(3) possessed the material less than 21 days.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 71 of title 18, United States Code, is amended by adding before the item relating to section 1461 the following:

"1460. Possession and sale of obscene matter on Federal property.".

SEC. 527. CIVIL FORFEITURE.

(a) IN GENERAL.—Chapter 71 of title 18, United States Code, is amended by adding the following new section at the end thereof:

"§ 1470. Civil forfeiture

"(a) PROPERTY SUBJECT TO CIVIL FORFEITURE.—The following property shall be subject to forfeiture by the United States:

"(1) Any material that has been adjudged obscene in any criminal case, Federal or State, that is produced, transported, mailed, shipped, or received in violation of this chapter.

"(2) Any property, real or personal, constituting or traceable to gross profits or other proceeds obtained from a violation of this chapter involving material that has been adjudged obscene in any criminal case, State or Federal, except that no property shall be forfeited under this paragraph, to the extent of the interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner.

"(b) SEIZURE PURSUANT TO SUPPLEMENTAL RULES FOR CERTAIN ADMIRALTY AND MARITIME CLAIMS.—Any property subject to forfeiture to the United States under this section may be seized by the Attorney General upon process issued pursuant to the Supplemental Rules for Certain Admiralty and Maritime Claims by any district court of the United States having jurisdiction over the property, except that seizure without such process may be made when the seizure is pursuant to a search under a search warrant. The government may request the issuance of a warrant authorizing the seizure of property subject to forfeiture under this section in the same manner as provided for a search warrant under the Federal Rules of Criminal Procedure.

"(c) CUSTODY OF ATTORNEY GENERAL.—Property taken or detained under this section shall not be repleviable, but shall be deemed to be in the custody of the Attorney General, subject only to the orders and decrees of the court or the official having jurisdiction thereof. Whenever property is seized under any of the provisions of this subchapter, the Attorney General may—

"(1) place the property under seal;

"(2) remove the property to a place designated by him; or

"(3) require that the General Services Administration take custody of the property and remove it, if practicable, to an appropriate location for disposition in accordance with law.

"(d) OTHER LAWS AND PROCEEDINGS APPLICABLE.—All provisions of the customs laws relating to the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws, the disposition of such property or the proceeds from the sale thereof, the remission or mitigation of such forfeitures, and the compromise of claims, shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under this section, insofar as applicable and not inconsistent with the provisions of this section, except that such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this section by such officers, agents, or other persons as may be authorized or designated for that purpose by the Attorney General or the Postal Service, except to the extent that such duties arise from seizures and forfeitures effected by any customs officer.

"(e) APPLICABILITY OF CERTAIN SECTIONS.—Sections 1606, 1607, 1608, 1609, 1613, 1614, 1617, and 1618 of title 19 shall not apply with respect to obscene material subject to forfeiture under subsection (a)(1) of this section.

"(f) DISPOSITION OF FORFEITED PROPERTY.—Whenever property is forfeited under this section the Attorney General shall destroy or retain for official use any article described in paragraph (1) of subsection (a), and with respect to property described in paragraphs (2) and (3) of subsection (a) may—

"(1) retain the property for official use or transfer the custody or ownership of any forfeited property to a Federal, State, or local agency pursuant to section 1616 of title 19;

"(2) sell any forfeited property which is not required to be destroyed by law and which is not harmful to the public; or

"(3) require that the General Services Administration take custody of the property and dispose of it in accordance with law.

The Attorney General shall ensure the equitable transfer pursuant to paragraph (1) of any forfeited property to the appropriate State or local law enforcement agency so as to reflect generally the contribution of any such agency participating directly in any of the acts which led to the seizure or forfeiture of such property. A decision by the Attorney General pursuant to paragraph (1) shall not be subject to judicial review. The Attorney General shall forward to the Treasurer of the United States for deposit in accordance with section 524(c) of title 28 the proceeds from any sale under paragraph (2) and any moneys forfeited under this subchapter.

"(g) TITLE TO PROPERTY.—All right, title, and interest in property described in subsection (a) of this section shall vest in the United States upon commission of the act giving rise to forfeiture under this section.

"(h) STAY OF PROCEEDINGS.—The filing of an indictment or information alleging a violation of this chapter which is also related to a civil forfeiture proceeding under this section shall, upon motion of the United States and for good cause shown, stay the civil forfeiture proceeding.

"(i) VENUE.—In addition to the venue provided for in section 1395 of title 28 or any other provision of law, in the case of property of a defendant charged with a violation that is the basis for forfeiture of the property under this section, a proceeding for forfeiture under this section may be brought in the judicial district in which the defendant owning such property is found or in the judicial district in which the criminal prosecution is brought.".

(b) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 71 of title 18, United States Code, is amended by inserting after the item relating to section 1469 the following:

"1470. Civil forfeiture.".

(c) REPEAL.—The last paragraph of section 1465 of title 18, United States Code, is repealed.

SEC. 528. CIVIL FINES.

Chapter 71 of title 18, United States Code, is amended by inserting at the end the following new section:

"Section 1471. Civil fines.

"(a) Whoever produces, transports, mails, ships or receives any article that has been adjudged obscene in any state or federal criminal case shall be subject to a civil penalty of—

"(1) for a first violation, not more than $10,000;

"(2) for a second violation, not more than $50,000; and

"(3) for a third or subsequent violation, not more than $250,000 in the case of an individual, or $500,000 in the case of an organization.

"(b) An action to recover a fine imposable under subsection (a) shall be brought in the name of the United States. The Attorney General may commence such a civil action in the district court in any district where the violation occurs. Such an action must be commenced within 5 years of the violation. The Attorney General may compromise, modify, or remit with or without condition any civil penalty imposed under this section.

"(c) In any civil action under this section, the defendant shall have a right to a trial by jury, and the government shall have the burden of proof, by a preponderance of the evidence, that the article is obscene under the standards of the community in which the trial takes place."

SEC. 529. SEVERABILITY.

If any of the provisions of this Act are found invalid, such finding shall not affect the validity or effect of the remaining provisions thereof.

TITLE V—CHILD CARE PROVISIONS

SEC. 501. SHORT TITLE.

This title may be cited as the "Act for Better Child Care Services of 1988".

SEC. 502. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the number of children living in homes where both parents work, or living in homes with a single parent who works, has increased dramatically over the last decade;

(2) the availability of quality child care is critical to the self-sufficiency and independence of millions of American families, including the growing number of mothers with young children who work out of economic necessity;

(3) high quality child care programs can strengthen our society by providing young children with the foundation on which to learn the basic skills necessary to be productive workers;

(4) the years from birth to age 6 are a critical period in the development of a young child;

(5) a significant number of parents do not have a real choice as they seek adequate child care for their young children because of limited incomes, insufficient State child care standards, and the inadequate supply of child care services in their community;

(6) high quality early childhood development programs provided during such period are cost effective because such programs can reduce the chances of juvenile delinquency and adolescent pregnancy and can improve the likelihood that children will finish high school and become employed;

(7) the number of quality child care arrangements falls far short of the number required for children in need of child care services;

(8) the rapid growth of participation in the labor force by mothers of children under the age of 1 has resulted in a critical shortage of quality child care arrangements for infants and toddlers;

(9) the lack of available child care services results in many preschool and school-age children being left without adequate supervision for significant parts of the day;

(10) many working parents who are unable to afford adequate child care services do not receive adequate financial assistance for such services from employers or public sources;

(11) because of the lack of affordable child care, a large number of parents are not able to work or to seek the training or education they need to become self sufficient;

(12) making adequate child care services available for parents who are employed, seeking employment, or seeking to develop employment skills promotes and strengthens the well-being of families and the national economy;

(13) the payment of the exceptionally low salaries to child care workers adversely affects the quality of child care services by making it difficult to retain qualified staff;

(14) several factors result in the shortage of quality child care options for children and parents, including—

(A) the inability of parents to pay for child care services;

(B) the lack of up-to-date information on child care services;

(C) the lack of training opportunities for staff in child care programs;

(D) the high rate of staff turnover in child care facilities; and

(E) the wide differences among the States in child care licensing and enforcement policies; and

(15) improved coordination of child care services will help to promote the most efficient use of child care resources.

(b) PURPOSES.—The purposes of this subtitle are—

(1) to build on and to strengthen the role of the family by seeking to ensure that parents are not forced by lack of available programs or financial resources to place a child in an unsafe or unhealthy child care facility or arrangement;

(2) to promote the availability and diversity of quality child care services to expand child care options available to all families who need such services;

(3) to provide assistance to families whose financial resources are not sufficient to enable such families to pay the full cost of necessary child care services;

(4) to lessen the chances that children will be left to fend for themselves for significant parts of the day;

(5) to improve the productivity of parents in the labor force by lessening the stresses related to the absence of adequate child care services;

(6) to provide assistance to States to improve the quality of, and coordination among, child care programs;

(7) to increase the opportunities for attracting and retaining qualified staff in the field of child care to provide high quality child care services to children; and

(8) to strengthen the competitiveness of the United States by providing young children with a sound early childhood development experience.

SEC. 503. DEFINITIONS.

As used in this subtitle:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of Child Care appointed under section 514(a).

(2) CAREGIVER.—The term "caregiver" means an individual who provides a service directly to an eligible child on a person-to-person basis.

(3) CENTER-BASED CHILD CARE PROVIDER.—The term "center-based child care provider" means a child care provider that provides child care services in a nonresidential facility.

(4) CHILD CARE CERTIFICATE.—The term "child care certificate" means a certificate that is issued by the State to parents who may use such certificate only as payment for child care services for an eligible child and that provides to an eligible child care provider a right to reimbursement for such services at the same rate charged by that provider for comparable services to children whose parents are not eligible for certificates under this subtitle or for child care assistance under any other Federal or State program.

(5) COMMUNITY-BASED ORGANIZATION.—The term "community-based organization" has the meaning given such term by section 4(5) of the Job Training and Partnership Act (29 U.S.C. 1503(5)).

(6) ELEMENTARY SCHOOL.—The term "elementary school" means a day or residential school that provides elementary education, as determined under State law.

(7) ELIGIBLE CHILD.—The term "eligible child" means an individual—

(A) who is less than 16 years of age;

(B) whose family income does not exceed 100 percent of the State median income for a family of the same size; and

(C) who—

(i) resides with a parent or parents who are working, seeking employment, or enrolled in a job training or educational program; or

(ii) is receiving, or needs to receive, protective services and resides with a parent or parents not described in clause (i).

(8) ELIGIBLE CHILD CARE PROVIDER.—The term "eligible child care provider" means a center-based child care provider, a group home child care provider, a family child care provider, or other provider of child care services for compensation that—

(A) is licensed or regulated under State law;

(B) satisfies—

(i) the Federal requirements, except as provided in subparagraph (C); and

(ii) the State and local requirements;

applicable to the child care services it provides; and

(C) after the expiration of the 4-year period beginning on the date the Secretary establishes minimum child care standards under section 517(e)(2), complies with such standards that are applicable to the child care services it provides.

(9) FAMILY CHILD CARE PROVIDER.—The term "family child care provider" means 1 individual who provides child care services for fewer than 24 hours per day, as the sole caregiver, and in the private residence of such individual.

(10) FAMILY SUPPORT SERVICES.—The term "family support services" means services that assist parents by providing support in parenting and by linking parents with community resources and with other parents.

(11) FULL-WORKING-DAY.—The term "full-working-day" means at least 10 hours per day.

(12) GROUP HOME CHILD CARE PROVIDER.—The term "group home child care provider" means 2 or more individuals who jointly

provide child care services for fewer than 24 hours per day and in a private residence.

(13) HANDICAPPING CONDITION.—The term "handicapping condition" means any condition set forth in section 602(a)(1) of the Education of the Handicapped Act (20 U.S.C. 1401(a)(1)) or section 672(1) of the Education of the Handicapped Act (20 U.S.C. 1471(a)).

(14) INDIAN TRIBE.—The term "Indian tribe" has the meaning given it in section 4(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(b)).

(15) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" has the meaning given such term in section 481(a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1088(a)(1)), except that with respect to a tribally controlled community college such term has the meaning given it in section 2(a)(5) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801(a)(5)).

(16) LEAD AGENCY.—The term "lead agency" means the agency designated under section 506(a).

(17) LOCAL EDUCATIONAL AGENCY.—The term "local educational agency" has the meaning given that term in section 198(a)(10) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2854(a)(10)).

(18) PARENT.—The term "parent" includes a legal guardian or other person standing in loco parentis.

(19) SCHOOL-AGE CHILD CARE SERVICES.—The term "school-age child care services" means child care services that are—

"(A) provided during such times of the school day when regular instructional services are not in session; and

"(B) not intended as an extension of or replacement for the regular academic program, but are intended to provide an environment which enhances the social, emotional, and recreational development of children of school age;

(20) SECONDARY SCHOOL.—The term "secondary school" means a day or residential school which provides secondary education, as determined under State law.

(21) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services unless the context specifies otherwise.

(22) SCHOOL FACILITIES.—The term "school facilities" means classrooms and related facilities used to provide education.

(23) SLIDING FEE SCALE.—The term "sliding fee scale" means a system of cost sharing between the State and a family based on income and size of the family with the very low income families having to pay no cost.

(24) STATE.—The term "State" means any of the several States, the District of Columbia, the Virgin Islands of the United States, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, or Palau.

(25) UNIT OF GENERAL PURPOSE LOCAL GOVERNMENT.—The term "unit of general purpose local government" means any city, county, town, township, parish, village, a combination of such general purpose political subdivisions including those in two or more States, or other general purpose political subdivisions of a State.

(26) TRIBAL ORGANIZATION.—The term "tribal organization" has the meaning given it in section 4(c) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(c)).

(27) TRIBALLY CONTROLLED COMMUNITY COLLEGE.—The term "tribally controlled community college" has the meaning given it in section 2(a)(4) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801(a)(4)).

SEC. 504. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—To carry out this subtitle, other than section 521, there are authorized to be appropriated $2,500,000,000 for the fiscal year 1990 and such sums as may be necessary in each of the fiscal years 1991 through 1994.

SEC. 505. AMOUNTS RESERVED; ALLOTMENTS.

(a) AMOUNTS RESERVED.—

(1) TERRITORIES AND POSSESSIONS.—The Secretary shall reserve not to exceed one half of 1 percent of the amount appropriated under section 504(a) in each fiscal year for payments to Guam, American Samoa, the Virgin Islands of the United States, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, and Palau, to be allotted in accordance with their respective needs.

(2) INDIANS.—The Secretary shall reserve an amount, not less than 1.5 percent and not more than 3 percent of the amount appropriated under section 504(a) in each fiscal year, to carry out subsection (c) regarding Indian children.

(b) STATE ALLOTMENT.—

(1) GENERAL RULE.—From the remainder of the sums appropriated under section 504(a) for each fiscal year, the Secretary shall allot to each State (excluding jurisdictions referred to in subsection (a)(1)) an amount equal to the sum of—

(A) an amount that bears the same ratio to 50 percent of such remainder as the product of the young child factor of the State and the allotment percentage bears to the sum of the corresponding products for all States; and

(B) an amount that bears the same ratio to 50 percent of such remainder as the product of the school lunch factor of the State and the allotment percentage bears to the sum of the corresponding products for all the States.

(2) YOUNG CHILD FACTOR.—The term "young child factor" means the ratio of the number of children in the State who are less than 5 years of age to the number of children in all the States who are less than 5 years of age.

(3) SCHOOL LUNCH FACTOR.—The term "school lunch factor" means the ratio of the number of children in the State who are receiving free or reduced price lunches under the school lunch program established under the National School Lunch Act (42 U.S.C. 1751 et seq.) to the number of children in all the States who are receiving free or reduced price lunches under such program.

(4) ALLOTMENT PERCENTAGE.—

(A) IN GENERAL.—The allotment percentage for a State is determined by dividing—

(i) the per capita income of all individuals in the United States; by

(ii) the per capita income of all individuals in the State.

(B) LIMITATIONS.—If a sum determined under subparagraph (A)—

(i) exceeds 1.2, then the allotment percentage of that State shall be considered to be 1.2; and

(ii) is less that 0.8, then the allotment percentage of the State shall be considered to be 0.8.

(C) PER CAPITA INCOME.—For purposes of subparagraph (A), per capita income shall be—

(i) determined at 2-year intervals;

(ii) applied for the 2-year period beginning on October 1 of the first fiscal year beginning on the date such determination is made; and

(iii) equal to the average of the annual per capita incomes for the most recent period of 3 consecutive years for which satisfactory data are available from the Department of Commerce at the time such determination is made.

(c) PAYMENTS FOR THE BENEFIT OF INDIAN CHILDREN.—

(1) TRIBAL ORGANIZATIONS.—From the funds reserved under subsection (a)(2), the Secretary may, upon the application of a Indian tribe or tribal organization enter into a contract with, or make a grant to such Indian tribe or tribal organization for a period of 3 years, subject to satisfactory performance, to plan and carry out programs and activities that are consistent with this subtitle. Such contract or grant shall be subject to the terms and conditions of section 102 of the Indian Self-Determination Act (25 U.S.C. 450f) and shall be conducted in accordance with sections 4, 5, and 6 of the Act of April 16, 1934 (48 Stat. 596; 25 U.S.C. 655-657), that are relevant to such programs and activities.

(2) INDIAN RESERVATIONS.—In the case of an Indian tribe in a State other than the States of Oklahoma, Alaska, and California, such programs and activities shall be carried out on the Indian reservation for the benefit of Indian children.

(3) STANDARDS.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall establish, through the application process, standards applicable to child care services provided under such programs and activities. For purposes of establishing such standards, the Secretary shall take into consideration—

(i) the codes, regulations, and cultural factors of the Indian tribe involved, as expressed by such tribe or the tribal organization that represents such tribe; and

(ii) the State licensing and regulatory requirements applicable to child care services provided in the State in which such program and activities are carried out.

(B) APPLICATION.—

(i) RULE.—Except as provided in clause (ii), after the Secretary establishes minimum child care standards under section 517(e)(2), such minimum standards shall apply with respect to child care services provided under such programs and activities.

(ii) WAIVERS AND MODIFICATIONS.—The Secretary may waive or modify, for a period not to exceed 5 years beginning on the date such minimum standards are established, any of such minimum standards that would limit the capacity of an Indian tribe or tribal organization to receive funds under this subtitle if the Secretary determines that there is a reasonable expectation that each of such standards requested to be waived will be met by the applicant by the end of the period for which the waiver is requested.

(4) AVAILABILITY OF STATE CHILD CARE SERVICES.—For the purpose of determining whether to approve an application for a contract or grant under this subsection, the Secretary shall take into consideration the availability of child care services provided in accordance with this subtitle by the State in which the applicant proposes to carry out a program to provide child care services.

(5) RULE OF CONSTRUCTION.—This subsection shall not be construed—

(A) to limit the eligibility of any individual to participate in any program carried out with assistance received under this subtitle by a State; or

(B) to modify any requirement imposed on a State by any provision of this subtitle.

(6) COORDINATION.—To the maximum extent practicable, the applicant for a grant or contract under this subsection and the State in which the applicant is located shall coordinate with each other their respective child care programs and activities, including child care programs and activities carried out with assistance received under this subtitle.

(d) DATA AND INFORMATION.—The Secretary shall obtain from each appropriate Federal agency, the most recent data and information necessary to determine the allotments provided for in subsection (b).

(e) REALLOTMENTS.—

(1) IN GENERAL.—Any portion of the allotment under subsection (b) to a State that the Secretary determines is not required to carry out a State plan approved under section 507(d), in the period for which the allotment is made available, shall be reallotted by the Secretary to other States in proportion to the original allotments to the other States.

(2) LIMITATIONS.—

(A) REDUCTION.—The amount of any reallotment to which a State is entitled to under paragraph (1) shall be reduced to the extent that it exceeds the amount that the Secretary estimates will be used in the State to carry out a State plan approved under section 507(d).

(B) REALLOTMENTS.—The amount of such reduction shall be similarly reallotted among States for which no reduction in an allotment or reallotment is required by this subsection.

(3) AMOUNTS REALLOTTED.—For purposes of any other section of this subtitle, any amount reallotted to a State under this subsection shall be considered to be part of the allotment made under subsection (b) to the State.

(f) DEFINITION.—For the purposes of this section, the term "State" means any of the several 50 States, the District of Columbia, or the Commonwealth of Puerto Rico.

SEC. 506. LEAD AGENCY.

(a) DESIGNATION.—The chief executive officer of a State desiring to participate in the program authorized by this subtitle shall designate, in an application submitted to the Secretary under section 507(a), an appropriate State agency that meets the requirements of subsection (b) to act as the lead agency.

(b) REQUIREMENTS.—

(1) ADMINISTRATION OF FUNDS.—The lead agency shall have the capacity to administer the funds provided under this subtitle to support programs and services authorized under this subtitle and to oversee the plan submitted under section 507(b).

(2) COORDINATION.—The lead agency shall have the capacity to coordinate the services for which assistance is provided under this subtitle with the services of other State and local agencies involved in providing services to children.

(3) ESTABLISHMENT OF POLICIES.—The lead agency shall have the authority to establish policies and procedures for developing and implementing interagency agreements with other agencies of the State to carry out the purposes of this subtitle.

(c) DUTIES.—The lead agency shall—

(1) assess child care needs and resources in the State, and assess the effectiveness of existing child care services and services for which assistance is provided under this subtitle or under other laws, in meeting such needs;

(2) develop a plan designed to meet the need for child care services in the State for eligible children, including infants, preschool children, and school-age children, giving special attention to meeting the needs for services for low-income children, migrant children, children with a handicapping condition, foster children, children in need of protective services, children of adolescent parents who need child care to remain in school, and children with limited English-language proficiency;

(3) develop, in consultation with the State advisory committee on child care established under section 511, the State plan submitted to the Secretary under section 507(b);

(4) hold hearings, in cooperation with such State advisory committee on child care, annually in each region of the State in order to provide to the public an opportunity to comment on the provision of child care services in the State under the proposed State plan;

(5) make such periodic reports to the Secretary as the Secretary may by rule require;

(6) coordinate the provision of services under this subtitle with—

(A) other child care programs and services, and with educational programs, for which assistance is provided under any State, local, or other Federal law, including the State Dependent Care Development Grants Act (42 U.S.C. 9871 et seq.); and

(B) other appropriate services, including social, health, mental health, protective, and nutrition services, available to eligible children under other Federal, State, and local programs; and

(7) identify resource and referral programs for particular geographical areas in the State that meet the requirements of section 512.

SEC. 507. APPLICATION AND PLAN.

(a) APPLICATION.—To be eligible to receive assistance under this subtitle, a State shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require by rule.

(b) PLAN.—The application of a State submitted under subsection (a) shall include an assurance that the State will comply with the requirements of this subtitle and a State plan that is designed to be implemented during a 4-year period and that meets the requirements of subsection (c).

(c) REQUIREMENTS OF A PLAN.—

(1) LEAD AGENCY.—The plan shall identify the lead agency designated in accordance with section 506(a).

(2) ADVISORY BODIES.—The plan shall demonstrate that the State will establish in accordance with section 511 a State advisory committee on child care.

(3) POLICIES AND PROCEDURES.—The plan shall set forth policies and procedures designed to ensure all of the following:

(A) That—

(i) all providers of child care services for which assistance is provided under this subtitle comply with all licensing and regulatory requirements (including registration requirements) applicable under State and local law; and

(ii) such requirements are imposed and enforced by the State uniformly on all child care providers that provide child care services under similar child care arrangements. This subparagraph shall not be construed to prohibit a State from imposing more stringent standards or requirements on child care providers who provide services for which assistance is provided under this subtitle and who also receive State funds under any other law to provide child care services under a contract or other arrangement with the State.

(B) That procedures will be established to ensure that child care providers receiving assistance under this subtitle or under other publicly-assisted child care programs comply with the minimum child care standards established under section 517(e)(2) after the expiration of the 5-year period beginning on the date the Secretary establishes such standards, and comply with all applicable State and local licensing and regulatory requirements (including registration requirements).

(C) That the State will not—

(i) reduce the categories of child care providers licensed or regulated by the State on the date of enactment of this subtitle; or

(ii) reduce the level of standards applicable to child care services provided in the State and to the matters specified in sections 513(a) and 517(d), even if such standards exceed the minimum standards established under section 517(e)(2) by the Secretary unless the State demonstrates, to the satisfaction of both the Secretary and the State advisory committee on child care established under section 511, that the reduction is based on positive developmental practice.

(D) That funds received under this subtitle by the State will be used only to supplement, not to supplant, the amount of Federal, State, and local funds expended for the support of child care services and related programs in the State, except that States may use existing expenditures in support of child care services to satisfy the State matching requirement under section 516(b).

(E) That for each fiscal year the State will use an amount not to exceed 10 percent of the amount of funds received under section 505 by the State for such fiscal year to administer the State plan.

(F) That the State will pay funds under this subtitle to eligible child care providers in a timely fashion to ensure the continuity of child care services to eligible children.

(G) That resource and referral agencies will be made available to families in all regions of the State.

(H) That each eligible child care provider who provides services for which assistance is provided under paragraph (4)—

(i) provides services to children of families with very low income, taking into account family size;

(ii) after the expiration of the 4-year period beginning on the date the Secretary establishes minimum child care standards under section 517(e)(2), complies with such standards except as provided in clause (iv);

(iii) if such eligible child care provider is regulated by a State educational agency that—

(I) administers any State law applicable to child care services;

(II) develops child care standards that meet or exceed the minimum standards established under section 517(e)(2) and the State licensing or regulatory requirements (including registration requirements); and

(III) enforces the standards described in subclause (II) that are developed by such agency, using policies and practices that meet or exceed the requirements specified

in subparagraphs (A) through (K) of paragraph (11);

complies with the standards described in subclause (II) that are developed by such agency; and

(iv) complies with the State plan and the requirements of this subtitle.

(I) That child care services for which assistance is provided under paragraph (4) are available to children with a handicapping condition.

(J) That State regulations will be issued governing the provision of school-age child care services if the State does not already have such regulations.

(K) That child care providers in the State are encouraged to develop personnel policies that include compensated time for staff undergoing training required under this subtitle.

(L) Encourage the payment of adequate salaries and other compensation—

(i) to full and part-time staff of child care providers who provide child care services for which assistance is provided under paragraph (4);

(ii) to the extent practicable, to such staff in other major Federal and State child care programs; and

(iii) to other child care personnel, at the option of the State.

(M) That child care services for which assistance is provided under paragraph (4) are available for an adequate number of hours and days to serve the needs of parents of eligible children, including parents who work nontraditional hours.

(4) CHILD CARE SERVICES.—The plan shall provide that—

(A) subject to subparagraph (B), the State will use at least 70 percent of the amount allotted to the State in any fiscal year to provide child care services that meet the requirements of this subtitle to eligible children in the State on a sliding fee scale basis and using funding methods provided for in section 508(a)(1), with priority being given for services to children of families with very low family incomes, taking into consideration the size of the family; and

(B) the State will use at least 10 percent of the funds reserved for the purposes specified in subparagraph (A) in any fiscal year to provide for the extension of part-day programs as described in section 508(b).

(5) ACTIVITIES TO IMPROVE THE QUALITY OF CHILD CARE.—The plan shall provide that the State will use not more than 10 percent of the amount allotted to it in any fiscal year to do each of the following:

(A) Provide financial assistance, pursuant to procedures established under the State Dependent Care Development Grants Act (42 U.S.C. 9801 note), to private nonprofit organizations or public organizations (including units of general purpose local government) that meet the requirements of section 512 for the development, establishment, expansion, operation, and coordination of resource and referral programs specifically related to child care.

(B) Improve the monitoring of compliance with, and enforcement of, the licensing and regulatory requirements (including registration requirements) of the State.

(C) Provide training, technical assistance, and scholarship assistance in accordance with the requirements of subsections (b), (c), and (d) of section 513.

(D) Ensure that adequate salaries and other compensation are paid to full- and part-time staff who provide child care services for which assistance is provided under paragraph (4).

(6) ACTIVITIES TO INCREASE THE AVAILABILITY OF CHILD CARE.—The plan shall provide that the State will use not more than 10 percent of the amount allotted to it in any fiscal year for any of the following activities, together with an assurance that the State will give priority to the activities described in subparagraphs (A) and (B):

(A) Making grants and low interest loans to family child care providers and nonprofit child care providers to help such providers pay the cost of—

(i) establishing child care programs; and

(ii) making renovations and improvements in existing facilities to be used to carry out such programs.

(B) Making grants and low-interest loans to child care providers to assist such providers in meeting Federal, State, and local child care standards, giving priority to providers receiving assistance under this subtitle or under other publicly assisted child care programs and which serve children of families that have very low incomes.

(C) Providing assistance for the establishment and operation of after school child care programs.

(D) Making grants or loans to fund the start up costs of employer sponsored child care programs.

(E) Providing assistance for the temporary care of children who are sick and unable to attend child care programs in which such children are enrolled.

(F) Providing assistance for the establishment and operation of child care programs for homeless children.

(G) Providing assistance to link child care programs with programs designed to assist the elderly.

(H)(i) Establishing and administering a revolving loan fund from which any person desiring to make capital improvements to the principal residence of such person (within the meaning of section 1034 of the Internal Revenue Code of 1986) may obtain a loan in order to become a licensed family child care provider, pursuant to State and local law, and to comply with the minimum standards applicable to such providers as established under section 517(e)(2).

(ii) To permit the use of funds provided under this subtitle for the activity described in clause (i), the State shall set forth procedures and guidelines to carry out the purposes of such clause, including procedures—

(I) that provide assurances that only applicants who obtain a license for the operation of a child care facility in accordance with the provisions of State and local law and who will meet the minimum standards applicable to family child care services established under section 517(e)(2), benefit from loans made available pursuant to the provisions of clause (i);

(II) to assure that the revolving fund will be administered by the State and will provide loans to qualified applicants, pursuant to the terms and conditions established by such State, in an amount, determined by such State, that is not in excess of $1,500;

(III) to assure that funds used to carry out the purpose of clause (i) are transferred to such fund to provide capital for making loans;

(IV) to assure that interest and principal payments on loans and any other moneys, property, or assets derived from any action concerning such funds are deposited into such fund;

(V) to assure that all loans, expenses, and payments pursuant to the operation of the revolving loan fund are paid from such fund;

(VI) to assure that loans made from such fund are made to qualified applicants to enable such applicants to make capital improvements so that such applicant may obtain a State or local family child care provider license and so that such applicant may meet the minimum standards applicable to such providers established under section 517(e)(2); and

(VII) that specify how such revolving loan fund will continue to be financed in subsequent years, such as through contributions by the State or by some other entity.

(7) DISTRIBUTION OF FUNDS.—The plan shall provide that funds will be distributed—

(A) to a variety of types of child care providers in each community, including center-based child care providers, group home child care providers, and family child care providers; and

(B) equitably among child care providers to provide child care services in rural and urban areas.

(8) REIMBURSEMENTS.—The plan shall provide that for child care services for which assistance is provided under this subtitle, an eligible child care provider shall have a right to reimbursement at the same rate charged by that provider for comparable services to children of comparable ages and special needs whose parents are not eligible for certificates under this subtitle or for child care assistance under any other Federal or State program.

(9) PRIORITY.—The plan shall provide that priority will be given, in distributing funds in the State, to child care providers that—

(A) in providing child care services assisted by such funds, will give priority to eligible children of families with very low income;

(B) to the maximum extent feasible, provide child care services to a reasonable mix of children, including children from different socioeconomic backgrounds and children with a handicapping condition;

(C) provide opportunities for parent involvement in all aspects of providing such services; and

(D) to the maximum extent feasible, offer family support services.

(10) SLIDING FEE SCALE.—The plan shall provide for the establishment of a sliding fee scale that requires cost sharing based on the services provided to and the income of the families (adjusted for family size) of eligible children who receive services for which assistance is provided under this subtitle.

(11) PARENTAL INVOLVEMENT.—The plan shall establish procedures for parental involvement in State and local planning, monitoring, and evaluation of child care programs and services in the State.

(12) ENFORCEMENT OF LICENSING AND OTHER REGULATORY REQUIREMENTS (INCLUDING REGISTRATION REQUIREMENTS).—The plan shall provide that the State, not later than 4 years after the date of enactment of this subtitle, shall have in effect enforcement policies and practices that will be applicable to all licensed or regulated child care providers (including child care providers required to register) in the State, including policies and practices that—

(A) require personnel who perform inspection functions with respect to licensed or regulated child care services to have or receive training in health and safety, child abuse prevention and detection, program management, and relevant law enforcement;

(B) to the maximum extent feasible, have personnel requirements to ensure that indi-

viduals who are hired as licensing inspectors are qualified to inspect and have inspection responsibility exclusively for children's services;

(C) require—

(i) personnel who perform inspection functions with respect to licensed or regulated child care services to make not less than 1 unannounced inspection of each center-based child care provider and each group home child care provider in the State annually; and

(ii) personnel who perform inspection functions with respect to licensed or regulated child care services to make unannounced inspections annually of not less than 20 percent of licensed and regulated family child care providers in the State;

(D) require licensed or regulated child care providers (including registered child care providers) in the State—

(i) to have written policies and program goals and to make a copy of such policies and goals available to parents; and

(ii) to provide parents with unlimited access to their children and to providers caring for their children, during normal hours of operation of such providers and whenever children of such parents are in the care of such providers;

(E) implement a procedure to address complaints that will provide a reasonable opportunity for a parent, or child care provider, that is adversely affected or aggrieved by a decision of the lead agency or any program assisted under this subtitle, to be heard by the State;

(F) prohibit the operator of a child care facility to take any action against an employee of such operator that would adversely affect the employment, or terms or conditions of employment, of such employee because such employee communicates a failure of such operator to comply with any applicable licensing or regulatory requirement;

(G) implement a consumer education program designed to inform parents and the general public about licensing requirements, complaint procedures, and policies and practices required by this paragraph;

(H) require a child care provider to post, on the premises where child care services are provided, the telephone number of the appropriate licensing or regulatory agency that parents may call regarding a failure of such provider to comply with any applicable licensing or regulatory requirement; and

(I) require the State to maintain a record of parental complaints and to make information regarding substantiated parental complaints available to the public on request.

(13) DATA COLLECTION.—The plan shall provide for the establishment of procedures for data collection by the State designed to show—

(A) by race, sex, ethnic origin, handicapping condition, and family income, how the child care needs of families in the State are being fulfilled, including information on—

(i) the number of children being assisted with funds provided under this subtitle, and under other State and Federal child care and preschool programs;

(ii) the type and number of child care programs, child care providers, caregivers, and support personnel located in the State;

(iii) the regional cost of child care; and

(iv) such other information as the Secretary considers necessary to establish how funds provided under this subtitle are being used;

(B) the extent to which the availability of child care has been increased; and

(C) how the purposes of this subtitle and the objectives of the State set forth in the State plan are being met, including efforts to improve the quality, availability, and accessibility of child care;

and shall provide that data collected by the State under this paragraph shall be submitted to the Secretary.

(d) APPROVAL OF APPLICATION.—The Secretary shall approve an application that satisfies the requirements of this section.

(e) SPECIAL RULE.—In carrying out the provisions of this section, the Secretary shall approve any application with respect to the activities described in the plan submitted under paragraph (5) of subsection (c), if the Secretary determines that the State is making reasonable progress in carrying out the activities which are described in subparagraphs (A) and (D) of paragraph (5).

SEC. 508. SPECIAL RULES FOR USE OF STATE ALLOTMENTS.

(a) FUNDING OF CHILD CARE SERVICES.—

(1) IN GENERAL.—The child care services referred to in section 507(c)(4) that are to be provided out of the allotment to a State, shall be provided—

(A) by contracts with or grants to eligible child care providers who agree to provide such services directly to eligible children;

(B) by grants to units of general purpose local government that agree to enter into contracts with eligible child care providers who agree to provide such services directly to eligible children; or

(C) by distributing child care certificates to parents of eligible children under such terms as the Secretary may prescribe to enable the recipients of such certificates to purchase child care services from eligible child care providers.

(2) LIMITATION ON CERTIFICATES.—Child care certificates authorized by paragraph (1)(C) may be issued by a State only if a resource and referral program carried out by an organization that meets the requirements of section 512 is available to help parents locate child care services made available by eligible child care providers.

(3) NO ENTITLEMENT TO CONTRACT OR GRANT.—Nothing in this subtitle shall be construed to entitle any child care provider or recipient of a child care certificate to any contract, grant or benefit, or to limit the right of any State to impose additional limitations or conditions on contracts or grants funded under this subtitle.

(b) PART-DAY PROGRAMS.—

(1) IN GENERAL.—At least 10 percent of the funds available for activities under section 507(c)(4)(A) shall be used by the State to enable child care providers to extend the hours of operation of the part-day programs described in paragraph (2) to provide full-working-day child care services throughout the year, in order to meet the needs of parents of eligible children.

(2) ELIGIBLE PROGRAMS.—As used in paragraph (1), the term "part-day programs" means—

(A) programs of schools and nonprofit child care providers (including community-based organizations) receiving State or local funds designated for preschool;

(B) programs established under the Head Start Act (42 U.S.C. 9831 et seq.);

(C) preschool programs for which assistance is provided under chapter 1 of the Education Consolidation and Improvement Act of 1981 (20 U.S.C. 3801 et seq.); and

(D) preschool programs for children with a handicapping condition.

(c) FACILITIES.—

(1) NEW FACILITIES.—No financial assistance provided under this subtitle shall be expended for the construction of a new facility.

(2) EXISTING FACILITIES.—No financial assistance provided under this subtitle shall be expended to renovate or repair any facility unless—

(A) the child care provider that receives such financial assistance agrees—

(i) in the case of a grant, to repay to the Secretary or the State, as the case may be, the amount that bears the same ratio to the amount of such grant as the value of the renovation or repair, as of the date such provider ceases to provide child care services in such facility in accordance with this subtitle, bears to the original value of the renovation or repair; and

(ii) in the case of a loan, to repay immediately to the Secretary or the State, as the case may be, the principal amount of such loan outstanding and any interest accrued, as of the date such provider ceases to provide child care services in such facility in accordance with this subtitle;

if such provider does not provide child care services in such facility in accordance with this subtitle throughout the useful life of the renovation or repair; and

(B) if such provider is a sectarian agency or organization, the renovation or repair is necessary to bring such facility into compliance with health and safety requirements imposed by this subtitle.

SEC. 509. PLANNING GRANTS.

(a) IN GENERAL.—A State desiring to participate in the programs authorized by this subtitle that cannot fully satisfy the requirements of the State plan under section 507(b) without financial assistance may, in the first year that the State participates in the programs, apply to the Secretary for a planning grant.

(b) AUTHORIZATION.—The Secretary is authorized to make a planning grant to a State described in subsection (a) if the Secretary determines that—

(1) the grant would enable the State to fully satisfy the requirements of a State plan under section 507(b); and

(2) the State will apply, for the remainder of the allotment that the State is entitled to receive for such fiscal year.

(c) AMOUNT OF GRANT.—A grant made to a State under this section shall not exceed 1 percent of the total allotment that the State would qualify to receive in the fiscal year involved if the State fully satisfied the requirements of section 507.

(d) LIMITATION ON ADMINISTRATIVE COSTS.—A grant made under this section shall be considered to be expended for administrative costs by the State for purposes of determining the compliance by the State with the limitation on administrative costs imposed by section 507(c)(3)(E).

SEC. 510. CONTINUING ELIGIBILITY OF STATES.

A State shall be ineligible for assistance under this subtitle after the expiration of the 4-year period beginning on the date the Secretary establishes minimum child care standards under section 517(e)(2) unless the State demonstrates to the satisfaction of the Secretary that—

(1) all child care providers required to be licensed and regulated in the State—

(A) are so licensed and regulated; and

(B) are subject to the enforcement provisions referred to in the State plan; and

(2) all such providers who are receiving assistance under this subtitle or under other publicly-assisted child care programs—

(A) satisfy the requirements of subparagraphs (A) and (B) of paragraph (1); and

(B) satisfy the minimum child care standards established by the Secretary under section 517(e)(2) of this subtitle.

SEC. 511. STATE ADVISORY COMMITTEE ON CHILD CARE.

(a) ESTABLISHMENT.—The chief executive officer of a State participating in the program authorized by this subtitle shall—

(1) establish a State advisory committee on child care (hereinafter in this section referred to as the "committee") to assist the lead agency in carrying out the responsibilities of the lead agency under this subtitle; and

(2) appoint the members of the committee.

(b) COMPOSITION.—The State committee shall be composed of not fewer than 21 and not more than 30 members who shall include—

(1) at least 1 representative of the lead agency designated under section 506(a);

(2) 1 representative of each of—

(A) the State departments of—

(i) human resources or social services;

(ii) education;

(iii) economic development; and

(iv) health; and

(B) other State agencies having responsibility for the regulation, funding, or provision of child care services in the State;

(3) at least 1 representative of providers of different types of child care services, including caregivers and directors;

(4) at least 1 representative of early childhood development experts;

(5) at least 1 representative of school districts and teachers involved in the provision of child care services and preschool programs;

(6) at least 1 representative of resource and referral programs;

(7) 1 pediatrician;

(8) 1 representative of a citizen group concerned with child care;

(9) at least 1 representative of an organization representing child care employees;

(10) at least 1 representative of the Head Start agencies in the State;

(11) parents of children receiving, or in need of, child care services, including at least 2 parents whose children are receiving or are in need of subsidized child care services;

(12) 1 representative of specialists concerned with children who have a handicapping condition;

(13) 1 representative of individuals engaged in business;

(14) 1 representative of fire marshals and building inspectors;

(15) 1 representative of child protective services; and

(16) 1 representative of units of general purpose local government.

(c) FUNCTIONS.—The committee shall—

(1) advise the lead agency on child care policies;

(2) provide the lead agency with information necessary to coordinate the provision of child care services in the State;

(3) otherwise assist the lead agency in carrying out the functions assigned to the lead agency under section 506(c);

(4) review and evaluate child services for which assistance is provided under this subtitle or under State law, in meeting the objectives of the State plan and the purposes of this subtitle;

(5) make recommendations on the development of State child care standards and policies;

(6) participate in the regional public hearings required under section 506(c)(5); and

(7) perform other functions to improve the quantity and quality of child care services in the State.

(d) MEETINGS AND HEARINGS.—

(1) IN GENERAL.—Not later than 30 days after the beginning of each fiscal year, the committee shall meet and establish the time, place, and manner of future meetings of the committee.

(2) MINIMUM NUMBER OF HEARINGS.—The committee shall have at least 2 public hearings each year at which the public shall be given an opportunity to express views concerning the administration and operation of the State plan.

(e) USE OF EXISTING COMMITTEES.—To the extent that a State has established a broadly representative State advisory group, prior to the date of enactment of this subtitle, that is comparable to the advisory committee described in this section and focused exclusively on child care and early childhood development programs, such State shall be considered to be in compliance with subsections (a) through (c).

(f) SUBCOMMITTEE ON LICENSING.—

(1) COMPOSITION.—The committee shall have a subcommittee on licensing (hereinafter in this section referred to as the "subcommittee") that shall be composed of the members appointed under paragraphs (2)(A)(iv), (3), (6), (7), (11), (14), and (15) of subsection (b).

(2) FUNCTIONS.—

(A) REVIEW OF LICENSING AUTHORITY.—The subcommittee shall review the law applicable to, and the licensing requirements and the policies of, each licensing agency that regulates child care services and programs in the State unless the State has reviewed such law, requirements, and policies in the 4-year period ending on the date of the establishment of the committee under subsection (a).

(B) REPORT.—Not later than 1 year after establishment of the committee under subsection (a), the subcommittee shall prepare and submit to the chief executive officer of the State involved a report.

(C) CONTENTS OF REPORT.—A report prepared under subparagraph (B) shall contain—

(i) an analysis of information on child care services provided by center-based child care providers, group home child care providers, and family child care providers;

(ii) a detailed statement of the findings and recommendations that result from the subcommittee review under subparagraph (A), including a description of the current status of child care licensing, regulating, monitoring, and enforcement in the State;

(iii) a detailed statement identifying and describing the deficiencies in the existing licensing, regulating, and monitoring programs of the State involved, including an assessment of the adequacy of staff to carry out such programs effectively, and recommendations to correct such deficiencies or to improve such programs; and

(iv) comments on the minimum child care standards established by the Secretary under section 517(e)(2).

(3) RECEIPT OF REPORT BY THE CHIEF EXECUTIVE OFFICER OF THE STATE.—Not later than 60 days after receiving the report from the subcommittee, the chief executive officer of the State shall transmit such report to the Secretary with—

(A) the comments of the chief executive officer of the State; and

(B) a plan for correcting deficiencies in, or improving the licensing, regulating, and monitoring, of the child care services and programs referred to in paragraph (2)(A).

(4) TERMINATION OF ASSISTANCE.—None of the funds received under this subtitle may be used to carry out any activity under this section occurring more than 90 days after the State submits a report required by subsection (d).

(g) SERVICES AND PERSONNEL.—

(1) AUTHORITY.—The lead agency is authorized to provide the services of such personnel, and to contract for such other services as may be necessary, to enable the committee and the subcommittee to carry out their functions under this subtitle.

(2) REIMBURSEMENT.—Members of the committee shall be reimbursed, in accordance with standards established by the Secretary, for necessary expenses incurred by such members in carrying out the functions of the committee and the subcommittee.

(3) SUFFICIENCY OF FUNDS.—The Secretary shall ensure that sufficient funds are made available, from funds available for the administration of the State plan, to the committee and the subcommittee to carry out the requirements of this section.

SEC. 512. RESOURCE AND REFERRAL PROGRAMS.

(a) ELIGIBILITY FOR ASSISTANCE.—Each State receiving funds under this subtitle shall, pursuant to section 507(c)(5)(A), make grants to or enter into contracts with private nonprofit organizations or public organizations (including units of general purpose local government), as resource and referral agencies to ensure that resource and referral services are available to families in all geographical areas in the State.

(b) FUNDING.—Organizations that receive assistance under subsection (a) shall carry out resource and referral programs—

(1) to identify all types of existing child care services, including services provided by individual family child care providers and by child care providers who provide child care services to children with a handicapping condition;

(2) to provide to interested parents information and referral regarding such services, including the availability of public funds to obtain such services;

(3) to provide or arrange for the provision of information, training, and technical assistance to existing and potential child care providers and to others (including businesses) concerned with the availability of child care services; and

(4) to provide information on the demand for and supply of child care services located in a community.

(c) REQUIREMENTS.—To be eligible for assistance as a resource and referral agency under subsection (a), an organization shall—

(1) have or acquire a database of information on child care services in the State or in a particular geographical area that the organization continually updates, including child care services provided in centers, group home child care settings, nursery schools, and family child care settings;

(2) have the capability to provide resource and referral services in a particular geographical area;

(3) be able to provide parents with information to assist them in identifying quality child care services;

(4) to the maximum extent practicable, notify all eligible child care providers in such area of the functions it performs and solicit such providers to request to be listed to receive referrals made by such organization; and

(5) otherwise comply with regulations promulgated by the State in accordance with subsection (d).

(d) LIMITATION ON INFORMATION.—In carrying out this section, an organization receiving assistance under subsection (a) as a resource and referral agency shall not provide information concerning any child care program or services which are not in compliance with the laws of the State and localities in which such services are provided.

SEC. 513. TRAINING AND TECHNICAL ASSISTANCE.

(a) MINIMUM REQUIREMENT.—A State receiving funds under this subtitle shall require, not later than 2 years after the date of the enactment of this subtitle, that all employed or self-employed individuals who provide licensed or regulated child care services (including registered child care services) in a State complete at least 40 hours of training over a 2-year period in areas appropriate to the provision of child care services, including training in health and safety, nutrition, first aid, the recognition of communicable diseases, child abuse detection and prevention, and the needs of special populations of children.

(b) GRANTS AND CONTRACTS FOR TRAINING AND TECHNICAL ASSISTANCE.—

(1) GRANTS AND CONTRACTS.—The State shall make grants to, and enter into contracts with State agencies, units of general purpose local government, institutions of higher education, and nonprofit organizations (including resource and referral organizations, child care food program sponsors, and family child care associations, as appropriate) to develop and carry out child care training and technical assistance programs under which preservice and continuing inservice training is provided to eligible child care providers, including family child care providers, and the staff of such providers including teachers, administrative personnel, and staff of resource and referral programs involved in providing child care services in the State.

(2) ELIGIBILITY REQUIREMENTS FOR GRANTS AND CONTRACTS RELATING TO TRAINING FOR FAMILY CHILD CARE PROVIDERS.—To be eligible to receive a grant or enter into a contract for a training and technical assistance program for family child care providers under paragraph (1), a nonprofit organization shall—

(A) recruit and train family child care providers, including providers with the capacity to provide night-time and emergency child care services;

(B) operate resource centers to make developmentally appropriate curriculum materials available to family child care providers;

(C) provide grants to family child care providers for the purchase of moderate cost equipment to be used to provide child care services; and

(D) operate a system of substitute caregivers.

(3) ELIGIBILITY REQUIREMENTS FOR GRANTS AND CONTRACTS RELATING TO TECHNICAL ASSISTANCE.—To be eligible to receive a grant, or enter into a contract under subsection (b) to provide technical assistance, an agency, organization, or institution shall agree to furnish technical assistance to child care providers to assist such providers—

(A) in understanding and complying with local regulations and relevant tax and other policies;

(B) in meeting State licensing, regulatory, and other requirements (including registration) pertaining to family child care providers.

(c) SCHOLARSHIP ASSISTANCE.—The State shall provide scholarship assistance to—

(1) individuals who seek a nationally recognized child development associate credential for center-based or family child care and whose income does not exceed the poverty line (as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) by more than 50 percent, in amounts sufficient to cover the costs involved in securing such credential; and

(2) caregivers who seek to obtain the training referred to in subsection (a) and whose income does not exceed such poverty line.

(d) CLEARINGHOUSE.—The State shall establish in the lead agency a clearinghouse to collect and disseminate training materials to resource and referral agencies and child care providers throughout the State.

SEC. 514. FEDERAL ADMINISTRATION OF CHILD CARE.

(a) ADMINISTRATOR OF CHILD CARE.—There is hereby established in the Department of Health and Human Services the position of Administrator of Child Care (hereinafter in this section referred to as the "Administrator"). The Secretary shall appoint an individual to serve as the Administrator at the pleasure of the Secretary.

(b) DUTIES.—The Administrator shall—

(1) coordinate all activities of the Department of Health and Human Services relating to child care, and coordinate such activities with similar activities of other Federal entities;

(2) annually collect and publish State child care standards, including periodic modifications to such standards;

(3) evaluate activities carried out with funds provided under this subtitle;

(4) act as a clearinghouse to collect and disseminate materials that relate to—

(A) the matters required by section 513(b)(1) to be addressed by training required by section 513 to be provided; and

(B) studies that relate to the salaries paid to individuals employed to provide child care services; and

(5) provide technical assistance to assist States to carry out this subtitle.

SEC. 515. FEDERAL ENFORCEMENT.

(a) REVIEW OF COMPLIANCE WITH STATE PLAN.—The Secretary shall review and monitor State compliance with this subtitle and the plan approved under section 507(d) for the State.

(b) NONCOMPLIANCE.—

(1) IN GENERAL.—If the Secretary, after reasonable notice and opportunity for a hearing to a State, finds that—

(A) there has been a failure by the State to comply substantially with any provision or any requirements set forth in the plan approved under section 507(d) for the State; or

(B) in the operation of any program or project for which assistance is provided under this subtitle there is a failure by the State to comply substantially with any provision of this subtitle;

the Secretary shall notify the State of the finding and that no further payments may be made to such State under this subtitle (or, in the case of noncompliance in the operation of a program or activity, that no further payments to the State will be made with respect to such program or activity) until the Secretary is satisfied that there is no longer any such failure to comply or that the noncompliance will be promptly corrected.

(2) ADDITIONAL SANCTIONS.—In the case of a finding of noncompliance made pursuant to this paragraph (1), the Secretary may, in addition to imposing the sanctions described in such paragraph, impose other appropriate sanctions, including recoupment of money improperly expended for purposes prohibited or not authorized by this subtitle, and disqualification from the receipt of financial assistance under this subtitle.

(3) NOTICE.—The notice required under paragraph (1) shall include a specific identification of any additional sanction being imposed under paragraph (2).

(c) ISSUANCE OF RULES.—The Secretary shall establish by rule procedures for—

(1) receiving, processing, and determining the validity of complaints concerning any failure of a State to comply with the State plan or any requirement of this subtitle; and

(2) imposing sanctions under this section.

SEC. 516. PAYMENTS.

(a) IN GENERAL.—

(1) AMOUNT OF PAYMENT.—Each State that—

(A) has an application approved by the Secretary under section 507(d); and

(B) demonstrates to the satisfaction of the Secretary that it will provide from non-Federal sources the State share of the aggregate amount to be expended by the State under the State plan for the fiscal year for which it requests a grant;

shall receive a payment under this section for such fiscal year in an amount (not to exceed its allotment under section 505 for such fiscal year) equal to the Federal share of the aggregate amount to be expended by the State under the State plan for such fiscal year.

(2) FEDERAL SHARE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Federal share for each fiscal year shall be 80 percent.

(B) EXCEPTION.—If a State makes the demonstration specified in section 510 throughout a fiscal year for which it requests a grant, then the Federal share shall be 85 percent.

(3) STATE SHARE.—The State share equals 100 percent minus the Federal share.

(4) LIMITATION.—A State may not require any private provider of child care services that receives or seeks funds made available under this subtitle to contribute in cash or in kind to the State contribution required by this subsection.

(b) METHOD OF PAYMENT.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary may make payments to a State in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

(2) LIMITATION.—The Secretary may not make such payments in a manner that prevents the State from complying with the requirement specified in section 507(c)(3)(F).

(c) SPENDING OF FUNDS BY STATE.—Payments to a State from the allotment under section 505 for any fiscal year may be expended by the State in that fiscal year or in the succeeding fiscal year.

SEC. 517. NATIONAL ADVISORY COMMITTEE ON CHILD CARE STANDARDS.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—In order to improve the quality of child care services, the Secretary shall establish, not later than 60 days after the date of the enactment of this subtitle, a National Advisory Committee on Child Care Standards (hereinafter in this section referred to as the "Committee"), the members

of which shall be appointed from among representatives of—

(A) the chief executive officers of the several States;

(B) State legislatures;

(C) local governments;

(D) businesses;

(E) State individuals responsible for regulating the insurance industry within the State;

(F) religious institutions;

(G) persons who carry out different types of child care programs;

(H) persons who carry out resource and referral programs;

(I) child care and early childhood development specialists;

(J) early childhood education specialists;

(K) individuals who have expertise in pediatric health care, handicapping conditions, and related fields;

(L) organizations representing child care employees;

(M) individuals who have experience in the regulation of child care services; and

(N) parents who have been actively involved in community child care programs.

(2) APPOINTMENT OF MEMBERS.—The Committee shall be composed of 15 members of which—

(A) 5 members shall be appointed by the President;

(B) 3 members shall be appointed by the majority leader of the Senate;

(C) 2 members shall be appointed by the minority leader of the Senate;

(D) 3 members shall be appointed by the Speaker of the House of Representatives; and

(E) 2 members shall be appointed by the minority leader of the House of Representatives.

(3) CHAIRMAN.—The President shall appoint a chairman from among the members of the Committee.

(4) VACANCIES.—A vacancy occurring on the Committee shall be filled in the same manner as that in which the original appointment was made.

(b) PERSONNEL, REIMBURSEMENT, AND OVERSIGHT.—

(1) PERSONNEL.—The Secretary shall make available to the Committee office facilities, personnel who are familiar with child development and with developing and implementing regulatory requirements, technical assistance, and funds as are necessary to enable the Committee to carry out effectively its functions.

(2) REIMBURSEMENT.—

(A) COMPENSATION.—Members of the Committee who are not regular full-time employees of the United States Government shall, while attending meetings and conferences of the Committee or otherwise engaged in the business of the Committee (including traveltime), be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding the rate specified at the time of such service under GS-18 of the General Schedule established under section 5332 of title 5, United States Code.

(B) EXPENSES.—While away from their homes or regular places of business on the business of the Committee, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(3) OVERSIGHT.—The Secretary shall ensure that the Committee is established and operated in accordance with the Federal Advisory Committee Act (5 U.S.C. App.).

(c) FUNCTIONS.—The Committee shall—

(1) review Federal policies with respect to child care services and such other data as the Committee may deem appropriate;

(2) not later than 180 days after the date on which a majority of the members of the Committee are first appointed, submit to the Secretary proposed minimum standards described in subsection (d) for child care services, taking into account the different needs of infants, toddlers, preschool and school-age children; and

(3) develop and make available to lead agencies, for distribution to resource and referral agencies in the State, model requirements for resource and referral agencies.

(d) MINIMUM CHILD CARE STANDARDS.—The proposed child care standards submitted pursuant to subsection (c)(2) shall be minimum standards and shall consist of only the following:

(1) CENTER-BASED CHILD CARE SERVICES.—Such standards submitted with respect to child care services provided by center-based child care providers shall be limited to—

(A) group size limits in terms of the number of caregivers and the number and ages of children;

(B) the maximum appropriate child-staff ratios;

(C) qualifications and background of child care personnel;

(D) health and safety requirements for children and caregivers; and

(E) parental involvement in licensed and regulated child care services.

The standards described in subparagraphs (A) and (B) shall reflect the median standards for all States (using for States which apply separate standards to publicly-assisted programs the most comprehensive or stringent of such standards) as of the date of enactment of this subtitle.

(2) FAMILY CHILD CARE SERVICES.—Such standards submitted with respect to child care services provided by family child care providers shall be limited to—

(A) the maximum number of children for which child care services may be provided and the total number of infants for which child care services may be provided;

(B) the minimum age for caregivers; and

(C) health and safety requirements for children and caregivers.

(3) GROUP HOME CHILD CARE SERVICES.—Such standards submitted with respect to child care services provided by group home child care providers shall be limited to the matters specified in paragraphs (1)(B) and (2).

(4) LIMITATION.—The Committee shall not submit any standard under subsection (c)(2) that is less or more rigorous than the least or most rigorous standard that exists in all States at the time of the submission of such recommendation.

(e) CONSIDERATION AND ESTABLISHMENT OF STANDARDS.—

(1) NOTICE OF PROPOSED RULEMAKING.—Not later than 90 days after receiving the recommendations of the committee, the Secretary shall—

(A) publish in the Federal Register—

(i) a notice of proposed rulemaking concerning the minimum standards proposed under subsection (d) to the Secretary; and

(ii) such proposed minimum standards for public comment for a period of at least 60 days; and

(B) distribute such proposed minimum standards to each lead agency and each State subcommittee on licensing for comment.

(2) ESTABLISHMENT OF MINIMUM CHILD CARE STANDARDS.—

(A) ISSUANCE OF RULES.—The Secretary shall, in consultation with the committee—

(i) take into consideration any comments received by the Secretary with respect to the standards proposed under subsection (d); and

(ii) not later than 180 days after publication of such standards, shall issue rules establishing minimum child care standards for purposes of this subtitle. Such standards shall include the nutrition requirements issued, and revised from time to time, under section 17(g)(1) of the National School Lunch Act (42 U.S.C. 1766(g)(1)).

(B) AMENDING STANDARDS.—The Secretary may amend any standard first established under subparagraph (A), except that such standard may not be modified, by amendment or otherwise, to make such standard less comprehensive or less stringent than it is when first established.

(C) EXTENDED PERIOD FOR COMMENT.—If the Committee recommends a standard under subsection (c)(2) that no State has a requirement concerning, as of the time that such standard is recommended, the Secretary shall provide an additional 30 days during which States may submit comments concerning such standard.

(3) ADDITIONAL COMMENTS.—The National Committee may submit to the Secretary and to the Congress such additional comments on the minimum child care standards established under paragraph (2) as the National Committee considers appropriate.

(f) VARIANCES.—

(1) TIME FOR COMPLIANCE WITH STANDARDS.—Not later than the end of the 4-year period referred to in section 510, States shall comply with the standards established under this section.

(2) EXCEPTION.—At the expiration of the 4-year period referred to in paragraph (1) the chief executive officer, in consultation with the State advisory committee, may submit a request to the Secretary for a 1 year variance from the requirements of one or more particular standards.

(3) REQUIREMENTS.—A request for a variance under this subsection shall include—

(A) a statement by the chief executive officer of the State of any steps taken to implement the relevant standards in the State within the 4-year period;

(B) the specific reasons for the submission of the variance request; and

(C) a detailed plan that outlines the additional procedures and resources to be used to come into compliance with the standards at the end of the variance period.

(4) PERIOD OF VARIANCE.—A variance granted by the Secretary shall be for a 1-year period and may be renewed at the discretion of the Secretary for an additional 1-year period if requested by the State.

(g) TERMINATION OF COMMITTEE.—The National Committee shall cease to exist 90 days after the date the Secretary establishes minimum child care standards under subsection (e)(3).

SEC. 518. LIMITATIONS ON USE OF FINANCIAL ASSISTANCE FOR CERTAIN PURPOSES.

(a) SECTARIAN PURPOSES AND ACTIVITIES.—No financial assistance provided under this subtitle shall be expended for any sectarian purpose or activity, including sectarian worship and instruction.

(b) TUITION.—With regard to services provided to students enrolled in grades 1 through 12, no financial assistance provided under this subtitle shall be expended for—

(1) any services provided to such students during the regular school day;

(2) any services for which such students receive academic credit toward graduation; or

(3) any instructional services which supplant or duplicate the academic program of any public or private school.

SEC. 519. NONDISCRIMINATION.

(a) FEDERAL FINANCIAL ASSISTANCE.—Any financial assistance provided under this subtitle, including a loan, grant, or child care certificate, shall constitute Federal financial assistance for purposes of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title IX of the Education Amendments of 1972 (20 U.S.C. 1681, et seq.), the Rehabilitation Act of 1973 (29 U.S.C. 794 et seq.), the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), and the regulations issued thereunder.

(b) RELIGIOUS DISCRIMINATION.—A child care provider may not discriminate against any child on the basis of religion in providing child care services in return for a fee paid, reimbursement received, or certificate redeemed, in whole or in part with financial assistance provided under this subtitle.

SEC. 520. PRESERVATION OF PARENTAL RIGHTS AND RESPONSIBILITIES.

Nothing in this subtitle shall be construed or applied in any manner to infringe upon or usurp the moral and legal rights and responsibilities of parents or legal guardians.

NOTICES OF HEARINGS

SUBCOMMITTEE ON NUTRITION AND INVESTIGATIONS

Mr. LEAHY. Mr. President, I wish to announce that the Subcommittee on Nutrition and Investigations of the Committee on Agriculture, Nutrition, and Forestry will hold a hearing on the Soil Conservation Service's implementation of the soil conservation provisions of the Food Security Act of 1985. The hearing will be held on October 4, 1988, at 9:30 a.m. in room 332 Russell Senate Office Building.

Senator HARKIN will preside. For further information please contact Mark Halverson of the committee staff at 224-5207.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. GLENN. Mr. President, I would like to announce that the Governmental Affairs Committee will hold a joint hearing with the House Government Operations Subcommittee on environment, energy, and natural resources on Friday, September 30, at 10 a.m., in 2154 Rayburn. For further information, please call Len Weiss, staff director, at 224-4751.

Mr. President, I would like to announce that the Governmental Affairs Committee will hold a hearing on Monday, October 3, at 2 p.m., on the subject of regulatory reform: The structure and performance of the regulatory regime. For further information, please call Len Weiss, staff director, at 224-4751.

Mr. President, I would like to announce that the Governmental Affairs Committee will hold a hearing on Wednesday, October 5, at 10 a.m. on the subject of S. 2721, Federal Advisory Committee Act of 1988. For further information, please call Len Weiss, staff director, at 224-4751.

AUTHORITY FOR COMMITTEES TO MEET

SPECIAL SUBCOMMITTEE ON WAR POWERS

Mr. BYRD. Mr. President, I ask unanimous consent that the Special Subcommittee on War Powers of the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Thursday, September 29, to hold a hearing on the War Powers Resolution.

The PRESIDING OFFICER. Without objection, it is ordered.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Oversight of Government Management, Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Thursday, September 29, to hold a hearing on Oversight of Department of Defense Ethics Programs.

The PRESIDING OFFICER. Without objection, it is ordered.

COMMITTEE ON ARMED SERVICES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Thursday, September 29, 1988, in closed session to discuss the issue of unauthorized appropriations for fiscal year 1989 and to act on the Lohr, Kramer, and certain pending military nominations.

The PRESIDING OFFICER. Without objection, it is ordered.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources and the Subcommittee on Conservation and Forestry of the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Thursday, September 29, 1988, to hold a joint hearing to receive testimony from the Departments of the Interior and Agriculture on their current policies regarding fire management on lands administered by the National Park Service and the Forest Service; how those policies were formulated; and the manner in which they were implemented with respect to the recent fires in and around Yellowstone National Park.

The PRESIDING OFFICER. Without objection, it is ordered.

SUBCOMMITTEE ON ENERGY REGULATION AND CONSERVATION

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Energy Regulation and Conservation of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, September 29, 1988, to receive testimony on S. 2313 and S. 1998, bills to prohibit the Federal Energy Regulatory Commission from authorizing the bypass of local distribution companies when the Commission deems such authority is required by the public convenience and necessity.

The PRESIDING OFFICER. Without objection, it is ordered.

SUBCOMMITTEE ON AGRICULTURAL RESEARCH AND GENERAL LEGISLATION

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommitee on Agricultural Research and General Legislation of the Senate Committee on Agriculture, Nutrition, and Forestry, and the Subcommittee on Department Operations, Research, and Foreign Agriculture of the House Committee on Agriculture, be authorized to meet during the session of the Senate on Thursday, September 29, 1988, to hold a joint hearing on the critical challenges facing agricultural research.

The PRESIDING OFFICER. Without objection, it is ordered.

SUBCOMMITTEE ON EDUCATION, ARTS, AND THE HUMANITIES

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Education, Arts, and Humanities, of the Committee on Labor and Human Resources, be authorized to meet during the session of the Senate on Thursday, September 29, 1988, in SD-430 to conduct a hearing on National Commission on Human Resources Act, Senate Joint Resolution 368.

The PRESIDING OFFICER. Without objection, it is ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs, be authorized to meet during the session of the Senate on Thursday, September 29, 1988, at 2 p.m., to hold a markup on the following bills: S. 187, the Native American Cultural Preservation Act—clarifying amendment; S. 2672, the Federal recognition of the Lumbee Tribe of North Carolina—clarifying amendment; S. 2723, Hoopa-Yurok Indian Reservation; S. 2752, Quinault boundaries; H.R. 3621, Southern California Indian Land Transfer Act; Confirmation of Presidential Appointments to the Board of Regents of the Institute of American Indian and Alaska Native Culture and Arts Development—additions; S. 136, Health Status of Native Hawaiians; and for other purposes.

The PRESIDING OFFICER. Without objection, it is ordered.

ADDITIONAL STATEMENTS

TOWNSHIP OF LAKEWOOD, NJ, CELEBRATES RESTORATION EFFORT

● Mr. LAUTENBERG. Mr. President, on Saturday, October 1 and 2, the township of Lakewood, NJ, will stage a 2-day children's program, art festival and parade to celebrate the continuing $6.5 million restoration of the downtown business sector with the Lakewood Redevelopment Agency as the sponsor.

This year's parade will be the biggest ever. It will feature many floats, the Broomal Mummers String Band, as well as 8 to 10 high school bands competing for over $1,000 in cash prizes. More than 1,000 marchers will participate including a number of professional bands and bagpipers.

The township committee has issued a resolution officially declaring the weekend as "Dizzy Gillespie Weekend." The weekend will belong to the great jazz trumpet player. He will be appearing in concert at the Strand Theater and will serve as grand marshal for the parade on Sunday afternoon. On Monday morning, October 3 he will conduct a jazz clinic for 1,000 students from 20 school districts at the Strand Theater under the sponsorship of the theater, the Lakewood Community School, and the Lakewood Redevelopment Agency.

Mr. President, I extend my best wishes to the community of Lakewood as it celebrates its restoration effort.●

POW/MIA RECOGNITION DAY

● Mr. LEAHY. Mr. President, on September 16, 1988, I traveled to Vermont to attend a ceremony honoring former Vermont prisoners of war. The event was indeed a bittersweet occasion because it was appropriately held on National POW/MIA Recognition Day. We honored those who gave a part of their lives so that we could continue to be free. We remembered with pride the adversity they overcame. But, at the same time, we remembered and paid tribute to, with just as much emotion, those who did not return home.

For many, this reminds us of those who are still missing in action in Vietnam. There are also many others who did not return from Europe, the Pacific or Korea. As I have told the many concerned Vermonters who have contacted me about POW's and MIA's, we must continue every effort to locate and identify all missing servicemen.

Mr. President, Governor Madeline Kunin also proclaimed September 16 as National POW/MIA Recognition Day in Vermont. I ask that the text of her proclamation be included in the RECORD.

The proclamation follows:

STATE OF VERMONT, EXECUTIVE DEPARTMENT, A PROCLAMATION

Whereas, the people of the United States owe a debt of gratitude to those Americans who have defended our country's liberty and, in so doing, have paid the price of capture and imprisonment; and

Whereas, the people of the United States take inspiration from the sacrifices of brave Americans who have endured captivity for their allegiance to our land and national ideas; and

Whereas, the POW/MIA issue remains a matter of high national priority and must continue to remain so until it is resolved; and

Whereas, past efforts to secure the release of, and definitive information on those Americans still missing or unaccounted for have been largely unproductive; and

Whereas, the families of those Americans who remain missing or unaccounted for have displayed extraordinary fortitiude in the most trying of personal circumstances, and deserve the empathy and support of the American people;

Now, therefore, I, Madeleine M. Kunin, Governor of the State of Vermont, do hereby proclaim September 16, 1988, as "POW/MIA Recognition Day" in Vermont, and call upon the people of this great state to participate in POW/MIA Recognition Day and honor all former prisoners of war, those still missing and their families, all of whom have made extraordinary sacrifices on behalf of their country.●

NAMIBIAN INDEPENDENCE

● Mr. SIMON. Mr. President, today marks the 10th anniversary of the adoption of United Nations Security Council Resolution 435, the United Nations plan for Namibian independence. We can be proud of the efforts the United States made in helping to bring about that agreement and to bring the people of Namibia a step closer to their rightful independence.

I am hopeful that the current United States-sponsored negotiations will result in peace for the people of the region and success for the cause of justice and self-determination for the Namibian people.

But it has taken 10 long years to come back to the point of seriously moving ahead on implementing the independence plan. And we cannot fail to call attention to what is happening inside Namibia. Each day without independence results in lives lost, atrocities committed, families separated. We must remain vigilant to ensure that genuine independence comes to Namibia. The current negotiations are a very positive and critical step, and I fully support the effort.

For the past 20 years, the lives of Namibian men, women, and children have been bartered away into hatred and despair. They live without knowing the joy and inspiration that freedom brings to a human life.

As we come to the closing days of this 100th Congress, my deep hope is that the people of Namibia are finally seeing the bright light at the end of the tunnel, that the positive signals of today will bring a new day in Namibia. A whole generation of Namibians should have been free today. I hope that this will be the last anniversary of Resolution 435 that compels us to press for its implementation. Let us, as a free nation and leader in the world, help to ensure that the long wait is finally over.

In closing, Mr. President, I want to recommend the following speech, recently given by Ambassador Don McHenry during his recent private visit to Namibia. Ambassador McHenry's long experience, insight, and exceptional contribution to the effort for Namibian independence brings an invaluable perspective to our outlook on United States policy and the future of Namibia. I very highly recommend his thoughtful speech to all of my colleagues.

The remarks follow:

NAMIBIA PEACE PLAN COMMEMORATION OF TEN YEARS OF UNITED NATIONS RESOLUTION 435

(By Donald F. McHenry)

I am pleased to have this opportunity to be with you this evening. My association with this country covers a great many years.

As a graduate student I and my generation studied South West Africa as students of international law and organization. The South West Africa cases before the International Court of Justice were, and indeed are, part of the effort of the international community to develop and apply the rule of law to international disputes.

As a young foreign service officer in the United States Department of State, I had the responsibility for coordinating the United States response to the 1966 opinion of the International Court of Justice. Some of you may view the action of the Court as a frustration or even a victory. I am afraid that I fall in the category of the frustrated though I support the principle of legal standing even if it means that a dispute will escape resolution.

As the American representative on the Western Contact Group on Namibia, I was deeply involved in the negotiations which led to United Nations Security Council Resolution 435, a resolution which many of us hoped would lead to a solution to the problems of this troubled country. The inability of the international community to implement 435 was again the source of enormous frustration. However, the effort has not been in vain. Resolution 435 remains the basis of a settlement even for those whose intention it is to deviate from its spirit.

More recently my association with Namibia is that of an interested observer of events here, in South Africa and in the region. I have no official status and in fact have the luxury of saying whatever I please.

Thus, my association with Namibia covers a great many years and I count many of you as old friends. I am reasonably familiar with the starts and stops, the hopes and disappointments, the optimism and cynicism, and the local, regional, and global factors which have been brought to bear on this small corner of the globe.

My association with the search for peace in Namibia, or for that matter in the volatile Middle East, has not always been a pleasant experience. Some of you are familiar with the efforts here and in South

Africa to paint the endeavor of the Western Contact Group, and particularly my participation, in highly personal terms, even derogatory terms. It was a sometimes painful experience. As a diplomat, I was not a participant in the parochial politics of South Africa or of Namibia. I was not permitted to return rhetorical arrows in kind—though I confess I was sorely tempted to do so. Nor will I do so today. Then and in my remarks today, I have always tried to keep in mind the long term objectives of the bulk of the world community for Namibia: a free people, equal in the sight of their Creator, striving to live in peace, to care for their common needs, and to govern themselves with the consent of the governed.

I am not naive about these objectives nor about the difficulty of their attainment. As goals they can stand as beacons of light, ever guiding their followers toward ideals, but always reminding them that the work of liberty is never done. Or, they can be the refuge of the tyrant and the oppressor who uses the admitted difficulty of attaining such lofty heights to circumscribe self-determination or, equally abhorrent, to deny basic rights to an ostensibly free people.

Nor am I naive about the effect which time and absence of responsibility may have on my objectivity. I have jokingly told the press that my experience with Namibia negotiations is such that I might not recognize a settlement if it dressed itself in sexy attire and took a seat next to me.

Perhaps at no time since the passage of United Nations Security Council Resolution 435, almost ten years ago, have hopes for a Namibia settlement been higher. Having ridden the exhilarating roller coaster of expectations since the Contact Group negotiations, you know better than I of the depths to which hopes can plunge. It will come as no surprise to you that I have been and remain critical of the politics followed by the United States and South Africa over the last eight years. Even the successful conclusion of a settlement now does not vindicate those policies. The negotiations were needlessly complicated by East-West factors such as Cuban linkage and assistance to Savimbi. Time and lives have been lost. Conciliation and nationbuilding have been delayed and made more complicated.

Having expressed my position about the current approach, let me assure you, as an American Congressman did recently; I have no desire to be the skunk at the party of renewed expectations. I would welcome a settlement as much as anyone. Equally important, I have had the responsibility for juggling the many factors that affect negotiations. I am especially sensitive to the damage which was done to my own efforts in 1980 and 1981 by inappropriate remarks and attitudes by an incoming American administration. (On the other hand, perhaps I might energize the negotiations by describing the policies which might be followed by a new American administration.)

My discussions with many of you reveal a skepticism about South Africa's intention to implement Resolution 435 in good faith. I understand your skepticism. It is born of experience. At the same time you must not lose hope. Perhaps you might join me and become a hopeful skeptic.

It is not my intention to exhume the details of the failure to implement 435 ten years ago. It was clear to me in 1978, as it is clear to me now, that given the necessary political will, no legitimate obstacle stood or stands in the way of implementation of 435 and independence for Namibia on a basis acceptable to most Namibians and the international community. Absent political will, the most absurd of excuses can and will be invoked and interminable delay can be imposed. Political will has remained elusive in the naive assumption that postponement of the inevitable is an acceptable policy goal.

In the ten years since 435, there have been no winners, only losers:

Thousands of lives have been lost in Namibia and in Angola;

Badly needed infrastructure has been destroyed and funds for new infrastructure has been spent on the implements of war;

New and extraneous factors have further complicated an already complicated situation;

The important middle ground has become narrower as positions have polarized;

Valuable time has been lost. It will be a poorer, more weary Namibia and Angola which must begin the difficult process of developing and nurturing their own institutions, the process of nationbuilding.

To speak of the current negotiations is like painting a moving train. Any comments may become irrelevant immediately. Nevertheless, it appears that the question today is again one of political will, though in 1988 the question is dressed in terms of Cuban withdrawal from Angola, just as in 1978 it was dressed in terms of United Nations impartiality, the composition of United Nations forces and other such excuses. Ominously, as progress on Cuban withdrawal draws near there is renewed talk of the impartiality of the United Nations. Its the necessary political will present today? The answer is found in the responses to four critical questions.

1. Will South Africa proceed to implement 435 or will it take advantage of the legitimate security concerns of Angola and therefore rationalize continuation of its dominance of Namibia?

2. If the Cuban withdrawal issue is disposed of, will South Africa and Namibia proceed to implement both the letter and spirit of 435 or will they use numerous procedural devices, administrative tactics and even legitimate but secondary grievances to make more difficult an already difficult process. Essentially, the question is, will all parties support free and fair elections?

3. If perchance we get to the election of a constituent assembly, will Namibians come together in good faith to work out that degree of consensus which provide the basis of government today? Or will Namibians of various factions, perhaps influenced by past and continuing South African attitudes and policies, take positions which they know can never be acceptable to the other and thus make consensus impossible?

4. Finally, can Namibians find and develop the necessary wisdom and patience to evolve a government appropriate to this country? Or will the new government follow policies which in their own way are as bankrupt and oppressive as those which rightly have been so harshly criticized? Will the government lurch into social, economic and political policies which are divisive and which have failed wherever they have been tried?

These, then, are the four crucial sets of questions before you in this moment of great expectations. Let me elaborate on each of them.

From all reports the present negotiations have been deadlocked over a difference on a timetable for Cuban withdrawal from Angola, an issue which is not a part of 435 and which was not advanced as a reason for South Africa's initial refusal to implement the resolution. I have always believed it possible to separate Namibia from most developments in Angola. Indeed, the policies followed over the last seven years of occupation of southern Angola by South Africa and continued strengthening of UNITA have made the Angolan government more not less dependent on assistance from Cuba.

It will be argued that my own analysis is historical and beside the point now that the principle of linkage has been formally accepted. From the outset Angola has justified the presence of Cuban forces on threats to Angolan security, initially from South Africa and later from South Africa and Savimbi. In the present negotiations Angola may indeed have accepted the concept of linkage but its public suggestions of a Cuban withdrawal timetable indicates continued concern by Angola for its security. Governments are not known to willingly commit suicide. In the absence of an internal settlement, Angola must be concerned about a UNITA which is already strong, which continues to receive assistance from the United States, and if Nkomati is any guide, would continue to be assisted by South Africa despite pledges to do otherwise.

Is there a way to separate legitimate Namibian security concerns from Angola? If South Africa needs some fig leaf to justify its recent withdrawal from Angola, to drop its demands for simultaneous withdrawal of Cuba and to grant Namibia independence, can such a fig leaf or political justification be developed? I think so. It is partly in the acceptance of a realistic timetable in terms of Angolan security, perhaps twenty-four to thirty months, and recognition of the fact that peace in Namibia may be the only feasible means of forcing Angolan parties to recognize the necessity of coming to terms with each other. Beyond that, it is possible to monitor the border, perhaps by an Angolan, Namibian and United Nations joint monitoring group; demilitarized zones could be established; the location of Cuban forces could be agreed upon; and there might be qualitative limits agreed upon. Finally, there might be pressure on both sides in the Angolan conflict to come to terms with the reality of the others existence without external support. Even beyond these suggestions, of course, there is the political, military and economic reality that an independent Namibia would be forced in its own interest to distance itself from Angola and, for that matter, from developments in South Africa itself.

IMPLEMENTATION OF 435

In the wake of optimistic reports of a settlement, some have asked whether it is necessary to go through the laborous process of 435. Surely the answer is obvious. Resolution 435 is the only agreed procedure for reasonably providing a minimum measure of fairness. At this stage, those who question the application of 435 raise serious questions about their seriousness. Similarly, intentions are questionable when old concerns about impartiality are raised, especially given previous statements by South Africa that the only obstacle was Cuban withdrawal. And, as much as I appreciate the concerns of many of you that agreements on the nature of a constitution must precede an election, I must regretfully disagree. Such a procedure is inconsistent with 435 and would threaten its implementation. Moreover, the objective of consensus building can be met within the framework of 435.

I have always thought that the various Namibian parties hoped to obtain advantages in the implementation phase that they were unable to obtain in Resolution 435 itself. Indeed, it is clear that 435 or any other basis of settlement can be thwarted by any of the parties, particularly by South Africa given its role in continuing to carry out administration. In the final analysis, the power of the United Nations is its ability to confer legitimacy on the electoral process. Impartiality, therefore, is a two-way street. It requires impartiality on the part of both the United Nations and of South Africa. It requires an acceptance by Namibians of the participation of all parties on an equal footing. When is that footing equal and when have free and fair conditions been established? I venture to suggest that many of you have not read 435 for some time. I urge you to do so, for it requires conditions which some will object to and try to skirt. Let me simply conclude that 435 is not self-implementing. Differences on implementation are to be expected. In the final analysis, little will have been accomplished if any of the parties can legitimately point to an unfair process.

THE CONSTITUENT ASSEMBLY AND NATIONBUILDING

I come now to the two most important questions, namely the work of the constituent assembly and the nature of a Namibian government in a society unaccustomed in a modern governmental sense, to democratic rule.

The duty of the constituent assembly is to work out an agreed upon basis for government. Clearly, this could have been worked out in advance, as was largely done in Southern Rhodesia prior to Lancaster House. However, it was clear to those involved in drafting 435 that the necessary consensus did not exist and that multiple parties were then in a position to assert conditions far beyond their reasonable powers. Thus, the idea of elections and the development of a structure of government by the people themselves.

Two points need to be made about the work of a constituent assembly. First, a system of government imposed by a majority over the vigorous, determined opposition of a minority will not guarantee peace. Nor will a system forced upon the majority by an insensitive and selfish minority. Either extreme will only guarantee immediate resentment and continued turmoil.

This does not mean that accommodation is impossible. History is replete with schemes which seek to guarantee fairness. The American constitution contained both temporary and permanent guarantees of this kind. Closer to you, so did the Zimbabwe constitution. The trick is to work out an accommodation in good faith, keeping in mind that ironclad guarantees are wishful thinking and impossible. It is more important to create an atmosphere of trust.

Second, it is important to note that while a constituent assembly is to produce a basic document, it must not be a static document. One would hope that the document which might be reached in the future would differ considerably from what might be agreed upon today. A document which entrenches privilege only guarantees future turmoil.

Finally, with regard to nationbuilding, I would urge you to recognize that it is a task which is never complete. In addition, Namibia must build a nation while much of the international community has already moved on to the even more difficult task of structuring interdependence.

You start with the heritage of a social and political system which is universally condemned. Your society has seen normal differences accentuated leading to increased polarization and years of turmoil. And, of course, while Namibia will be independent politically, economic ties to South Africa are a fact of life. In the words of Adlai Stevenson, you can, like a child, accept these adverse circumstances from your past and rationalize continued difficulty or you can move on. You can curse the darkness or you can light a candle. The decision belongs entirely to Namibians.

In this respect there are lessons to be learned from your unhappy history. The fact and experience of turmoil should have taught lessons and instilled a desire for peace and cooperation. All Namibians, particularly those who have endured exile, know the depths to which a country can sink if it perpetuates ethnic religious, racial or other group advantage. Exiles have also seen the economic, social and political deterioration which result from the abrupt imposition of alien or proven disasterous economic and political structures.

Know that in your undertaking Namibia is unique among nations. The international community has not had the power or even the will to right the situation here. But no nation in history has experienced a more constant guardianship than Namibia. That guardianship will continue in the implementation of 435 and, I believe, in assistance in good faith efforts to build a vibrant, peaceful and independent Namibia. But the international community can only assist. Only you can determine the difficult and winding road ahead.●

LEAD-BASED PAINT ABATEMENT

● Mr. SIMON. Mr. President, on behalf of Senator DIXON and myself, I offer the following joint statement.

We wish to bring to your attention a potentially disastrous situation which seems to have been narrowly avoided through the hard work and cooperation of several individuals and agencies. We are referring to the lead-based paint abatement [LBP] prohibition included in the recently passed HUD-independent agencies appropriations bill.

The 1989 HUD-Independent Agencies Approprations Act, which the President signed on August 19, included an administrative provision prohibiting the Department from enforcing its June 6, 1988, regulations on lead-based paint testing and abatement in public housing until technical guidelines could be developed. HUD anticipated that the guidelines would take approximately 6 months to develop.

Many of us were deeply concerned with HUD's interpretation of the provision. In a HUD internal memo draft on the lead-based paint requirements, HUD stated that:

The 1989 Appropriations Act prohibits the use of funds in the 1989 Appropriations Act or any previously appropriated funds to implement or enforce the June 6, 1988 regulation with respect to the testing and abatement of LBP in public housing until the Secretary develops comprehensive technical guidelines on reliable testing protocols, safe and effective abatement techniques, clean-up methods, and acceptable post-abatememt lead dust levels.

The Senate Appropriations Committee staff convened a meeting on September 13 with HUD officials to discuss congressional intent on the lead-based paint abatement provision. We are pleased to state that significant progress was made during that meeting. In preventing the enforcement of the June 6 regulations, it was not the intent of the Appropriations Committee to interrupt progress on lead-based paint abatement any of the public housing authorities [PHA's] were making.

Having resolved the issue of congressional intent on the HUD lead-based paint regulations, a new worry arose. Many public housing authorities had been informed by HUD not to enter into any new Comprehensive Improvement Assistance Program [CIAP] contracts until the new HUD regulations were promulgated. This would have caused PHA's to miss a HUD-imposed deadline for receiving Federal funds.

We are happy to announce that it is our understanding that a grace period will be extended by HUD so that the PHA's will not be penalized. We wish to extend our appreciation and thanks to everyone who cooperated in resolving this problem.

We wish to include for the RECORD, copies of: first, our correspondence with members of the Appropriations Committee; second, correspondence from the House and Senate leadership of the Appropriations Committees to HUD Secretary Samuel Pierce and third, our correspondence with James Baugh, the General Deputy Assistant Secretary HUD. I ask that these letters be printed in the RECORD.

The letters follow:

U.S. SENATE,
Washington, DC, September 8, 1988.

Hon. WILLIAM PROXMIRE,
Chairman, Subcommittee on HUD-Independent Agencies, Committee on Appropriations, Washington, DC.

DEAR BILL: We are writing about language which was included in the recently passed HUD-Independent Agencies Appropriations bill. In particular, we wish to express our concern regarding Amendment No. 24, the Lead Based Paint Abatement Prohibition.

We share the general concern regarding the Department of Housing and Urban Development's failure to develop useful guidelines for lead based paint testing and abatement programs. However, if left unchanged, this prohibition would do little to ensure that HUD promulgated reasonable regulations in a timely fashion but would have a serious impact upon the Public Housing Authorities (PHAs) in Illinois. The ramifications would be felt in all areas where the PHAs are trying to upgrade and improve the existing stock through contracts which were signed or were to be signed after August 19, 1988. The impact is already being felt in the following areas:

The modernizaiton and abatement program. Major programs have been put on hold resulting in higher costs for the PHAs;

Repairing and refilling vacancies. Units currently vacant cannot be repaired. In many cases, this will result in increased costs because the vacant units end up being vandalized and used by gangs as headquarters. Moreover, a monthly subsidy is lost for each unit that is not rented;

Routine maintenance. If the PHAs are not allowed to break any painted surface, how can they fix the plumbing, wiring, and heating, ventilating and air conditioning?

A good example of the effect of these regulations upon the housing authorities exists in Chicago. The Chicago Housing Authority (CHA) had begun work to develop lead based paint testing and abatement in accordance with the June 6, 1988 regulations. CHA was about to purchase $400,000 worth of testing equipment when the prohibition was enacted. The program is now in limbo, increasing the residents' exposure to lead based paint and increasing the authority's liability.

In conclusion, we urge that this problem be resolved immediately. We request that the funds for the Lead Based Paint Abatement Program be released on an interim basis while comprehensive technical guidelines on safe and effective methods of abatement are being developed.

We appreciate your cooperation in working to resolve this serious problem. Thank you for your assistance.

Sincerely,

PAUL SIMON,
U.S. Senate.
ALAN J. DIXON,
U.S. Senate.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, September 13, 1988.

Hon. SAMUEL R. PIERCE, Jr.,
Secretary, Department of Housing and Urban Development, Washington, DC.

Dear SECRETARY PIERCE: As you know, the 1989 HUD-Independent Agencies Appropriations Act, which the President signed on August 19, includes an administrative provision prohibiting the Department from enforcing its June 6 regulations on lead-based paint testing and abatement in public housing until technical guidelines are developed. It is expected that the development of such guidelines will take approximately six months.

The Committees understand that questions have arisen concerning the interpretation of this language and its application to projects funded under the Comprehensive Improvement Assistance Program (CIAP) that may involve lead-based paint testing and abatement during the interim period. We believe some clarification of Congressional intent would be useful to assure that progress continues to be made on abatement of lead-based paint.

First, in blocking the enforcement of the June 6 regulations, it was not our intent to interrupt progress on lead-based paint abatement. This language was intended to postpone enforcement through the regulations of the statute which they implemented for a limited period until improved technical guidelines could be developed. Despite this language, the compelling need for lead-based paint abatement persists. Accordingly, at the very least, it is important to rely on the provisions of the 1986 regulations.

Second, as indicated in our May 11 letter to the Department, the Committees feel strongly that the Comprehensive Improvement Assistant Program must not be derailed or delayed. While enforcement of the June 6 regulations was stayed, the Appropriations Committees intended that the CIAP program's momentum be maintained and that projects encompassing lead-based paint abatement be conducted responsibly and effectively.

Unfortunately, some uncertainty is unavoidable during the next few months with respect to the technical requirements governing lead-based paint in CIAP projects. The Committees' intent was that all modernization projects proceed during this interim period under the Department's purview employing abatement techniques which are judged to be safe and thorough.

During the interim period, the Committees urge the Department to provide all available information on testing and abatement of lead-based paint for the CIAP program to assure that projects proceed in a responsible manner. Close working relationships between HUD area offices and PHAs can help assure successful projects. In any event, it is clear that as more comprehensive guidelines are developed, standards for lead-based paint abatement and cleanup will be stringent and work undertaken in the interim should be cognizant of this fact.

We hope this clarification of legislative intent has been helpful and that comprehensive modernization projects, including those involving lead-based paint, can continue to proceed expeditiously and responsibly.

Sincerely,

WILLIAM PROXMIRE,
Chairman, Senate Subcommittee on HUD-Independent Agencies.
JAKE GARN,
Ranking Minority Member, Senate Subcommittee on HUD-Independent Agencies.
EDWARD P. BOLAND,
Chairman, House Subcommittee on HUD-Independent Agencies.
BILL GREEN,
Ranking Minority Member, House Subcommittee on HUD-Independent Agencies.

U.S. SENATE,
Washington, DC, September 15, 1988.

Mr. JAMES E. BAUGH,
General Deputy Assistant Secretary, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., room 4100, Washington, DC.

DEAR MR. BAUGH: We are pleased to learn of your conversation on September 14th with Sylvia Davis Thompson of Senator Dixon's staff, who spoke with you on our behalf regarding the Chicago Housing Authority (CHA) and its dilemma with the HUD lead-based paint regulations. We understand that this is a nationwide dilemma.

As you know, because the Chicago HUD Regional Office advised CHA against entering into any Comprehensive Improvement Assistance Program (CIAP) contracts until the HUD lead-based paint regulations are clarified, CHA will be unable to award renovation contracts by the September 30 HUD-imposed deadlines in order to receive the $14 million Federal funds.

We understand from your conversation with Sylvia that because the program delay was not caused by public housing authorities, HUD will provide a reasonable grace period to the CHA to obligate funds under CIAP.

As you may know, Secretary Pierce has received a letter from the House and Senate leadership of the Subcommittees on HUD-Independent Agencies which clarifies Congressional intent to assure that "progress continues to be made on public housing modernization and safe and effective abatement of lead-based paint."

Thank you for your continued support for the success of the CHA.

Sincerely,

PAUL SIMON,
U.S. Senate.
ALAN J. DIXON,
U.S. Senate.●

VIETNAM AND INDOCHINA

● Mr. SIMON. Mr. President, recently there has been some movement on the subject of Vietnam and Indochina and I rise today to discuss some of these important issues. Several months ago, a number of my colleagues joined with Senator JOHN MCCAIN to introduce Senate Concurrent Resolution 109, which recommended the exchange of interest sections with Vietnam. That resolution offered an opportunity, nearly a decade and a half after the end of the war in Vietnam, to start repairing our shattered relationship.

We should take this step now because it would serve the interest of the United States.

Negotiations are now in progress to reach a settlement of the tragedy in Cambodia which would involve a withdrawal of Vietnamese forces and a guarantee against the return to power of the brutal Khmer Rouge. An engaged America, which can deal with Hanoi on this issue, can bring the day of settlement nearer.

There may also be opportunities to reduce Soviet influence in Vietnam during the process of adjustment and realignment now in progress throughout the region, and we should certainly try to move Vietnam out from under the Soviet orbit if at all possible.

With movement toward political solutions in the region, there will also be a move to expand trade relations with Vietnam. Japan and most ASEAN nationa have maintained a foundation in diplomatic and economic ties with Vietnam upon which they can build when the moment is appropriate. If Vietnam completes its withdrawal from Cambodia, and is forthcoming on the whole POW/MIA issue, then we ought to be ready to explore trade relations.

Along these lines, we have some serious issues to discuss with Vietnam, from MIA's to refugees. There is no question we would be more effective in pressing these issues if we had direct, ongoing contact.

Mr. President, we held hearings in the Senate Foreign Relations Committee on August 2 of this year to consider the resolution which Senator MCCAIN, I, and others had introduced on relations with Vietnam. Unfortunately, the decision by Vietnam shortly thereafter to suspend cooperation on joint searches for MIA's led us to

postpone our efforts in Congress. At that time I wrote to Vietnamese Foreign Minister Nguyon Co Thach expressing my concern about his government's decision to hold up cooperation on this and other humanitarian issues.

I was pleased to receive a response from Foreign Minister Thach on August 27 stating that Vietnam had decided to resume cooperation on MIA's in response to my expressed concern and the wishes of the American people. Mr. President, I would like to submit both my letter to the Foreign Minister and his response for the RECORD because I believe the exchange illustrates that the Vietnamese do react, sometimes favorably, when you deal with them directly. That is my point. I certainly do not agree with much in his letter, but it shows Vietnam engaging our views and expressing their own. And that's where negotiations begin.

Mr. President, I ask that my letter to Foreign Minister Thach and his response be printed in the RECORD in full.

The letter follows:

HON. NGUYEN CO THACH,
Foreign Minister, Socialist Republic of Vietnam, Hanoi.

DEAR MR. MINISTER: Postponement of joint MIA search missions as announced in your 31 July letter to Gen. Vessey is deeply disturbing to one who has consistently urged U.S.-Vietnamese mutual diplomatic recognition. Unfortunately, your decision has made it very difficult for Congress to pursue, as I would wish, current hearings to study the desirability of such recognition. I hope that both our countries can quickly return to the path of positive steps which has characterized our contacts in recent months.

Sincerely yours,

PAUL SIMON,
U.S. Senator from Illinois.

AUGUST 27, 1988.

HON. PAUL SIMON,
U.S. Senate, Washington, DC.

DEAR SIR, I share your concern about the recent developments in the U.S.-Vietnam relations.

Throughout the recent past, we have done our utmost to implement the agreements reached between General John Vessey, the U.S. President's Special Emissary, and me in the August 1987 talks in Hanoi and in the June 1988 talks in New York, with a clear purpose of putting the past behind and looking forward to the future for the long-term interests of the people of the two countries.

General John W. Vessey has also affirmed in his letter to me dated August 5th, 1988 that the American people have especially been encouraged with the recent progress made possible by the Vietnamese side on resolving the American MIA issue and on the issue of the resettlement in the United States of all those who have been released from re-education centres. But it is regrettable that while Vietnam is showing such a good-will attitude, the statements made by U.S. senior officials at the end of last July demonstrating the United States' continued policy of hostility toward Vietnam do not contribute to the creation of a favourable atmosphere for a fair resolution of humanitarian issues of both sides as well as the issue concerning those released from re-education centres.

I would like to reaffirm to you that we unswervingly consider the settlement of the American MIA issue as a humanitarian one, and that both sides should put an end to hostile attitudes, creating favourable atmosphere for the resolution of these issues.

In response to your concern and to the wishes of the American people, I would like to inform you that the Vietnamese side agrees to the U.S. side participation in joint activities of investigation and survey on the MIA issue and is prepared for the meeting of specialists of the two sides on September 9th-12th, 1988 to discuss concrete plans.

Regarding the resettlement in the United States of the people who have been released from re-education centres, I am of the view that because major differences and an unfavorable atmosphere still exist, the specialists' second meeting cannot be arranged now.

I highly appreciate your recent activities in the U.S. Congress aimed at promoting the resolution of the remaining issues of both sides as well as improving the relations between the two countries. I wish you may, with your prestige and influence, urge the U.S. government create favourable conditions for the implementation of the agreements reached between the two sides.

Please accept, Sir, my best wishes and sincere regards.

Signed: NGUYEN CO THACH,
Minister for Foreign Affairs.●

PESTICIDES REFORM

● Mr. METZENBAUM. Mr. President, yesterday the Senate passed a bill to reform our Nation's pesticide law, the Federal Insecticide, Fungicide and Rodenticide Act [FIFRA]. It is an important first step. The legislation which passed will enable the Environmental Protection Agency to finally get on with the critical task of reviewing the health and safety of thousands of pesticides which are in use today.

This legislation is long overdue. In 1972 Congress instructed EPA to review and reregister all pesticides on the market. Today, 16 years later, the overwhelming majority of the 600 active chemical ingredients found in pesticides have not been adequately tested for health and safety effects.

The delays in pesticide reregistration have left a cloud of uncertainty hovering over the safety of our Nation's agricultural products. Consumers have a right to expect, and receive, rigorous and expeditious review of the pesticides used on agricutlural products which they purchase. Up to now, the process has been appallingly slow. At the current pace, reregistration of all pesticides on the market will not be completed for another 30 years.

S. 659 will halt the delays in the testing and reregistration of pesticide products. The reregistration and fee provisions of the bill grow out of work begun in the 99th Congress. S. 659 sets a strict 9-year deadline for completion of the reregistration process. More importantly, this bill gives EPA the tools to do the job. The fee provisions in the bill will provide EPA with the resources to conduct the necessary health and safety testing.

Consumers also have a right to expect that pesticides found to be unsafe will be swiftly removed from the market. Unfortunately, that has often not been the case because EPA has been handcuffed in its ability to ban dangerous pesticides. Current law requires the agency to compensate manufacturers for the costs of unsafe pesticides removed from the market. In addition, taxpayers also must foot the bill for the storage and disposal of these dangerous substances. As a result, the cost of banning a single pesticide often exceeds the budget for the agency's entire pesticide program.

S. 659 puts an end to this notorious quirk in our Nation's pesticide law. Manufacturers can no longer count on taxpayers to subsidize the costs of removing dangerous pesticide products from the shelves. No longer will EPA have to face the untenable choice between leaving a dangerous product on the market or diverting money from the safety review process in order to ban an unsafe pesticide.

While S. 659 takes some critical steps in the regulation of pesticides, there is still much more to be done when we return to work next year. Limiting the ability of manufacturers to export dangerous pesticides abroad, and authorizing citizen suits to aid enforcement of FIFRA are among the next steps which must be taken. In particular, allowing citizens to bring suit against violators of FIFRA would provide an additional cost—effective enforcement tool which would help ensure compliance with the law.

I also share with Senator DURENBERGER concerns regarding the urgent need to address the problem of ground water contamination. The safety of drinking water in many areas of the Nation is jeopardized by the seepage of pesticides into underground water supplies. While we were unable to address this issue fully this year, it is apparent that quick action must be taken to stop ground water pollution.

In short, while I am pleased with the progress we made yesterday, I am also mindful that much work remains to be done in the area of pesticide reform in order to protect the public health and safety.●

SID CAMPBELL

● Mr. DIXON. Mr. President, my friend Sid Campbell recently passed away. Though Sid was of a different political persuasion, I valued Sid's judgment and welcomed his views. The Jacksonville Journal Courier of Jacksonville, IL, said it best in its headline, "Our Area Lost a Lot When Sid Camp-

bell Died." I would like to express my heartfelt condolences to his wife, Rosemary, and to his family. I would also like to submit for the RECORD the text of the editorial which appeared September 7 in the Jacksonville Journal Courier.

The editorial follows:

OUR AREA LOST A LOT WHEN SID CAMPBELL DIED

Neighboring Cass County suffered the loss of one of its leading citizens this week with the passing of William "Sid" Campbell of rural Ashland. One of a rare breed that managed somehow to combine a number of activities into a single working day, he lived life to the fullest. His untimely death has saddened the entire community.

Sid Campbell, a farmer, political leader and manufacturer, used an uncanny knack for creativity and innovation to become well known throughout the state. When he came home from World War II, he settled into the family farming operation west of Ashland and quickly became very involved in community work. He was a member of the local school board and joined various community organizations. Besides the community projects, he became interested in politics, later becoming chairman of the Cass County Republican Central Committee, a post he held from 1966 until the time of his death.

The fact that his chosen party gained some strength in a Democrat stronghold gave Campbell state recognition. For a time he served as president of the Illinois Republican County Chairman's Association. His interest in education, begun at the local level, took him to involvement with committee work at the state level. All of these jobs paid nothing, but Sid Campbell cheerfully took the time from his own busy schedule to perform countless hours as chairman of the Illinois Community College Board and the Illinois Board of Higher Education, while at the same time serving on countless local committees connected with his beloved community of Ashland and Cass County.

Several years ago Campbell founded the Campbell Container Company and set up his small manufacturing operation in an unused implement dealership building in the Cass County seat of Virginia. Using his ability to create and innovate, Campbell improved on the already state-of-the-art machinery which was run by electronic controls, and produced a line of bottles used for such liquids as peroxide and rubbing alcohol. Also to be added to the production line was an eye-catching plastic bottle which would be used to merchandise locally-grown popcorn.

All this took place as Campbell continued to be active on the political scene. Those familiar with the mechanics of politics know that the local county chairman is the busiest person on the local scene. Sid Campbell not only lived up to every challenge, he thoroughly enjoyed tending to the machinery in his little bottle plant, fixing what needed to be fixed, while at the same time answering the never-ending requests that come the way of a political figure.

Sid Campbell was one of a now-rare breed which had his definite views on every subject. While a Republican partisan, he could count many friends on the Democrat side. He respected a person for the views he held, whether he agreed with them or not. Campbell had little patience with the person "with no opinion, either way."

At the time of his unexpected last illness, Sid Campbell was gearing up for yet another election, hoping for a decent crop, and working, as usual, his many-hour days. Many had asked his help, his counsel, and his wisdom through the past years.

He was never stingy with his time. His kind always seem to be able to reach back and "spare a few minutes," when in reality the time he spent helping others often came at the expense of his own time.

Sid Campbell was one who could have, at the end of the war over forty years ago, taken his unusual talents elsewhere to fame and fortune. We who knew him well are very thankful he chose to settle down in Cass County and be that "good neighbor," we all hope to be during our lifetimes.

Our condolences go to his wife, Rosemary, and his outstanding family. We share their loss because Sid Campbell reached out and touched so many other lives. He will be missed, but he leaves a vivid memory of a man who just couldn't sit still very long and let a problem go uncorrected.●

IN MEMORIAM—DR. RICHARD A. LEWIS

● Mr. DIXON. Mr. President, on Tuesday, September 20, the State of Illinois and the Nation lost a great man and scientist. Dr. Richard A. Lewis, president of the Illinois Defense Technology Association, Director of the Argonne National Laboratory Strategic Defense Initiative Program office, and Director of the Argonne National Laboratory's Engineering Division, was killed while he practiced for the national aerobatics competition.

Dick grew up in California, received his bachelor's and master's degrees from the University of California at Los Angeles. He later earned a Ph.D. in nuclear engineering from Stanford, and an M.B.A. from the University of Chicago. Dick had been with Argonne Laboratory in Illinois since 1964.

Both in professional and private life, Dick made excellence his goal. He was active in scuba diving, sailing, and has a special interest in precision flying. In fact, in 1987, 2 years after beginning the sport, Dick earned the title of U.S. national aerobatic champion in the sportsman class, and he recently won the Illinois State aerobatic championship in the intermediate class.

Professionally, there were none better than Dick Lewis. During his tenure at Argonne, Dick contributed to the advancement of science through various positions. No matter what he was charged with achieving—whether presiding over research and development programs, or innovating new procedures—he accomplished his goals and exceeded expectation. Our Nation's defense efforts, and our scientific achievements were greatly advanced under his guidance.

Richard A. Lewis was a brilliant scientist and a well-respected man. Dick Lewis will, indeed, be missed, but long remembered for all he contributed.●

JEROME H. STONE

● Mr. METZENBAUM. Mr. President, I rise today to honor an individual who has been a pioneer in raising our national consciousness about one of the most serious threats to the health and well-being of our society.

As a businessman, Jerome H. Stone distinguished himself as a leader and an innovator. As a director of several major industrial companies, his business sense and savvy is considered invaluable. And as a community-minded citizen, his involvement in charitable and civic causes has been the source of immeasurable help to many.

For most of us, all of that would have been enough. For Jerry Stone, it was only a small downpayment on a legacy of caring and commitment.

Late in 1979, Jerry Stone and a handful of dedicated individuals gathered here in Washington to discuss how they might mount a national effort to combat an affliction that—at the time—received very little attention from the general public or the Congress. That affliction was Alzheimer's disease.

Prior to that time, countless millions of Americans had suffered in silence, their families often too embarrassed to even mention what was happening to their loved ones.

Driven by their pain and his own personal experience, Jerome Stone took the helm as president and later chairman of the Board of the Alzheimer's Disease and Related Disorders Association. Although a most difficult and challenging task, he attacked it with skill born of rich experience and insight born of deep compassion. But through his tireless efforts and the hard work and dedication of Alzheimer families across the country, we have all come to recognize the heavy toll Alzheimer's disease is taking on our society.

The association has since grown to become a national voluntary organization dedicated to finding the cure for this dread disease, as well as easing the burden of the more than 2.5 million victims, their families and loved ones. In addition to offering families the guidance and support they so desperately need, the association has taken on the role of national spokesperson.

On a regular basis, I and many of my colleagues have turned to Jerry Stone to learn how we can best address the needs of Alzheimer families.

For my part, I am proud to have played a role in helping to focus attention and resources to this critical issue. Four years ago, I sponsored an amendment to the Labor-HHS appropriations bill, establishing the first of 15 Alzheimer Research Centers. I have also introduced and fought for passage of several measures aimed at meeting

the patient care and family service needs of this growing population.

But I can think of no more fitting tribute to Jerry Stone than the recent passage of legislation appropriating $120 million for medical research into the cause and cure for Alzheimer's disease.

I recently learned that Jerry Stone will soon be stepping down as chairman of the Alzheimer's Disease and Related Disorders Association, and I could not let the occasion pass without extending my thanks and best wishes to an old and dear friend.

Jerry, you are entitled to look back on your record of public service with great pride and satisfaction. The people of this Nation owe you their thanks for the distinguished service you have rendered for us all.●

LEGISLATIVE ALERTS

● Mr. KARNES. Mr. President, one of the most important duties we have as representatives of our our constituents is to keep them apprised on what we are doing in Congress.

In recent weeks, I have received thousands of responses from Nebraskans who have received Legislative Alerts from me. I believe these alerts perform a valuable service for the citizens who need to know, with great specificity, what we do and think. They have expressed great appreciation that a Member of the U.S. Senate would make the effort to explain the issues and then ask their opinions. I feel my efforts to explain several Senate bills have been quite successful, and the feedback I have received in turn from my constituents will help me greatly in my efforts to represent their views.

It takes a great deal of effort by some very talented people to accomplish this task. I have had the opportunity to thank my staff personally for the fine job they have done to assist me with this endeavor, but I rarely have a similar opportunity to express my appreciation to others who have played a major role in this process. Hard-working professionals in the Republican Conference such as Art Director Karen Portik and her staff have provided invaluable assistance to this end. I am pleased to express my thanks for their exemplary work and to extend my warm personal regard for their efforts.

Washington is a city of opinions and ideas, but no opinions are more important than those of the people we represent. I feel the time and effort necessary to communicate with them and solicit their opinions is very worthwhile. Ultimately, everyone benefits when more people become involved in the process of government.●

TIME AGREEMENT—S. 2846

Mr. BYRD. Mr. President, I ask unanimous consent that on a bill that Mr. WEICKER and Mr. KENNEDY are introducing, there be a 1-minute time limitation to be equally divided.

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

GRANTS FOR TREATMENT DRUGS FOR AIDS

Mr. WEICKER. Mr. President, I send a bill to the desk and ask that it be read.

Mr. BYRD. I ask that no amendments be in order.

The PRESIDING OFFICER. The clerk will report.

Mr. BYRD. No amendments and no motions to recommit.

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

The assistant legislative clerk read as follows:

A bill (S. 2846) to provide for the awarding of grants for the purchase of drugs used in the treatment of AIDS.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. WEICKER. Mr. President, very simply put, this is the authorization for $15 million to be expended between now and March 1989 for the provision of AZT for those who cannot afford it. The present program expires tomorrow. Without it there are thousands undoubtedly who will die. This will start the procedure going which will make the drug available for an additional period of time. It is hoped we will determine those policies that are properly applicable in this type of situation. I thank Senator KENNEDY and Senator HATCH for assisting me on this matter.

Mr. KENNEDY. Mr. President, I too join in urging the Senate to accept this bill. It is an emergency measure. It is absolutely essential. It is really a matter of life and death. I hope that we will pass it.

The PRESIDING OFFICER. All time has expired. The Senator from Kansas.

Mr. DOLE. I will defer to the Senator from Florida.

Mr. CHILES. Mr. President, this is an issue which I have not seen. As I look at it now, it looks like it authorizes and appropriates. Is it an authorizing measure or is it also appropriating?

Mr. WEICKER. In response to the Senator from Florida, it is strictly meant to be of an authorizing nature.

Mr. BYRD. Mr. President, I ask that the time be extended for 2 minutes.

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

Mr. CHILES. For the purpose of carrying out subsection (a), there is authorized to be appropriated $15,000,000. Now, I do not know exactly what that covers.

Mr. WEICKER. For the purpose of setting the record clear, there is no intention in the course of this legislation to have this as an appropriation, merely to continue the program in an authorization status and then to come back at the appropriations process in another vehicle at another time.

Mr. CHILES. I certainly will not object to it if it is authorizing. If it is appropriating the money, then it is something that I would have to consider.

Mr. WEICKER. I make it explicitly clear to the Senator from Florida this is strictly authorization, not appropriation.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. I would just add that that is my understanding. I think there is going to be some reprogramming. It is not going to be a new appropriation. It is a matter of emergency and I certainly hope we can pass it without any objection.

I yield back any time on this side.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2846

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

SECTION 1. GRANTS FOR TREATMENT DRUGS FOR ACQUIRED IMMUNE DEFICIENCY SYNDROME.

Part B of title III of the Public Health Service Act (42 U.S.C. 243 et seq.) is amended by inserting after section 314 the following new section:

"SEC. 315. GRANTS FOR TREATMENT DRUGS FOR ACQUIRED IMMUNE DEFICIENCY SYNDROME.

"(a) AUTHORITY.—The Secretary, may make grants to the States for the purpose of assisting grantees in the provision of drugs determined to prolong the life of individuals found to have acquired immune deficiency syndrome and related conditions.

"(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out subsection (a), there is authorized to be appropriated $15,000,000.

"(c) PERIOD FOR GRANTS.—No grant may be made under this section after March 31, 1989.

"(d) REPEALER.—This section shall cease to exist on March 31, 1989.".

Mr. WEICKER. I move to reconsider the vote by which the bill passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WEICKER. Mr. President, I ask unanimous consent that Senators

CRANSTON, WILSON, KENNEDY, HATCH, DOLE, and LAUTENBERG be included as original cosponsors.

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

VISIT BY THE PRESIDENT OF FRANCE

Mr. BYRD. Mr. President, the President of France, Francois Mitterrand, will be the guest of the Congress in Statuary Hall beginning at 4:50 p.m. today to be honored by the Speaker and the distinguished Republican leader and myself on the occasion celebrating the bicentennial of the French Revolution. All Senators are invited and the event should last about 30 to 45 minutes.

ORDERS FOR TOMORROW

RECESS UNTIL 10 A.M.

Mr. BYRD. Mr. President, the distinguished Republican leader and I have discussed going out at this time and unless the distinguished Republican leader has anything further, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 10 o'clock tomorrow morning.

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

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that after the two leaders are recognized on tomorrow, there be a period for morning business not to extend beyond 10:30 a.m. and that Senators may speak therein for 5 minutes each.

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

Mr. BYRD. Mr. President, I ask now that 5 minutes of that time be under the control of Mr. KERRY.

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

PROGRAM

Mr. BYRD. Mr. President, I thank all Senators. There will be a great number of rollcall votes tomorrow. I emphasize the fact that the Senate may be in until midnight tomorrow. We are going to do everything possible to meet the fiscal year deadline on appropriations bills, and unless such an appropriations bill as the DOD appropriations bill were not to meet that deadline, then I would say at this point the prospects for a Saturday session are pretty dim. But if the DOD appropriations bill has not been cleared by midnight tomorrow night, there is every prospect for a Saturday session.

So there will be rollcall votes late into the evening tomorrow. I hope all Senators and staff will be well aware of that probability—not that possibility but that probability.

Mr. DECONCINI. Will the leader yield for a question?

Mr. BYRD. Yes.

Mr. DECONCINI. When the Senator says we are going to be late into the evening, I realize this body does not run for any one Senator, although sometimes that could be debated, but my question is, would the Senator advise someone who needs to leave by 8 o'clock not to leave?

Mr. BYRD. Well, I would advise someone who needs to leave by 8 o'clock that he may miss some very important rollcall votes. They could be close. If it were I about to leave at 8 o'clock, I would say, "See you, folks; I am going to be on the Senate floor."

Mr. EXON. Will the leader yield for a question?

Mr. BYRD. Yes.

Mr. EXON. Did I understand the leader to say that we might have a vote or votes and a session on Saturday but the chances are dim? Is that what the Senator said?

Mr. BYRD. Depending on whether or not the Senate has disposed of the DOD appropriations bill by midnight tomorrow.

Mr. EXON. I thank the leader.

RECESS UNTIL 10 A.M. TOMORROW

Mr. BYRD. Mr. President, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 10 o'clock tomorrow morning.

The motion was agreed to and the Senate, at 4:49 p.m., recessed until Friday, September 30, 1988, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate September 29, 1988:

NATIONAL MEDIATION BOARD

ARTHUR ALBERT BRENNAN, OF MASSACHUSETTS, TO BE A MEMBER OF THE NATIONAL MEDIATION BOARD FOR THE TERM EXPIRING JULY 1, 1991, VICE HELEN M. WITT, RESIGNED.

RAILROAD RETIREMENT BOARD

JOHN D. CRAWFORD, OF ILLINOIS, TO BE A MEMBER OF THE RAILROAD RETIREMENT BOARD FOR THE TERM OF 5 YEARS FROM AUGUST 29, 1988 (REAPPOINTMENT).

NATIONAL SCIENCE FOUNDATION

MIGUEL RIOS, JR., OF NEW MEXICO, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR A TERM EXPIRING MAY 10, 1994, VICE NORMAN C. RASMUSSEN, TERM EXPIRED.