SENATE—*Thursday, October 5, 1989*

(Legislative day of Monday, September 18, 1989)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. The prayer will be offered by the Senate Chaplain, the Reverend Dr. Richard C. Halverson.

PRAYER

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

Let us pray:

See then that ye walk circumspectly, not as fools, but as wise, Redeeming the time, because the days are evil. Wherefore be ye not unwise, but understanding what the will of the Lord is.—Ephesians 5:15-17.

Eternal God, perfect in truth and justice, in holiness and love, somehow help us to understand that Thy will is good, acceptable, and perfect, leading to our full potential, individually and corporately. Help us to see that indifference is worse than rejection. Help us to overcome the reluctance which keeps us away from Thee. Forgive the pride which refuses to acknowledge human limitations and look to Thee for help in time of need. Midst the controversy and conflict of legislation, lead us in paths of righteousness.

In Jesus' name. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The Senate will be in order.

The majority leader is recognized under the standing order.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

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

SCHEDULE

Mr. MITCHELL. This morning, following the time reserved for the two leaders, there will be a period for morning business until 10:30 a.m. with Senators permitted to speak therein for up to 5 minutes each.

Beginning at 10:30 a.m., there will be three rollcall votes in succession in relation to the flag-burning statute. The first will be a 15-minute vote on the Wilson amendment; the second a 10-minute vote on a Dole amendment; and the third, on final passage of the bill. The third is also a 10-minute vote. There is no time remaining for debate on this measure prior to the three votes.

Therefore, I urge my colleagues, since this will be a 15-minute vote followed by two 10-minute votes, to remain in the Chamber after the first vote so that we do not encounter the situation of other Senators having to wait for one Senator who leaves and then must return.

Once we have completed action on the flag bill, the Senate will return to consideration of S. 1711, the drug bill, with Senator HELMS to be recognized to continue debate on his amendment regarding Panama.

I alert Senators to the likelihood—indeed, I think it fair to say with certainty—that there will be votes throughout the day and into the evening.

It is my hope to complete action on the drug bill today, then to turn to other matters, including, at some point during the day, the catastrophic health care legislation.

Therefore, Senators should be prepared for a lengthy session today, and into this evening with the possibility of numerous votes.

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my leader time, and I reserve the leader time of the distinguished Republican leader.

The PRESIDENT pro tempore. Without objection, the time of both leaders is reserved.

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

The PRESIDENT pro tempore. The absence of a quorum has been suggested.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. I ask unanimous consent that the order for the quorum call be rescinded.

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

The Senator from Kansas is recognized.

Mr. DOLE. I thank the Chair.

(The remarks of Mr. DOLE pertaining to the introduction of S. 1727 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDENT pro tempore. The Senate will receive a message from the House of Representatives.

At 10:16 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has agreed to the following resolutions:

H. Res. 251. A resolution amending the articles of impeachment exhibited by the House of Representatives against Walter L. Nixon, a judge of the United States District Court for the Southern District of Mississippi; and

H. Res. 252. A resolution notifying the Senate of the amendment to the articles of impeachment against Judge Walter L. Nixon.

MESSAGE FROM THE HOUSE OF REPRESENTATIVES, AMENDED ARTICLES OF IMPEACHMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the message just received from the House of Representatives be spread upon the Senate Journal and printed in the CONGRESSIONAL RECORD for the information of the Senate, and that the clerk be instructed to read the message of the House in full for the information of the Senate.

The PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will proceed to read the message in full.

The assistant legislative clerk read as follows:

H. RES. 251

Resolved, That the articles of impeachment exhibited by the House of Representatives against Walter L. Nixon, a judge of the United States District Court for the Southern District of Mississippi, are amended in the second paragraph of article II and in paragraph (2)(G) of article III, by striking "in any way influence anybody" and inserting "that in any way influenced anybody".

H. RES. 252

Resolved, That a message be sent to the Senate by the Clerk of the House, informing the Senate that the House of Representatives has adopted amendments to the articles of impeachment exhibited against Walter L. Nixon, Jr., a judge of the United States District Court for the Southern District of Mississippi, and that the amendments will be presented to the Senate.

Mr. MITCHELL. Mr. President, I ask unanimous consent that counsel for Judge Nixon be allowed 3 days from today to file such responsive pleadings to the amended articles of impeachment as counsel may choose to file, and that the House managers

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

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be allowed 3 days from the filing of any responsive pleadings to the amended articles of impeachment by Judge Nixon to file a replication.

I further ask unanimous consent that the procedures authorized by sections 3 through 9 of Senate Resolution 127 of this Congress for the handling and printing of pleadings in this impeachment proceeding, including printing in the Senate Journal, in the CONGRESSIONAL RECORD, and as a separate Senate document, shall be utilized with respect to pleadings filed under this unanimous-consent agreement.

The PRESIDENT pro tempore. Without objection, the various requests of the majority leader will be granted.

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

MORNING BUSINESS

The PRESIDENT pro tempore. Under the order, there will now be a period for the transaction of morning business with Senators permitted to speak therein for not to exceed 5 minutes.

The junior Senator from Kentucky [Mr. MCCONNELL] is recognized for not to exceed 5 minutes.

Mr. MCCONNELL. I thank the Chair.

(The remarks of Mr. MCCONNELL pertaining to the introduction of S. 1727 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. MCCONNELL. I thank the Chair, and I suggest the absence of a quorum.

The PRESIDENT pro tempore. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

THE FLAG PROTECTION ACT OF 1989

Mr. KASTEN. Mr. President, I rise today in support of the Flag Protection Act of 1989. Even though I am a cosponsor of a constitutional amendment to protect the American flag, and I continue to believe that such an amendment is necessary to truly accomplish what we purport to do here today, I will support this statutory approach.

The flag is indeed a special symbol of our great land. As Justice Stevens said in his dissenting opinion in Texas versus Johnson, "It also signifies the ideas that characterize the society that has chosen that emblem as well as the special history that has animated the growth and power of those ideas. * * * The value of the flag as a symbol cannot be measured." The ideas born in 1776, and culminating in the Constitution of the United States, are ideas that have grown and the power of which even today we see being expressed in societies throughout the world.

My constituents have expressed to me their desire to see their flag protected. They all have different reasons, but they echo the words of Justice Stevens quoted above. Many have buried family members who have returned from foreign lands after laying down their lives to protect the values and ideas symbolized by the flag that draped their coffins.

I do not believe that preventing the burning or desecration of the flag impinges upon the first amendment rights which we all cherish. There is the alternative mode of expression available of uttering words critical of the flag and what it represents. That will not be altered by the constitutional amendment which I continue to support.

However, the matter before us tonight is an attempt to provide, by statute, the protection our flag deserves. Given the decision of five Supreme Court Justices that the statute in Texas versus Johnson violated the Constitution, I don't believe this vehicle will work. But I will support this effort until the Senate considers the constitutional amendment which will provide the protection the flag deserves.

THE FLAG PROTECTION ACT OF 1989

Mr. THURMOND. Mr. President, we are now ready for the vote on final passage of this bill. I want to take this opportunity to thank the distinguished chairman of the Judiciary Committee for his efforts with this legislation.

I believe we share the same goal, that being the protection of the American Flag. We differ on the most appropriate way to protect the Flag in light of the Johnson decision.

While the Senator from Delaware is enthusiastic that a statute can adequately protect the Flag from physical desecration, I believe that any statute we pass will be suspect as unconstitutional before the current Supreme Court and we can only speculate as to how a different Supreme Court would rule on this matter.

Therefore, I have stated that while a statute might get results, and I will support this bill, a well drafted constitutional amendment is the most sound and prudent course to ensure the integrity of the American Flag.

We will soon have the opportunity to vote on a constitutional amendment. I see no reason why this Congress should not pass both measures. The Federal statute would be in place while the State legislatures act on a proposed constitutional amendment.

Again, I thank the distinguished chairman. We have accepted amendments which I believe improves this bill and I encourage my colleagues to support final support.

MOHAMED HASSAN GAWALY

Mr. KASTEN. Mr. President, I was deeply saddened to learn of the untimely death in Cairo of Mohamed Hassan Gawaly, who was Minister at the Egyptian Embassy in Washington from 1985 through July of this year.

Minister Gawaly was a familiar figure to most of us in Congress, and a friend to many. He was a superb diplomat, who represented his country with true devotion and dedication. He was strongly committed to strengthening the United States-Egyptian relationship, as well as to the goals of peace and stability in the Middle East. His knowledge of the foreign assistance process was unmatched, and he understood the importance of cooperating closely with Members of Congress. My staff and I had the pleasure of working often with Minister Gawaly, and we always found that his professionalism and expertise made him an excellent representative of the Egyptian Government and people. I speak for many of my colleagues when I say how greatly he will be missed.

Minister Gawaly had completed his 4 year assignment in Washington in early August, and had returned to Cairo to assume new duties with the Egyptian Foreign Minister. He had previously served in the Egyptian Consulate in San Francisco, and at posts in the Soviet Union and Somalia. Between foreign assignments, he had served in Cairo as an assistant to the Foreign Minister and the Prime Minister. The Government of Egypt has lost a truly hardworking, dedicated servant; I am certain his future would have been great.

On behalf of my colleagues, I wish to extend my deepest condolences to Minister Gawaly's family and to his colleagues at the Egyptian Embassy in Washington and at the Foreign Ministry in Cairo.

RESTART OF THE SAVANNAH RIVER REACTORS AND BUILDING OF THE NEW PRODUCTION REACTOR

Mr. THURMOND. Mr. President, 2 weeks ago, Secretary of Energy Watkins announced that early next year the Department of Energy would restart the reactors at the Savannah River site and resume tritium production. This was the first critical step in ensuring that our Nation maintains its

nuclear weapons stockpile in a usable state for the coming years.

This step, however, is only an interim solution. The reactors that will be restarted are almost 40 years old and are nearing the end of their design life. Since tritium, unlike plutonium, decays at a rate of 5.5 percent a year, the Department of Energy has placed the highest priority on continued production of tritium. To maintain a reliable source of tritium into the future, we must commence with the construction of the new production reactors or face an involuntary disarmanent of our nuclear stockpile.

In that regard, Mr. President, I ask unanimous consent to insert into the RECORD an article from the September 10, 1989, Aiken Standard, by Mr. Louis H. Roddis, Jr. titled, "Tritium Shortage Could Disarm U.S." Mr. Roddis is the former chairman of the Energy Research Advisory Board and former president of the American Nuclear Society.

I believe the article fully identifies the problems the United States is facing with regard to tritium production, the potential impact on our nuclear weapons stockpile, and the future of our Nation. I hope my colleagues will read the article and keep its message in mind when the Senate considers further funding for the construction of a new production reactor.

Thank you, Mr. President.

TRITIUM SHORTAGE COULD DISARM U.S.

(By Louis H. Roddis, Jr.)

We are witnessing serious problems in nuclear materials production in the United States, because weapons facilities built in the early 1950s are in deteriorating condition and cannot meet current defense needs.

These problems, if not corrected soon, could lead to a shortage of nuclear materials and a unilateral reduction in effective nuclear forces, with dangerous consequences for national security. There's a good deal of uncertainty about the rate at which this disarmament might occur, but there's no doubt about the direction of the trend, or the reason for it.

Events over the past 16 months show just how grave the problem is. In April 1988, the United States lost its remaining means of producing tritium and plutonium, essential ingredients of nuclear warheads, when the three existing reactors at the Savannah River Site in South Carolina were shut down for safety upgrades and other improvements.

TRITIUM DECAYS

Although plutonium lasts tens of thousands of years and stockpiles are reasonably satisfactory, tritium steadily decays into helium at a rate 5.5 percent a year, resulting in its loss. This means that tritium in a nuclear weapon must be replenished periodically to maintain the weapon's explosive yield. In fact, tritium not only enhances the strength of the explosion; it allows warheads to be smaller and lighter than they would otherwise be.

Even in the unlikely circumstance that no new warheads are built, the existing warheads would have to be refurbished with new stores of tritium. If supplies of the material become totally exhausted, the United States would be forced to retire about 1,200 warheads a year—effectively disarming us over a 20-year period. Therefore, even a temporary shortage could force this country to reduce its existing arsenal by removing tritium from some weapons to keep others in working order.

The government expects at least one of its military reactors at Savannah River to resume tritium production next year. However, the reactors are almost 40 years old and nearing the end of their original design lifetimes. For the long term, the United States cannot depend on its aging military reactors, if this country is to have an assured supply of tritium in the years ahead.

The U.S. Department of Energy, the agency responsible for the production of nuclear materials, has placed the highest priority on resolving this issue. The purely technical problem of developing new sources of tritium was examined by a special panel of DOE's Energy Research Advisory Board, of which I was a member.

After studying different technologies, the panel recommended construction of two new tritium-producing reactors—one a modern version of the heavy-water reactors that have supplied weapons materials during nearly 40 years of use at Savannah River. The new heavy-water reactor will have "passive safety" features and use modern electronics and computerization, improved control-room design and other state-of-the-art advances. It will be constructed at the Savannah River Site. And the reactor will be big enough to supply tritium for the entire nuclear weapons program.

The other reactor is the prototype of an advanced high-temperature gas-cooled reactor, and it will be capable of providing the nation with 50 percent of the needed tritium capacity. Because of a requirement to produce tritium at two different locations to ensure military security, the Department of Energy proposed building the gas-cooled reactor in Idaho.

Congress is presently considering this dual-reactor strategy. Some questions have arisen about the wisdom of constructing two new production reactors rather than obtaining tritium through other means.

Why not simply produce tritium at existing nuclear power plants? Two problems. First, designs based on light-water technology have never been used to produce tritium in the United States. Commerical nuclear plants would require major conversion, since the uranium fuel used in light-water type plants would not provide adequate tritium production without increased enrichment and with possible adverse effects on their safety. Second, the use of civilian reactors to produce tritium for military ends would require changes in the longstanding national policy of prohibiting the use of civilian reactors for such military purposes.

OTHER COUNTRIES?

Why not just obtain tritium supplies from other countries?

It's true that reactors presently operating in Canada and other countries produce tritium as a byproduct of their nuclear systems. For political reasons, however, the Canadian government has refused to export tritium even for industrial use or scientific research. Other nations are also unlikely to export the material. In any event, the United States should not depend on other countries for crucial nuclear materials.

What about building a linear accelerator to supply tritium?

The concept of using a high-voltage particle beam device, or accelerator, is not new. During the late 1940s it was considered as an alternative to the Savannah River-type reactors. Our panel rejected the accelerator approach because the technology is too immature even to estimate the cost of buildng a tritium-producing accelerator and because an accelerator would require about ten times as much power as a heavy-water reactor.

Why can't we just obtain tritium trapped in the heavy water that flows through the reactors at Savannah River?

TIME CONSUMING

Extracting tritium from heavy water would require construction of a new isotope separation plant at Savannah River. By the time this facility could be completed, however, a significant fraction of the tritium would have decayed.

Finally, some would have us stop tritium production together in hopes of achieving a strategic arms-control treaty with the Soviet Union. This seems to me a dangerously bad idea. These arms-control advocates ignore the reality that the Soviet Union can produce needed quantities of tritium in civilian reactors, and that its leaders have shown no inclination to stop producing the material. Wishful thinking about arms control cannot be allowed to dominate our consideration of the defense issue to the extent that we fail to maintain our strategic nuclear deterrent. If we halt U.S. production of tritium, it will take about 10 years to get a new reactor on line, while the Soviets continue producing nuclear weapons.

The real issue is whether we would prefer a world in which the Soviets have tritium-producing capability and we do not. Such an outcome seems to have little to commend it.

We can't stop producing tritium indefinitely, or we'll be going into the next century unable to deter war or respond to threats to U.S. interests. Congress must move promptly to provide funds to begin building the new reactors. Our national security calls for no less.

(Louis H. Roddis, Jr, is a consultant on nuclear energy who lives in Charleston. From 1981 to 1984, he was chairman of the Energy Research Advisory Board, a group of outside experts that counsels the U.S. Department of Energy on science issues. He is a former president of the American Nuclear Society.)

FLAG DESECRATION STATUTE

Mr. KERRY. Mr. President, I support this statute, although I believe very deeply our flag is well protected without it. I am convinced the statute in no way threatens the integrity of the first amendment. On the other hand, I will oppose a constitutional amendment to protect the flag because such an amendment is unnecessary and diminishes the Constitution.

In reality, the American flag is vibrant and strong enough to need no protection. The flag protects itself. It is the fundamental symbol of our Nation. No one has the ability to damage it, because it stands for what we are and what we believe in and that idea does not merely reside in any one physical flag, but the very concept of our flag.

Nevertheless, I also believe that the physical integrity of the flag is some-

thing that we have the power and the right to protect. In my view, physically injuring the flag is no different from writing graffiti on a public subway: It is defacing public property, and the particular message that one seeks to convey is irrelevent. In protecting our subways, or our monuments, or our flags, from graffiti, burning or other forms of desecration, we are restricting malicious conduct against property—not speech.

I intend to speak in greater depth on this subject when we return to the issue in considering a constitutional amendment to protect the flag.

MOTOR VEHICLE AIR-CONDITIONER OZONE DEPLETION ACT OF 1989

Mr. KERRY. Mr. President, I rise today in support of the efforts in the reconciliation measure, which will soon be considered by the Senate, to eliminate the use of dangerous chlorofluorocarbons [CFC]. I particularly want to commend Senator BAUCUS, chairman of the Committee on Environment and Public Works, for his longstanding efforts in this important area. I am pleased that as part of this package the committee included portions of legislation I introduced earlier in this session of Congress, S. 1051, the Motor Vehicle Air Conditioner Ozone Depletion Act.

My legislation would require the Environmental Protection Agency to set up the following minimum standards establishing a ban on the domestic sale or export of automobiles which contain air-conditioners that use CFC's. Beginning with model year 1993, 25 percent of the cars manufactured with air-conditioners in the United States, or imported into the United States, must be free of CFC's. This would increase to 50 percent for model year 1994, and to 100 percent by model year 1995. Just as important, this legislation requires the certification of all equipment used to install, maintain, and repair car air-conditioners, and requires that CFC's are reclaimed, recycled, or safely destroyed.

The committee provision contained in this bill will ban the sale of auto air-conditioners which are dependent on CFC 12 as a refrigerant by the model year 1994. This proposal also stops the practice of venting or releasing CFC's from auto air-conditioners and requires the recapture, recycling, and safe disposal of CFC's. It also bans by January 1, 1991, the sale of do-it-yourself CFC canisters.

Mr. President, by eliminating the largest end use of CFC's in our Nation, those used in mobile air-conditioners, this proposal will help meet the serious threat we face by the continued deterioration of our protective ozone layer.

We know what the consequences of damage to the ozone layer can be—they include increased incidences of cancer, skin cancer, cataracts, harm to marine life, and worldwide damage to agricultural crops. In addition, CFC's are greenhouse gases, and some scientists believe they will account for 25 percent of the total warming over the next half century.

Chlorofluorocarbons are very stable and can last in the atmosphere for decades. When CFC's reach the stratosphere 10 to 20 miles above the Earth, CFC molecules break apart releasing chlorine which depletes the ozone layer. One single atom of chlorine can destroy 100,000 molecules of ozone. Even if all CFC's were banned today, depletion would still continue for quite some time.

For these reasons it is imperative that the process of reducing and eliminating the use of CFC's is accomplished in the most expeditious manner possible. Again I am pleased with the CFC-reducing provisions in this bill and believe that they represent a major step toward saving the ozone and protecting the health and welfare of people everywhere.

THE 1,664th DAY OF TERRY ANDERSON'S CAPTIVITY

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 1,664th day that Terry Anderson has been held in captivity in Beirut.

As Terry Anderson and each of the remaining hostages continue to be held, their families are, in a sense, also held captive.

I ask unanimous consent that an article on this subject from the Los Angeles Times be printed in the RECORD.

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

[From the Los Angeles Times, Dec. 23, 1987]

HOSTAGES' KIN SEND LETTERS ASKING RELEASE

BEIRUT.—Families of eight Americans held by pro-Iranian groups expressed hope in letters published today that the kidnapers' "hearts will soften" and they will release the hostages this holiday season.

In the two letters published in the An Nahar newspaper, they also told the captives: "We pray that God will grant you strength, courage and grace during this long and painful ordeal."

The families said they were approaching the holiday season "with heavy hearts," but assured the hostages, "Your are not forgotten by us or by the American poeple.

"We work and pray for peace and justice throughout the Middle East and especially for the people of Lebanon."

One of the letters was addressed to the hostages and the other "to the captors of the American hostages in Lebanon."

In the second letter, the families said they sympathize with the Lebanese people who have suffered through 12 years of civil war.

"We pray daily for our hostages but we also hold the people of Lebanon in our hearts and prayers," they said.

"Let us pray together that this holiday season will mark the end of the pain and hostility that is tearing your country and our hearts to pieces."

Peggy Say, the sister of hostage Terry Anderson, the longest-held American, said from her home in Batavia, N.Y., that the letters also were published in the Beirut newspaper As Safir but she did not know of any personal letters sent to the hostages or their captors.

Say said she and her pastor, the Rev. Thomas Vickers of Batavia, wrote the letters and circulated them among hostage families for approval.

Say said the letters are more important this year than similar pleas in the last three years Anderson has been a captive because the kidnaping of Anglican Church envoy Terry Waite has left the hostages without much hope.

PROTECTING THE FLAG

Mr. HATCH. Mr. President, the debates of yesterday afternoon and this morning on the subject of the constitutionality of legislation such as H.R. 2978—which, I am convinced, attempts to amend the Constitution by means of a statute—would be incomplete if the arguments of the bill's proponents were allowed to go unrebutted.

Let me note at the outset that, of course, some statutes which are found unconstitutional can be cured by a legislative response, depending on the nature of the constitutional defect. The question is, is this such a circumstance? I think it is not. Of course, the Federal flag desecration statute itself has not been found to be unconstitutional. I have assumed, however, as have proponents of H.R. 2978, that the rationale of the Texas versus Johnson decision, striking down the Texas flag desecration statute, would invalidate the Federal flag desecration statute, 18 U.S.C. 700.

Despite the many assertions that H.R. 2978 is not an effort, in effect, to amend the Constitution, it was clear from the substance and tone of these debates that that is precisely what is being attempted here. The opinion of the Supreme Court in Texas versus Johnson was a constitutional decision; one which involved the application of the 1st and 14th amendments to the Constitution. For the reasons I explained yesterday at some length, no statute banning flag desecration will survive after the Texas versus Johnson decision.

The distinguished chairman of the Judiciary Committee, Senator BIDEN, presented three examples to support his assertion that he is not attempting to alter the Constitution by statute.

One of the chairman's examples is relevant to this issue, although readily distinguishable. The other two examples are so far off the point, and so utterly unhelpful, that I can only con-

clude that proponents of the statutory response to Texas versus Johnson are hardpressed to defend that approach on the constitutional merits.

The excerpt from Prof. Walter Dellinger's testimony, that "Congress is free to correct any flaw that may have rendered an act of Congress unconstitutional, in response to a Supreme Court decision," may serve to appear to provide a patina of academic respectability to the chairman's response to my arguments, but it obviously begs the question: Are the defects in the Federal flag desecration statute, in light of Texas versus Johnson, curable by statute? If not, the effort to overturn that decision by statute circumvents the Constitution. Again, I will not repeat the arguments I made yesterday concerning the futility of any statutory response to the Texas versus Johnson decision, but will briefly explain why the chairman's three examples are completely unavailing.

Two of the examples, Bowsher versus Synar and Buckley versus Valeo, are beside the point, with respect to the issue before us, namely, how can we assure protection of the flag from desecration.

Buckley v. *Valeo*, 424 U.S. 1 (1976), upheld major portions of the Federal Election Campaign Act. The Court, however, declared the composition of the Federal Elections Commission violative of article II, section 2, clause 2—the appointments clause—with respect to all but its investigative and informative powers. Since a majority of the Commission's voting members were appointed by Congress, it could not engage in enforcement activity. Obviously, Congress can correct that error by reconstituting the Commission and it did so.

In *Bowsher* v. *Synar*, 478 U.S. 714 (1986), the Court reviewed a part of the Gramm-Rudman-Hollings Act under which mandatory spending cuts were put in place if the Comptroller General issued a report estimating that the budget deficit exceeded the amount permitted by the act. The Court held that the powers vested in the Comptroller General under the Gramm-Rudman-Hollings Act violate the constitutional requirement that Congress play no role in the execution of the laws. It was easy for Congress to respond by giving its role, of designating mandatory spending reductions, to someone else. It did so by giving that authority to the Director of OMB.

Neither of these cases helps us decide whether Texas versus Johnson can be constitutionally redressed through a statute. They are simply not on point.

The *Shacht* v. *United States* case, 398 U.S. 58 (1970), is more on point, but still unpersuasive as a justification for H.R. 2978.

In Shacht, the Court looked at two Federal laws. One prohibited any person "without authority [to wear] the uniform or a distinctive part thereof * * * of any of the Armed Forces of the United States"; 18 U.S.C. 702.

Another Federal law said:

> While portraying Army, Navy, Air Force, or Marine Corps, an actor in a theatrical or motion-picture production may wear the uniform of that armed force if the portrayal does not tend to discredit that armed force; 10 U.S.C. 772(f).

Shacht did wear parts of an Army uniform in an antiwar theatrical production, and was not a member of the Armed Forces.

The Court indicated that 18 U.S.C. 702, making it an offense to wear a military uniform without authority, standing alone, is facially constitutional. But it does not stand alone, since 10 U.S.C. 772(f) authorizes such wearing in a theatrical production. The Court ruled that the last clause of 10 U.S.C. 772(f) is an unconstitutional infringement on freedom of speech because it allowed use of a uniform in a skit praising the Army, but not in one condemning the Army.

But the neutral protection of the military uniform does not, by analogy, support the so-called neutral protection of the flag. The neutral protection of the military uniform, which the Court indicated would be constitutional, serves other than symbolic purposes. For example, it can protect people from unscrupulous persons trying to con them. The misuse of a uniform could lower public esteem for the military, affecting recruiting, or lower morale in the Armed Forces. These are not symbolic purposes of a blanket ban on use of the military uniform, these are practical purposes. In contrast, the flag, unlike the military uniform, has only symbolic purposes. A statute protecting the flag, whether couched in neutral terms or not, only serves to protect the flag as a symbol. Thus, the constitutionality of a neutral statute prohibiting misuse of a military uniform does not support the constitutionality of a neutral flag desecration statute. The latter protects an object solely for its symbolic purposes. And Texas versus Johnson teaches us that desecration of this symbol for expressive purposes is constitutionally protected.

Moreover, Mr. President, the bill supported by Senator BIDEN, H.R. 2978, is not neutral. It permits the burning of the flag for disposal purposes—a respectful treatment of the flag—but for no other purposes.

One Senator made the observation that we should not lionize Gregory Johnson or his despicable act of political protest. I agree. But that lionization has already occurred. The Supreme Court has lionized Gregory Johnson by giving constitutional protection to his conduct. Congress has a duty to reverse that lionization, to restore to Congress and the States the power to protect the flag from physical desecration. If we fail to amend the Constitution, Texas versus Johnson will stand for the right to burn the flag—Johnson will in fact continue to be lionized by those who agree with him.

Among the other fallacious arguments heard in these debates, none is perhaps so disingenuous as the claim heard yesterday that passing a constitutional amendment to empower the Federal Government and the States to prohibit flag desecration would raise the specter of numerous, onerous, varying laws that could hardly be complied with. To begin with, it should be pointed out that the possibility of multiple laws being passed on the same subject is inherent in the nature of our Federal system. That possibility did not present a problem for the drafters of the Constitution, nor should it long delay us today. Many of the most fundamental matters of life and death with which legislators must deal—from murder to abortion—are addressed in State statutes which reflect the varying values of the States of this Nation.

It should also be pointed out that we already have 49 different flag desecration statutes, and no Senator has risen in these debates to point out a single problem that has occurred from the maintenance of these various differing statutes on the books for decades.

But even if there were some rational basis for the Nation to fear a multiplicity of laws on this subject, the most important answer to be made to this argument is simply: H.R. 2978 does nothing to prevent the possibility and, in fact, would, if the constitutional amendment fails, be an incentive to the enactment of a whole round of new, no doubt differing State statutes on flag desecration. The bottom line is this: If Congress can avoid the effect of the Johnson case by simply passing a law, then so can every State legislature and every city council.

If a constitutional amendment is passed to state clearly that Congress and the States shall have the power to prohibit the physical desecration of the flag, then most of the 48 statutes on the books will become enforceable without the need of further legislative action. Just as the mere fact that those statutes differ has presented no problem in the past, it can be anticipated that their variety will present no problem in the future.

If, on the other hand, H.R. 2978 becomes law—despite the Justice Department's assertion that its constitutionality "cannot be seriously maintained"—and no constitutional amendment is passed, then every State will be encouraged to enact new so-called

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content-neutral flag desecration statutes patterned after H.R. 2978. What variations there will be in each State can hardly be anticipated.

Implicit in the argument of those who advocate a single national standard for flag desecration is the apparent belief that H.R. 2978 would be given some preemptive effect. There is no basis for believing this: The current Federal statute has never been given such effect, but has existed alongside the various State statutes for years. Nor is there any language in the law to state the intention of Congress to preempt the State laws. This is as it should be. Flag desecration is a proper subject of State as well as Federal legislation.

Basically, I believe that those who fear the multiplicity of flag desecration statutes that could be enacted if Senate Joint Resolution 180 were to be adopted, actually fear the people and their elected representatives. They are the ones who will have the power to enact the statutes, and I trust they will do so in a responsible way. I regret that the critics of a constitutional amendment do not, apparently, share my faith in the wisdom and good sense of the people.

I'm also surprised at how many Senators have presented a single argument for the constitutionality of the statutory approach that bears no relation to the bill we are considering. One Senator accurately stated that, "Constitutional scholars testified before the Judiciary Committee that this proposal will pass muster by the Supreme Court because it outlaws flag burning in all circumstances." But H.R. 2978 does not outlaw flag burning in all circumstances. S. 1338 did, and that was the bill to which the testimony of the constitutional scholars appearing before the Senate Judiciary Committee was directed. The argument, even if once valid, simply has no applicability when applied to H.R. 2978.

A word should also be directed to the true positions of the constitutional law scholars who appeared before the Judiciary Committee. Far from being overwhelming in their support of the constitutionality of the statutory approach, they were more evenly divided between advocates of the statute and advocates of the amendment. But what I found most significant is the ironic fact that every law professor, historian, and lawyer who testified in favor of the constitutionality of the statute-only approach went on to urge that the Senate do nothing about the Johnson case or to otherwise cast doubt on the advisability of correcting that decision. Among those witnesses who agreed with the professed view of the majority of the committee that the result of Johnson should be overturned, there was a remarkable unanimity of opinion: Every witness—from Judge Bork to Charles Cooper to the Department of Justice—agreed that this result could be obtained only through the adoption of an amendment to the Constitution.

FLAG PROTECTION ACT OF 1989

Mr. BIDEN. Mr. President, I would like to thank my very good friend and distinguished colleague, and the ranking member of the Judiciary Committee, STROM THURMOND, for his assistance and cooperation in passing H.R. 2978. My good friend provided invaluable assistance in putting together the committee's four hearings and in ensuring that we had a knowledgeable and thoughtful complement of witnesses. As always, it is an honor and a pleasure to work with him.

DESECRATION OF THE FLAG

Mr. NUNN. Mr. President, I rise today in strong support of H.R. 2978, the Flag Protection Act of 1989. I salute the Senator from Delaware and the other members of the Judiciary Committee for their prompt, yet thorough, review of this important matter.

This legislation will prohibit any individual from mutilating, defacing, burning, or trampling the flag of the United States. The measure would extend protection to any flag of the United States, or any part thereof, in a form that is commonly displayed. I believe this proposal will thwart intentional desecration of our flag.

Earlier this year, I was deeply disappointed by the Supreme Court's 5-to-4 decision to nullify the flag desecration laws of the States and the Federal Government. In my view, the American flag represents the preeminent symbol of our Republic. The American flag also serves as a living memorial to our Nation's brave war veterans, those still living, the over 1 million who died while serving, and those who today still bear the wounds of war.

The Supreme Court's majority opinion treats the American flag as just another symbol like many others, and thus held desecration of the flag to be a form of political expression protected under the first amendment.

I agree with Justice Stevens who stated in his dissent that the American flag is "more than a proud symbol of the courage, the determination, and the gifts of nature that transformed 13 fledgling colonies into a world power" and that "the interest in preserving that value for the future is both significant and legitimate."

I believe that this statutory approach, as recommended by a number of constitutional scholars, is the most appropriate and effective way to resolve this important issue. As some of my colleagues have noted, the constitutional amendment process is, as it should be, a cumbersome process. I favor this statutory approach because it provides a swift response to the Supreme Court's recent opinion. While I will consider seriously a constitutional amendment if it becomes necessary, I believe that we should first attempt to rectify this situation by a statutory remedy with an accelerated appeals process.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDENT pro tempore. Morning business is closed.

FLAG PROTECTION ACT OF 1989

The PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 2978, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2978) to amend section 700 of title 18, United States Code, to protect the physical integrity of the flag.

The Senate resumed consideration of the bill.

Pending:

(1) Wilson Amendment No. 951, to prevent the defiling of the American flag.

(2) Dole Amendment No. 952, to require that desecration of the U.S. flag be public in order to be a criminal act.

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

The PRESIDENT pro tempore. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 951

Mr. BIDEN. Mr. President, parliamentary inquiry. What is the business before the Senate?

The PRESIDENT pro tempore. The pending question before the Senate is on the adoption of the amendment by Mr. WILSON, amendment No. 951 to H.R. 2978.

Mr. BIDEN. Mr. President, I move to table the amendment.

Mr. WILSON. Mr. President, I ask for the yeas and nays.

The PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Delaware, Mr. BIDEN, to table amendment No. 951 of the Senator from California, Mr. WILSON. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDENT pro tempore. Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 31, nays 69, as follows:

[Rollcall Vote No. 224 Leg.]

YEAS—31

Adams	Dodd	Mikulski
Biden	Glenn	Mitchell
Bingaman	Inouye	Moynihan
Boren	Johnston	Pell
Bradley	Kennedy	Robb
Bumpers	Kerrey	Sanford
Burdick	Lautenberg	Sarbanes
Cranston	Leahy	Simon
Daschle	Lieberman	Wirth
DeConcini	Matsunaga	
Dixon	Metzenbaum	

NAYS—69

Armstrong	Gore	McClure
Baucus	Gorton	McConnell
Bentsen	Graham	Murkowski
Bond	Gramm	Nickles
Boschwitz	Grassley	Nunn
Breaux	Harkin	Packwood
Bryan	Hatch	Pressler
Burns	Hatfield	Pryor
Byrd	Heflin	Reid
Chafee	Heinz	Riegle
Coats	Helms	Rockefeller
Cochran	Hollings	Roth
Cohen	Humphrey	Rudman
Conrad	Jeffords	Sasser
D'Amato	Kassebaum	Shelby
Danforth	Kasten	Simpson
Dole	Kerry	Specter
Domenici	Kohl	Stevens
Durenberger	Levin	Symms
Exon	Lott	Thurmond
Ford	Lugar	Wallop
Fowler	Mack	Warner
Garn	McCain	Wilson

So, the motion to lay on the table the amendment (No. 951) was rejected.

The PRESIDENT pro tempore. The vote recurs on the Wilson amendment No. 951 to H.R. 2978. The yeas and nays are ordered. The clerk will call the roll. This is a 10-minute rollcall vote.

Mr. BIDEN. Mr. President, parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state his parliamentary inquiry.

Mr. BIDEN. I apologize. I did not hear what the Chair said was about to come next.

The PRESIDENT pro tempore. The vote recurs on the Wilson amendment No. 951 to H.R. 2978.

Mr. BIDEN. Mr. President, I suggest we vitiate that vote.

Mr. LEAHY. Mr. President, we do not have order.

Mr. DOLE. We want the yeas and nays on this vote.

The PRESIDENT pro tempore. The yeas and nays have been ordered. Will the Senator restate his request.

Mr. BIDEN. I withdraw my suggestion.

The PRESIDENT pro tempore. The yeas and nays are ordered on the Wilson amendment No. 951. The clerk will call the roll. This is a 10-minute rollcall vote, as is the one to follow.

The bill clerk called the roll.

The result was announced—yeas 76, nays 24, as follows:

[Rollcall Vote No. 225 Leg.]

YEAS—76

Adams	Gore	Murkowski
Armstrong	Gorton	Nickles
Baucus	Graham	Nunn
Bentsen	Gramm	Packwood
Bond	Grassley	Pressler
Boschwitz	Harkin	Pryor
Breaux	Hatch	Reid
Bryan	Hatfield	Riegle
Burns	Heflin	Rockefeller
Byrd	Heinz	Roth
Chafee	Helms	Rudman
Coats	Hollings	Sanford
Cochran	Humphrey	Sasser
Cohen	Jeffords	Shelby
Conrad	Kassebaum	Simon
D'Amato	Kasten	Simpson
Danforth	Kerry	Specter
Daschle	Kohl	Stevens
Dixon	Levin	Symms
Dole	Lott	Thurmond
Domenici	Lugar	Wallop
Durenberger	Mack	Warner
Exon	McCain	Wilson
Ford	McClure	Wirth
Fowler	McConnell	
Garn	Mikulski	

NAYS—24

Biden	Dodd	Lieberman
Bingaman	Glenn	Matsunaga
Boren	Inouye	Metzenbaum
Bradley	Johnston	Mitchell
Bumpers	Kennedy	Moynihan
Burdick	Kerrey	Pell
Cranston	Lautenberg	Robb
DeConcini	Leahy	Sarbanes

So the amendment (No. 951) was agreed to.

Mr. WILSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDENT pro tempore. The question now recurs on the Dole amendment No. 952. On this question, the yeas and nays have been ordered.

Mr. BIDEN addressed the Chair.

The PRESIDENT pro tempore. The Senator from Delaware.

Mr. BIDEN. Mr. President, I move to table the Dole amendment.

The PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Delaware to lay on the table the amendment of Mr. DOLE.

Mr. DOLE. Mr. President, I ask for the yeas and nays.

The PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Delaware to lay on the table the amendment of the Senator from Kansas.

On this question, the yeas and nays have been ordered, and the clerk will call the roll. This will be a 10-minute rollcall vote.

The clerk will repeat the name and vote of each Senator after he responds.

The assistant legislative clerk called the roll.

The PRESIDENT pro tempore. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 53, nays 47, as follows:

[Rollcall Vote No. 226 Leg.]

YEAS—53

Adams	Dodd	Lieberman
Baucus	Exon	Matsunaga
Biden	Ford	Metzenbaum
Bingaman	Fowler	Mikulski
Boren	Glenn	Mitchell
Bradley	Gore	Moynihan
Breaux	Graham	Nunn
Bryan	Harkin	Pell
Bumpers	Inouye	Riegle
Burdick	Jeffords	Robb
Byrd	Johnston	Rockefeller
Cohen	Kennedy	Sanford
Conrad	Kerrey	Sarbanes
Cranston	Kerry	Sasser
Danforth	Kohl	Simon
Daschle	Lautenberg	Specter
DeConcini	Leahy	Wirth
Dixon	Levin	

NAYS—47

Armstrong	Hatch	Nickles
Bentsen	Hatfield	Packwood
Bond	Heflin	Pressler
Boschwitz	Heinz	Pryor
Burns	Helms	Reid
Chafee	Hollings	Roth
Coats	Humphrey	Rudman
Cochran	Kassebaum	Shelby
D'Amato	Kasten	Simpson
Dole	Lott	Stevens
Domenici	Lugar	Symms
Durenberger	Mack	Thurmond
Garn	McCain	Wallop
Gorton	McClure	Warner
Gramm	McConnell	Wilson
Grassley	Murkowski	

So the motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the amendment was tabled.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDENT pro tempore. The majority leader.

Mr. MITCHELL. Mr. President, under the unanimous-consent agreement entered into last night, it was anticipated that there would be three votes this morning, all but the first to be 10-minute votes. Because one of the tabling motions failed, there will now be four votes and unless the consent is obtained, it will be a 15-minute vote.

I ask unanimous consent that the vote now on final passage be limited to 10 minutes.

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

The question is on final passage of the bill, H.R. 2978. The yeas and nays have not been ordered.

Mr. HELMS. I ask for the yeas and nays.

The PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDENT pro tempore. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDENT pro tempore. The bill having been read the third time, the question is, Shall it pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The clerk will please repeat the response of Senators. Hopefully, the Senators will heed unless they be recorded as not voting.

The clerk will call the roll.

The bill clerk called the roll.

The result was announced—yeas 91, nays 9, as follows:

[Rollcall Vote No. 227 Leg.]

YEAS—91

Adams	Fowler	Mikulski
Armstrong	Garn	Mitchell
Baucus	Glenn	Murkowski
Bentsen	Gore	Nickles
Biden	Gorton	Nunn
Bingaman	Graham	Packwood
Bond	Gramm	Pell
Boren	Harkin	Pressler
Boschwitz	Hatfield	Pryor
Bradley	Heflin	Reid
Breaux	Heinz	Riegle
Bryan	Helms	Robb
Bumpers	Hollings	Rockefeller
Burdick	Inouye	Roth
Burns	Jeffords	Rudman
Byrd	Johnston	Sanford
Coats	Kassebaum	Sarbanes
Cochran	Kasten	Sasser
Cohen	Kerry	Shelby
Conrad	Kohl	Simon
Cranston	Lautenberg	Simpson
D'Amato	Leahy	Specter
Danforth	Levin	Stevens
Daschle	Lieberman	Symms
DeConcini	Lott	Thurmond
Dixon	Lugar	Wallop
Dodd	Mack	Warner
Domenici	Matsunaga	Wilson
Durenberger	McCain	Wirth
Exon	McClure	
Ford	McConnell	

NAYS—9

Chafee	Hatch	Kerrey
Dole	Humphrey	Metzenbaum
Grassley	Kennedy	Moynihan

So the bill (H.R. 2978), as amended, was passed.

Mr. BIDEN. I move to reconsider, Mr. President, the vote by which the bill was passed.

Mr. HELMS. I move to lay that motion on the table.

The PRESIDENT pro tempore. Is there objection to the motion to reconsider and motion to table?

Hearing none, the question is on the motion to table the motion to reconsider.

The motion to lay on the table was agreed to.

Mr. BIDEN. Mr. President, I will only take a moment of the Senate's time—and it is a bit unusual for me. I always generally thank staff, but there is one particular staff member of mine, Jeff Peck, who has learned more about and is probably the Nation's leading expert, including the Court, on the constitutionality and all the law surrounding, not only all the law, but traditions and local customs relating to the flag and the use of the flag.

I have always known Jeff as an extremely fine lawyer. Jeff came back to the Senate at some great sacrifice, like many, many, if not all, of the staff members here do, and was assigned this topic. As I said, he literally, I believe at this moment is the leading expert in America on the constitutional questions relating to the flag. He has done a phenomenal job and has done more work on this than I think he ever, ever thought he would have to do on any single issue, particularly on the flag.

I just want to publicly thank him. There are many other staff members of mine and Senators on the Republican side of the aisle and in the Judiciary Committee who did phenomenal jobs. As I said, it is the first time in 17 years, I think, I ever publicly picked someone out, but this poor fellow has spent hundreds and hundreds of hours of doing nothing but research on this issue, and I want to publicly thank him.

Mr. President, I have nothing further to say on that except to ask the Chair, do we now move back to the drug bill?

IMPLEMENTATION OF THE PRESIDENT'S 1989 NATIONAL DRUG CONTROL STRATEGY

The PRESIDING OFFICER. Under the order, the Senate will now resume consideration of S. 1711, which the clerk will report.

The bill clerk read as follows:

A bill (S. 1711) to implement the President's 1989 National Drug Control Strategy.

The Senate resumed consideration of the bill.

Pending:

(1) Biden Amendment No. 924, to provide for civil enforcement procedures in the eviction from places maintained for manufacturing, distributing, or using controlled substances.

(2) Kennedy Amendment No. 934, to provide for substance abuse prevention and treatment programs.

(3) Helms Amendment No. 935 (to amendment No. 924), to provide authority for the President to use the armed forces of the United States to secure the removal of General Manuel Noriega for the illegal control of the Republic of Panama.

The PRESIDENT pro tempore. Under the previous order, the Senator from North Carolina [Mr. HELMS] is recognized.

Mr. HELMS addressed the Chair.

The PRESIDENT pro tempore. If the Senator will suspend until there is order in the Senate.

The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, I thank the Chair very much.

I ask unanimous consent that the distinguished Senator from Rhode Island [Mr. PELL], who is chairman of the Foreign Relations Committee, of which I am the ranking member, be permitted to call up a resolution with respect to the Dalai Lama receiving the Nobel Peace Prize, which he and I are cosponsoring. I ask that the order which provided for my having the floor be delayed until that is disposed of.

The PRESIDENT pro tempore. Is there objection to the request? The Chair hears none, and it is so ordered.

The Senator from Rhode Island is recognized.

Mr. PELL. Mr. President, I thank my colleague from North Carolina very much indeed.

SENATE CONCURRENT RESOLUTION 75—CONGRATULATING HIS HOLINESS THE XIV DALAI LAMA OF TIBET FOR BEING AWARDED THE 1989 NOBEL PEACE PRIZE

Mr. PELL. Mr. President, the Norwegian Nobel Committee has recognized His Holiness the XIV Dalai Lama of Tibet with the 1989 Nobel Peace Prize for his personal struggle for the liberation of Tibet through peaceful means. It is my hope that this award will inspire and empower the Tibetan people and the people of China to pursue, in the words of the Dalai Lama, a "middle path" to peace, rejecting violence and embracing compromise through dialog.

Moreover, it is my prayer that this award will focus the attention of the international community to the plight of the Tibetan people and draw global support for their efforts to save Tibetan culture.

In the 88 years of the Nobel Prize's existence, surely no one has been more deserved than the Dalai Lama whose life philosophy has been one of reverence for all things living. In our interdependent earth, he affirms that man is not alone. Nature, too, has its rights in his vision of a better world, one that neither the Chinese, nor any other power, can morally violate.

Just 2 years ago, on September 22, 1987, His Holiness was my guest at a luncheon here in Senate. Our tribute today is an extension of our tribute then. In January I was one of many who nominated His Holiness the Dalai Lama of Tibet for the 1989 Nobel Peace Prize. I wrote then that the world may then note:

> That a man of peace secured for his people a voice and a venue to meet the challenge to peace and freedom in his homeland.

Today the world did take note.

Mr. President, I ask unanimous consent that a letter to Mr. Egil Aarvik be printed in the RECORD.

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

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC, January 13, 1989.

Mr. EGIL AARVIK,
Chairman, Nobel Peace Prize Committee, The Nobel Institute, N-0255 Oslo 2, Norway.

DEAR MR. AARVIK: As you consider nominations for the 1989 Nobel Peace Prize, I urge you to give consideration to awarding this high honor to His Holiness the Dalai Lama of Tibet.

Since the diaspora of 1959, the Dalai Lama has shepherded the Tibetans in exile while struggling to secure peace and justice for his countrymen in Tibet. The Dalai Lama has never wavered from his advocacy for a peaceful resolution of the status of Tibet within the greater body of China. Even in the face of armed repression of the Tibetan people, the Dalai Lama has responded with pleas for non-violent resistance and constructive dialogue.

It is with this dialogue in mind, and in combination with his long record of inspirational leadership and a true commitment to the well-being of all the world's peoples, that I envision the Dalai Lama's nomination as a proclamation that his peaceful approach can be a persuasive tool in resolving a truly difficult and complex situation. The world may then note that a man of peace secured for his people a voice and a venue to meet the challenge to peace and freedom in his homeland.

The Dalai Lama's message, indeed his life, exemplify the ideals of the Nobel Peace Prize. I urge that his nomination be given your serious and favorable consideration.

With every good wish.

Ever sincerely,

CLAIBORNE PELL.

Mr. PELL. Mr. President, I send to the desk a concurrent resolution. A similar one is being submitted in the House, I believe, at this very same time. It is being cosponsored by Senators HELMS, MOYNIHAN, BIDEN, PRESSLER, SIMON, SANFORD, and SARBANES.

If it is in order I ask for its immediate consideration.

The PRESIDENT pro tempore. If the Senator will send the resolution to the desk, the clerk will state the resolution.

Mr. PELL. I send it to the desk, Mr. President, but withdraw my request.

The PRESIDENT pro tempore. Does the Senator wish to withdraw his request for immediate consideration?

Mr. PELL. I withdraw my request for immediate consideration.

The PRESIDENT pro tempore. The request is withdrawn.

The Senator from North Carolina [Mr. HELMS] is recognized.

Mr. HELMS. Mr. President, this morning the Norwegian——

The PRESIDENT pro tempore. If the Senator will suspend momentarily the Chair will inquire of the senior Senator from Rhode Island if he still wishes to introduce the resolution?

Mr. PELL. I thought by sending it to the desk I had submitted the concurrent resolution.

The PRESIDENT pro tempore. Very well, the concurrent resolution will be appropriately referred.

Is that the wish of the Senator?

Mr. PELL. Or held at the desk, I would hope.

The PRESIDENT pro tempore. That would require a unanimous consent.

Mr. PELL. I thank the President pro tempore of the Senate for his indulgence. I ask this to be held at the desk.

The PRESIDENT pro tempore. Is there objection to holding the resolution at the desk until further action?

If the Chair hears no objection, the request is granted.

Mr. PELL. I thank the President and relinquish the floor.

The PRESIDENT pro tempore. The Senator from North Carolina [Mr. HELMS] is recognized.

Mr. HELMS. Mr. President, for the information of Senators who will be interested, I am sure, it is contemplated that this resolution will be cleared, perhaps quite soon today. In any event, it will be acted upon this evening before we leave.

Let me make a few comments with respect to the honor accorded to a good friend of mine and a good friend of Senator PELL's, the Dalai Lama.

Mr. President, this morning the Norwegian Nobel Prize Committee announced that they had awarded the 1989 Nobel Peace Prize to His Holiness, the Dalai Lama. The resolution we are introducing today commends the committee for having recognized the justice of the Tibetan cause and congratulates His Holiness for having received the award.

Mr. President, the cause of Tibet which the Dalai Lama has championed all his life is one which the American people unanimously support. We know that the people of Tibet have a separate language and culture and have had a national homeland on the high plateaus of Central Asia for centuries.

Nevertheless, beginning October 7, 1950 the Chinese Communist Army invaded and occupied Tibet. This unwarranted invasion and occupation which was completely contrary to international law has led to unprecedented suffering for the Tibetan people. Between 1959 and 1979 over 1 million Tibetans perished as a direct result of the executions, torture, and deliberately induced famine engendered by the policies of the Government of the People's Republic of China.

Since 1950 and particularly during the ravages of Mao's cultural revolution, over 6,000 monasteries, the repositories of 1,300 years of Tibet's cultural achievements, were destroyed and their irreplaceable legacy of art and literature to the world was lost or stolen.

On October 1, 1987, Chinese Communist police in the Tibetan capital of Lhasa fired on unarmed demonstrators, killing at least six and wounding scores of others. Since that time the people of Tibet have been victimized by a new wave of violence and repression culminating in the imposition of martial law on March 7, 1989.

Mr. President, the problem of Tibet is not a conflict between the people of Tibet and the people of China. The massacre of Peking on June 4, 1989, demonstrates that both peoples suffer from the effects of forceable imposition of the same Communist system. Having successfully imposed martial law on the people of Tibet in March, the Communists then extended it to all of China in May.

The founders of the Democratic Front for China have expressly recognized this point. At their recent meeting in Paris, their chairman noted that both the Tibetans and the Chinese democracy movement fight against dictatorship and for justice and human rights.

Mr. President, in spite of all of the crimes committed against his people, the temporal and religious leader of the Tibet, the Dalai Lama, has consistently pursued a policy of peace, hope, and reconciliation. Just as consistently, the Chinese Communists have rejected the hand of friendship offered to them.

Today I am pleased to join with the distinguished chairman of the Senate Foreign Relations Committee, Mr. PELL, and others to commend the Nobel Committee and His Holiness. However, I do not believe this is enough. To be blunt about it, we need to pass sanctions and cause pain to the Communists in Peking so that they will release their stranglehold on the Tibetan and Chinese peoples. Their cause is just and they will prevail, but they need our help and they need it now.

Mr. PELL. Will the Senator yield?

Mr. HELMS. I certainly will, yes.

Mr. PELL. Mr. President, I want to commend the Senator for his words and speech and I associate myself with them.

Mr. HELMS. I thank the Senator sincerely.

IMPLEMENTATION OF THE PRESIDENT'S 1989 NATIONAL DRUG CONTROL STRATEGY

The Senate continued with the consideration of the bill.

AMENDMENT NO. 935 TO AMENDMENT NO. 924

Mr. HELMS. Mr. President, momentarily I am going to ask unanimous consent that I be permitted to vitiate the yeas and nays on the pending amendment so I can send a modified form to the desk. Unless the distinguished manager, Mr. BIDEN, desires that I do that now?

Mr. BIDEN. If the Senator would yield for a comment, the Senator from Delaware is not at this moment in a position to be able to grant that unani-

mous consent. I am checking with several of my colleagues who have a keen interest in this subject. I will be able to shortly tell the Senator from North Carolina whether or not we are prepared to do that, although it is being considered.

Mr. HELMS. I understand. I would like to save the Senate as much time as possible and not get into a rancor over this thing.

Mr. President, over the past several hours, several hours up to about 34 or 36 hours, I have managed to piece together the story of the tragic inaction of the United States on Tuesday in the face of a strong plea from patriotic Panamanians for help, but this cry for help went unheard, obscured by a cacophony of official international visits and a total lack of any advanced planning. I was intrigued to note that last night's TV news programs and this morning's news programs have confirmed the remarks that I had prepared to make last evening.

Mr. President, I believe the U.S. Government had advanced warning that an action was planned against General Noriega, and I also believe, to my sorrow, that no contingency plans had been set in place, other than to do nothing. I believe that the opposition troops in Panama had Mr. Noriega in captivity for at least 5 hours and I believe longer than that, and they were anxious to turn him over to the United States for trial but received not the slightest encouragement from United States officials. I believe that the leaders of our Government were perhaps a little bit too preoccupied with entertaining Noriega's strongest supporter in Latin America, the President of Mexico.

In any case, Mr. President, on Tuesday I discovered in my initial contacts with United States officials, both here and in Panama and elsewhere, that they had little information about what was happening in Panama and, frankly, some of them did not seem to care. I talked to secure lines; I talked to open lines; I talked to well-known and prominent people in this Government and formerly in this Government all of whom have exceedingly vast knowledge of Panama and the situation there.

A great deal of information, therefore, has come to me from various sources, both American and Panamanian. None of this information—none—was restricted by security classification. Some of my sources were in direct contact with the opposition forces in general headquarters. Yesterday, I received further information which corroborates the information that I received earlier, and it is my intention to share that information with the Senate today.

Frankly, it is a mystery to me that one obscure U.S. Senator can assemble information from open sources that appears to be more complete and more accurate than anything the administration has chosen thus far to make public. In fact, the administration, which is my administration, has not even been able to spell correctly the name of the leader of the opposition forces Major Giroldi. For their information it is G-i-r-o-l-d-i.

I mention this to emphasize that I decided not to attend any classified hearings or briefings on this matter so that I would be able to speak publicly—originally I intended to do it last night—but in any case, I wanted to speak publicly about the information that I assembled. With that in mind, Mr. President, let me summarize Tuesday's events for the purposes of the CONGRESSIONAL RECORD and anybody else who may be interested.

Tuesday morning at 7:45 Panama time, which of course was 8:45 Eastern time, troops in opposition to the criminal regime of Manuel Noriega entered the general headquarters of the Panama Defense Forces at the time that Noriega arrived, and they placed him under detention. This was the first step, do you not see, in a carefully planned scenario. Indeed, two members from Noriega's own special security forces were part of this operation, and they were reporting on his every movement.

I realize that there have been attempts to deny that Noriega was ever held in custody, but the truth is beginning to emerge even on that. Now it is being acknowledged, but until last evening, sources were still, in this administration, saying they were not sure whether he was ever in detention. But my sources, and they are credible, assure me that Noriega was, in fact, held for 5 hours in the general headquarters and that his detention was a key element in the fruitless negotiations that were carried on with U.S. officials.

About 9 a.m. Panamanian time, the opposition troops went to talk to officers of the United States Southern Command. They told the U.S. officers that they were holding Noriega captive and they requested U.S. assistance to take custody of Noriega and remove him to the United States. That is what they reported to me Tuesday and since. However, the U.S. officers informed the opposition troops that the Southcom did not have the authority to apprehend Noriega and that the opposition troops would have to bring Noriega to the U.S. base.

Now let me say parenthetically right now that that is the purpose of this amendment. There is no question about the President having the authority to do what should have been done Tuesday. This amendment simply spells out, reaffirms that he does have that authority.

You say, "Senator, why are you offering this amendment?" I will tell you why I am offering this amendment. I want there never to be another occasion where the Keystone Cops run around and bump into each other and say we do not know whether we have the authority or not. I want it spelled out in a reaffirmation which is contained in this amendment.

The opposition troops stated they did not have the military capability to take Noriega out of the general headquarters and bring him to U.S. authorities. Somehow this scenario has been twisted in various public pronouncements and confidential pronouncements that I have heard about to imply that the opposition troops refused to turn over Noriega to the United States. Not so. They were eager to turn over Noriega, but the fact is that the United States refused to leave the United States base in Panama to get him. Those are the facts, ma'am, as they used to say on television.

Mr. President, I am informed that at this point, Southcom contacted the Joint Chiefs of Staff in Washington. The wheels on the bureaucracy grind slowly, always, but they just totally almost shut down Tuesday. Eventually, the Joint Chiefs reported back that their decision was not to make a decision. Southcom had to report back to the opposition troops that they could not help in any way.

Various representatives of the news media have told me that the Department of Defense originally put out press guidance sheets and orally to deny that the United States Government was ever asked for help by the Panamanian opposition troops. Unfortunately, I am told by unimpeachable sources within the administration that the DOD press guidance was incorrect.

So where does that leave us? The decision to do nothing conforms completely to the opinion of the Chairman of the Joint Chiefs of Staff, who has told me personnally in the past on another occasion that he is opposed to any kind of military action in Panama. He is entitled to that opinion. I would not deny it. But as I believe I said to him at the time, it is difficult for this Senator to understand what the purpose of a military force is if it is not to defend U.S. vital interests.

Something has been said about armchair generals, we do not need armchair generals at the Joint Chiefs of Staff.

It has also been reported to me from nonintelligence sources that Southcom asked the CIA to assist but that the CIA refused. At some point during this debate I hope the distinguished chairman of the Senate Intelligence Committee, my good friend from Oklahoma [Mr. BOREN], may speak so far as he is privileged to speak, because of the classified nature of a lot of material. But I reiterate that I have not received any classified material so I am

free to speak and say what is on my mind, and that is what I am doing at this moment.

In any event, Mr. President, meanwhile civilian representatives of the opposition had contacted me by 9:30 Washington time on Tuesday asking me to urge the administration to make a show of military force around the general headquarters and to block the highway from Tocumen Airport to the general headquarters to prevent Noriega's troops from entering the city. That could have been easily done and should have been done.

I immediately tried to reach various high officials in our Government, but, as I said earlier, they were previously indisposed. They were, as the saying goes, I suppose, wining and dining with the President of Mexico, which is all right, but they had about a third or fourth level bureaucrat answering the phone down at the State Department. And as Sam Ervin used to say, quoting a town character in Morgantown, "he did not know anything and he had that tangled up," so it was impossible to get through.

I am told that representatives of the civilian opposition in Panama also contacted the administration directly to ask not for combat but simply for a display of military force and assistance in getting Noriega out of Panama.

Meanwhile, back at the ranch, or back at the State Department, a so-called task force was finally set up to deal with the situation, if you can call it that, because everybody else was done at the White House meeting with the Mexican President. This task force was constituted at the Deputy Assistant Secretary level. Moreover, the task force had authority only to "monitor the situation", not to make recommendations or decisions. We all know how that goes in this city. No one was available at a higher level to give information to Senators. And by that time other Senators were calling, and they tell me they had the same situation confronting them that I did. As a matter of fact, one Senator has stated that when he asked for more information, what do you reckon this task force told him? They said, "Senator, turn on CNN television."

I have information that no high level meetings on Panama were held until 2:30 Tuesday afternoon when Secretary Baker and Assistant Secretary Aronson went to the President to tell him that the coup attempt had failed. Of course it had failed. What else did they expect?

Meanwhile, the opposition troops in the general headquarters began to negotiate with Noriega. They were trying to stall for some time, still hoping, do you not see, that up there in Washington, DC, somebody would make a decision that would be helpful in terms of moving back to a democratic government in Panama and getting Noriega, the drug trafficker, the money launderer, indicted by the United States Government and wanted in Miami for trial.

But while the opposition troops were waiting for the U.S. bureaucracy to make a decision, what happened? Noriega's troops had time to mobilize and move to recapture the general headquarters.

If you will look at a map of Panama, you will see that Noriega's major military base is at Rio Hato, which is a former United States World War II airfield 75 miles west of Panama City. Rio Hato is the headquarters of the 7th Infantry. The 7th Infantry is commanded by Capt. Lucho Gonzalez, one of Noriega's faithful associates who is widely believed to share in Noriega's drug profits. Noriega has his own luxurious house at Rio Hato. Rio Hato is also reported to be the refuge for the notorious Colombian drug kings Pablo Escobar and Jorge Ochoa. The executive officer of the 7th Infantry is Capt. Mario del Cid. Captain Cid has been publicly accused by the Spadafora family—and I hope nobody in this Chamber will ever forget what happened to Dr. Spadafora. The Spadafora family is still trying to get justice. Captain del Cid has been publicly accused, as I say, of being present at and participating in the torture and decapitation of Dr. Huga Spadafora.

Members of the Spadafora family have been in my office on a number of occasions and, of course, they are not going to get any justice in Panama with Noriega there.

So it is clear that the 7th Infantry is the hard core of Noriega's support—brutal men who have no future other than serving Manuel Noriega. About 300 troops from the 7th Infantry were flown to Tocumen Airport in Cessna 212 light planes and one 727. Tocumen Airport is about 12 miles east of Panama City where the general headquarters is situated. There is only one major highway that leads from this airport to the city, and that is the Interamerican Highway. It crosses several bridges, and do you know what the opposition forces had hoped for and asked for? They asked simply that there be a display of U.S. force blocking this highway at strategic points, thereby preventing any troop movement from the airport. They did not get it. We were too busy doing nothing in Washington, DC.

Moreover, another Panamanian military base is at Fort Cimmaron, about 15 miles east of Tocumen Airport and here is based the Battalion 2000 under the command of Maj. Federico Olochea.

According to reports I have received—and I believe them to be accurate; no one has misrepresented them—Olochea remained neutral during the action. Nevertheless, Battalion 2000 was created by Noriega in 1983 as the military unit that would protect the Panama Canal in the year 2000 when the canal is supposed to be fully turned over to Panama. This Battalion 2000 is especially loyal to him.

So the scenario is that the two military units met at Tocumen Airport, a combined force of about 1,300 men. From there they took 19 2½-ton trucks and 4 armored vehicles and headed down the Interamerican Highway toward the general headquarters.

Meanwhile, about 11 a.m. Panama time, the opposition troops announced in a communique that Noriega was under detention and was on a list of senior officers to be retired from the Defense Forces. At that point, the opposition troops declared victory. They stated that the arrest of Noriega was not a political action, but an internal action against the senior officers. This was an attempt to get breathing space.

Nevertheless, do you not know that the Noriega troops had already rallied together at Tocumen and were on the road? They were going to rescue that thug, that drug trafficker, that money launderer, that brutal dictator. They were able to move down the highway unimpeded and arrived at the general headquarters in about 20 minutes. I guess it is worthy of mention that this road takes them right past the United States Embassy in Panama. Had they met with fully armed U.S. troops in full force on the highway, they would never have dared even to open fire.

The Noriega troops surrounded the general headquarters, but did not enter because their leader was captive at that time inside. Instead, the forces of the Department of Investigations [DENI]—the feared intelligence unit responsible for many detentions, interrogations, and disappearances in Panama, began to round up the mothers and wives of the leaders of the opposition forces, and forced these mothers and wives to telephone the leaders in the general headquarters. The message of the women was simple: Please surrender, or we will be killed.

By this time, the opposition troops had been told that the United States was not going to do anything. But the point is that the whole plan had been predicated upon the concept that the United States, as we have said over and over again, was anxious to apprehend Noriega, and would give at least passive support to the action. They took us at our word, and they made a mistake.

At 1:30 p.m. Panama time, a Panamanian helicopter landed at the general headquarters and took Noriega away. About half an hour later, the opposition troops surrendered. Hundreds of opposition troops were taken into custody and herded into buses and taken away. Who knows where they are now?

About 6:30 p.m. Panama time, Noriega went on television live and said that he was in control of the situation and would investigate the situation to see what happened. You bet your boots. I do not know how many people are already dead there as a result of the typical Noriega investigation.

The leader of the opposition troops, Maj. Moises Giroldi—they called him Moses—is now dead. We know that. I received a report from Panama that Noriega personally shot the major. Administration spokesmen have been saying that there was "confusion" because the major was supposedly pro-Noriega. Yet persons knowledgeable about the Panamanian Defense Forces say that he is a professional officer untainted by drug corruption concerned about the future of the Panamanian military—exactly the sort of person the United States should have been cultivating.

Mr. President, I ask unanimous consent that a list of other Panamanian officers executed after the movement collapsed be printed in the RECORD.

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

PARTIAL LIST OF PANAMA DEFENSE FORCE OFFICERS OPPOSING NORIEGA KILLED DURING AND AFTER ATTEMPTED COUP

Major Moises Giroldi
Captain Tejada
Captain Sandoval
Lieutenant Bonilla
Lieutenant Concepcion
2nd Lieutenant Ortega

PARTIAL LIST OF PDF OFFICERS IN OPPOSITION TO NORIEGA CURRENTLY HELD PRISONER

Col. Julio Ow Young
Col. Guillermo Wong
Lt. Col. Palacios Gondola
Major Agustin Degracia
Major Agustin Pajarro
Captain Nicasia Drake
Captain Sanchez
Captain Jesus Balma

NOTE.—In addition to these military officers killed and jailed, there are also hundreds of troops who were killed or are now in prison.

Mr. HELMS. Mr. President, this morning the security forces—including the DENI and the G-2—began to arrest key leaders of the civilian opposition. I am informed that Guillermo Endara, the opposition leader who was elected President in the elections Noriega canceled last May, has gone into hiding. Ten others that we know of have been arrested.

Mr. President, three military groups in Panama have attempted to take action against the Noriega regime. The first attempt was led in March 1988 by Col. Leonid Macias. All the men involved were tortured and jailed. To this good day, no one knows whether they are alive. The second action was led by Col. Eduardo Herrera, who was Panama's Ambassador to Israel. United States officials brought him back to the United States from Israel last year to plan an action against the regime. He started organizing his plan, but certain circles in the U.S. Government—lower echelon officials who kept Noriega on the U.S. payroll for years and years—complained that Herrera's plan might result in the death of Noriega—an accusation that Herrera strongly denies. The third action was yesterday's abortive attempt. After this can anybody imagine that any member of the Panama defense forces can be expected to act against Noriega? I cannot imagine it.

In this instance, the United States was informed at least 2 days in advance that opposition forces intended to apprehend Noriega. And that was done. In fact, the opposition forces report that U.S. officials even encouraged them to go ahead. But at the moment of truth, the United States was nowhere to be found.

Mr. President, this is why I proposed my amendment. I did it Tuesday evening.

I thought about it a lot. I reviewed in my mind the repeated suggestions that I heard throughout the day from our Government that well, you know, the authority to do this or that is not certain.

All this amendment, which is at the desk, is intended to do is eliminate at least the argument the next time, if there is a next time, because I want the amendment to say that this Congress reaffirms the President's authority, authority that he already had. And there should never have been any doubt about it in anybody's mind. We are always contending over and over again that the President's authority is vague or unclear or that Congress would never support military action to depose Noriega or help the Panamanian people to restore a constitutional government.

If this amendment is approved, there can be no doubt in anybody's mind.

Mr. SYMMS. Will the Senator yield?

Mr. HELMS. Let me say one more thing, and I will be happy to yield, provided I do not lose my right to the floor.

In accordance with suggestions from Senators whom I respect, and who support what I am trying to do, it is my wish, my intent, if I am permitted to do so, to modify the original amendment to abbreviate it somewhat, and focus on the point I have tried to make. Let me read what I propose to be the modified amendment:

Notwithstanding any other provision of the law, the President's authority is hereby reaffirmed to use the Armed Forces of the United States to secure the removal of General Manuel Antonio Noriega from his illegal control of the Republic of Panama in order to, A, bring General Noriega to trial in the United States under the terms of his February 1988 indictment on drug trafficking charges; and B, protect the Panama Canal pursuant to the Panama Canal Treaties of 1978.

Mr. President, I ask unanimous consent that I may yield to the distinguished Senator from Idaho without losing my right to the floor.

The PRESIDENT pro tempore. Is there objection? The Chair hears none. The Senator from Idaho is recognized.

Mr. SYMMS. Mr. President, I want to compliment the Senator from North Carolina on his excellent statement. It is a sad statement, but I think it speaks to the very problem in Central America.

It is obvious to this Senator that the policy of this administration—our administration—is not to exercise our rightful role in Panama. And it is absolutely tragic.

We watched the election fraud in Panama earlier where two out of every three people voted for the legitimate opposition to General Noriega. We say we are for a democratic process on one hand, and then when those two out of three people that had no guns had to confront the one out of three people who voted for Mr. Noriega and had all the guns, they had a fraudulent election.

I related this story to my constituents in Idaho and reminded them that one of the reasons that we have free and fair elections in the United States is that all people are allowed the right to own firearms, so the politicians and the Government authoritarians cannot overrule the people in the elective process.

Following the Panamanian elections, I called the administration and stated—that the world opinion, which so much foreign policy is based on in this modern world, would have most likely supported the United States if we exerted our military strength and placed into power the people who won the election legitimately.

If our policy is to not exert the rights of the 1977 treaty to protect the American interests pursuant to the Panama Canal Treaty, or replace General Noriega with the rightful people who won the election, we might as well make that our new Government policy.

There is a great deal of confusion about which side the United States of America is on. There is no question in this Senator's mind that we are the most powerful Nation on Earth. We have the strongest military, the best trained and equipped, the most capable, experienced and educated officers, and the best NCO corps; there is no question in mind that we have the strongest ability in the military.

We have the strongest economy in the world too, but it takes one other portion to that. You have to have a strong political will. If we do not have the will to export the ideas of freedom and to occasionally use our military strength to see that the interests of

our people are protected in our own backyard, all I can say is, God, help us.

I think the Senator has done a great service to this country, and I am happy to see that many Members are interested in this. The American people need to know this story, so they can, in fact, relay their outrage to their elected officials that America should do better than this.

I have heard the replies of the administration about our inaction in the failed coup: "We were not sure, it could have been a trap."

Even if that is the case, why should we apologize to anyone if we attempt to see that the people who truly won the election in Panama are placed into power? Is that such an immoral, improper, or unethical position for the United States of America to be in? What does our Constitution mean?

How can we export freedom to those people in the world that reach out for it and cling to it; how can we export it if we cannot stand upright in Panama where we have bona fide interests by treaty which, incidentally, this Senator was not in favor of, but is the law of the land?

I think we need to have this showdown now. It is not that I do not have great respect for our President, our Secretary of Defense, or the Secretary of State, whether they are Republicans or Democrats. It is an American issue.

The Senator from North Carolina is absolutely doing his country and the Senate and the administration a favor by bringing this issue up, and I salute him for it. I am happy to be able to support his amendment.

I do not know whether he is asking for cosponsors, but, if he gets to that point, I would like to be added as a cosponsor.

Mr. HELMS. I thank the Senator. He is not only eloquent, he is right, which is more important.

The Senator from New York [Mr. D'AMATO] and Senator SYMMS and Senator WALLOP have asked to be cosponsors, and I ask unanimous consent that they be added.

The PRESIDENT pro tempore. Without objection, the names of the cosponsors will be added.

Mr. HELMS. I thank the Chair.

Mr. President, I would be glad to yield to the Senator from New York on the same conditions I yielded to the Senator from Idaho.

Mr. SIMON. Mr. President, reserving the right to object, I have no objection if he wants to yield for a question, but I have been here for some time hoping to speak briefly in opposition to the amendment.

Mr. HELMS. There will be time for that. Senator D'AMATO has been here as well.

Mr. SIMON. With due respect to the Senator from New York, I believe I have been here longer. If the Senator from North Carolina wishes to yield for a question from the Senator from New York I have no objection, but if it is to yield for a speech, I do object and I want to speak.

The PRESIDENT pro tempore. Objection is heard.

Mr. HELMS. Very well.

Mr. D'AMATO. Mr. President, I raise a question with the Senator from North Carolina. Is it the view of the Senator from North Carolina that the United States should have come to the aid of those who raised this coup against General Noriega?

Mr. HELMS. As I think I made clear in the statement, and I know it is a rhetorical question, the Senator is absolutely correct.

Mr. D'AMATO. We have heard some public reports, if I am not mistaken, that there was a question as to the character of the individual leading the coup, Major Giraldi, who, by the way, I understand has been executed. Does the Senator agree with me that choir boys do not lead coups? Wasn't that a rather limp, lame excuse put forth as to why we would not go to the aid of those leading the coup?

Mr. HELMS. I share the Senator's view, of course.

Mr. D'AMATO. There was a question also that seems to arise that there was some concern that possibly this was a ruse to entrap the United States into undertaking an action against Noriega. Does that seem credible when we had our own helicopters flying over observing the situation?

Mr. HELMS. I hate to be critical of an administration which I support, but again, as Senator Ervin used to say, I say to my friend from New York that does not even make good nonsense.

Mr. D'AMATO. I am also told there was a very real question as to what was taking place. But I understand that the PTF headquarters is visible from our installations on the mountaintop and that it could be seen that there was indeed a battle taking place, in addition to telephonic communication with the rebels or those leading the coup against Noreiga. So again it would seem incredible that this was a ruse.

Mr. HELMS. The Senator from New York and this Senator have been to Panama, and we know the geographical and topographical case. No, it does not make sense to me.

Mr. D'AMATO. I think it was, if I am not wrong and the Senator might correct me, that it was President Franklin Delano Roosevelt who said that America is the arsenal of democracy. Would the Senator agree with me that our arsenal seems to have run out of firepower at a critical time at this juncture?

Mr. HELMS. I think the Senator made an interesting observation. While he brings up Roosevelt, I wonder how Teddy Rossevelt would have reacted to the coup.

Mr. D'AMATO. I would like, at the appropriate time, to make some observations in the form of questions in support of a policy that would say America has not only a right but an obligation to come to the assistance of those who seek democracy and particularly the people of Panama in their own hemisphere. I commend the Senator from North Carolina for having the courage to raise this issue. Whether or not this amendment is adopted, the overall principle is the issue here.

The PRESIDENT pro tempore. The Senator from North Carolina may yield only for a question.

Mr. D'AMATO. I thank the President.

Mr. HELMS. Mr. President, under the same conditions as available to the previous two Senators, I will be glad to yield to my friend and neighbor, Senator SIMON.

Mr. SIMON. I thank my colleague.

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

Mr. SIMON. Mr. President, I rise in opposition to the amendment. I know it is well motivated. If the question were in the United States Senate should we somehow send the message to the people of Panama that we do not like Noriega, that would be unanimous. There is no question about that.

But let me add, in fairness to this administration, that the account that we just heard from the senior Senator from North Carolina differs dramatically from the account we heard yesterday afternoon from the Secretary of Defense and the Chairman of the Joint Chiefs, not in minor details, but it differs dramatically. I am not in the position to know whether the Secretary of Defense and the Chairman of the Joint Chiefs are right or whether the Senator from North Carolina is right. But there was a dramatic disparity.

I happen to agree with the Senator from North Carolina on the matter of spending U.S. money in elections in other countries. He opposed use of United States tax funds in the election in El Salvador, and so do I. He opposed the use of United States tax funds in the election in Nicaragua, and so do I. We may differ on why it should be done.

My own reason for opposing it is, No. 1, I think this is a decision the people in these countries ought to be making freely and without our interference; and No. 2, it is counterproductive.

If were running as a candidate in some other country where the United States was putting money on the other side, I know that I would make it the issue that the opposition is a puppet of the United States. So I agree with

the distinguished Senator from North Carolina on that issue.

But for that same reason we ought to be very, very careful in how we exercise our military might and what we do in Latin America particularly. The image of the United States in——

The PRESIDENT pro tempore. The Chair wishes to interrupt the Senator from Illinois. It is the Chair's desire to protect the rights of Senators. Should the Senator from North Carolina leave the floor and go into the cloakroom, he would have yielded the floor.

The Senator from Illinois.

Mr. SIMON. Mr. President, in order not to inconvenience my senior colleague, if I could just ask for the floor on my own, but that is his preference, I would be pleased to do that.

Mr. HELMS addressed the Chair.

The PRESIDENT pro tempore. The Senator from North Carolina has the floor.

Mr. HELMS. I understand. We are trying to work out a scenario. I do not know how to address this matter. I see no point now in my holding the floor. I know the Chair would recognize the first Senator who seeks recognition here after I have made my comments.

I am going to yield the floor and let the Senator from Illinois have it in his own right.

Mr. SIMON. I thank my colleague from North Carolina.

The PRESIDENT pro tempore. The Senator yields the floor.

The Senator from Illinois is recognized.

Mr. SIMON. Mr. President, the image of the United States in Latin America is too frequently the image of a bully and exploiter. Sometimes that image is accurate. Sometimes it is inaccurate. But we should not conduct ourselves in such a way as to reinforce that image.

When we indicated Noriega and then took some actions immediately afterward, there were a great many people in Panama who were strong opponents of General Noriega, who said to us, "What you are doing is really reinforcing the power of Noriega." And I fear they are correct.

What we ought to do is let the people of Panama make that decision, make clear we are on the side of human rights, but also make clear that we are not going to interfere in their process.

This brings up a very basic question that we have not faced in Congress. It is a very fundamental question. Should we use the power of U.S. troops, the power of U.S. weapons, to overturn governments we do not happen to like? Let us face it, that is about two-thirds of the governments on the face of the Earth. If we are going to do that, we are going to be heavily involved everywhere.

Or do we say we stand up for human rights as we did under President Jimmy Carter? One of the things that happened after his Presidency and during his Presidency is we saw the change from dictatorships in Latin America and elsewhere. The cause of human rights was aided. Do we stand up that way and say we will use American force when American interests are directly threatened or American citizens are directly threatened but only then? Otherwise, the people of Panama and the people of other countries have to make their own decision about who is to rule in the country.

It seems to me that basic decision is one we ought to be making. I think the American people back it. I think it is prudent. Right now, when there is some difficulty in any country, the government in power can take extreme action and say it is because of the CIA. And there has been enough evidence of our involvement from time to time that it becomes plausible. It hurts us politically and does our cause no good.

My understanding—and I have not heard this directly—my understanding is that the administration opposes the Helms amendment, and properly so. The President of the United States has ample authority right now to deal with any emergency that arises in Panama or anywhere else on the face of the Earth. I see no reason for the passage of this particular amendment. The President of the United States, I think, or the administration is right in opposing this particular amendment.

In general, when we are in doubt, our policy overseas ought to be a bipartisan policy. When we strongly differ, as the Senator from North Carolina does, then it is proper to offer this kind of an amendment. But I think the majority of us, I hope, will draw the conclusion that it is not wise, nor prudent to pass this kind of an amendment.

Mr. President, I question the presence of a quorum.

The PRESIDING OFFICER. The point of no quroum has been raised and the clerk will call the roll.

Mr. HELMS. 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. HELMS. Mr. President, perhaps it is worthy of the record at this point. This is not the first time that I discussed on this floor the activities of Mr. Noriega and his former boss, Omar Torrijos.

I had staff do a little research. On February 20, 1978, more than 11 years ago, I did my best to discuss the problems which the United States would have, in my judgment, if we went into partnership with a drug trafficking regime. In that speech, I noted how deeply Noriega—and I called him by name on February 20, 1978—how deeply Noriega was involved in drug running activities of the Torrijos regime. Noriega was in fact a front for a boss.

Let me read you a few words that I said over 11 years ago. And I am quoting myself.

> The (Panama Canal) Treaties would make us an intimate partner with a corrupt regime which uses the machinery of government for criminal gain. The benefits which will be conferred on Panama will be placed in the trust of this corrupt regime. The daily knowledge of the citizens of Panama that the United States is supporting this regime in power and pouring millions of dollars into corrupt hands will inflame hostility and hatred against us. The overriding object of the treaties purportedly is to improve relations with the Panamanian people; but it is far more likely that our relations will become worse.

Mr. President, I ask unanimous consent that my statement of February 20, 1978, be printed in the RECORD.

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

[From the CONGRESSIONAL RECORD, Senate, Feb. 20, 1989]

DRUG TRAFFICKING IN PANAMA: AN APPRAISAL OF THE PROPOSED PARTNER OF THE UNITED STATES

Mr. HELMS. Mr. President, tomorrow, under a unanimous-consent agreement, the Senate will go into a closed session to discuss the allegations that have been brought against Panama with regard to trafficking in drugs. Such a procedure has both advantages and disadvantages. While it will allow Senators to examine and debate material now sealed in the files of the Select Committee on Intelligence, it will also prevent the American people from forming their own conclusions of the evidence. We have seen in the fruits of the Warren Commission the distrust and uncertainty which such a procedure breeds when it is applied to deeply felt, emotional issues. There must be no hint of coverup, no suggestion that secrecy has been imposed to silence politically damaging revelations.

If these treaties are ratified, the American people will be entering a 22-year partnership that confers great benefits upon a foreign government—benefits that could have been kept for the American people. The American people will be justifiably angered if it turns out that the Panamanian Government is controlled by an international gangster.

A major problem involved in the discussion of such matters in a closed session is that it imposes serious constraints upon any Senator who participates. A Senator must bend over backwards to avoid discussing privileged matters; he has to err on the side of too much caution. Sometimes the procedure has the effect of putting a gag upon knowledge already in the possession of a Senator before he is given access to classified matters. Since the Senator from North Carolina has not yet had access to the files of the Intelligence Committee, he would like to discuss today the publicly known issues and facts before the record is closed. What I hope to do today is to lay down some basic principles as a public framework for the closed debate tomorrow.

BASIC PRINCIPLES

Here are the considerations we ought to keep in mind:

First. The issue is not an internal matter of Panama. The Panamanian drug traffic has very much involved the health and welfare of the United States.

Second. The Panamanian drug traffic is not a matter which is to be viewed as a problem in which many nations are involved in the general context of international relations; we have always had a special relationship with the Republic of Panama.

Third. Panamanian drug traffic has itself been stamped with a special character; the role of Panama has been unique and far reaching.

Fourth. The overwhelming evidence on the public record of the Panamanian drug traffic in the early seventies is not to be dismissed as past history; the participants today occupy positions of trust in the present regime in Panama.

Fifth. The absence of aggressive investigative or diplomatic action by the United States since the signing of the Kissinger-Tack agreement of February 1974 is not to be taken as evidence that Panama has been "cleared"; rather, the obvious self-interests of both governments suggest either a cover-up or a temporary cessation of activity during negotiations and Senate debate.

Sixth. Although it is important to sift all evidence relating to the complicity of Omar Torrijos himself, Torrijos himself is not the issue. The focus should be on Panama as such; its form of government; its record of enforcement and cooperation over the past 10 years; and the complicity of a broad range of Panamanian officials and their relatives and friends.

Seventh. The evidence we are looking for with regard to the Panamanian dope traffic does not have to be limited to the type of evidence that would convict in a U.S. court. We are debating the conferring of a great benefit in Panama, at great expense to ourselves, and we are not trying to convict in a court of law.

Eighth. Finally, it is not correct to treat the Panamanian drug problem as a side issue to the treaties; for the treaties would place the United States in an intimate and mutual partnership with Panama that would be unparalleled in our relationship with any other nation in the world. Moreover, the provisions of the treaty and its related agreements place our Nation in the position where the United States is specifically prohibited from enforcing drug traffic controls in a U.S. Government facility that has great potential for criminal abuse.

THE EVIDENCE

The evidence now available shows that Omar Torrijos has aided, abetted and protected the drug traffic in Panama. In brief form, the evidence for the complicity of high Panamanian officials in the narcotics traffic is this:

First. Panama's geographic location and its transportation facilities make it an ideal location for the transfer and control of narcotics shipments either by sea or by air.

Second. In a 1973 report based on testimony and on-the-spot investigation by the House Merchant Marine Committee, Panama was found to be the conduit for one-twelfth of the heroin coming into the United States—enough for the daily supply of 20,000 addicts.

Third. Cases involving drug trafficking reached the highest levels of the Panamanian Government. Omar Torrijos and his Foreign Minister Juan Tack led public efforts to discredit and cover up revelations of such drug trafficking incidents.

Fourth. Moises Torrijos, brother of Omar, was indicted by a grand jury of the U.S. District Court for the Eastern District of New York as a coconspirator in a New York case in which five Panamanians were convicted and imprisoned for narcotics trafficking. The indictment still stands, and Moises Torrijos is liable for arrest if he steps on U.S. soil.

Fifth. According to the sworn statement of Leland L. Riggs, Jr., former Customs attaché at the U.S. Embassy in Panama, a warrant had been issued to arrest Moises Torrijos on the basis of the indictment, and that he, Riggs, was ordered to arrest Moises upon his scheduled arrival in the Canal Zone from Spain by passenger ship. However, Moises was forewarned, disembarked in Venezuela, and arrived by air, landing in Panama. Mr. Riggs points out that only the U.S. State Department and the CIA had advance knowledge of the planned arrest, and "Moises Torrijos could only have been alerted to the planned arrest by U.S. authorities."

Sixth. John Ingersoll, then Director of the Bureau of Narcotics and Dangerous Drugs, traveled to Panama, met with Col. Manuel Noriega, Chief of Panamanian Intelligence, and with Gen. Omar Torrijos, and discussed the indictment and warrant.

Seventh. Moises Torrijos had earlier been Panamanian Ambassador to Argentina, and had been declared persona non grata for his activities in that country. Even though he was persona non grata in Argentina, even though he was indicted in the United States, even though his government had been informed of the indictment, he was named Ambassador to Spain. He now enjoys high favor and currently is also director of treaty information for Panama. Despite this new responsibility, Moises Torrijos has never come to the United States since his indictment, not even for the treaty signing ceremony on September 7, 1977.

Eighth. The arrest of Raphael Richard Gonzales at the John F. Kennedy Airport on July 8, 1971, with 151 pounds of heroin, led to a series of arrests and convictions of Panamanians and to the indictment of Moises Torrijos. Richard was the son of the Panamanian Ambassador to the Republic of China (Taiwan) and was attempting to use a diplomatic passport to bring in the heroin without customs inspection. Under international law, Richard was not entitled to a diplomatic passport; yet he bore such a passport signed by the Panamanian Foreign Minister, Juan Tack. Richard had made successfully four previous such deliveries of heroin undetected.

Ninth. The arrest and conviction of Joaquin Him Gonzales, air traffic controller of Panama's Tocumen International Airport, pointed up the crucial role which Tocumen has played in international smuggling. Him directed planes carrying millions of dollars worth of heroin to special areas of the airfield, where the cargoes were guarded by uniformed members of the Panamanian Guardia Nacional. Him was arrested in U.S. territory in the Canal Zone, and convicted in Texas, where he had arranged heroin deliveries. He was also an associate of Moises Torrijos.

Tenth. The Yolanda Sarmiento case points up the role of the Colon, Free Zone in international smuggling. Intended to be a duty-free location for the import, display, and sale for export of manufactured goods, the Free Zone is not under the control of Panamanian Customs, but of the Guardia Nacional. According to Leland Riggs, Jr., the U.S. Customs attaché in Panama, Yolanda Sarmiento was responsible for shipping 100 pounds of heroin monthly to the United States. This heroin was stored in the Colon Free Zone. The Free Zone is 50 miles across the isthmus from Tocumen Airport; reportedly the heroin was shipped from the airport to the Free Zone in Guardia trucks. The United States recently agreed to the expansion of the Free Zone by leasing Old France Field, which is in U.S. territory, to Panama for $1 a year.

Eleventh. Another Torrijos brother, Hugo, is in charge of the Panamanian state gambling casinos and the national lottery, operations which generate large amounts of unaccounted-for cash. He also owns a large nightclub which is a center for prostitution and retail drug dealing. The arrest of Gerado Sanclemente for narcotics in June 1977 created consternation. Sanclemente is married to a cousin of the Torrijos brothers; he was induced to come to Panama from Colombia and to set up various business enterprises under their protection. He lived in a building owned by Hugo, which was also the offices of the National Casinos. His apartment in this building was the center of drug dealing. According to depositions taken in Panama, Hugo intervened to urge Sanclemente to give himself up. Subsequently, Sanclemente was taken to a medical clinic near a private airport used by the Guardia and Government planes; he escaped from the clinic and was taken away by a waiting plane.

Twelfth. A third Torrijos brother, Marden, is traveling ambassador extraordinaire for the Government of Panama. Although no further information is available as to his duties and activities, the documented use of diplomatic passports for narcotics trafficking casts a cloud over the legitimacy of his appointment.

Thirteenth. Several investigative sources report that Omar Torrijos is a business partner with Frank Marshall Jimenez in several businesses relating to transportation, including trucking firms, buslines, and nonscheduled airlines. Also included in their interests is a freight forwarding firm that controls shipments into and out of the Colon Free Zone. Marshall is a fugitive from Costa Rica a former member of the Costa Rican legislature, who used his legislative immunity to cover extensive liquor smuggling operations. When his immunity was lifted by Costa Rican authorities and arrest threatened, Marshall fled to Panama.

IMPLICATIONS

The facts related above have profound implications for the consideration of the Senate during the debate on the Panama Canal treaties. The first considerations go to the integrity of the Panamanian Government; the second go to the effect on the treaties of the treaties themselves.

It is sometimes said that the integrity of the Panamanian Government or the character of its leaders are irrelevant to the treaty debate; it is said that the treaties represent the universal aspirations of the Panamanian people no matter what government might be in charge. Nevertheless, the only way that we can deal with the Panamanian people is through their government. It is self-evident that the treaties are agreements made with the government, not with the people. Therefore, even if it be granted for the sake of argument that the treaties do represent the aspirations of the people, if

the government is deeply flawed it cannot be the vehicle for the fulfilment of those aspirations.

Although corruption exists in almost every government, including our own, the key to integrity is whether there also exist the checks and balances which can identify that corruption and eliminate it. No one can pretend that the Panamanian Government is a representative government, or that it contains checks and balances. Even outside the governmental system, there are no political parties, no free press, or other countervailing political forces. In form it is a military dictatorship, in practice it is a fiefdom for the Torrijos family and their favored cronies.

Although the Panamanian Government has made a great show of narcotics enforcement, in practice most of those arrested are small dealers, or third country nationals who are attempting to muscle in on the territory. The market for the Panamanian dope trade is not Panama, but the United States. Only those with the right connections can prosper; those who are arrested know that they are subject to extortion if they want their freedom.

This posture is evident in the restrictions which were placed upon U.S. agents working out of the U.S. Embassy in Panama. They received cooperation from Panama only so long as their cases dealt with "little people." Before they could proceed to investigate a case, permission had to be obtained from Panamanian officials: the moment the case involved any member of the National Guard or substantial amounts of drugs, permission was denied. On the side of the U.S. Government, State Department officials worked hand in glove to reinforce these restrictions on U.S. narcotics agents. The actions taken to thwart the impartial justice of the U.S. judicial system in the case of Moises Torrijos is a sensational example; but the daily effect of similar actions in operational activities is bound to have a chilling effect on the effectiveness and output of U.S. narcotics agents.

The impact of the narcotics trade upon the United States hardly needs to be discussed. It takes a toll not only in the thousands of addicts whose lives are ruined, but in the climate of crime and fear in our cities, the toll of robberies, injuries and deaths suffered by thousands of innocent citizens, the increased costs of welfare and medical attention, and the social costs of the decay of our great cities. The fact that Panama's leaders would participate in or condone such injuries to the United States should make us pause before we confer substantial benefit upon them.

IMPACT OF THE TREATIES

The ratification of the treaties would have the following impact:

First. The treaties would make us an intimate partner with a corrupt regime which uses the machinery of government for criminal gain. The benefits which will be conferred upon Panama will be placed into the trust of this corrupt regime. The daily knowledge of the citizens of Panama that the United States is supporting this regime in power and pouring millions of dollars into corrupt hands will inflame hostility and hatred against us. The over-riding object of the treaties purportedly is to improve relations with the Panamanian people; but it is far more likely that our relations will become worse.

Second. Panama would take total jurisdiction over customs. The treaties and related agreements specifically provide that offenses in narcotics trafficking will be under Panamanian jurisdiction, even in the canal operating areas. At the present time, U.S. Customs officials are able to search ships, make arrests (as, for example, in the case of Joachim Him, and in the attempt on Moises Torrijos) and to pass on information to Customs officials waiting at ports in the United States. None of this will be possible under the treaties.

Third. Panama will take charge of the Ports of Balboa and Colon, including piers, warehouses, and security. Thus it will be possible for a corrupt government to control completely the shipments of narcotics by sea, just as the Panamanian Government now controls Tocumen Airport.

Fourth. The Panama Canal Company presently has an Internal Security Division, which includes a narcotics intelligence unit. When the treaty is implemented, the canal organization no longer will collect narcotics intelligence. The canal operation, which has thousands of Panamanian workers, many of them in daily contact with foreign ships, will be a U.S. Government agency under the treaty; yet the United States will not be able to enforce or even collect information on the violation of U.S. narcotics laws on U.S. Government property.

Fifth. The unique geographic location of Panama at the midpoint between the two continents makes it ideally suited as a center for drug smuggling by airplane. The United States will be hampered in its drug enforcement programs because we will no longer have agents free to operate in the Canal Zone; U.S. enforcement personnel attached to the U.S. Embassy will continue to be under restrictions from officials who put good relations with Panama above the broader interests of the American people.

Mr. President, in order to provide a basis for the debate on the drug problem tomorrow, I ask unanimous consent that the following documents be printed at the conclusion of my remarks:

First. The statement of Leland Riggs, Jr., for the use of the Subcommittee on Separation of Powers;

Second. A series of articles by UPI reporters Nicholas Daniloff and Cheryl Arvidson on the drug situation in Panama:

Third. Excerpts from the book, "The Secret War Against Dope," by Andrew Tully, dealing with the Raphael Richard case;

Fourth. Excerpts from a 1973 report of the House Merchant Marine Committee dealing with narcotics trafficking in Panama.

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

STATEMENT OF LELAND L. RIGGS, JR.

I, Leland L. Riggs, Jr., being duly sworn, deposes and says as follows:

Leland L. Riggs, Jr., am a retired Special Agent in Charge of the United States Drug Enforcement Administration. I am familiar with facts involving narcotics intelligence collection in Central America.

I first became a criminal investigator for the U.S. Bureau of Customs in January, 1964, after having spent 8½ years as a highway patrolman. I was first assigned by the Bureau of Customs to duties in California where I conducted narcotics smuggling investigations for a period of 6½ years. Therefore, I was promoted from Customs Special Agent to Senior Customs Representative and was transferred to Mexico City, Mexico. Inasmuch as I am bilingual and speak Spanish, my assignment to Mexico was deemed to be advantageous to the agency.

While assigned to Mexico City, I had sole responsibility for Customs narcotics intelligence gathering and for conducting follow-up investigations forwarded to me by our domestic offices of investigation. My area of responsibility included not only the Republic of Mexico but additionally all of Latin America. However, 95 percent of my investigative time concerned either Mexico or the Republic of Panama.

During the time I was in Mexico in 1970 and 1971, I conducted several investigations in Panama. Subsequently, in June of 1972, I was appointed Customs Attache and instructed to establish an office in the American Embassy in Panama City, Panama. This occurred during the period when the entire Bureau of Narcotics and Dangerous Drugs agents force had been expelled *persona non grata* from Panama. I served as Customs Attache until July 1, 1973, at which time the Drug Enforcement Administration was formed, and I then also assumed command of the Panamanian functions of the Bureau of Narcotics and Dangerous Drugs when the Bureau of Customs functions were merged with those of the BNDD. In short, I became the Special Agent in Charge of the combined office.

I left Panama on June 17, 1974, to become the Special Agent in Charge of the DEA District Office in Brownsville, Texas. Thereafter while on temporary assignment as Project Manager for a special DEA operation in Colombia directed against clandestine cocaine processing laboratories in Colombia, on November 30, 1975, I was attacked, beaten, and pushed off a retaining wall to a street below and suffered several fractured vertebrae, a broken ankle, kidney damage, and assorted cuts and bruises. The DEA subsequently retired me on August 24, 1976, for medical disability reasons.

When I first began conducting investigations in Panama, the BNDD Agent in Charge advised me that we had to be very careful about informing Panamainan government officials concerning our work since they were corrupt and also involved in narcotics trafficking. I soon learned from personal experience that this advice was sound.

During September, 1970, I traveled to Panama to conduct a follow-up investigation regarding a Yolando Sarmiento case involving shipments of heroin from Panama to New York. Although I do not have presently in my possession intelligence reports prepared by me at that time, I do recall certain aspects of the case. Yolanda Sarmiento reportedly was smuggling approximately 100 pounds of heroin monthly into the United States. This heroin was reported to be stored in the Colon Free Zone in the Republic of Panama.

The Colon Free Zone is a large, fenced-in, heavily guarded section of Colon, Panama, on the Atlantic side where duty-free items are displayed in numerous stores for purchase, by persons and businesses based primarily in South America. I was advised by U.S. Canal Zone officials and a confidential source that the Guardia Nacional controlled and guarded this enclosed area. I later did manage to gain entrance with a U.S. Canal Zone official: however, we were only permitted to go into the showcase areas of the various stores. The Colon Free Zone is entered at a gate guarded by uniformed members of the Guardia Nacional. Although the Government of Panama does have a Customs Office and there are Panamanian Customs

Agents, Panamanian Customs does not have responsibility for control of the Free Zone.

During 1970, United States Customs Agents in New York were able to effect the arrest of Yolanda Sarmiento, Emillo Diaz Gonzales, and others: however, Yolanda Sarmiento was released on bail, subsequently fled the country, and became a fugitive in Argentina. As best I recall, Emillo Diaz Gonzales escaped from prison in New York and is believed also to have fled the country.

My efforts to continue a follow-up investigation of the Sarmiento case were essentially unsuccessful because of the problem inherent in free movement within the Colon Free Zone resulting from the control of the Free Zone by the Guardia Nacional of the Government of Panama.

During my trips to Panama. I became aware of a BNDD investigation concerning the Panamanian chief air controller, Juaquin Him Gonzales. Juaquin Him was reportedly directing heroin from Panama into Texas and using his official capacity in the Government of Panama to facilitate the movement of this heroin. He was subsequently indicted by a U.S. Grand Jury in Texas and was arrested when he entered the U.S. Canal Zone to attend a softball game. Juaquin Him was tried and convicted for facilitating the transportation of narcotics into the United States.

I understand that the arrest of Juaquin Him caused considerable dissension between the Ambassador and the U.S. narcotics agents in Panama. I experienced similar problems in connection with the Raphael Richard-Moises Torrijos case.

I learned of the Richard-Torrijos case after my assignment as the Customs Attache to the American Embassy in Panama. In fact, I became directly involved in the investigation concerning Moises Torrijos, now Panamanian Ambassador to Spain, and Raphael Richard Gonzales, the son of the then-Panamanian Ambassador to Taiwan. Richard was arrested on the evening of July 8, 1971, at John F. Kennedy Airport in New York in possession of 151 pounds of heroin. Immediately prior to his arrest, he claimed diplomatic immunity and asserted that his suitcase could not be opened and searched due to his diplomatic passport. A U.S. customs inspector advised him that he was accredited as a diplomat in Taiwan, not in the United States, and therefore had no diplomatic status in the United States. Also arrested that evening was Nicolas Polanco, a reported chauffeur-bodyguard of Moises Torrijos. Moises Torrijos was then the Panamanian Ambassador to Argentina; and he is the brother of Dictator Omar Torrijos.

The day following the Richard arrest, Guillermo Alfonso Gonzales was also arrested upon his arrival in New York City from Panama for the purposes of accepting delivery of the heroin Richard had attempted to bring into the country. Others arrested the same day were Jose Francisco Oscar San Martino, an Argentine, and Cesar and Amarico Altanirano, both Panamanians.

Subsequent investigations of the same case led to the indictment of Moises Torrijos by a Grand Jury of the U.S. District Court for the Eastern District of New York. Torrijos was indicted as a co-conspirator with the above-mentioned defendants. Thereafter, a warrant for the arrest of Moises Torrijos was issued by the U.S. Court for the Eastern District of New York. On the basis of the evidence of a warrant, I was instructed to be on the alert to effect an arrest in the event Moises Torrijos traveled from Spain through the U.S.-controlled Panama Canal Zone.

During either late 1972 of early 1973, I was advised that Moises Torrijos, accompanied by his wife, was traveling from Spain to Panama on a passenger vessel. Subsequent information showed that the vessel would dock in Cristobal, Panama, within the U.S.-controlled Panama Canal Zone. Arrangements were therefore made to effect the arrest of Moises Torrijos in the U.S. territory upon his arrival. However, Moises Torrijos was obviously informed of his impending arrest and departed the vessel at Caracas, Venezuela, where he flew by commercial airliner to Tocumen Airport within the Republic of Panama. When the vessel arrived, only Mrs. Moises Torrijos disembarked. Inasmuch as the only parties aware of the planned arrest of Moises Torrijos other than BNDD were the U.S. Department of State and the Central Intelligence Agency, Moises Torrijos could only have been alerted to the planned arrest by United States authorities.

During my tenure as Special Agent in Charge of Drug Enforcement, I did not have another opportunity to effect the arrest of Moises Torrijos. In fact, during my tour of duty as Customs Attache before assuming command of the combined Customs and BNDD forces, I was advised that Washington officials of the Bureau of Narcotics and Dangerous Drugs traveled to Panama, met with Colonel Noriega, Chief of Panamanian Intelligence, and with General Omar Torrijos, and alerted them both to the existence of an indictment and warrant concerning the General's brother, Moises. To the best of my knowledge, the warrant for the arrest of Moises Torrijos is still in existence and presumably, if he touches U.S. soil, he is still liable to arrest.

During my tour of duty in Panama, several cases which were presented to the Panamanian enforcement officials were mysteriously terminated or not given proper attention. Due to my knowledge of their involvement, many cases were not presented to Panamanian enforcement officials so as not to compromise my investigation. Finally, I did not feel that I had the full support of the diplomatic community in the pursuit of my assigned mission in Panama, especially in those matters which tended to implicate officials of the Government of Panama. In any event, due to the eventual assignment of a State Department employee as the narcotics coordinator, I was relegated to a secondary position. Similar conditions now exist in most embassies where Drug Enforcement personnel are assigned, and in almost all cases the Department of State employee has no narcotics training nor expertise. It is my opinion that Department of State personnel are placed in the position of narcotics coordinator primarily to insulate and protect the activities of the Department of State from any so-called disrupting incident regarding narcotics enforcement directed against an official of the host government.

Given under my hand and seal on this the first day of December, 1977, in the City of Washington, District of Columbia.

LELAND L. RIGGS, Jr.

UPI INVESTIGATION OF DRUG TRAFFICKING IN PANAMA—PART I

(By Nicholas Daniloff and Cheryl Arvidson)

WASHINGTON.—Since 1971, the U.S. government has received a stream of allegations linking Panama's Supreme Revolutionary Leader, Gen. Omar Torrijos, his family and associates to drug trafficking, a UPI investigator has disclosed.

The allegations—some from officials, others admittedly second-hand—come from informants, drug pushers and agents. They are in files of the Canal Zone government, the Drug Enforcement Administration, the U.S. Army, the CIA, and congressional committees.

Attorney General Griffin Bell wrote Sen. Jesse Helms, R-N.C., last October that a grand jury had reviewed allegations against Torrijos and found insufficient evidence to warrant action.

The Justice Department says Torrijos has been "neither the subject nor target of an investigation." Federal drug enforcement chief Peter Bensinger states the disclaimer more cautiously: "General Omar Torrijos has never been the target of investigation."

President Carter is aware of the allegations. Carter, Bell and Bensinger met last fall to discuss their implications in the uphill battle to win Senate ratification of the treaties that would turn the Panama Canal over to Panama.

The allegations prompted the Senate to schedule a rare closed session Feb. 21 to examine them.

Treaty supporters call the drug questions peripheral to the canal issue.

But Sen. Robert Dole, R-Kan., says they involve the integrity of the Panamanian government and its ability to stand behind the agreements.

The current Senate ratification battle is so close opponents feel the drug issue could defeat the treaties. Supporters, short of the needed two-thirds majority, have accepted changes in the treaties, but hope to avoid the volatile drug issue.

United Press International began its investigation in January. Two UPI reporters examined scores of documents, many supplied by treaty opponents. These included investigative reports, affidavits, congressional testimony and interviews with officials in Panama and Washington.

Among at least 45 files on "the Panama connection" compiled by DEA, there are dossiers on Omar Torrijos, his brother Hugo, head of Panama's casinos; his brother Moises, Panama's ambassador to Spain; Col. Manuel Antonio Noriega, chief of Panama's intelligence service; and other officials and associates.

During the investigation, UPI confirmed that Moises Torrijos was indicted in the Eastern District of New York for heroin trafficking in 1972. A bench warrant for his arrest was issued May 16, 1972.

An attempt to arrest Moises Torrijos in December 1972 in the Canal Zone failed, according to several sources, because the Torrijos brothers were tipped by high U.S. officials. So far as is known, Moises is still subject to arrest on U.S. territory.

UPI also learned of a series of unusual actions to safeguard DEA files on the Panamanian situation. The files were moved several times during one week in October and rumors circulated on Capitol Hill that some documents may have been removed.

U.S. concern about narcotics smuggling through Panama goes back to the Vietnam War period. U.S. narcotics agents estimate up to 47 tons of narcotics arrive in this country from Panama each year.

This volume has led U.S. officials to suspect that the "Panama connection" operates either with the aid or negligence of Panamanian officials.

"There's no doubt that senior officials in that country are involved," one former official told UPI. The source, who asked not to

be named, had direct responsibility for stopping the narcotics flow from Panama.

Panama, linking the oceans and North and South America, is a natural transit point for contraband. Whenever goods are consigned to bonded warehouses for transshipment, smugglers have opportunity to hide drugs in legitimate cargoes.

For at least the last 17 years, drug agents have watched goods and passengers transiting the canal, the U.S. Canal Zone, Panama's free trade zone at Colon and Panama City's Iocumen International Airport.

One airport official, Jose Delgado, was named by two Panamanian informants as a connect for cocaine packages from Colombia destined for Omar Torrijos.

Former Panamanian intelligence agent Alexis Watson told House investigators Jan. 5 about an incident he witnessed at the airport in November 1976:

"There is a Colombia guy . . . he says he is Torrijos' second cousin. He used to come to Panama each week. When he came . . . this is something that I investigated and I saw the package . . . he carries some packages. He was received by Torrijos himself. They went to a place in the free zone of the airport . . . a guy named Delgado, and left the package there."

Watson told House Merchant Marine Committee investigators he did not see the contents, but was convinced they were drugs. He said a Panamanian Air Force pilot told him he was flying to El Salvador to deliver just "one package that Delgado has from Torrijos."

A second Panamanian informant also named Delgado and others in sworn testimony: "Their actions and involvement with Torrijos and other Panamanian officials make it highly probable that they are either actively involved or at least very knowledgeable of narcotics being smuggled into and out of Panama."

Watson told House investigators the Transit S.A. company, which he said was operated by Omar Torrijos and Noriega, handles Colombian coffee with cocaine inside.

Watson said in November 1975 he saw associates of Torrijos take "three sacks of two kilos of cocaine" out of coffee bags. He said Carlos Duque, manager of Transit S.A., and Orejita Ruiz, a former Torrijos bodyguard, and a Lt. Col. Cecilio Fisher of the National Guard were involved. The second Panamanian witness also said Duque and Fisher were in the drug traffic.

In 1972, Watson also said he saw Omar Torrijos, Panamanian President Demetrio Lakas and a suspected drug dealer named "Padilla" in Lakas' office dividing about $200,000 in $100 bills. "I think if Padilla is there, it was drugs," Watson said.

Noriega, who last week called Watson "a paranoid and an embezzler," was praised recently by Bensinger for anti-narcotics efforts. But in DEA intelligence reports, Noriega is mentioned along with other drug traffickers.

Watson also testified Noriega ordered him in 1971 to release Padilla's brother and an American he had arrested in Panama City.

"I called my commander and told him I had two people with cocaine, five or six pounds. I gave their names, I had their identification in my hand. Immediately I received the order. 'Put those people on liberty.'"

The House interviewers asked: "Who was your commander?"

WATSON. "Noriega."

INVESTIGATOR. "You called Noriega on the radio?"

WATSON."He didn't speak to me, but the order received by radio said: 'Number One says to free those people.'"

INVESTIGATOR. "'Number One' meant Noriega?"

WATSON."Yes."

The congressional testimony meshes with the picture emerging from the following DEA documents:

A 1973 document states that Colombian suspect Andres Velasquez planned a trip to Tocumen Airport to make a drug drop for the Torrijos brothers.

A 1974 report quotes an informant as saying Frank Marshall Jimenez "worked directly with and for Gen. Omar Torrijos in Panama and that between the two of them, they control the contraband traffic from the free zone of Colon, Panama."

It also states the Torrijos brothers "own 33⅓ percent interest in the gran Hotel de Costa Rica and that the gambling casino there was operated by the Torrijos interests . . . This hotel has been suspected of being a contact point for international narcotics couriers."

A 1975 document states Ramiro Rivas, owner of a Panamanian cement company, tried to buy a freight company to help move drugs for Omar and Hugo Torrijos.

In an interview, a high U.S. diplomat in Panama criticized Omar Torrijos of retaining Hugo as director of national casinos: "It's just too much of a temptation."

Hugo Torrijos' name surfaced when Panama seized 145 pounds of cocaine at Tucumen Airport on June 9, 1977.

One suspect was Gerardo Sanclemente, a Colombian married to a Torrijos relative Gloria Nubia Quinceno. Sanclemente allegedly helped move narcotics through the airport. He carried a "courtesy of the port" card, which assured him favored treatment and a letter from Hugo Torrijos to Delgado.

Senora Sanclemente quoted Hugo as telling her in a phone call, "I want Gerado to give himself up, it's the only way I can help him. I want him to call Dario Arosemena (chief of Panama's equivalent of the FBI) at 22-2415, and turn himself in; he won't be mistreated or anything."

Sanclemente complied. Because he was ailing, he was confined to a hospital near Panama City's Paitilla airport.

In October of last year, a second suspect held in Paitilla medical center bribed a guard and escaped to Colombia. Rumor's swept Panama City that Sanclemente had escaped, too. U.S. authorities in Washington and Panama City denied the rumors.

Questions about Hugo Torrijos' activities still circulate.

"Hugo Torrijos has a background from 20 years before as a cocaine addict," Watson told investigators. "Everybody in Panama knows. If you ask someone in Panama, 'Where can I buy cocaine.' They will tell you, 'go to Hugo.'"

Watson recalls, too, seeing Omar and Hugo publicly snorting cocaine in a bar run by Hugo in 1961: "We started drinking when about 12 midnight, I saw him and Hugo take drugs. And I asked (a companion) what is Omar doing?

He said: "They are big, so you don't have do anything about it."

Watson is convinced Omar Torrijos no longer handles drugs personally.

Omar can't be so stupid to handle this thing in that way, Watson told UPI in a telephone interview Feb. 10 before leaving the United States for a hiding place abroad. Watson fears his disclosure will provoke Torrijos to reprisals.

Next, the supreme leader's brother—an indictment and a tipoff.

PART II

WASHINGTON.—One of the best documented instances of Panamanian government involvement in narcotics led to the indictment of Omar Torrijos' brother Moises, now Panama's ambassador to Spain, for heroin trafficking.

A two-month UPI investigation of the case turned up allegations that the Panamanian "Supreme Revolutionary Leader" was tipped off to the indictment against his brother by high U.S. officials and that Moises was able to evade arrest.

On July 3, 1971, Rafael Gonzalez, the 23-year-old son of the Panamanian ambassador to Taiwan, was arrested at New York's Kennedy Airport with 154 pounds of heroin in his suitcase.

Richard was carrying a diplomatic passport signed by Juan Tack, then foreign minister, who represented Panama in canal treaty negotiations during the Nixon-Ford years.

Richard claimed diplomatic immunity, but customs agents determined he did not have legitimate diplomatic status.

Also arrested was Nicholas Poianco, chauffeur for Richard's uncle, Guillermo Gonzalez, a former bodyguard of Moises Torrijos, was believed to be a ringleader in heroin smuggling.

Customs agents discovered the trip was Richard's fifth trip with similar amounts of heroin, according to police reports. On previous trips, Guillermo Gonzalez had accompanied Richard, but this time, Richard and Polanco were to telephone Gonzalez in Panama on delivery of the heroin.

The agents persuaded Richard to call his uncle and urge him to come to New York. When Gonzalez arrived, he was arrested. Three others, an Argentine and two Panamanians, also were arrested. Gonzalez was convicted of heroin smuggling and sentenced to seven years in prison.

When the news reached Panama, according to one Panamanian who was present, Col. Manuel Noriega, Panama's intelligence chief, told an associate. "You heard this——kid stuck his foot in it?"

Another Panamanian informant told House Merchant Marine subcommittee investigators that the associate replied, "Yes, yes, we're going to fix it."

Subsequent investigations resulted in the indictment of Moises Torrijos as a co-conspirator in the transportation of heroin. The indictment was handed down by a grand jury in Eastern District of New York, in May 1972 and a bench warrant for the arrest of Moises was issued on May 16, 1972, U.S. sources said. As far as is known, the indictment and warrant remain in force, meaning Torrijos is subject to arrest on U.S. territory.

A former high government official familiar with the case told UPI the evidence against Moises went far beyond helping obtain a diplomatic passport for Richard: "I've been told fairly recently that we have one hell of a good case against Moises Torrijos."

At the time of the Richard arrest, Moises was Panama's ambassador to Argentina. Later in 1971, he was recalled at Argentina's request after causing offense at a diplomatic reception. He was then assigned as Panama's ambassador to Spain.

The indictment has never been unsealed although the Miami Herald last October

quoted Justice Department sources as confirming its existence.

UPI learned that U.S. narcotics agents tried to arrest Moises Torrijos in Decmber 1972 but failed because other U.S. officials apparently had tipped Omar Torrijos to the indictment.

UPI was told by three sources that John Ingersoll, former head of the Bureau of Narcotics and Dangerous Drugs—DEA's predecessor—went to Panama and passed the information to the Panamanian leader.

Retired DEA agent Leland Riggs, who tried to apprehend Moises Torrijos, gave a sworn affidavit to a Senate Judiciary subcommittee stating he was assigned to the case on his arrival in Panama in June 1972: "I was instructed to be on the alert to effect an arrest in the event Moises Torrijos traveled from Spain through the U.S. controlled Panama Canal Zone."

Riggs said in December 1972, "I was advised that Moises Torrijos, accompanied by his wife, was traveling from Spain to Panama on a passenger vessel. Subsequent information showed that the vessel would dock in Cristobal, Panama, within the U.S. controlled Panama Canal Zone."

Riggs said arrangement were made to arrest Torrijos in Cristobal when the ship arrived.

"However, Moises Torrijos was obviously informed of his impending arrest and departed the vessel at Caracas, Venezuela, where he flew by commercial airliner to Tocumen Airport within the Republic of Panama. When the vessel arrived, only Mrs. Torrijos disembarked.

"Inasmuch as the only parties aware of the planned arrest of Moises Torrijos other than BNDD were the U.S. Department of State and the Central Intelligence Agency, Moises Torrijos could only have been alerted to the planned arrest by United States authorities," the Riggs affidavit said.

UPI determined that on June 21, 1972, six months before the arrest attempt, BNDD chief Ingersoll went to Panama to discuss the indictment with Omar Torrijos.

The following is a second-hand account which Senate investigators say they obtained from a "principal" at the meeting:

Omar Torrijos was sitting in a hammock with his feet propped up and smoking a cigar when Ingersoll and his group arrived.

Ingersoll told Torrijos he was reluctant to discuss the situation but "in fairness" he thought the general should know that his brother, Moises, had been indicted in New York for heroin smuggling and a warrant had been issued for his arrest.

"The guy at the meeting said Torrijos made no move at all. He continued to smoke his cigar and there was no change in his facial expression. He didn't even take his feet down," the Senate source said.

Ingersoll offered to send someone to Panama to discuss the indictment with Moises, but the general said that wouldn't be necessary. But some time later, Torrijos contacted U.S. officials to send someone to meet with his brother.

Riggs, when questioned informally by Senate investigators, said he didn't know about the Ingersoll trip. But Riggs said his diary noted a Jan. 30, 1973, visit to Panama by Jerry Strickler, who Riggs identified as head of a Latin American division of BNDD in Washington.

After discussions with American officials, Strickler and agent Ed Heath met with Moises Torrijos, a session Riggs said he had assumed was the "first official notification" of the indictment.

UPI reached Ingersoll in Paris where he now works for IBM. He was asked about his trip to Panama in June 1972.

"I don't know what you're talking about," Ingersoll replied. "You expect me to remember what I was doing in June of 1972?"

Ingersoll said he had traveled to Panama "several times" to meet with Omar Torrijos but told the reporter to ask "the DEA people." * * *.

"I'm not denying or confirming it, and I suggest to you that if you want a denial or a confirmation that you refer your quote allegation unquote to the Department of Justice," Ingersoll said.

UPI learned from three sources—all in narcotics enforcement at the time—that a "government decision" led to Ingersoll's meeting with Torrijos where information on Moises' indictment was relayed.

Two sources said they believed the decision was made to put "pressure" on the Torrijos government.

One said the purpose was to reinstate agents who had been expelled from Panama in March 1972, after press leaks about the Richard investigation implicated Moises and Tack. The other source said Ingersoll might have offered to "go light" on Moises if Panama would strengthen anti-narcotics efforts.

The third source said the trip was made to avoid "an international incident." He said three White House meetings were held to discuss the tipoff. At these meetings, the source said, were Ingersoll, Egil Krogh, chairman of Nixon's cabinet level narcotics committee, Vernon Acree, former U.S. customs commissioner, and State Department representatives.

Ingersoll, the source said, got the assignment because of his "acquaintanceship" with Torrijos "and could approach him on a discussion basis."

"After the indictment was returned, there was a lot of concern and consternation over that fact because it did involve the brother of Torrijos. . . . The concern was if he came to the United States, he would be arrested. I think some of the State Department people were concerned over the fact that this might cause or create some kind of international incident," this source said.

PART III

WASHINGTON.—A UPI inquiry into drug trafficking allegations against Panamanian strongman Omar Torrijos poses questions about what happens when U.S. foreign policy objectives and narcotics law enforcement collide.

Several sources interviewed by UPI during a two-month investigation left a clear impression U.S. officials sometimes give "preferential treatment" when drug investigations—often based on hearsay—lead to officials of foreign governments, including but not limited to Panama.

The policy goes back at least to the early 1970's. It exists, sources indicated, because diplomatic and political considerations frequently take preference over narcotics enforcement efforts. In these cases, it is not deemed in the best U.S. interest to vigorously pursue the leads.

It also was suggested that despite known Panamanian government involvement in drug dealing, U.S. narcotics agents still need a working relationship with the country's police to stop other drug smuggling to the United States.

"Some (cooperation) is better than none," one current drug official commented.

A former enforcement official told UPI. "We have to do business there. If they're corrupt, we have to find out how they're being corrupted."

"I have no doubt that what the U.S. government really knows about these allegations will eventually become known," one American diplomat in Panama said.

"But in the meantime," he said, "the United States is in a real dilemma. Our intelligence files contain potentially libelous information on many world leaders. Are we to make these known to the public? Or should we withhold them because they may be libelous and because their release might affect foreign policy interests?

The Carter administration inherited this policy, but the practices followed in the past became highly meaningful when Carter's negotiations reached agreement on treaty proposals to phase out U.S. control of the canal.

Alleged drug involvement by Torrijos, his brothers and his government may be peripheral to the question of ratifying the treaties, as their supporters claim, but it also could bolster opponents attacks on the integrity of the Torrijos regime! In fact, conservative opponents concede the drug allegations may now be their only hope to stop the treaties.

Faced with intense conservative opposition and an uphill ratification battle last fall, the Carter administration apparently decided last fall to take extraordinary efforts to keep the drug questions out of the public eye.

Included were administration pressures to quash a congressional inquiry that could have brought some allegations to light, secret movement and possible removal of DEA documents relating to the drug charges, and a decision to limit congressional access to the materials by giving them to the Senate intelligence committee.

In late September, Sen. James Allen, D-Ala., a leading treaty opponent, held the first hearings on the treaties before his Judiciary subcommittee.

Allens' subcommittee knew nothing of the drug allegations, Instead, it was fousing on reports involving U.S bugging of Omar Torrijos.

The subcommittee wanted to find out whether Torrijos used knowledge of the bugging to blackmail American negotiators into making concessions. This suggestion was later denied by the Senate intelligence committee.

Allen's subcommittee issued two sets of subpoenas to an Army sergeant who supposedly sold the information to Torrijos and top officials of intelligence agencies and the Justice Department.

The first subpoenas dealt specifically with the bugging incident. A second set—far more broad—was issued later, Quentin Cronnelin, staff director of the Allen subcommittee, believes the broad scope of the second subpoenas caused alarm because they might have opened up the drug issue.

Attorney General Griffin Bell, in a Sept. 29 letter to James Eastland, D-Miss., chairman of the Judiciary Committee, said the subpoenas were "overbroad" and said they "could result in a serious misunderstanding" between the Intelligence and Judiciary committees.

The administration enlisted help from Senate Democratic Leader Robert Byrd, like Eastland a member of Allen's subcommittee, and from the top members of the intelligence committee—Sen. Daniel Inouye, D-

Hawaii, and Sen. Barry Goldwater, R-Ariz.—to stop the Allen hearings.

After what one individual described as "the most intense pressure I've ever seen" on Allen, including threats of Senate censure, the Alabama Senator backed off. The hearing was canceled and the subpoenas became moot.

About this time, two vocal treaty opponents, Sens. Jesse Helms, R-N.C., and Bob Dole, R-Kan., were getting hints of raw intelligence data in government files relating to the Torrijos regime and narcotics.

The Allen subcommittee hearings were cancelled on Sept. 30—a Friday.

Documents and rumors circulating on Capitol Hill suggest that on the following Monday, there was a White House meeting between Bell, President Carter and others.

The Justice Department confirms that Bell met with Carter that day, but the White House claims to have no meeting recorded. However, the White House press office said that Carter might have met with Bell without a record of the session being made.

Congressional sources told UPI that at the Oct. 3 session and at another meeting later that week—reportedly Thursday, Oct. 6—there was considerable discussion about the drug material and its ramifications on the treaty debate if it became public.

A suggestion reportedly was made to Carter that he classify all government doucments on the subject as "national security" material.

The President rejected this suggestion, sources said, and accepted a second option—limited disclosure to "safe" congressional sources, including the Senate intelligence committee, Byrd and Senate Republican Leader Howard Baker.

UPI ascertained that Bell and DEA chief Peter Bensinger did, in fact, brief Baker, Byrd, Inouye and Goldwater Oct. 6 on the drug allegations.

According to congressional sources, at this meeting Byrd told Bell and Bensinger that the best way to keep the lid on the drug allegations would be to send the files to the intelligence committee where strict security could assure "no leaks."

Later in the day, sources said the same briefing was given House Speaker Thomas O'Neill, who reportedly told Bensinger that "under no circumstances" should the files be sent to any House committee because of possible leaks.

A large number of drug files were moved from DEA to the Senate intelligence committee in late October or early November. Senators must sign a pledge not to reveal what they read in committee files under threat of action by the Senate Ethics Committee.

An intelligence committee report based on these documents was presented in secret session to the Senate Foreign Relations Committee, and a "sanitized version" is due to be released soon.

A closed session of the Senate will also be based on the material in the hands of the intelligence committee.

Although administration officials have repeatedly stated that all the government's files relating to Panama drug ties were sent to the intelligence committees, UPI was told that some material may have been removed before it reached Capitol Hill.

There have been suggestions that some sensitive material may have been placed in Bell's office safe or may have been destroyed.

In addition, UPI received reports that the DEA files relating to Panama were moved at least four times during one week in October—all but once without the usual accounting and receipting procedures to protect them—before they reached the intelligence committee.

Dole made the first public mention of files being moved from the DEA headquarters to its Washington field office during Senate debate on Oct. 13. The movement of files also came up with State Department officials during a hearing by Allen's subcommittee Nov. 15.

But when UPI attempted to get more information, reporters had to gather details indirectly, apparently due to a Bensinger warning on Oct. 7 that any DEA employee who leaked material on Panama would be fired and face criminal charges.

Congressional sources gave UPI details said to come from a DEA employee afraid to provide information directly to reporters. The information passed through two people before being relayed to UPI.

UPI was told that on Oct. 7, the Panama files were moved under high security from their normal storage site in DEA to the 10th floor of the building. One of the offices on the 10th floor is that of Gordon Fink, assistant DEA administrator for intelligence.

The following was the procedure as described to UPI:

With armed guards posted, the files were spread across table tops and examined, and particularly sensitive material removed. Bill Link, an assistant to Bensinger, was identified as supervisor of the operation.

Once the files reached the 10th floor, Link reportedly ordered the normal procedure known as a "paper trace"—requiring people in possession of files to sign receipts for them—suspended.

The files were sifted until 9 p.m. Between 11 p.m. and midnight, Bensinger went to the White House to brief Carter. Carter reportedly voiced concern over the impact of the information on the treaties if it became public.

The White House said it had no record of a late night visit by Bensinger on Oct. 7 but because of the lateness of the hour, conceded it might not have been recorded.

On Saturday, Oct. 8, an individual provided details on the file movement to a congressional source. At that time, he expressed concern about the security of the files.

On Sunday, Oct. 9, the files were moved to the field office. They were returned to headquarters Thursday, Oct. 13, to an individual identified as "Goe," head of Latin American security. Bob Goe is chief of the Latin American section of the Office of Intelligence.

A former high federal narcotics enforcement official, being interviewed on a different subject, volunteered that he had heard the files also were moved at during that week to Bell's office.

"I know first hand that when all this erupted (the allegations of Torrijos' involvement in drug traffic), the files were moved from DEA to Justice," the source said. "I was told. There's no question about it."

A congressional source said he understood some material might have been put in Bell's office safe.

UPI also was told that on Oct. 11, a DEA secretary for routine reasons asked for a file labeled "Panama-Miami." She was denied the file and questioned for three hours by Fink's security division to find out if she was the source of a leak.

UPI was also told—again by congressional sources who said the material was coming from high in the DEA—that the Panamanian drug files allegedly contain information about members of Congress.

These sources said at least one current senator is named as receiving a campaign contribution that may have come from a foreign government and that the files hint of intelligence work done by DEA involving members of Congress.

Dole filed a Freedom of Information request with the DEA on Oct. 14, 1977, for material on the Panamanian drug allegations. He listed 45 specific files relating to the possible involvement of Torrijos, his family and his government in drug dealing.

After some delay, Dole received a 75-page report with none of the material requested. Dole said it was "heavily censored" and "almost totally sanitized."

"All I ended up with was a bunch of newspaper clippings," the senator said.

When Dole protested, Bensinger replied that DEA "was conforming to the specific request and direction of the Senate leadership of both parties that files regarding Panamanian officials and the family of Gen. Omar Torrijos be made available specifically to the Senate intelligence committee."

Bensinger told Dole: "We have complied fully with that directive and have furnished them complete file information. As we indicated at that time, Gen. Omar Torrijos has never been a target of investigation."

But, in an earlier letter to Sen. Jesse Helms, R-N.C., Griffin Bell conceded Omar Torrijos was the object of a grand jury investigation.

Helms had written Bell in October enclosing a raw intelligence file naming Omar Torrijos and asking for information.

Bell responded that DEA learned CBS planned a report on the document, and the Justice Department public information office "informed CBS that a grand jury investigation based on the report had failed to produce any evidence linking the chief of state to the illegal drug traffic."

In practice, Bell said, "DEA and the Department of Justice should not give credibility to such hearsay allegations by announcing the steps, if any, taken to investigate them."

Bell said he therefore had instructed the Justice Department spokesmen to state that none of the allegations have resulted in investigations of Torrijos.

The order stuck: to this day the Justice Department refuses to state there was a grand jury investigation of Omar Torrijos.

Dole, on his return from Panama, wrote Bensinger that Omar Torrijos had promised to contact DEA and help the senator secure the drug files. But Bensinger replied with information about cooperation between the Panamanian authorities and the DEA on drugs. Dole fired back a letter saying, "I believe you misunderstood the point of my communication to you."

Bensinger then conceded there were two matters involved and suggested "with respect to DEA file material, I would again recommend that you contact the Senate Select Committee on Intelligence which has copies of all DEA files regarding this matter."

When UPI requested a briefing on the Panamanian drug situation from DEA, reporters were told there could be no questions about Torrijos.

UPI tried to contact Leland Riggs, a retired DEA agent who once attempted to arrest Moises Torrijos, about an affidavit the agent gave to Senate investigators.

A congressional source placed an introductory telephone call for the reporter. After declining to answer four calls from the reporter, Riggs told the congressional staffer he had received word from an individual in DEA whom he knew and trusted. Riggs said the DEA official cautioned him "not to talk to anybody except the Senate Intelligence Committee."

"I'm on ice," Riggs said.

UPI also sought to reach a DEA agent in Denver who had been involved in the investigation that led to the indictment of Moises Torrijos. The agent, Wilbur Place, said he needed permission from Bensigner before talking to anyone.

That, he conceded, was unlikely.

THE SECRET WAR AGAINST DOPE

(By Andrew Tully)

CHAPTER 10—DIPLOMATIC STEW

Cases like that of the heroin-carrying picture frames have caused United States Customs inspectors everywhere to adopt an amiably sardonic attitude toward their more glamorous colleagues in the investigative Customs Agency Service. The mostly anonymous inspectors, many of them now women, like to joke that the sleuths are "the first line of defense against junk—after us." In point of fact, this is true because the overwhelming majority of dope smugglers try to sneak their stuff into the United States through the legal channels provided by the Customs inspection routine. If the inspector misses the contraband in a suitcase or picture frame, the agent has no case. But in the past decade Customs inspectors have become more than just people in uniform who paw through a traveler's personal effects with infuriating care. They have been trained in their own investigative procedures. They have learned to recognize the smuggler's "profile," to be suspicious of numerous visa and entry stamps showing extensive travel and to take a second look at an individual whose passport bears the seal of a country with a casual, if not corrupt, attitude toward smuggling. Among other characteristics, the average inspector tends to view with leery eye the wayfarer with diplomatic credentials. He has learned that some members of this elegant tribe are wily practitioners of the old shell game and that it is unwise to take them on faith. Thus the interest shown in a young Latin American who arrived in the United States on a summer evening in 1971.

As any poker expert can testify, a successful bluff depends to a large extent on an accurate appraisal of the other player's intelligence. Raphael Richard Gonzalez, twenty-four, son of the Panamanian Ambassador to Nationalist China, was handsome and personable, but he was not very bright. It had never occurred to him, apparently, that United States Customs inspectors knew a thing or two about the international regulations applying to diplomatic passports.

When Richard arrived at New York's Kennedy International Airport from Panama shortly after 7 p.m. on July 8, 1971, he was carrying a diplomatic passport that showed he was a member of the ambassador's family. The passport bore a B-2 visa issued at the United States Embassy in Panama for multiple entries into the United States until August 31, 1974. With a special elegance befitting his position, Richard presented the passport to Customs Inspector Joseph Ania, who greeted him with the courteous respect due an envoy's son.

But if Ania was courtly, he also had the instinctive suspicion of his breed. He wondered about that multiple-entry visa and about Richard's luggage, which consisted of four large Samsonite suitcases and an attaché case.

"What's in your bags, sir?" Ania asked Richard.

"Summer clothing," replied Richard, abstractly.

Ania hefted one of the large suitcases. It seemed unusually heavy for a bag containing "summer clothing." He also noted that when he turned the suitcase from one end to the other, the contents shifted.

Customs, in the person of Inspector Joseph Ania, had good reason to be interested in travelers entering the United States from Panama. Despite the preceding eighteen months, the little "republic" operated by the strong man General Omar Torrijos had become one of the principal conduits for illicit dope trafficking aimed at the American market. One estimate was that as much as one-twelfth of the heroin used by American addicts passed through Panama, which means that approximately 20,000 drug users in the United States got their daily supply by this route.

Moreover, the Panama Canal Zone was an American military base, and law enforcement people were concerned over the statistic which revealed that one-third of the prison population in the Zone was incarcerated on drug charges. Diplomatically, too, there was the danger that the narcotics traffic could complicate months-old negotiations on a new Panamanian sovereignty over the 500-square mile Zone but keep the defense and operation of the canal under American control.

There was also gossip, some of which found its way into print in American newspapers, that cronies of General Torrijos and officials of his regime were involved in the heroin trafficking and were stashing huge profits in Swiss bank vaults. Thus Richard's diplomatic passport made him suspect rather than giving him the privileged respectability such a document commonly bestows on its holder. Customs had no desire to meddle in foreign policy, but the bureau willy-nilly had an official, obligatory curiosity about the baggage of potential smugglers.

"Would you mind opening your bags?" Ania asked Richard.

Richard politely demurred. Waving his passport languidly, he told Ania, "I have diplomatic immunity."

"I'm afraid not," replied Ania. "Your passport shows that neither your father nor you is accredited to the United States, only that your father is accredited to Taiwan. Immunity granted only by the country to which a diplomatic is accredited."

There was a brief legal discussion. Then Richard informed Ania that, anyway, he was in transit to Madrid and therefore his luggage was subject to examination only when it reached its final destination. If that was true, Ania retorted, why was Richard's luggage not in the custody of Braniff Airlines for transshipment to Spain? Richard as unable to account for this. "It's the airline's fault," he said. At any rate, Richard was not about to stand still for an examination there and then of his luggage.

Inspector Ania went through channels. He notified Supervisory Inspector Leonard Simon of the impasse, and Simon escorted Richard to a small conference room for a little chat. Richard steadfastly refused to open his bags. He now explained that, anyway, he had lost the keys to the luggage. Thereupon, Simon dispatched an aide on an errand. The aide was back in a few minutes with a set of duplicate keys obtained from a large Customs collection at the airport.

Simon opened all four suitcases and the attaché. case. None contained clothing or toilet articles. They did yield 140 plastic bags of white powder. A simple field test of the powder revealed a positive finding for heroin.

Special Agent John Giery was summoned, and he placed Richard under arrest for violation of the federal narcotics laws. After Richard had been informed of his rights under the Constitution. Agent Giery offered the young man some fatherly advice. Richard thought things over, then agreed to cooperate.

He told his interrogators that he had traveled from Panama with Nicola Polanco, "a kind of bodyguard." Polanco, said Richard, had already cleared Customs and had observed his arrest from the "Fishbowl" area of the observation deck in the International Arrivals Building. Both Richard and Polanco had been instructed to contact the heroin shipper, an uncle of Richard's named Guillermo Alfonso González López, upon their arrival in New York. Richard gave Agent Giery González' telephone number in Panama—645-357.

An alert was placed with the New York Telephone Company to put a hold on any calls to the Panama number. Meanwhile, according to Richard's instructions, the agents checked the young man into Room 897 of the McAlpin Hotel at 34th Street and Broadway.

At about 10 p.m., Customs got a call from the telephone company. Agents forthwith descended on a public telephone booth at 42nd Street and Eighth Avenue. There they arrested Polanco while he was waiting to get through to González. An agent hung up the phone for Polanco. Customs hoped to have its own little chat with González, later, an eventuality Polanco's warning call would have thwarted.

Thus when agents escorted Richard to his room at the McAlpin about midnight, they were delighted to hear the telephone ringing. Richard had his instructions. When the caller turned out, as hoped, to be González, he told his uncle, "Everything is okay."

The agents heard González ask Richard why he was so late checking into the hotel.

"I got lost," Richard told him. He also informed his uncle that Polanco, by then incarcerated in a cell in the Federal House of Detention, was "downstairs getting a sandwich."

"Okay," González told Richard. "I'm leaving on a Lan-Chile flight arriving at ten o'clock this morning at Kennedy. Stay in your room and wait for me."

As the official Customs report put it: "Arrangements were made in New York for the expected arrival of Guillermo González." Some arrangements. A call was put through to the Customs office in Miami, and instructions were given to the agent in charge there to put a man on the plane González would be taking to New York. Thanks to Richard, the Miami office could be provided with a description of the youth's uncle—Panamanian, five feet, five inches tall, slim build, about 135 pounds, mustache, black hair, white complexion, forty-two to forty-six years of age.

Then Richard talked some more. He told his interrogators he had made five previous flights from Panama to the United States with heroin in his luggage—four in the fall of 1970 and one in January, 1971. On all these flights, Richard said, González accompanied him as "bodyguard."

González arrived at Kennedy Airport at 11:30 a.m. via Miami. Unknown to González, it was a couple of Customs agents who escorted him to a taxicab operated by Special Agent Mario Sessa. González told Sessa to take him to the McAlpin Hotel. En route, the Panamanian informed Sessa that he had a friend in the Hotel Edison and asked if Sessa knew the Edison address. Sessa gave him the address. González thanked him and remarked that he must remember to call his friend that night.

Upon his arrival at the McAlpin, González went directly to Room 897, where he greeted Richard and made some small talk. Then, with Customs men eavesdropping, González told his nehew to place a call to the Hotel Edison. When the call was put through, González took the phone and was connected with an Oscar San Martín in Room 834. González and San Martín arranged to meet in the bar of the Edison within the hour. When González hung up, he was arrested by agents who had been sequestered in an adjoining room.

Like Richard, González was willing to talk. He explained that his arrangement with San Martin for delivery of the heroin required him to place the four suitcases and attaché case in the locked trunk of a rented car, then leave the car in a public parking lot and deliver the parking ticket to San Martin. Ten minutes later, agents had rented a car and stashed Richard's luggage in the trunk. Under surveillance, González drove to a parking lot at 1250 Broadway where he left the car, then set off to deliver the parking ticket to San Martin.

With Customs men still dogging his footsteps, González dutifully arrived at the Hotel Edison, where he met San Martin and turned over the ticket. With González and his guardian agents standing by, San Martin placed a phone call from the hotel lobby. González then departed with his agents, while other Customs men remained to keep an eye on San Martin. Within a few minutes, a man later identified as Américo Altamirano arrived at the Edison and had a brief conversation with San Martin, after which San Martin returned to his hotel room under surveillance.

Agents followed Altamirano to a building at 310 West 47th Street. He left the building several minutes later, accompanied by a man later identified as his brother, César. The brothers walked around in aimless fashion for more than twenty minutes before arriving at the lot where the rented car was parked. There they separated, with César proceeding to the parking lot office while Américo strolled about in the immediate neighborhood.

César presented the parking ticket to a uniformed attendant named Duane Lane, whose full-time job was special agent of the Bureau of Customs. Lane drove the rented car from its space and delivered it to his customer. Then, as César attempted to climb into the car, he was arrested. When César refused to talk, his brother, Américo, was arrested on a nearly street. At about the same time, agents arrested San Martin at the Hotel Edison.

It was a little after 4 p.m. on July 9, 1971. It had taken Customs less than twenty-four hours to round up all six persons involved in the smuggling attempt. Agents had seized 151 pounds of pure heroin with a street value estimated at up to $27,000,000—enough to supply the habit of every addict in New York City for almost a month.

The apprehension of Guillermo Alfonso González López also provided the Customs' Intelligence Division with some raw intelligence to be squirreled away for possible use on another day, in another case with diplomatic ramifications. On González' person were found various papers and an address book, which, in Customs' carefully calculated—and absolutely necessary—double-talk, "indicated" that González had had "associations with" some big names in Latin-American governmental and diplomatic circles, including at least one head of state, at least two ambassadors, assorted Cabinet ministers, and a couple of high-ranking military officers.

As one Customs official put it: "All these names make fascinating reading, but we couldn't lay a glove on their owners even if we had admissible evidence. They're a problem for their own countries unless they get in trouble on American soil and even then we probably couldn't hold them. In the meantime, we're not in the business of toppling foreign governments no matter what kind of creeps they have running their stores."

Besides, Customs at the time was preoccupied with its part in the final disposition of the case of Raphael Richard, et al. As receiver of the heroin, Óscar San Martin drew the stiffest penalty—a twelve-year prison sentence on each of three indictment counts, to run concurrently. Gonzalez, the operation manager, got seven years in the pen, and Richard three and a half years after both pleaded *nolo contendere*. Americo and César Altamirano each got two years, but charges against Richard's bodyguard, Nicolas Polanco, were dismissed by the United States Attorney's office after he had served almost six months in jail awaiting trial.

Meanwhile, however, Congress had become inquisitive about the drug situation in Panama, and in March, 1972, Customs' intelligence on official Panamanian involvement in heroin trafficking became a matter of public record. The vehicle of this exposé was a draft report by the unlikely Panama Canal subcommittee of the House Merchant Marine and Fisheries Committee headed by Representative John M. Murphy, Democrat, of New York.

The connection lay in the fact that the subcommittee had been studying and conducting hearings on the United States position in Panama vis-a-vis the future operation of the Panama Canal and jurisdiction over the Canal Zone. Among the experts to which the subcommittee turned was Customs Commissioner Myles J. Ambrose, who arranged a briefing for the panel by a group of special agents on January 24.

In a far-ranging review, the briefing agents cited some chapter and verse on thirty major heroin seizure cases during the preceding eighteen months. The seizures ranged from 13 pounds to several hundred pounds, and five of the seizures—or one-sixth of the total—involved the Republic of Panama. According to the subcommittee's draft report, "The briefing team concluded that based on the Customs investigation" the Richard case "reached into the highest levels of Panamanian officialdom and included Moises Torrijos, the brother of General Omar Torrijos, and the Panamanian Foreign Minister, Juan Tack."

The report on the briefing also noted that Nicolas Polanco, Richard's bodyguard, was a chauffeur for Richard's uncle Guillermo Gonzalez, and that Gonzalez was a longtime friend and former bodyguard of Moises Torrijos. Added the report: "The Customs agents claimed that because Richard's father was in Taiwan at the time of these transactions that he got his diplomatic passport from Moises, who had access to them as a Panamanian ambassador. Customs confirmed the Bureau of Narcotics and Dangerous Drugs' report that Juan Tack had signed the diplomatic passport."

Although the subcommittee acknowledged that narcotics trafficking was "basically an American problem run, in part, by Americans and criminals in other countries . . . as in every other part of the world, local nationals and officials succumb to the enticement of easy money and are lured into the drug traffic. This has happened in Panama."

The subcommittee was almost as rough on the State Department, which it charged "has had an historic policy of ignoring or denying the involvement in the narcotics traffic into the United States of high-ranking officials of friendly foreign governments . . . The question is [whether] the United States is negotiating a treaty that involves a 70-year, five-billion-dollar U.S. commitment, not to mention the security of the United States and this hemisphere, with a government that condones or is actually involved in a drug-running operation into the United States."

Although it flopped, the Richard caper combined two smuggling methods—one as old as international relations and the other a product of the jet age. A proper diplomatic passport has been the perfect *laissez-passer* for the carrier of contraband since the days of ancient Canaan. Travel by commercial airline enables the dope supplier in Marseilles to promise speedy, often same-day delivery to the wholesaler in New York. Miami or Chicago, and payment within a matter of days. It has brought to the narcotics trade the rapid turnover of the supermarket.

However he travels, an accredited diplomat's person and baggage are safe from customs inspection. The same is true of the individual traveling with a head of state or high government leader paying an official visit to a foreign country, no matter how clerkly his status. By courtesy and tradition, none of the visiting team's baggage is examined: and, of course, the diplomatic "pouch"—which might be as big as a piano box—is always inviolate. Occasionally, however, authorities are able to gather enough evidence of suspicious associations to move against even these privileged persons, in what might be called "the international interest"—for want of a handler term.

EXCERPTS FROM REPORT ON ACTIVITIES DURING THE 92D CONGRESS OF THE COMMITTEE ON MERCHANT MARINE AND FISHERIES

AN OVERVIEW OF THE NARCOTICS PROBLEM IN PANAMA

One of the most pressing problems facing the United States—drug use and drug trafficking—has apparently not been overlooked by the young Americans in the Panama Canal Zone. According to reports coming to the Subcommitte, young dependents of military and civilian families "turn on" to "Panama Red", the local brand of marijuana, as readily as their counterparts in the United States turn to similar hallucinogenic drugs. A large percentage of the prison population in the Canal Zone is being held on drug charges.

Subcommittee investigators have been told that American G.I.'s have sought assignment to Panama because of the easy availability of cheap high grade dope. And

this is not a recent development. As far back as 1968 members of the 101st Airborne Division reportedly volunteered for duty at the jungle training schools in Panama because of the lure of drugs. The Subcommittee has been told by U.S. drug law enforcement officers that the Panamanians have complained about the use of marijuana by U.S. troops and have charged that our G.I.'s have corrupted Panamanian troops by introducing them to drug use during what they ironically describe as "joint" maneuvers.

Since a clamp-down on major Mexican airports, Panama has become the conduit through which passes enormous quantities of dope—an estimated one twelfth of the heroin in a recent one year period—used by U.S. addicts. This means that at one point in time roughly 20,000 American drug addicts were getting their daily supply by this route. Large quantities of cocaine have also transited the Zone into this country.

With the increase in heroin and cocaine coming through the Canal Zone, the possibility of drug epidemics that have plagued our military bases and the dependents of both military and civilian support personnel in most parts of the world is a constant threat. This happened for example, in the sprawling U.S. air base, Ching Chuan Kang (CCK), Taiwan, on Okinawa, in the Philippines, and, of course, on a massive scale in Vietnam. Wherever this happens, our military strength is sapped, our image before the people of the host countries is tarnished and our capabilities to operate defense positions and vital installations such as the Panama Canal are diminished.

Given the sensitive nature of our current relations with Panama, we cannot afford to have the picture distorted by the use of drugs or the activities of mercenary American nationals, "soldier of fortune" pilots, and others who are making small fortunes by running thousands of pounds of the world's illict dope through the Republic of Panama. There are, of course, many points surrounding the United States where criminals transship narcotics into the United States—but these areas do not have a canal vital to the defense and commerce of the Americas and the entire world.

As Chairman Garmatz of the Merchant Marine and Fisheries Committee said in mandating the Subcommittee, we must keep abreast of all of those factors affecting the smooth and efficient operation of the Canal.

The narcotics traffic is a threat to our people there, to their children, to the American image in that country and to the relationships between our two countries. We must not let international dope peddlers and drug traffickers imperil the American position in Panama. It should be and must be stopped as quickly as possible and the Subcommittee intends to see that the Bureau of Narcotics and Dangerous Drugs Panama Task Force does this as quickly and efficiently as they did in Okinawa where a special BNDD led task force arrested 71 traffickers in nine months—mostly American servicemen and dependents—and all but wiped out the traffic on that island which contains 50,000 U.S. troops and civilians.

The Subcommittee in no way wishes to cast all of the blame on Panama or its officials for the sudden emergence of Panama as a pipeline for heroin and other drugs into the United States. It is basically an American problem run, in part, by Americans and criminals in other countries. * * *

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Another case which prompted the original BNDD assessment of Panamanian official involvement centered around Joaquin Him Gonzalez, a notorious smuggler who was arrested in the Canal Zone by U.S. authorities on February 6, 1971. Within two weeks he was brought to Dallas, Texas, for his active participation in the drug market and tried for conspiracy.

Him Gonzalez was international transit chief at Panama's Tocumen Airport and he used his high position to protect shipments of drugs to the United States. He was accused on this occasion of sending to Dallas somewhat over a million dollars worth of heroin. Gonzalez was allegedly a Torrijos protege and this relationship was made clear when the Panamanian Government mobilized all its resources, something it had not done until that point, for the offender to be returned to Panama. Reports in the press cited the "angry outbrust" and "outraged" protest of the Panamanian Government—led by Juan Tack—over the arrest of Gonzalez.

An indication of the duplicity of certain Panamanian officials is found in a comparison of their public statements and their private or official actions in this regard. For example, in October 1972, Colonel Manuel Noriega, the Intelligence Chief of the National Guard, proclaimed a desire for Panama to become the enforcement center for fighting the drug traffic in Latin America. Yet that same month intelligence reports of the United States Government sustains the 1971 BNDD assessment and we still find that Panamanian officials and security agents are allegedly involved in narcotics trafficking. A similar "offer" was made on April 8, 1972, which received worldwide publicity. However, U.S. officials, when questioned by the Subcommittee, were unaware of any direct contact by the Panamanian Government which would have brought this about.

The arrest of Manuel Rojas Sucre, the nephew of Panama's Vice President Arturo Sucre at Kennedy International Airport on December 3, 1972, with cocaine, liquid hashish, and a diplomatic passport (his mother is Panama's consul general in Montreal) is further indication of a need for continued efforts by the United States Government to impress upon the Panamanians the seriousness with which we view the drug problem.

THE POSITION OF THE DEPARTMENT OF STATE

The State Department has had a history policy of ignoring or denying the involvement in the narcotics traffic into the United States of high-ranking officials of friendly foreign governments.

While the Department has taken a "soft" approach to the narcotics problem generally, in Panama it has reached an absurd extreme. For example, the Subcommittee was told by the director of the BNDD that as a result of the strong Panamanian objections to the arrest of Him Gonzalez it is highly doubtful that the State Department would ever again allow the arrest of a Panamanian national in the Canal Zone; BNDD agents claimed the Panamanians were only paying lip service to narcotic drug enforcement and that the big trafficking was going on full tilt with the knowledge, sanction and even involvement of certain Panamanian officials and Guardia members.

After a preliminary Subcommittee report was released in March of 1972, on the involvement of Panama's Foreign Minister and others in that government in the narcotics traffic, three BNDD agents assigned to work out of the U.S Embassy in Panama City were declared persona non grata and given 12 hours to leave the country. This ultimatum was delivered on national television by Foreign Minister Juan Tack. This was done after Tack had arranged for the agents to sign letters written by the U.S. Ambassador in Panama denying they had discussed with the Chairman of this Subcommitee the relationship of government officials of Panama to narcotics smuggling into the United States. In subsequent testimony before this Subcommittee, one of the agents stated that he had, in fact, discussed with staff members of the Subcommittee such high-level involvement. There were public denials by various administration agency heads of the charges made in the Subcommittee report—the most heated coming from the Department of State. However, a recent government document supplied to the Subcommittee compiled from information and intelligence gathered by the several agencies with a responsibility for international narcotic law enforcement reached the following conclusion on the so-called "Latin connection":

"Generally speaking, the greatest detriment to effective enforcement in Latin America is corruption. The corruption goes all the way to the top of some Latin American governments. One of the more glaring examples of official corruption is the country of Panama, . . ."

This Subcommittee is in accord with the proposal made by the authors of this report when they concluded:

". . . Because of the known involvement of Panamanian government officials in the international narcotics traffic, the U.S. Government should take a firm stand in the current negotiations of a new treaty for the continued use of the Panama Canal Zone.

"The new treaty should continue to vest authority for the Canal Zone in the Canal Zone Police. The U.S. should not abrogate its authority to arrest fugitives from the U.S. who appear in the Zone, regardless of their nationality. The U.S. should not forego the right to remove such fugitives to the appropriate federal jurisdiction. By taking a strong stand, the U.S. will continue to provide adequate protection to the large number of U.S. citizens who reside in the Canal Zone. It will also prevent international traffickers from obtaining refuge in the Zone as they now do in Panama. More importantly, it will also demonstrate to the rest of the continent that the U.S. is completely serious about controlling the flow of narcotics into the country. It is recognized that by taking this stand, the Government of Panama will attempt to retaliate by creating incidents similar to those that occurred in 1964."

In summary, the Department of State has put a higher priority on placating an increasingly hostile and demanding regime in Panama than it has on taking a firm stand against government that is a major factor in allowing the international flow of heroin and cocaine presently inundating the United States. This is in spite of a wealth of evidence and intelligence that would dictate a firmer course of action.

The question that has apparently been left for the Congress to answer is: Is the United States negotiating a treaty that involves a 70 year—5 billion dollar U.S. investment, not to mention the security of the United States and this hemisphere with a government that condones or is actually involved in a drug-running operation into the United States?

In view of the weak reaction of the Department of State to the narcotics traffic in Panama, it is the conclusion of this Subcommittee that it is incumbent on the Subcommittee to let the Congress—and in turn the Panamanians—know that the United States will not tolerate the use of diplomatic channels and the attendant immunity to be used to funnel drugs into this country.

Mr. HELMS. Mr. President, a number of Senators, as I indicated earlier, suggested to me that while they agreed with the amendment I had offered on Tuesday, they would feel somewhat more comfortable emphasizing that the President already has such authority as the amendment proposes to grant.

Senator may recall—or they may not—that I had stressed that point in my statements both on Tuesday evening when I offered the amendment, and earlier today, as well as during various conversations with individual Senators. I say again, in an effort to accommodate the concerns, I expressed the willingness to modify the amendment slightly to say that "the President's authority is hereby reaffirmed to use the Armed Forces of the United States" rather than the original text which says "the President is authorized to use the Armed Forces."

I personally do not see much difference, but if it will help other Senators, I am certainly willing to make the modification. As a matter of fact, I have it here to offer if, as, and when I am allowed to do so.

I had also included in the amendment that the purpose of using force was to protect the people of Panama in their struggle. And it is a struggle, psychologically, physically, and every other way, to rid themselves and rid their nation of the brutal oppression of the Noriega regime and to restore the constitutional government of Panama.

As Senator SYMMS and Senator D'AMATO have so eloquently said, I share the view that the United States Senate should stand with the courageous people in Panama who have attempted to get rid of Mr. Noriega.

The Senator from Delaware, my good friend, Mr. BIDEN, appeared on Tuesday night to be particularly troubled by these aspects of the amendment. Thus I expressed to him that evening a willingness to delete these two provisions, leaving the text,

To bring General Noriega to trial in the United States under the terms of his February 1988 indictments for drug trafficking charges and to protect the Panama Canal pursuant to the Panama Canal treaties of 1978.

I am willing to make those changes if they will meet and resolve the concerns of any Senator. However, I am well satisfied with the amendment in its original form. If it is the preference of the managers to vote on it in its original form, so be it. That is the way I want it to be. But I am trying to accommodate Senators in their concerns and, therefore, I have modified the amendment and it is ready to be sent to the desk.

I realize the administration has been working all night long, trying to get some amendment up which I understand Senator WARNER is going to offer, which would dilute what I have attempted to do. Senator WARNER was good enough to advise me that he was going to do that and I appreciate that. I respect and admire the Senator, even though I do not agree with him in this instance.

I do not think we ought to water down what ought to be done and what I am trying to do. But, if they want to play games on this, I can always come back on the same drug bill and offer the modified amendment and have Senators vote on that. I made clear at the outset, this morning, when I took the floor that my interest was in saving a little time for the Senate. I do not know much about the rules, but I know a little bit, and I believe that sooner or later I can get a vote on a modified version notwithstanding anything that has gone on before.

Furthermore, I have had only one call from the upper echelons of the administration about this entire matter. They have been dealing with others. It is the old game of circumvent and dilute.

We will see. Senators can take their stands. They can vote yea or nay, pro or con. I am used to that. But I still say we need it on the record that the Congress of the United States has reaffirmed the President's authority to do whatever is necessary, using our military forces, to bring Mr. Noriega to account in Miami, FL, on the drug charges, the money laundering charges on which he has already been indicted. And also to protect the Panama Canal, which is part of the treaty. Both things, admittedly, are in the law now.

But there were a lot of folks in the administration, purporting to speak for the administration. And by the time they bumped into each other in the corridors, it was too late. The next time, if there is a next time, I want some action, and I do not want to have any excuse. I do not know whether there will be another time. I imagine there are a lot of people in Panama who are sick to their stomachs of the help they did not get on Tuesday. Not to mention some of the excuses that have been voiced since.

So, this is not a personal thing with me except that I am absolutely convinced that we ought to stop dillydallying and live up to all of what we have been saying, in all of our exhortations of rhetoric.

I doubt there is a single Senator who has not said in stump speeches back home: We have to get Noriega out of there. The distinguished President of the United States, who is my friend, whom I supported as vigorously as I guess anybody, has said it over and over again about Mr. Noriega.

But the time for talk is over, and the time for action is now. Or the next chance we get, if we get a chance. My word to the people of Panama is: Do not give up. Maybe the next scenario will be done right. That is the way I feel about it.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I thank the Chair.

Mr. President, the amendment offered by the distinguished Senator from North Carolina presents an occasion to discuss generally the use of extraterritorial jurisdiction to bring people into custody in the United States when they are under indictment. That is a policy which this Senator favors and has advocated for the past 6 years.

The specific issue which is framed by the amendment by the Senator from North Carolina is, really, how much force should be used and under what circumstances should the execution of a warrant of arrest take place. There is no question that General Noriega is under indictment and that the law of the United States of America calls for the execution of a warrant of arrest.

Just a comment by my distinguished colleague, the chairman of the Judiciary Committee.

There is no question, Mr. President, about the authority to execute a warrant of arrest. And that is a responsibility which is vested with the executive branch of the Government. Characteristically, it is lodged with a U.S. marshal as opposed to the President of the United States as Commander in Chief. But I believe it to be true that the executive branch has that authority.

The circumstances in Panama in the last 2 days, remain somewhat unclear, although there have been briefings on the subject. It was essentially a Presidential call as to whether it was appropriate to use the requisite force to take General Noriega into custody. But I believe it to be plain, under U.S. law, that the authority does reside in the President of the United States.

We have pursued the path of extraterritorial jurisdiction since 1984, when we enacted the Omnibus Crime Control Act and for the first time made it a violation of U.S. law to hijack or kidnap U.S. citizens abroad. We expanded that extraterritorial jurisdiction with 1986 legislation which this Senator offered which makes it a violation of U.S. law to assault, maim, or murder a U.S. citizen anywhere in the world. I believe it is very impor-

tant that there be a very vigorous pursuit of this kind of extraterritorial jurisdiction.

(Mr. SIMON assumed the chair.)

Mr. SPECTER. Mr. President, this kind of extraterritorial jurisdiction, Mr. President, has been adopted by the Congress with respect to terrorism. Extraterritorial jurisdiction applies generally if someone somewhere else sets into action a chain of events and by his or her conduct a crime is committed in the United States as, for example, the drug violations for which General Noriega was indicted. The issue of when you take people into custody is one that has to be very carefully calculated.

We have made efforts in the United States to organize a surgical strike force to be able to take terrorists into custody, to be able to take into custody anyone who has violated United States laws who may be outside the territorial limits of the United States. But that power of arrest has to be executed with care, and it is important to use reasonable force. It is a Presidential decision, in terms of whether United States citizens in Panama dependent on our military there would be in danger, and that is a Presidential call.

There is an event which has just occurred, Mr. President, that I think is worthy of comment directly related to the subject, and that is the sentence which was imposed yesterday in the U.S. district court here in Washington, DC, on a terrorist by the name of Fawaz Yunis. This defendant was the first person apprehended under the 1984 U.S. law extending extraterritorial jurisdiction. I suggest, Mr. President, that the sentence was lenient. Fawaz Yunis could have been sentenced to life imprisonment under the statute. Instead, he received a sentence of 30 years, according to press reports, which make him eligible to be released in 8 years. Yunis was a very major terrorist, a very major highjacker who, along with other people, seized a Jordanian airliner in 1985; took control of the Jordanian airliner; made a 30-hour voyage over several days in order to deliver a demand on behalf of their Shiite compatriots in Lebanon.

It is true there were certain extenuating circumstances that were present. Two passengers were allowed to leave because they required medical treatment, and it is true that no one was murdered in the course of that hijacking, but there were 70 people, including two U.S. citizens, held captive for some 30 hours, terrorized, subjected to that kind of an excruciating experience.

Under the laws of the United States, kidnaping has been punished by the death penalty. It is the view of this Senator—and I have offered legislation to this effect—that the death penalty ought to be a sentencing option for the offenses of terrorism, kidnaping, and hijacking. Certainly, where death results, the death penalty might be appropriate.

The arrest of Fawaz Yunis was a very calculated approach by U.S. authorities, principally the Federal Bureau of Investigation. Fawaz Yunis was lured onto a boat in the Mediterranean, taken into custody under very difficult circumstances, brought back to the United States, charged with the offense of hijacking and could have been subjected to a life sentence. This is the first time that these laws have been used, and they are very, very difficult to apply.

Most people do not know that at the present time there are more than a dozen terrorists under U.S. indictment. Efforts are being made to try to locate those terrorists to bring them into custody, and that is a very difficult matter because we do not wish to use the kind of force which would endanger other people who may be near those terrorists. We can locate these terrorists and bring them into our custody only with the most carefully conceived plans. That is why it is frustrating to have a man like Fawaz Yunis brought back to the United States and tried, but not punished to the fullest extent of the law.

Yunis was given all of the rights of any person who is in our courts, whether they are a citizen or not; and I think anybody brought into the U.S. courts for trial ought to have those rights. There were elaborate pretrial pleadings and efforts made to suppress his confession. Some of these efforts were successful. But you have a terrorist like Fawaz Yunis who shows no sympathy, compassion, no regard for anyone, taking 70 people into custody and subjecting them to a terrifying hijacking experience.

Of course, we are going to give him the benefits of our laws as we should. But consider this Yunis case in which U.S. officials first had to identify this man, which was hard to do, to locate him, which was very hard to do, to take him into custody, which was even harder to do, to bring him back to this country, to give him all the due process rights of the most civilized, sophisticated jurisprudence system devised by man and then have him convicted—after all of that, the sentence is not nearly what it ought to have been.

The Fawaz Yunis case has recently been cited in Colombia to let the drug lords know extraterritorial jurisdiction is possible; we can take people into this country and bring them to trial.

We recently had the celebrated case of Sheik Obeid who was taken into custody by the Israelis because he violated Israeli law and an arrest was made in Lebanon under existing principles of international law. One of the items reputedly that Sheik Obeid was most worried about was the possibility that he could be extradited to the United States for trial. You cannot buy your way out of a U.S. prosecution. You cannot buy your way out of custody and jail. You cannot buy your way out of the courtroom. Sentencing is a matter of discretion for the trial judge. I suggest, Mr. President, that 30 years was an inappropriate sentence for Fawaz Yunis under the facts of this case.

Mr. President, when we first talked about the extraterritorial jurisdiction concept, many people were surprised to find out that the law of the United States authorized taking into custody someone wherever he or she might be found without regard to the factual circumstances as to how they were taken into custody.

My own son, Shanin Specter, was studying international law in Cambridge in 1983 and called my attention to a case called Ker versus Illinois, a decision by the Supreme Court in 1886. While we lawyers frequently read some of the old case books, I have never gone back to 1886 for casual reading and had never known about this case. Frankly, I was very surprised, even shocked to find on the facts of that case that the kidnaping of this fellow, Ker, the defendant, was upheld by the Supreme Court. The facts of that case are worth a moment's recitation.

Ker was under a charge of fraud from Illinois, a civilized State, as the presiding official here, Senator SIMON of Illinois, will attest to, and there was a fraud indictment out of Illinois. This fellow Ker fled to Peru, and extradition papers were obtained. But then the arresting personnel, not even law enforcement officers, although it is not plain in the decision, went to Peru and they kidnaped Ker. That is the way the Supreme Court of the United States describes it. They kidnaped Ker and brought him back to Illinois. He was tried there and was convicted. He took the case to the Supreme Court of the United States.

In 1886, the Supreme Court of the United States said that when a person is brought back into the jurisdiction of a court, it does not matter how he was brought back, even if he was kidnaped. That principle has been upheld repeatedly, Mr. President.

In the 1952 Frisbie case, in an opinion written by Justice Hugo Black, a noted civil libertarian, the Supreme Court upheld jurisdiction over a defendant resulting from what Justice Black called forcible abduction. That is a more polite way of describing a kidnaping. When Fawaz Yunis was taken into custody, he was similarly forcibly abducted. But, under international principles of law, it is appropriate to take a person into custody in that manner, as the Israelis took

Sheik Obeid into custody, as we could take General Noriega into custody, forcibly, if we are able to do so in a context where it constitutes the reasonable use of force.

Mr. President, I believe it is important to exercise extraterritorial jurisdiction to vindicate the laws of the United States against a man like Noriega who is under indictment for violation of serious drug laws. He has been indicted by a U.S. district court and he ought to be tried in the United States, but it has to be carefully and meticulously done so as to be a reasonable use of force, not to be excessive and not to endanger American citizens, or others, in the execution of that kind of a warrant of arrest. But there is no question on international law that the President has the authority to execute that warrant of arrest.

But it is hardly worthwhile to undertake these kinds of high-risk ventures as illustrated in Fawaz Yunis if at the end of the trail somebody is going to be eligible for release after only 8 years in jail.

We are working, Mr. President, on a variety of remedies to try to locate the more than one dozen terrorists now under indictment. This body agreed to an amendment calling on the CIA and Department of Defense to tell us what resources are necessary for human intelligence to locate our hostages, to see if it is possible to rescue them with reasonable safety, and to identify terrorists to bring them into custody. This is an important part of U.S. law enforcement which ought to be done, Mr. President. So that I think the amendment offered by the Senator from North Carolina is worthy of our attention, and the pursuit of Noriega ought to be undertaken but it has to be the President's call as to what is an appropriate use of force under very complex circumstances.

I thank the Chair and yield the floor.

Mr. BIDEN. Mr. President, I will only take a moment.

Let me compliment my friend from Pennsylvania. The notion that some of the most objectionable persons on the face of this Earth are going to find themselves or have found themselves in the position in the case that has been cited that they will be eligible for parole in less than a 10-year period is I think outrageous. I want to compliment him for coming to the floor and making the case.

I concur in the second point—and I will at a later time speak at greater length—that the intent of the Senator from North Carolina is well-founded, but the method by which he is proposing to deal with a real and serious, genuine problem in the person of Mr. Noriega is one that has implications that go far beyond the arrest and trial and conviction of Mr. Noriega.

But I wanted to rise to compliment my friend from Pennsylvania, who has been as diligent as anyone has and has been as persistent as anyone has in the Senate in the years he has been here trying to call the attention of this body and the Nation to the fact we are not nearly as resolute as we should be.

Mr. SPECTER. If the Senator from Delaware will yield for a comment, I thank my friend for those remarks. I think that the internationalization of law enforcement is very important in many respects. This line of extraterritorial jurisdiction is vital. The trial of drug dealers and terrorists really will need an international court in order to get extradition. We passed legislation on a multinational drug strike force authorizing funds from the Department of Defense for that purpose.

But when the story on Fawaz Yunis appears on page 39 of the Washington Post—it was not in the New York Times or the Philadelphia Inquirer today—that is a matter of utmost concern. We spend our time passing these laws to bring these people to justice and we appropriate money for the FBI. They are able finally to find one man and he must be made an example. I know that the drug dealers in Colombia are aware of the Fawaz Yunis case. I discussed this matter with Ambassador McNamara who said that in Colombia the Yunis case is a big case. I had not heard that the Yunis case was specifically invoked when Sheik Obeid was being taken into custody in Israel, but I have reason to believe on reliable information that Sheik Obeid is worried about being extradited to the United States.

I think we should bring Noriega into court if we find the right circumstances and I hope we do, if we can do so with a reasonable amount of force. But if he comes into this country and he is tried in Federal court, he should receive a significant sentence.

A comment on a sentence by a Federal judge is not something that this Senator takes lightly. I have a very high regard for the judicial system, a reverence for the law, but nobody, including Federal judges, is immune from a comment or a criticism. Maybe the judge is right. I do not think he was. But I think this case ought to be a subject of interest in this body. We have to make our point to influence future handling of such cases.

Mr. BIDEN. I concur with the Senator from Pennsylvania, and I yield the floor.

Mr. President, I apologize for the Senate not moving a little quicker today on this drug bill.

Just to review the bidding here, I ask the unanimous-consent request, we are on the drug bill, the drug amendments. But the pending business is the Helms second-degree amendment to a Biden amendment that is designed to eliminate crack houses.

We are at the moment attempting to see if we can reach a resolution whereby we can at a minimum agree on an order with a means by which we would deal with disposing of the Helms amendment, and possibly whether or not there could be a compromise reached which we could all support.

As we speak, as they say, various staff persons are holed up in one of the rooms off the floor of the Senate trying to draft such language.

The Senator from North Carolina had to be necessarily absent from the floor for a few moments. So I will indicate now that when he gets back while this effort is underway I may ask him if he would be willing to allow us—I am not asking this now—to temporarily set aside the Helms amendment on Panama to consider some of the dozen or so amendments we still have remaining on the drug bill.

In the interest of time, I will indicate to the Chair, to my colleagues, and to their staffs who may be listening that I will at some point, at the first reasonable opportunity, be proposing a Biden amendment on State and local drug enforcement.

The intent of the amendment, which I will discuss in more detail, will be to provide more help for rural America in their fight against drugs. As the Senator from Illinois, the Presiding Officer, well knows, in the rural parts of the State that he lives in, drugs have not in fact decided that they will only reside in inner-city areas. It is a major problem throughout our country.

It is the view of the Senator from Delaware that we are doing much too little to assist State and local law enforcement, and State and local governments in their efforts to deal with the drug problem in rural America.

In addition to that, the amendment also has a second part which would provide for help through a drug block grant to local communities, and in this part there is much credit which should be given for the amendment that will be sent up to Senator KOHL of Wisconsin, which adds $15 million for citizen action groups to fight drugs in drug-blighted neighborhoods.

Then there is a third part of this amendment which we have passed in other forms in the past in our committee, and that is dealing with the particular focus on antigang efforts. It is not only the so-called Bloods and Crips—and I hate even mentioning their names because it gives them the kind of notoriety that I think they most seek, and they are thugs. But the Bloods and Crips are the most high-profile examples. There are other examples in over 250 cities in this country which are also dealing with a gang problem.

It provides help for juvenile antigang initiatives to the Department of Justice. It also contains provisions for funding of 1,000 new drug prevention projects, including youth programs and projects in public housing, particularly Boys Clubs and Girls Clubs.

One of the reasons we are now having so much difficulty in public housing is the obvious one relating to poverty, but there are also reasons relating to no access or availability of reasonable outlets for young men and women in those communities.

So that will be the first amendment I will be sending to the desk, I say to those who may be listening in their offices.

I just wanted to put them on notice in the hope that Senator HELMS will be willing, as he was so gracious to do yesterday, as we agreed to 31 different amendments of significantly strengthening the antidrug package proposed by the President, to temporarily set aside almost in every instance his Panama amendment while we attempted to work it out.

Mr. President, while we are awaiting the return of the Senator from North Carolina, who is necessarily absent, I would like to take this occasion to discuss a little bit about the drug bill.

Mr. President, as I have said time and again, and apparently as a number of my Republican and Democratic colleagues agree, my debate thus far with the President of the United States and the administration on his drug strategy has been about the very heart of the strategy.

I disagreed with the strategy. The strategy that has been put forward is one that has set within the strategy certain goals that the President says will be measures of our success or failure.

He is required by the law that you and I and others in this body wrote, the so-called drug director law, to set out a strategy once a year which he has done faithfully in the first strategy, and also to set out a series of goals that he hopes to be able to achieve within certain timeframes.

The reason I wrote that into the law when the law was written some years ago was not to put this President or the last President, President Reagan, or the former President, President Carter, or the next President, whomever it may be, in a ticklish position, a particularly difficult position. The reason that I wrote it into the law was that the only way we can measure it, whether or not we are succeeding or failing in our war against drugs, is to have some sense of what progress we are making. And, further, it is necessary to lay out goals so that you can measure the allocation of effort and resources that has been made available against the success or failure of reaching a goal.

It may be, for example, that it is wiser to expand money after a year of attempting to do it in one area and seeing that it does not reap much of a benefit—to reallocate that money—and put it into another area in the drug bill.

So, Mr. President, I will be, at some point, considering proposing this as an amendment as well, although I have not made that decision.

I would like to go down for a moment and discuss some of the goals that have been set forward by the President and illustrate why I have such a fundamental disagreement with the goals and the strategy. For example, the President sets in his strategy a goal regarding current monthly overall use. That is basically the so-called casual drug use. If the President will observe on the chart which has been put up, since 1985, in terms of total number of people who use the drug at least monthly, we have seen that it has dropped from about 25 million people to slightly less than 15 million people, for a 37-percent drop, almost 10 percent per year between 1985 and 1988.

President Bush's plan says that they will have succeeded in their strategy—if you look at the chart in the back of the Chamber—if, by 1991, there has been an additional 10 percent reduction among casual users. Now, as you can see, Mr. President, the line representing the reduction of consumption by casual users was going down at a fairly steep rate, actually a little more than 10 percent per year.

Now, the President's goal and ambition is to—you see the red dot line; it almost levels off. He says we will have succeeded if we reduce it by 10,000 in the next 2 years. Well, that is less than we have been doing every year for the past 3 years, without a drug strategy. The Senator from Delaware suggests that our goal should be an additional reduction of 37 percent in the number of people reporting any illegal use of drugs within the past month. We think that is not particularly ambitious and is a more appropriate goal. That represents the black line, the so-called proposed goal. It is essentially a continuation of the rate of reduction that has taken place over the last 3 years.

In fairness to the administration, Mr. Bennett argues that, well, the reason it dropped so drastically in the last 3 years is that we got all the easy folks off, and the only ones left are harder users. By definition, they are not harder users, because they are people who only use drugs once a month. They are not addicts. I think we should be less timid and more ambitious in our fight in this war on drugs.

A second goal that you will see up here is the weekly cocaine users, which most people refer to as the addicts, people who use it on a weekly basis. Now, we have had a disturbing trend, acknowledged buy the administration and others. That is, in 1985, you can see there were roughly 647,000—to be more precise—cocaine addicts in America. In 1988, at the very time when casual users were dropping in number, the number of cocaine addicts was increasing in number. By 1988, the number of hardcore cocaine users or addicts was 862,000 people, up from 647,000.

Now, the administration came along and said, "Look, by 1991, within the next 2 years, what we the administration would view as winning, as success, is if we reduced the rate of increase by 50 percent." Said another way, success would be success if that red line continues, and it goes from 862,000 hardcore cocaine users to 970,000 hardcore cocaine users, an increase of over 110,000 cocaine users. So, the President says, "My strategy will have succeeded if within the next 2 years, by 1991, we have an additional 110,000"—to be more precise, 112,000, I think it is—"more cocaine addicts."

Now, I understand that the President may think that is all that can be done with the limited resources he is willing to apply to the job, but I think that is the wrong strategy and the wrong goal for the United States to set. I do not think we will have won the war, or been on our way to winning the war, if within 2 years we say, aha, now we have almost 1 million cocaine addicts, and before we only had about 850,000 cocaine addicts. I do not consider that success.

I think we should have as a strategy and as a goal reducing by 10,000—and it is not all that ambitious—but reducing in absolute terms by 10,000 the number of cocaine addicts that are out there within the next 2 years. That is where we see the black line, the Biden-proposed goal, that black dotted line. This is so that we get the trend going down and not continuing up, although admittedly continuing up at a less steep rate, but still at a steep rate.

Mr. President, this debate that we have had with the administration—apparently most of my Republican colleagues agree with me, because they have been voting with me the last 2 days to add resources and effort—is not about money, is not about taxes. It is not proposing any new taxes. It is about what the goals and ambitions of this Nation are relative to drugs. I wonder if the American people would say we have succeeded, if success was defined in terms of adding 110,000 cocaine addicts in 2 years.

Mr. President, there are other goals that we are in disagreement with, that the Senator from Delaware and many of his Democratic, and I suspect Republican colleagues as well, have strong disagreement with. That is the

notion set out in the strategy by the President that those monthly users who are adolescents are in a position where, if you look at that chart, we find ourselves talking about a reduction that has taken place over the last 3 years. That reduction that has taken place over the last 3 years has been—let me get my proper chart here—adolescent monthly users. That reduction, you can see, that has taken place has dropped from roughly 3,260,000 adolescents—think of that! That is people between the ages of 12 and 17. It dropped from 3,260,000 adolescents, who have, on a monthly basis, used an illegal drug, down to 1,866,000. This is before the drug war was declared, before the President's strategy. That is a decrease over the past 3 years of almost 42 percent. That is without this new strategy.

Now, Mr. President, the President says that we will have succeeded if within the next 2 years that reduction does not continue at over 10 percent a year, over 13 percent a year. That is not success. He says success will be if in the next 2 years that reduction almost levels off and you only reduce it 5 percent per year or 10 percent in the next 2 years, again a fundamental disagreement. We think that is an inappropriate goal and we think that with the proper strategy we are capable of reducing that number.

For those who are current monthly users, who are adolescent, we believe we can continue that reduction significantly. If you look at the black line, we think we can reduce the number of monthly adolescent users by double what is there, by another 40 percent, or thereabouts.

We see no reason why we cannot do that, given the right education programs, given the right treatment programs and given the right law enforcement effort. That is not an overly ambitious goal.

We also have, if you look at the other chart, Mr. President, the President's goal for treatment on demand. He says that if you look at the percentage of people on the left who require receiving treatment on demand—that is people out there, by the way, who are now addicted and are raising their hands and saying; "Look, I am committing crimes. I am ruining my life, but I am addicted. I cannot get off this drug. I need help. I want to get into a drug treatment program."

Right now, according to State and local agencies around the country, there are over some 50,000 of those people who are literally standing around, some may be in the gallery, literally, literally seeking help, and they go to the agency and say: "I need help. I do not have the money. I do not have the insurance plan. I want help to get off the drugs." And those people cannot be treated now.

There is on average, about an 8-month wait in major cities in America. In small cities, you are down to around 2 months' time. It takes time. The President's plan says they want to help those able to get it on demand now which is less than, looking at the chart, about 12 percent. They say they will have succeeded if by the year 1993, not 1991; in the next 4 years, they have increased that to roughly 25 percent.

So one in four people who need help and are asking for it can get help.

There is a simple reason for wanting to help these people. It is not out of the goodness of my heart. It is not because I am a humanitarian. It is not because I am such a decent fellow and want to help my fellow man. It is real simple. I do not want my wife beat up, bludgeoned in the supermarket parking lot on her way home; I do not want my mother burglarized tonight in her home and have her television taken and her jewelry, by people who are addicted and who have no choice as a practical matter unless they own a bank, but to get money to go out and pay for their cocaine, or their heroin or their crank or their crack or their ice or their parachute, or any of the other names that the various drugs are known by.

We have one of two choices. You arrest them and put them in jail, which we went a long way in doing yesterday when the Biden amendment was agreed to, increasing the number of FBI agents by 1,000, the number of DEA agents by over 300, et cetera, and received unanimous support in the Senate. That is one way of doing it.

There is a second way. You get them into a treatment program even before you can catch them or arrest them and you get them off the drug so they do not have to do that.

Or you continue to try to chase them down and in the meantime those 5,000 people or many more who are seeking help to get off, you only treat one in four of them, meaning that three out of four out there are going to burglarize our homes tonight or use violence to deprive us of our property so they can provide for their drug habit. It is not humanitarian; it is pure naked self-interest on the part of American society.

Even if they are not cured, crime among addicts in treatment regimes at the time drops by 80 percent. And the average cocaine addict, the average heroin addict, as the Senator from New York can tell you, who is on the floor, better than anyone, they commit tens of thousands and thousands and thousands of crimes. Six percent of all the violent criminals in America commit about 80 percent of all the violent crime in America.

Mr. D'AMATO. Mr. President, will the distinguished gentleman yield just for an observation?

Mr. BIDEN. I yield.

Mr. D'AMATO. Mr. President, as relates to those statistics, the fact is there has been a study, as I know that my colleague is aware of, done in Baltimore some years ago; and I recall the first time it indicated that the study as conducted related to 242, I believe, heroin addicts who were tracked over a period of 11 years. That was both when they were incarcerated and free. A good deal of this time they spent in prison, you have to understand, which will make these statistics even more staggering. It was estimated that the 242 criminals had committed in excess of 500,000 crimes. That might seem staggering, but I think it bears out that which Senator BIDEN, my colleague, is talking about, the need to see to it that the recidivists are taken off the street, kept off the street, because it does not make any sense to make an arrest and put them back out there, which is literally what we are doing in my State and the city of New York.

If you do a little multiplication, that would come out to about 109-plus crimes each year each committed; multiply 242 times 11, and that is what you get. While it might sound absurd, the fact is they are walking crime machines.

I commend the Senator for his observation as it relates to this.

Mr. BIDEN. I thank my colleague, but when you think about it, it is staggering, 192 crimes per year per heroin addict. Think about that. Unless a herion addict is already a wealthy woman or man, owns a bank or has an incredibly wealthy mother or father who is going to support his habit, think about it. What happens it is a little like what happened to the caveman. They did not have refrigeration; they had to go out and club their fowl every single day in order to be able to eat the next day. That is what happens here. One hundred ninety-two times means that 2 out of every 3 days they have to be out there, almost 2 out of the 3 days they have to be out there committing crime to get the money by stealing my television and selling it on the market. A hot television brings enough money just for a day's worth of heroin.

This is not something crazy. This is real, this is real life. Crack addicts are required physically and mentally as a practical matter to hit up 12 to 20 times a day. Just assume they are buying a little $5 piece. Twenty times 5 gets up there. On a weekly basis it is fairly expensive; on a monthly basis it is staggering; on a yearly basis it is incredible. And none of these people have jobs.

I know it sounds almost ludicrous to say it, but unless we get them into treatment and/or prison and treatment while they are in prison so they

break the habit, we are the victims. And the President's proposal is that we are going to have to only be able to increase treatment on demand by about 12 or 13 percent. We believe by 1993, in the next 4-year period, we should be able to have total treatment on demand for our own safety's sake.

Again disagreement with the President's strategy as evidenced by his goals.

Education programs in America. Now everybody says, with regard to education, that the public agrees, the experts agree, everyone agrees that in order to keep young people off of drugs the single most significant thing we can do beyond, in addition to and including reinforcing their values in their family life, et cetera, is to educate them as to the dangers of drugs.

Senator KENNEDY has pointed out in a study that came out of his committee that his committee talked about, that there is in fact success in education. They took a control group of students. They said we are going to take one group of students and we are going to expose them on a fairly regular basis to prevention and education programs. They said, OK. What we are going to do is we are going to take those kids between 6th and 10th grades and we are going to measure the group that we have educated against the group we have not educated. We found out that those students who receive no education on the dangers of these drugs, among those who did not between the grades 6 and 10, 7 percent became heavy marijuana users; And those that received education, only 3 percent became heavy marijuana users.

Then, with regard to cocaine, those who received no education on the dangers of cocaine, 3.7 percent of all the students in America between grades 6 and 10 became cocaine users. Of those that received education, only 1.4 percent became heavy cocaine users.

It did not help eliminate all the use of marijuana or cocaine, but it is a decrease by almost a third—almost a third fewer students ended up using cocaine and more than 60 percent fewer students ended up using marijuana heavily. It works.

My argument with the strategy here is that if the strategy of the President is allowed to be put in place and not altered—right now we reach one in four students in America with any drug education program. By 1990, we will have reached about 27 percent of the students. By the year 1992, the President says we will have succeeded—success will be accomplished in the area of education—by enabling us to reach about 28 to 30 percent of those students; 3 in 10. We believe there is no reason on Earth why, within the next 2½ years, we cannot put in place programs that 100 percent of the students in American schools will have been exposed to a drug education program. Fundamental disagreement with the President of the United States.

I do not mean to suggest the President does not want to have everybody educated. I am sure he does. I am sure he does not want anybody to use cocaine or marijuana or PCP or heroin or anything else. But I suggest, Mr. President, this is not merely a battle about funding. This is a battle about what our objective is. We believe—and I know the Presiding Officer who is a leader in the education field in this body and was when he was in the House and is recognized as such nationally—we believe education works. The President acknowledges that it works. If it does, we believe it should be a priority so we do not have another portion of a generation lost because we have waited incrementally to raise the education level on this issue.

Mr. President, the last chart.

I saw my friend from North Carolina was back and my friend from New York is here. He is waiting to speak. I will have plenty of time to speak to this.

Let me just speak to the last question here. The last question relates to the number of crimes that are drug related violent crimes. I emphasize, not property crimes, but violent crimes.

In the year 1986, the number of drug related violent crimes was about 1.3 million. The President, when he set out the drug strategy, set no goal for what we would measure as success. If the trend continues, by 1991, the number of violent crimes, drug related violent crimes, will have increased to about 1.8 million in America.

We believe we should set a goal of a net reduction by the year 1991 of moving back to the 1986 level so that it could continue to go down, a net reduction of about 250,000 violent crimes in America.

Now these are not just numbers the Senator from Delaware has pulled out of his hat. These are numbers and goals that we believe, after speaking to the experts around the country, that we can accomplish by wisely allocating resources and wisely increasing efforts in particular areas.

There are specific plans associated with how we get to those goals. The Senator from Delaware has already on the floor and will again propose teacher training programs and the placement of drug experts in school districts for training that will allow us to reach 100 percent of the students by the year 1992. The same can and will be said for all the rest of these areas.

Mr. President, there are others on the floor who wish to speak. My friend from New York has been waiting to be recognized. I know he has been here a long time.

Let me say two things in conclusion: One, we can have the capability, we know how to reduce in real terms the danger that the drug epidemic is posing to America. We know how to do it. But first we must do one important thing. We must mean what we say. Our goals and our actions must match our rhetoric. If, in fact, drugs are the single most important problem facing America and threatening our youth and elderly alike, then there is a no reason we cannot find the $57 million out of our $1.3 billion this year to hire a thousand FBI agents.

We adopted that yesterday. Now we have to appropriate the money.

There is no reason why we cannot do that if it is that much of a priority. We came out here last week on the floor of the U.S. Senate and, without any debate to speak of, we passed—bang—almost $1.2 billion in disaster relief to help our friends and fellow citizens in Puerto Rico and South Carolina, the victims of Hurricane Hugo.

We should do that. We had no problem. We moved—bang—$1.2 billion.

Yet the Senator from Tennessee, the Senator from Delaware, and the Senator from New York sat up night after night after night after night for 3 weeks in a room one floor down in a wrenching debate with the administration about providing another $900 million to fight the war on drugs.

What is the story here, Mr. President? Do we mean it or do we not mean it?

I respectfully suggest to the Presiding Officer that unless someone can tell me that I am wrong about our capability of educating children, wrong about our capability of targeting and destroying drug organization networks, wrong about our capability of reducing the consumption of drugs among casual users, wrong about our capability of reducing the number of hard-core drug addicts in America—unless they can tell me that, then they must do one of two things: They must say drugs are not our most important priority and that is why we are unwilling to make the resources available; or they must say they are and here are the resources, even at the expense of other worthwhile things.

That is what this debate is about, Mr. President. The press on occasion—and the administration—keeps saying well, the debate with Senator BIDEN and others is really not about strategy, it is really not about goals, it is only about money.

With all due respect, Mr. President, that is hokum. The debate is about strategy, it is about goals, it is about priorities.

I am now prepared to yield to a man with whom I have worked very closely on this drug issue since he has been in the U.S. Senate. I know several who have worked as hard but I do not know anybody who has worked any

harder. And I do not know anybody who represents a constituency for whom this problem is more urgent than my friend from New York.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. DIXON). The Senator from New York.

Mr. D'AMATO. Mr. President, I thank my colleague, the distinguished Senator from Delaware, chairman of the Judiciary Committee, and say I look forward to working with him to attain the goals he has set forth, particularly in the area of education and the reduction of drug use. I think we should set a lofty target and fight to attain that target. In order to begin to win this war, we must put the resources behind it and the commitment behind it and undertake the kinds of programs that are going to make a difference.

Making a difference is not just simply saying yes, we are going to help the Government of Colombia. Because if we help them and they are victorious, what about Peru and Bolivia and Brazil where the cartel will move to and seek sanctuary? Are we going to just talk about it or tackle the tough ones?

What about drug testing? Oh, do not mention it. But I will tell my colleagues, if we want to get youngsters to stop taking drugs, let them know there are privileges they may lose if they use drugs.

Drivers' licenses; why should there not be drug testing for first time applicants for a driver's license?

We say, yes, there should be drug testing for people who are in positions of responsibility where the safety of the general public is at stake. In fact, there is a big furor right now. How is it that two airline pilots who piloted USAir flight 5050 2 weeks ago, that had an aborted takeoff and landed in the East River, with two people dead—we could not find the crew for 2 days?

I do not know whether they were or were not under the influence of anything, and I do not make that accusation. But we better have a law that requires that people who are the engineers or crew of common carriers to be available for testing, instead of taking off someplace.

We will hear the civil libertarians on the other side saying, oh, no, you are violating their constitutional rights. What about the constitutional rights of the millions of people who travel on common carriers, who are being victimized by crime as a result of the drug situation, or the tens of millions who are afraid to leave their homes to go to the parks or to use our mass transit systems? What about the tens of millions in the future? Are we going to continue to have fancy rhetoric and yet not back it up?

I believe the Senator from Delaware is correct when he says we need to set high goals and we should shoot for them and work for them. We know we do not always hit the mark the first time in our efforts to galvanize this country to win this war.

Mr. President, talking about words, I believe the pending business before us is the Helms amendment. Am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. D'AMATO. Mr. President, I do not think the Helms amendment goes far enough. I have heard people saying this would be a declaration of war. Well, maybe it is about time we said, we are going to have a war against an international drug cartel. Here we have a thief, a murderer. Here we have somebody who rules by way of the gun. Here we have someone whose people have total disdain for him, the Panamanian people. Here we have an avowed enemy of the United States, a drug trafficker and a dictator.

We have spoken out about him. We violated every cardinal rule of diplomatic language. We induced the President of Panama to leave office under absolutely implied promises and specific promises of United States aid. That is right. We forget that President Duvalier risked everything—family, fortune, life—because the United States said to him, if you call for the removal of Noriega, we will support you.

Well, we imposed economic sanctions. They are certainly crushing the people of Panama. Oh, yes, some countries closed their embassies. Noriega is held in great disdain and we say repeatedly that we want him out. But the PDF, the Panama Defense Forces, have to lead the action aganist him.

So this past Tuesday, that is exactly what happened. A group of PDF officers took us at our word, Mr. President. They took the United States at its word. They led a insurrection against him. They actually had Noriega.

There was no question as to our policy about Noriega. We wanted him out. The President says we want him out. The Congress says we want him out. As a matter of fact he is a wanted man here in the United States.

Now we are told, well, we had no reason to believe that these people were reliable, that we could trust them. The leader of this crew, Major Giraldi's character is in question. I said before and I say again: Do we expect choirboys to lead a revolution? Lead an insurrection?

What nonsense. Do we run a background check on people who are fighting for freedom and asking for help?

They say we may have made a mistake to trust him. It could have been a trap. How could it have been a trap if we were watching it happen? And I am told that U.S. installations there could see clearly into PDF headquarters where the battle was taking place.

Did they think the gunfire was a lark? Did they think the shooting and explosions they observed, that they were not concrete, they could not put belief in them? Did they think people came to seek sanctuary with us because they were not afraid for their lives?

Oh, they say the rebels did not want to give us Noriega. That is what I hear.

Well, my friends in Panama tell me the fact of the matter is the rebels could not transport Manuel Noriega through the streets with gunfire raging and a battle going on. So when they say, well, they were not willing to deliver him, that is true; that is true.

But it is not the whole truth. Because the full truth is that they could not. The rebels reportedly said send a helicopter in to take him out. I am told that they finally gave Noriega up. Why did they give him up? I am told because the families of those officers who were leading this coup, this insurrection, were captured, held hostage, and the rebels were told that their wives and daughters and children would be slaughtered unless Noriega was released.

So, an effort to get rid of a dictator, to create an opportunity for freedom and for democracy for the people of Panama has been lost. It has been in vain.

Mr. President, let me say this. There is a saying: No pain, no gain. We talk about it in athletic competitions. This is not an athletic competition but I, for one, am tired of seeing the United States get the blame, get the pain, and make no gain. I think it is about time that we had a policy that said that we are dedicated to the cause of freedom and democracy in Panama and will assist in a meaningful way those who put their lives at risk for this cause. There are some risks attendant to democracy—in obtaining it and preserving it.

Our forefathers took those risks. Those people that came to the aid of America when we needed it, they took that risk. And I cannot believe we flinched from the risk because—oh, my gosh, this may be a trap.

What about the nine officers whom we have reason to believe have been executed by Manuel Noriega? What do you say to them, and what do you say to their families? And what do you say to Mrs. Giraldi whose husband has been executed?

This is a sorry time for the United States of America.

Maybe it is about time we said, yes, very clearly we will use whatever force is necessary to bring about the removal of this killer, this tyrant, this minion of the drug cartel. Action, not just words gives true meaning to what

America should be about. As Franklin Delano Roosevelt said, America is the arsenal of democracy. I do not think that arsenal is depleted.

I hope that some in the military and some who are concerned only about politics will begin to examine what has given strength, liberty, and greatness to this country. It is not weak-kneed explanations for a failure of coordination, of planning, and of the ability to move decisively when the opportunity provided itself.

Who now will step forward in the PDF after this botched opportunity this incredible stain on us, on the United States, because of our failure to act? Mr. President, if we are going to be blamed, I hope that we would respond in our own interest and for the interest of democracy. We do not need a resolution that says that the President has that authority. He does. What we need is some resolve. What we need is some leadership as it relates to the military and the intelligence community that begins to do what is best for world peace, for our security and for freedom in Panama.

Mr. President, I yield the floor.

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. The senior Senator from Tennessee.

Mr. SASSER. Mr. President, I ask unanimous consent that I be allowed to speak as in morning business.

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

RECONCILIATION

Mr. SASSER. Mr. President, I wish to call to the attention of my colleagues an article that appeared in today's Wall Street Journal authored by two of the most credible journalists on Capitol Hill, Mr. Alan Murray and Mr. John Yank, an article that, in my judgment, lays to rest any doubts about where the administration's true priorities are with regard to deficit reduction.

Just let me quote from the story written by these distinguished journalists for the Wall Street Journal: "The administration couldn't have made it clearer: Cutting the capital gains tax was a higher priority than cutting the budget deficit."

Mr. President, that is a conclusion drawn by the Wall Street Journal. And what is the basis for that judgment? The fact is that the administration killed a proposal offered by the bipartisan leadership of the House of Representatives to move to a stripped-down reconciliation bill. The facts are, as I understand them, that the minority leader, Mr. MICHEL, communicated with the Speaker of the House of Representatives and indicated to him that the extraneous matters should be stripped off the reconciliation bill. The distinguished Speaker of the House of Representatives agreed with the minority leader and said they should be, but also said that capital gains was an extraneous matter which also should be stripped off. As I understand it, there was agreement between the two leaders that all of these matters would be stripped and, in return, the Speaker of the House of Representatives would give the minority leader and the administration an up-or-down vote on the capital gains issue.

The Speaker of the House of Representatives knew that capital gains was, indeed, an extraneous issue to the budget resolution. He knew it was extraneous to the budget summit negotiations that took place during the spring of this year because the then majority leader, now Speaker, Mr. FOLEY, was an active participant in almost every moment of those negotiations. Those negotiations indicated that $5.3 billion in revenues would be raised. These were the revenues that had been allocated in the Reagan budget. These revenues would be agreed upon between the administration and the Congress, and they would be so-called nonduck revenues. There would be no finger pointing. We would act responsibly and together to deal with the problem of the deficit and the fiscal danger that this country faces.

But when Mr. MICHEL was given the opportunity to move forward with a stripped-down reconciliation bill with the caveat that he could have an up-or-down vote on capital gains, he seized the opportunity, and rightfully he did because the distinguished minority leader in the House of Representatives saw immediately that the only real opportunity we have to abide by the terms of the budget agreement that we negotiated last spring was to move as we had agreed to last spring. That was the only real opportunity to avoid sequester.

Mr. President, that clear and simple and sensible proposal was torpedoed by none other than the Director of the Office of Management and Budget, Mr. Darman, and the Chief of Staff, Mr. Sununu, at the White House. Frankly, I was stunned and, I might say, saddened that the Director of the Office of Management and Budget, Mr. Darman, who has made so many public displays of his deep concern for the long-term economic needs of this Nation, opted so instinctively for short-term political gain. And that about sums it up, Mr. President. That is why we are looking right down the gun barrel of a sequester today.

I indicated to the Director of the Office of Management and Budget today in the Governmental Affairs Committee that part of his responsibility and my responsibility and the responsibility of every Member of this body is to have an orderly management of our Government, and if there is a sequester, it signals a failure of leadership; a failure of leadership from the White House all the way down. It will mean that chaos will ensue and with this chaos will come a lack of confidence in this Government and in those who seek to lead it.

I say that this failure of leadership can be traced directly to the motives that led to the rejection of a proposal that was agreed upon by the Speaker of the House of Representatives and the distinguished minority leader there.

The efforts that we have seen over the past few days by the minority in this body to slow down the U.S. Senate, to stall it, even as we move toward sequester, I think, are part of the same cynical logic.

I say to my friends in the administration and my friends on the other side of the aisle that the administration may get its Maypo and it may get its Maypo now, but the cost is likely to be more than just a sequester. The cost is likely to be a shattered hope for any kind of long-term resolution of our deficit problem, a resolution that the American people, I think, are entitled to.

Let me restate a point, Mr. President, that it seems to me self-evident but it is one that nonetheless needs to be restated, given the prospects we face in this body over the next few days, and I might add the next few nights.

We are approaching a protracted debate on a time-sensitive reconciliation bill, a debate created by the administration's obsession with a capital gains tax cut. The simple irreducible fact is this: A reduction in the capital gains tax rate is not deficit reduction. It has no business on a reconciliation bill.

I submit, Mr. President, that the administration understands that. The administration does have a right to present their capital gains proposals. It is a legitimate issue in the country. There are Members on both sides of the aisle who favor capital gains.

I say to you, quite frankly, that, properly structured, this is one Senator who could support the concept of capital gains that does, indeed, encourage people to hold their property for long-term capital gains.

But this proposal before us is not a deficit reduction matter. The debate about the benefits and cost of the capital gains reduction ought not, I say ought not, to be swallowing up the larger debate about this Nation's fiscal condition. And I do believe that our friends in the administration understand that as well. If they do not, they ought to.

We are allowing a collateral matter, a digression, to displace the main topic of discussion. We are, once again, allowing the luster of easy money to ob-

scure the task ahead. We have allowed ourselves to get into a bidding war as to what should be the final resolution of this matter.

I well remember the last bidding war between a former administration and this Congress. It resulted in the 1981 tax bill which, by the Reagan administration's own OMB figures, has cost the U.S. Government $1.8 trillion in forgone revenues since 1981.

I say to my colleagues there is your budget deficit; that is why you have seen a doubling and tripling of the national debt over the short space of just 8 years.

We opted in 1981 for the perverse logic that tax cuts would stimulate investment, promote economic activity, and swell the Treasury, and now we are being offered to swallow the same rope-a-dope once again.

Once before we bought that piece of swampland that is about 10 feet underwater, and we know what happened then. We are still up to our necks in the water as a result of it.

For that reason, there is certainly a measure of irony, I say, in the fact that the reconciliation bill which is meant to correct the deficit crisis created by the 1981 supply-side tax cut is becoming the vehicle for supply-side No. 2. Here we are arguing about a tax cut, no deficit reduction, while at the same time we face a sequester on October 16, and we are probably going to repeal the catastrophic health bill that puts another $5-billion-hole in the budget.

I submit to my colleagues that those who willfully ignore the past are condemned to repeat it, and I suspect that is where we are now headed.

That, I fear, is the road we are about to embark upon. The truth is we simply cannot afford the capital gains tax cut. It will, like the 1981 tax cut, be a drain on the Treasury. The Joint Economic Committee and the Congressional Budget Office tell us it will lose $21 billion in the next few years. It will be a drain that adds to the steady flow of red ink that we have not, even with the Gramm-Rudman-Hollings or any other such artificial device, really found a way to slow.

The Joint Tax Committee, as I said earlier, estimates that the Jenkins capital gains proposal will begin losing large sums of money in fiscal year 1993. The losses it creates will nearly double the gains that it achieves by fiscal 1994. By the end of the 1990's the net revenue loss will be $21.5 billion.

Over the long run, the capital gains tax cut will negate every single penny we have saved this year from the deficit reduction measures included in the reconciliation bill. Let me restate that. If capital gains prevails, we will not have made a penny's worth of progress on the deficit. What we will have done instead is to cut Medicare benefits, cut payments to farmers, reduced spending on numerous discretionary programs, and for what? Not to reduce the deficit but, rather, to pay for a tax cut for the wealthiest segment of our society.

Mr. President, I do not think it is populist demagoguery to oppose that kind of tradeoff. It is not soak-the-rich rhetoric to say that this particular zero sum game is simply inequitable. It is bad fiscal policy. It is bad tax policy. It is bad policy for the American people, in my judgment. But be that as it may, this capital gains controversy has no business on this budget reconciliation bill.

Once again, I say to my colleagues that we need to separate the whole capital gains-IRA debate from budget reconciliation. We should move quickly to pass a clean reconciliation bill which succeeds in meeting the terms of the bipartisan budget agreement that was solemnly reached early this year.

We are going to have plenty of opportunity to debate the relative merits of capital gains. We are going to have plenty of opportunity to debate the relative merits of the individual retirement accounts. But we only have until October 16, I remind my colleagues, before we trigger the automatic, across-the-board cuts that in my view are absolutely unnecessary.

How are we going to look to the American people? How are we going to look to the elderly Medicare recipient who gets a Medicare check that has a 2-percent cut in it? Why? Because the administration, the Congress, cannot agree over this divisive issue of capital gains. Why? Because the administration and the Congress cannot even agree to carry out their agreement made in this spring's budget negotiations, an agreement that was solemnly written, and announced by the President of the United States at the White House in an elaborate and impressive Rose Garden ceremony. That is all out the window, all out the window because some say we want our Maypo now, and we want it today.

Mr. President, I yield the floor.

IMPLEMENTATION OF THE PRESIDENT'S 1989 NATIONAL DRUG CONTROL STRATEGY

The Senate continued with the consideration of the bill.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I am recognized; is that correct?

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. I thank the Chair.

Mr. President, I am a little bit confused about the delay. I have been ready to vote for 1½ or 2 hours on the amendment. I made a proposition to the managers of the bill to allow them to modify it to meet the concerns of some Senators. I do not share those concerns, but I am willing to cooperate with the Senate.

I fail to see why we cannot move along and have a vote. In the meantime, Mr. President, let me ask unanimous consent that a summary of the charges against General Noriega be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. HELMS. Let me quote from two press releases, of February 5, 1988, from the Middle District and the Southern District of Florida, outlining General Noriega's complicity in drug operations. First of all, Noriega and one other man identified as a prominent Panamanian businessman and close associate of Noriega, were indicted on charges of conspiracy to import and distribute marijuana and the attempted importation of in excess of 1 million pounds of marijuana. The press release goes on in the next paragraph:

> The grand jury alleges that millions of dollars in U.S. currency representing the proceeds from the successful importation, in June of 1983, of 280,000 pounds of marijuana into the United States * * * the money was transported to Panama and laundered through Panamanian banks and businesses.

The indictment further alleges that Noriega and this man Pretelt, a prominent businessman and a close associate of Noriega, and a man named Ceasar Rodriguez-Contreras approved the operations. Reading further from the press release from the U.S. Department of Justice, Middle District of Florida, U.S. attorney's office there:

> The indictment further alleges that Noriega, Pretelt and Rodriguez agreed to facilitate the importation of 400,000 pounds of marijuana and the laundering of more than $100 million dollars in proceeds.* * *

It further alleges that during the course of the conspiracy these men authorized and approved marijuana smuggling and money laundering activities within Panama, and had agreed to future payments and so forth.

But the entire summary of the statement from the U.S. attorney of the Middle District of Florida, of February 5, will be very informative to Senators, I hope, as to the kind of man we are dealing with, the kind of man who escaped Tuesday after being taken into custody. He could have been transported to Florida where he would have been tried on the charges on which he is indicted.

So I ask unanimous consent that this entire information be printed in the RECORD.

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

(See exhibit 2.)

EXHIBIT 1

DEPARTMENT OF JUSTICE, U.S. ATTORNEY, MIDDLE DISTRICT OF FLORIDA,

Tampa, FL, February 5, 1988.

PRESS RELEASE

Robert W. Merkle, United States Attorney for the Middle District of Florida, announced today that a federal grand jury in Tampa returned a three count indictment against General Manuel Antonio Noriega and Enrique Pretelt, citizens of the Republic of Panama. Noriega and Pretelt are charged with conspiracy to import and distribute marijuana and the attempted importation of in excess of 1,000,000 pounds of marijuana. General Noriega, 49, is the Commander-In-Chief of the Panamanian Forces of Defense. Enrique Pretelt, 45, is a prominent Panamanian businessman and close associate of Noriega.

The charges relate to the importation and planned importation of enormous quantities of marijuana during the years 1983 and 1984. The grand jury alleges that millions of dollars in U.S. currency representing the proceeds from the successful importation, in June of 1983, of 280,000 pounds of marijuana into the United States by Steven Michael Kalish, Leigh Bruce Ritch and others, were transported to Panama and laundered through Panamanian banks and businesses. This illegal activity is alleged to have been conducted with the approval and assistance of Noriega, Pretelt and their since deceased co-conspirator Ceasar Rodriguez-Contreras ("Rodriguez") also a prominent Panamanian businessman and a close associate of Noriega. The indictment further alleges that Noriega, Pretelt and Rodriguez agreed to facilitate the importation of 400,000 pounds of marijuana and the laundering of more than $100 million dollars in proceeds that Kalish and Ritch expected to realize from the importation of in excess of 1,000,000 pounds of marijuana during 1984. It also alleges that during the course of the conspiracy, Kalish made payments to Noriega, Pretelt and Rodriguez of approximately 1 million dollars for Noriega's authorization and approval of marijuana smuggling and money laundering activities within Panama, and had agreed to future payments.

The indictment alleges that it was part of the conspiracy that Noriega, Pretelt, Rodriguez, Kalish and others deposited drug proceeds in various financial institutions within the Republic of Panama. It alleges that the group also planned more aggressive laundering efforts through such institutions in the future. The indictment alleges that it was part of the conspiracy that Noriega, Pretelt, Kalish, Rodriguez and others would, among other things, invest the deposited drug proceeds in various businesses owned by Servicios Turisticos, S.A., a Panamanian corporation in which Noriega, Pretelt, Kalish and Rodriguez had an interest. The indictment further alleges that it was also a part of the conspiracy to launder proceeds from the distribution of marijuana and cocaine by drug organizations other than the Kalish and Ritch organization. Toward this end, the indictment alleges that, among other things, Kalish purchased and caused to be purchased a Boeing 727 aircraft for the Panamanian Forces of Defense to be used for, among other things, the transportation of U.S. Currency derived from illegal drug trafficking activities from the United States to Panama.

The indictment also alleges that Noriega authorized the transshipment through Panama from Colombia of 400,000 pounds of marijuana destined for importation into the United States, disguised as a containerized cargo of plantains, a banana like fruit. Pretelt assisted in arranging for the transshipment through Panama. It is alleged that as part of this conspiracy: Kalish paid $50,000 to Panamanian shipping agent for the facilitation of the transportation of the containerized shipment of marijuana; that Noriega approved the issuance of a Panamanian diplomatic passport to Kalish and authorized the payment of $185,000 to an official of Panamanian customs to obtain official Panamanian Customs seals indicating the contents originated in Panama and not Colombia.

It is further alleged that as part of this conspiracy, Kalish and Ritch purchased the Cari Cargo I, a Panamanian vessel. They sent the Cari Cargo I from the Cayman Islands to Port Everglades, Florida, where it was outfitted for transport of the containerized shipment of marijuana. Kalish and Ritch then sent the Cari Cargo I from Port Everglades to Colon, Panama. It is also alleged that during the Spring of 1984, 400,000 pounds of marijuana was collected and packaged in Colombia for shipment to the United States aboard the Cari Cargo I. It is further alleged that $800,000 was paid to Eugene Davis, a teamster official, for assistance in the use of a New York City, New York, pier to off-load the Cari Cargo I of its 400,000 pounds of marijuana. Mr. Davis is currently under indictment in the Eastern District of Michigan on related charges.

These efforts came to a halt with the July 26, 1984 arrest of Kalish in Tampa, Florida.

Counts One and Two of the Indictment each carry maximum sentences of 15 years imprisonment and $125,000 fines. The maximum sentence that can be imposed on Count Three is 5 years imprisonment and a $15,000 fine. * * *

EXHIBIT 2

DEPARTMENT OF JUSTICE, U.S. ATTORNEY, SOUTHERN DISTRICT OF FLORIDA,

Miami, FL, February 5, 1988.

NEWS RELEASE

Leon B. Kellner, United States Attorney for the Southern District of Florida, announced today the unsealing of a 12 count indictment returned yesterday by a Federal Grand Jury in Miami, Florida. The indictment charges General Manuel Antonio Noriega, the Commander-in-Chief of the Defense Forces of the Republic of Panama and fifteen other defendants with federal narcotics violations including the Racketeer Influenced and Corrupt Organizations Act ("RICO"), manufacture, importation, and distribution of cocaine, interstate and foreign travel in aid of racketeering activities, and conspiracy to commit racketeering offenses and violate United States narcotics laws.

The indictment charges the defendant, Manuel Antonio Noriega, with exploiting his official position as head of the intelligence section of the Panamanian National Guard and then as Commander-in-Chief of the Defense Forces of the Republic of Panama to receive payoffs in return for assisting and protecting international drug traffickers including Pablo Escobar-Gaviria, Gustavo Dejesus Gaviria-Rivero, Jorge Ochoa-Vasquez, and Fabio Ochoa-Vasquez, members of the Medellin Cartel in conducting narcotics and money laundering operations in Panama.

According to the indictment, Manuel Antonio Noriega protected cocaine shipments flown from Medellin, Colombia through Panama to the United States; arranged for the transshipment and sale of ether and acetone, including such chemicals previously seized by the Panamanian Defense Forces, to the Medellin Cartel; provided refuge and a base for continued operations to the members of the Medellin Cartel after the murder of the Colombian Minister of Justice, Rodrigo Lara-Bonilla; agreed to protect a cocaine laboratory being constructed in Darien Province, Panama; and assured the safe passage of millions of dollars of narcotics proceeds into Panamanian banks. In return for these services, according to the indictment, Noriega received in excess of $4.6 million.

Among the specific acts of racketeering charged in the indictment are the movement through Panama of in excess of 2000 kilograms of cocaine destined for the United States, and the transshipment of ether and acetone to a laboratory at a location as "Tranquilandia" in Colombia. Also detailed is the June 15, 1984 flight of Inair Airlines into Miami, Florida with over a ton of cocaine.

If convicted of all counts, Manuel Antonio Noriega faces 145 years imprisonment and $1,145,000 in fines.

Mr. HELMS. I thank the Chair.

I thought I saw the distinguished—I did see the distinguished majority leader. He is now conferring with the minority leader. I want to inquire about the prospects of a vote. There can be a motion to table, or whatever.

Mr. MITCHELL. If the Senator is interested in a vote, it is surely in my interest. We have devoted what I believe is more than adequate time to this subject. If the Senator is interested, I think the best thing would be for me to simply make a motion to table, or some other interested Senator might. Then we will have a vote on it.

Mr. HELMS. That is all right as far as I am concerned. I thank the majority leader. I thank him very much. I am, like he, waiting for something to happen.

Mr. MITCHELL. Is this all right with the majority leader?

Mr. DOLE. Yes.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. 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. HELMS. Mr. President, I thank the Chair. I want to reiterate what I said earlier that some Senators, even some who favor strongly the original version of the amendment, have said they would feel a little more comfortable if we made the amendment read in modified form as follows:

Notwithstanding any other provision of law, the President's authority is hereby reaffirmed to use the armed forces of the United States to (a) secure the removal of General Manuel Antonio Noriega from his illegal control of the Republic of Panama in order to bring General Noriega to trial in the United States under the terms of his February 1988 indictments on drug trafficking charges, and (b) protect the Panama Canal pursuant to the Panama Canal Treaty of 1978.

Now, I am comfortable with the amendment either way. I hope it will not be a motion to table the original amendment.

I want to make one more effort, if I may, to ask unanimous consent that the yeas and nays on the original amendment be vitiated and that I be permitted to offer a modified version of the amendment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. BIDEN. Mr. President, I want to respond to my good friend from North Carolina.

We had a brief discussion, he and I, earlier this morning on his amendment. I indicated to him at the time that we were seeing whether or not there was any possibility that we could work out a compromise, so that we would either move with an amendment allowing him to amend his original proposal, or see if he, along with the Senator from Delaware and the Senator from Georgia and several others, would be able to come up with a single proposal. And we have not been able to do that.

There is a proposal that many of us believe is appropriate and would meet the desired ends of the Senator from North Carolina. Obviously, the Senator from North Carolina speaks for himself, so I guess I should amend that to it would achieve the stated purposes of the Senator from North Carolina, without in any way doing violence to what the Senator from Delaware and others believe to be the relative or relevant provisions of the War Powers Act.

One of the problems that the Senator from Delaware and others have with the proposal, even as it would be amended, as proposed by the Senator from North Carolina, is that it assumes the President has authority, which we believe under the Constitution he does not have. So we have prepared a resolution, under the leadership of the Senator from Georgia, that would in fact allow, in a differently stated form, the ability of this administration to accomplish all that the Senator says he would like to accomplish, and we know he would like to accomplish, without getting us into the business of having inadvertently passed a 1989 version of the Tonkin Gulf Resolution, or without us inadvertently having amended the War Powers Act, without a debate on the War Powers Act, or having given congressional authority, which resides under the Constitution within the Congress, to the President, setting a precedent for future administrations to claim that they have the authority to do things, which the Senator from Delaware and others believe he does not now have under the Constitution and the authority to do without the consent of the Congress.

So I will not do it. But at the appropriate time, the Senator from Georgia will be here to explain the approach that we wish to take. It has been the sense of those on this side, and I believe a couple on the Senator's side of the aisle—although I cannot say that with certainty—that we should not allow the Senator to amend his amendment, and that we should go straight to a vote on the Senator's amendment, and after the vote on the Senator's amendment, go to a vote on the amendment that is going to be, at some point, proposed by the Senator from Georgia, that has been worked out in conjunction with the Senator from Delaware and a number of others, even including the leader.

Hopefully, we will be able to agree to that and, hopefully, that will meet the ends, although in a way different than the Senator from North Carolina would like.

That is a very fancy way of saying to the Senator from North Carolina, no.

Mr. HELMS. No.

The PRESIDING OFFICER. Is the Senator from Delaware objecting?

Mr. BIDEN. Yes.

The PRESIDING OFFICER. The Senator from Delaware objects. The Senator from North Carolina has the floor.

Mr. HELMS. I believe I got the message. I do not think anything involved in the War Powers Act is involved. I have not seen or been consulted about any negotiations on any other amendment. The Senator has folks on his side and perhaps some on our side. All I am saying is that we ought to send a message to Panama that we are not going to have any more of this foolishness, and from now on, the "Keystone Cops" will not be bumping into each other and saying we are not sure whether we are authorized to do this or not, which is what happened. I understand where the Senator is coming from, and I have no objection to it.

I do hope that the Senators will come in so we can get a vote on this thing. I have been sitting around for an hour and a half or 2 hours. I know the majority leader wants to move this along.

Mr. MITCHELL. I sure do. So Senators can be aware of it, we still have to complete action on the drug bill today and then take up catastrophic, and we hope to complete action on that today. One of the reasons that the Senate spends so much time considering matters at night is that we get so little done during the day. It seems to be a problem here.

I share the Senator's view, and I hope that momentarily the Senator from Georgia will be here and we will be able to proceed.

Mr. HELMS. I thank the distinguished majority leader.

Mr. BIDEN. Mr. President, while we are waiting for the Senator from Georgia, I would like to speak for a moment to the merits of the Senator's position and his proposed amendment, why the Senator from Delaware is not inclined to support giving unanimous consent for amending the amendment.

In the provision that is before us, and the proposed amendment to it, the Senator from North Carolina has proposed a change, which we have not given unanimous consent to allow to happen, and I will explain why.

It says, "Notwithstanding any other provision of law"—I will cease by the way, immediately upon the arrival of the Senator from Georgia, if that is what we are waiting for. I do not wish to hold this up.

This is how the Senator from North Carolina's proposed change reads as given to me by the Senator.

Notwithstanding any other provision of law, the President's authority is hereby reaffirmed to use the Armed Forces of the United States to secure the removal of Manuel Antonio Noriega from his illegal control of the Republic of Panama.

Mr. President, that is reaffirming an authority that the President does not now have. The President has the authority under the proper circumstances, under existing treaties or under the Panama Canal Treaties, to take actions that are allowed by the treaties to engage in multilateral actions with the Organization of American States, but he does not have the authority now to go in, for whatever reason, and start a war, or to use force to go in and remove a particular person.

For example, the administration, the Attorney General, and Dr. Bennett point out to us that they do not even want the power to be able to shoot down drug-loaded planes flown by drug lords coming to the United States. They say that authority is not an authority they have now, and they do not want it.

They point out that they are against the proposal of the Senator from Delaware to have an international strike force which would be able to go

into various countries. They point out that they do not want—and rightfully so—and do not think they have the authority to use American military forces in Colombia right now.

We have indicted drug narcoterrorists in Colombia and Bolivia, and in other countries, and the President says, when asked why we do not go in and get them, that we have no constitutional authority to do that, and he is right.

He has no constitutional authority to do that. But here in the proposal by the Senator from North Carolina, and I think it is probably unintentional, he is reaffirming an authority that the President acknowledges he does not have, it is a very bad precedent. For if the President has the existing authority to go in and get Manuel Noriega because he is under indictment, he obviously has the authority to go get the Ochoa brothers, he obviously has the authority to go in and get Pablo Escobar, and obviously has the authority to go in any country if it is to get any of these indicted drug kingpins if he knows where they are.

So to reaffirm an authority is a fundamentally unsound constitutional notion because there is no such authority under the Constitution.

The administration might come up and they might like the change for all I know. I do not know that. But to suggest that they have the authority under the Constitution now to send in military forces to get Noriega when American citizens are not in danger, if they were not, when it is not in conjunction with an existing treaty, when it is not because of the violations of the Panama Canal Treaty, to suggest that there is just a blanket authority to go in implies that you could go into any country as long as you indict the leader. You indict the leader of the country, and you have under the Constitution unlimited authority as President of the United States to use military force to go in and get him.

Let us assume we decide Mikhail Gorbachev turns out to be a bad guy. We do not like him so much. Let us indict him. I am sure we can get a Federal grand jury somewhere in this country to indict him. We would then be able to declare war on the Soviet Union without any congressional authority, without the Congress doing anything at all.

Under this amendment, the President would have the authority—it has just been pointed out to me that the administration opposes the Helms amendment and the modification, so I now know they do not want this authority—but if this amendment becomes law, we would be setting the precedent that says "all you have to do is indict the leader of a country for whatever reasons and then the President has a total free hand. He need not even discuss with the Congress the use of military force in the name of going into that country.

I do not believe anybody really wants to set that precedent here. I do not even think the Senator from North Carolina intends that. I do not think he has any desire to do that.

But it is clear that that would be the effect of the proposed perfecting amendment were it approved. Let me read it again. The amended proposal says, "Notwithstanding any other provision of law, the President's authority is hereby reaffirmed."

Quite frankly I do not like either, but if I had to vote for one of the two I would vote for the way it is rather than the way it was. At least the way it is we are saying, "Mr. President, we in the Congress think you should declare war on Panama." At least we are in the game. At least the Constitution is involved.

But the other way it says, "Mr. President, you have the authority," which he does not have I respectfully suggest, "to use the Armed Forces, to remove Noriega, to bring him to trial in the United States and to protect the Panama Canal." He has the authority to protect the Panama Canal. There is no question about that in my view consistent with the treaties, but he does not have the authority to go in and bring him to justice by using the Armed Forces. And again I say that it is for a sound reason.

I am sure the Senator from North Carolina does not intend it. But under this proposed change we would have set a precedent that all we have to do is indict someone and from that moment on the President of the United States has authority, without ever checking with the Congress, to go get him.

Mr. HELMS. Mr. President, will the Senator yield?

Mr. BIDEN. I am happy to yield.

Mr. HELMS. Senator SPECTER discussed that at some length very persuasively this morning. He disagrees with the Senator.

Could I ask the Senator a question?

Mr. BIDEN. Yes.

Mr. HELMS. Does the Senator think President Reagan had the authority to send military forces into Grenada?

Mr. BIDEN. I do, because he was excercising the authority he has inherent under his power as the Commander in Chief to protect American citizens who were demonstrably in danger, or that was the claim.

The President said,

> I am not sending these troops in to rescue that country from communism. I am not sending these troops in to rescue the country from danger. I am sending these troops in specifically to protect the American medical students who I say are in danger.

Mr. HELMS. I will say to the Senator we read the Constitution differently as to the President's authority. The Senator is certainly entitled to his view of it. I believe it is much broader than the Senator from Delaware does.

Mr. BIDEN. I acknowledge that.

Mr. HELMS. Yes.

Mr. BIDEN. I acknowledge one thing further. If the view of the Senator from North Carolina is correct, then this administration did a horrible thing. This administration had the full authority, if the Senator's view is correct, to go in and do anything they wanted to do in order to get Noriega.

I understand why the Senator from North Carolina is so aggrieved by the failure of this administration to act because of the position from which he starts. If you acknowledge that the position of the Senator from North Carolina is correct—that the President has that authority now—then I must acknowledge that I fully understand and fully would concur with his sense of outrage and anger about what did not happen in Panama in the last 2 days. But in fairness to the administration—far be it for me to be their defender—I believe they do not have that inherent authority under the Constitution.

Mr. HELMS. I thank the Senator. I think we split enough hairs.

Mr. BIDEN. The only reason I am talking is I want to speak to the merits of this on the record while waiting for the other interested Members to arrive on the floor.

I yield the floor.

Mr. MITCHELL. Mr. President, it is my understanding that the Senator from Georgia will be here momentarily, at which time I expect he will make just a brief statement describing the alternative which he intends to propose. Then we will have a motion to table and proceed as earlier suggested.

So Senators should be aware that a rollcall vote is expected in the next few minutes. And it is my hope that we could then get a time agreement on the alternative so that we can dispose of this matter and proceed to the remainder of the pending bill.

Mr. HELMS. Will the majority leader yield?

Mr. MITCHELL. I yield.

Mr. HELMS. I am certainly amenable to that. I will be off the floor. The majority leader may assume I am agreeable to any time he may work out.

Mr. MITCHELL. I thank the distinguished Senator. Boy, do I wish I had that authority generally.

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

Mr. HELMS. Before he does that, we will talk about that.

Mr. MITCHELL. I thank the Senator.

The PRESIDING OFFICER (Mr. GORE). The clerk will call the roll.

The 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.

WHOM SHOULD WE SNATCH AND WHERE SHOULD WE PUT HIM?

Mr. BYRD. Mr. President, the distinguished Senator from North Carolina [Mr. HELMS], has put a tempting proposal before the Senate. One could call it the officially sanctioned snatching provision. The dictator of Panama, Manuel Noriega, is abhorrent to all of us, to all Americans who cherish freedom, who oppose drug peddling, who care about the people of Panama, who respect the rule of law.

The international community, rudimentary as the standards that govern that community may be, does have certain time-honored practices in order to regulate the trial in one country of personages in other countries who violate the laws of the first country. Extradition treaties exist for the purpose, as we all know, of extraditing people like Noriega for trial in a proper forum in the United States. Noriega has been indicted in the southern district of Florida for drug-related crimes, and we do have a treaty with Panama, under which he could be extradited—except of course, as dictator he is not going to turn himself in to the authorities in the southern Florida district. We have bilateral extradition treaties with most other countries in the world, including most of the countries of Latin America. In addition we are a signatory, with most of the countries of this hemisphere, of the Inter-American Convention on Extradition, originally ratified in 1933, which provides that each state assumes the obligation of surrendering to any of the other signatory states any person who has violated the law of the demanding state, provided that the act would also violate the law of the state which would do the extraditing. Under this convention, as well as the many bilateral extradition treaties we have with the other states of the hemisphere, grounds do exist to deliver Noriega to the United States for trial. Knowing this, of course, we would be surprised if Noriega were to put himself in a position for that to occur, but that is the rule of law that pertains to this situation.

Mr. President, there is a sense of great frustration, which I am sure has galvanized my friend, the Senator from North Carolina in his effort in this amendment, to get the Noriega problem behind us. Surely we are all disappointed that the attempt to remove him from power did not succeed. But in our frustration, shall we succumb to the frustration of the moment and authorize the Army to take military action to snatch him, to remove him and bring him to trial in the United States? What kind of precedent would that be for us? What would be the repercussions for us in our relations with the other states of the hemisphere in the long run? What standard would it set for us in the future in similar cases?

Mr. President, I do not like the Libyan leader, Mr. Qadhafi. I do not know many Senators, if any, who do like him. The Senator from North Carolina, if his activism on the matter of the recent brutality by the Chinese leadership is any guide, is far from enamored with the Chinese leadership. There is probably no continent in the world without its share of unsavory leaders whose removal, in our hearts, we would applaud. The question is this. Who is to decide on who gets snatched? Where does the snatching end? Lots of Senators here would like to snatch Ortega. There are some retrograde Eastern European leaders who could do with a good snatching. The snatchees could be readily deposited in Alcatraz, which is now open for tourism, but could just as easily be a great detention spot for snatchees.

Mr. President, sending the U.S. Army into Central America or anywhere else to snatch leaders we believe are brutalizing their people, who jeopardize and work against our long-term interests, is an easy and tempting solution to a frustrating problem. But I think it creates far more mischief than it corrects, and it leads us into an unlawful quagmire where snatching standards are impossible to set. The point is that we must not enact a provision which establishes a policy allowing the U.S. military to run all over the globe snatching foreign leaders whom we don't like. I share the frustration of the Senator from North Carolina as to Panama, but, I still must oppose his solution.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, in a few moments I will move to table the Helms amendment. I want to be sure the Senator from North Carolina understands that. I understand before I came on the floor that had already been discussed but it is not my intent in any way to preempt him or move to table prematurely. But it is my understanding from others who have been on the floor, the debate has been pretty much completed on that amendment.

If the Helms amendment is tabled, then I will have an amendment along the same line; but, hopefully, more precisely drawn. That will be cosponsored by Senator LUGAR, Senator BIDEN, Senator COHEN, Senator KASSEBAUM, Senator JOHN KERRY, Senator BOREN, Senator MITCHELL.

Without getting into a long detailing of this amendment, because I know the time is ticking away and we have many other important matters, let me just say I think it is extremely important what this body asserts in the way of our authority to use military forces in the world. It is important from the point of view of the U.S. Constitution. It is important from the point of view of the declaration of war powers that, as is clearly set forth in the Constitution, belongs to this body. It is important from the point of view of treaty commitments in this hemisphere and, indeed, treaty commitments throughout the world. It is important in terms of our base rights.

I do not know how many people have followed the Vice President's trip to the Philippines. I have not had a chance to talk to him, but I followed the news reports. It is obvious we will have some crucial negotiations going on in the Philippines in the near future about two of the most important military bases in the world for us and indeed for the Pacific allies, that is Subic Bay and Clark Air Force Base.

I think we would find almost unanimous opinion in the military that, particularly Subic Bay, is almost irreplaceable.

The question of what countries in the world allow U.S. military forces to be stationed there is crucial for our security.

Also, I think all of us sometimes get swept away for the moment and forget what the original purpose of all this was.

We are concerned about the continued rule of Noriega. I certainly share the sentiments of the Senator from North Carolina on that subject, I would say completely. We are so concerned about that, not because of his appearance or personality, although neither are entirely pleasing to many observers, but because our system of justice has, under our procedures, accused him with indictment of engaging in drug trafficking.

We all know the drug problem in this country is the most serious domestic problem we have now and, in many people's minds, including my own, has indeed become a national security problem.

What is the role of Panama in the drug situation? Certainly any time we have any leader in a foreign country involved in any way in drug trafficking, it is of great concern to us. But primarily, Panama is a place that drugs are being shipped through and also a place where cash is being washed.

The places where we really have to crack down on the drug growing are Peru and Bolivia and Colombia. We had a whole set of hearings last week in the permanent Subcommittee on Investigations. In that testimony it was, without rebuttal, testified to by a number of people that almost 100 percent of the cocaine coming into this

country comes from those three countries.

We are in the process right now of trying to encourage those countries to do more in terms of eradication, in terms of substituting crops, in terms of coordination with U.S. military and police functions including our Drug Enforcement Administration.

We have military special forces that are engaged, either in this country or in some cases in the host country, in helping train their people. But we have been very, very careful because it is so sensitive in those areas where drugs are grown, about U.S. military involvement.

They are sensitive. They do not want us to come in. All three Ambassadors told us this clearly last week. Their Ambassadors testified. They said: "The last thing we need is U.S. military forces coming in here to enforce our laws. We do not want them. If you do that, it is going to undermine the government. If you undermine the government, we are likely to end up with a Communist kind of insurgency."

So, there is a lot at stake here: The U.S. Constitution, the declaration of war powers of the Congress, the authority of the Commander in Chief, treaty commitments in this hemisphere and around the world, base rights in the Philippines and Greece and other places in the world, and also the fundamentals of what we are trying to do in the drug traffic.

I would like to see Noriega not only indicted, he has been indicted, but also brought to justice. I certainly would like to see him out of Panama.

I will have some more statements to be made this afternoon. I have been spending an enormous amount of time in the last 2 days looking at what has happened in Panama in the last 48 to 72 hours, trying to figure out, first what the United States policy is; second, whether it has been carried out properly; and, third, whether we had the type of response by our intelligence and military people in that area that was required by the circumstances. And, finally, what authority they had from the President of the United States.

I have not resolved those questions in my own mind. I will have some more to say about that later.

But the point I want to make before I move to table the amendment of the Senator from North Carolina is the substitute amendment, we have had a number of cosponsors on both sides of the aisle; it is totally bipartisan; it has been worked out carefully.

The substitute amendment will set forth the sense of the Congress that the President in his capacity as chief executive and Commander in Chief has authority—has authority, not that we are conveying it by this amendment—the authority as Commander in Chief under the Constitution of the United States, and consistent with the relevant laws of the United States and treaty commitments of the United States, to protect United States citizens and property throughout the world, to protect and defend the Panama Canal, and to enforce the laws of the United States.

We cannot pass a statute taking away the President's constitutional authority. It is my view that we should not try to supplement that authority when the President has not requested it and when the authority is already ample under the U.S. Constitution for him to take actions he needs.

We have had a lot of debates on the War Powers Act. The War Powers Act does not prohibit the President from taking action that he has under the authority as Commander in Chief. It puts a time limit on certain reports. It also gets into consultation with the Congress. But he is not inhibited from taking military action anywhere where he believes it consistent with his constitutional authority by the War Powers Act.

I want everyone to know before I move to table the Helms amendment that there will be another amendment that will be offered. It has broad sponsorship. I happen to believe that it sets forth fully and clearly what we believe the authority of the President of the United States is in his role as leader of this country and as Commander in Chief.

When the leadership indicates it is the appropriate time, and I certainly do not want in any way to preempt the Senator from North Carolina, I will at the appropriate time move to table. I would like to reserve my rights to the floor to see if there are any other observations from the leadership before I make that move.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. Without objection, the majority leader is recognized on the time of the Senator from Georgia.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that upon the disposition of the Helms amendment, the Senator from Georgia be recognized to offer his amendment; that there be 40 minutes of debate on his amendment equally divided and in the usual form; and that upon the completion of that debate or the yielding back of time, the Senate proceed without any intervening debate or action to a vote on or in relation to the Nunn amendment.

The PRESIDING OFFICER. Is their objection?

Mr. NUNN. Mr. President, I certainly do not intend to object, but would that preclude any other amendments to my amendment? It is a second-degree amendment to the Biden amendment?

The PRESIDING OFFICER. The Chair will advise, the amendment of the Senator from Georgia, as the Chair understands it, would be a second-degree amendment and, as a result, would not be amendable.

Mr. NUNN. I thank the Chair.

The PRESIDING OFFICER. Pending is a unanimous-consent request by the majority leader. Is there objection?

Mr. HELMS. I have no objection to that whatsoever.

The PRESIDING OFFICER. Hearing none, the request is agreed to.

According to the unanimous-consent agreement, the time reverts to the Senator from Georgia.

Mr. HELMS. No, no.

Mr. NUNN. I believe the tabling motion would have to be made before we get to that point.

The PRESIDING OFFICER. The Senator from Georgia asked to retain his right to the floor on the conclusion of the comments of the majority leader.

Mr. NUNN. I yield to the Senator from North Carolina for a question.

Mr. HELMS. No, no. Are we in a situation where no Senator can get the floor in his own right? I do not understand that procedure. I do not want to delay the Senate.

The PRESIDING OFFICER. The Senator from Georgia asked unanimous consent to yield to the majority leader for the purpose of making the unanimous-consent request.

Mr. NUNN. I do not in any way want to cut off the Senator from North Carolina; I said that when I first came on the floor. So I will just yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, the Helms amendment, which apparently will be tabled, is pretty much in a fix that a rustler would get into if he was hung and thereafter given a fair trial.

I have not seen the amendment. I asked for it now and Senator BIDEN says he does not have a copy of it. But there has been no conference with me. I do not guess that is necessary around this place. I do not object to it, as it has been described to me.

Let me say a few words most respectfully, not in response to, but in connection with, comments by my dear friend from West Virginia, the President pro tempore of the Senate.

In essence, Mr. President, the Helms amendment, which will shortly be tabled, provides authority to deputize the Armed Forces of the United States to bring Mr. Noriega to justice in the United States.

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I say to my distinguished colleague that neither Qadhafi, whom he mentioned, nor the Chinese, are under indictment, insofar as I know, in the United States, and thus those examples are not analogous to the situation in Panama and have really no relevance to the pending amendment one way or another.

I have already inserted maybe 2 hours ago into the CONGRESSIONAL RECORD a description of the charges, very serious charges of drug trafficking and money laundering, on which Mr. Noriega and a couple other thugs have been indicted in this country.

I am not going to repeat them, but I wish to have them understood. I am ready to go to a vote. If the majority wants to move to table, that is fine.

Mr. SANFORD. Mr. President, I cannot let the events in Panama go by without expressing my outrage at our complete lack of action to help the people of Panama achieve the freedom they so justly deserve, and have risked their lives to obtain. I find such inaction particularly ironic in light of our policies elsewhere in the Western Hemisphere.

In Nicaragua, we created, armed, and financed the Contras for the express purpose of overthrowing that government. We mined their harbors. We have placed United States troops in neighboring Honduras and conducted extensive training exercises to intimidate them. Most recently, I personally have participated in several meetings over the past few weeks with the administration to work out a package to aid the political opposition in Nicaragua. It is only because of the strong negative reaction by Congress that the option of covert operations to influence the elections were abandoned.

Do not get me wrong—I do not support the Sandinista government, and would very much like to see democracy restored in Nicaragua. We all would. All I am saying is, in that instance, this administration and its predecessor showed no reluctance whatsoever to use every weapon at their disposal to influence the internal affairs of that country.

Yet in Panama, a few hundred miles away, a vicious drug-dealing dictator rules with an iron fist. He has deprived the Panamanian people of the democratic government they freely chose by stealing the elections. He has violated U.S. law, then thumbed his nose and laughed when we indicted him. He is a cold-blooded murderer.

Furthermore, the United States has vital interests in that country—the Panama Canal and the headquarters of our Southern Command are located there.

For months the President has been urging the Panamanian Defense Forces to overthrow Noriega. Just yesterday he said:

I would repeat in hopes that it be conveyed instantly to Panama: we have no argument with the Panamanian Defense Forces. Our argument has been, as has many other countries, with Mr. Noriega, who aborted the democratic will of the people of Panama.

And what did we do to help when courageous elements of the PDF took him at this word and tried to topple the dictator? Nothing, that's what. Absolutely nothing.

And why is that? Because, the White House tell us, we do not interfere with the internal affairs of other countries. Since when?

The OAS tried to handle the situation diplomatically, and failed. Only the United States has the strength to protect the people of Panama.

When Noriega stole the elections, I and most Members of this body supported the President when he committed and sent additional troops to Panama. But now we have to ask, why are they there?

I am further outraged because what we had to do was so little—block one road, just one road. About 12,000 troops in Panama and we cannot block one road.

To its credit, this administration has expressed and displayed a desire to work with Congress to forge a bipartisan foreign policy. For this I commend them, and in that spirit offer this advice:

Read our lips: help the Panamanian people. Preserve our interests. Get rid of Noriega.

Mr. NUNN. Mr. President, I move to table the Helms amendment. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion. The clerk will call the roll.

Mr. DOLE. I announce that the Senator from Wyoming [Mr. SIMPSON] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 74, nays 25, as follows:

[Rollcall Vote No. 228 Leg.]

YEAS—74

Adams	Cohen	Hatfield
Baucus	Conrad	Heinz
Bentsen	Cranston	Inouye
Biden	Danforth	Jeffords
Bingaman	Daschle	Johnston
Bond	DeConcini	Kassebaum
Boren	Dixon	Kennedy
Boschwitz	Dodd	Kerrey
Bradley	Domenici	Kerry
Breaux	Durenberger	Kohl
Bryan	Exon	Lautenberg
Bumpers	Ford	Leahy
Burdick	Fowler	Levin
Burns	Glenn	Lugar
Byrd	Gore	Matsunaga
Chafee	Gorton	McCain
Coats	Grassley	Metzenbaum
Cochran	Harkin	Mikulski
Mitchell	Reid	Sasser
Moynihan	Riegle	Simon
Murkowski	Robb	Specter
Nunn	Rockefeller	Stevens
Packwood	Roth	Warner
Pell	Rudman	Wirth
Pryor	Sarbanes	

NAYS—25

Armstrong	Hollings	Pressler
D'Amato	Humphrey	Sanford
Dole	Kasten	Shelby
Garn	Lieberman	Symms
Graham	Lott	Thurmond
Gramm	Mack	Wallop
Hatch	McClure	Wilson
Heflin	McConnell	
Helms	Nickles	

NOT VOTING—1

Simpson

So the motion to lay on the table amendment no. 935 was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, it is my understanding that under the previous order the Senator from Georgia is now to be recognized to offer his amendment and there will be 40 minutes of debate on that with a vote following that. Is that correct?

The PRESIDING OFFICER. The majority leader is correct.

Mr. MITCHELL. Therefore, Senators should be aware that a vote will occur on or in relation to the Nunn amendment not later than 40 minutes from now and, if all time is not used then, perhaps somewhat prior to 4:40.

Mr. WALLOP. Mr. President, will the majority leader yield?

Mr. President, that is my understanding and I will not delay the time of the Senate except to say the Senator from North Carolina was badly treated. He was made to wait all afternoon, to come trumbling down here with a new thing and not allowed to modify his own amendment to say essentially what this pending amendment is going to do. It was a waste of the time of the Senate for an extra 40 minutes, and is basically unfair.

I just want to observe that I think comity in the Senate does not deserve that kind of behavior if we are going to achieve it over the course of the next few days.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. Without objection, the majority leader is recognized.

Mr. MITCHELL. Mr. President, I would like to say to the Senator from Wyoming that since I have been majority leader, I have made every effort to be fair to all concerned.

Mr. WALLOP. I agree with the Senator. I was not accusing him of being unfair, but the process by which the

Senator from North Carolina was denied the ability to change his own amendment was not becoming to the Senate. It was not the majority leader's fault.

Mr. MITCHELL. I thank the Senator. We best let it pass, and maybe we can proceed.

The PRESIDING OFFICER. Under the previous order, the Senator from Georgia is recognized for the purpose of offering an amendment.

AMENDMENT NO. 954 TO AMENDMENT NO. 924

(Purpose: To express the sense of the Congress regarding efforts to restore constitutional government to Panama)

Mr. NUNN. Mr. President, on behalf of myself and Senators LUGAR, COHEN, WARNER, BIDEN, DODD, BYRD, KASSEBAUM, JOHN KERRY,, BOREN, MITCHELL, and LEVIN, I send an amendment to the desk and ask that it be reported.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for himself, Mr. LUGAR, Mr. COHEN, Mr. WARNER, Mr. BIDEN, Mr. DODD, Mr. BYRD, Mrs. KASSEBAUM, Mr. KERRY, Mr. BOREN, Mr. MITCHELL, and Mr. LEVIN, proposes an amendment numbered 954.

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

The PRESIDING OFFICER. Without objection, further reading of the amendment is dispensed with.

The amendment reads as follows:

In the amendment on page 3, line 4, strike out "(2) submit a report to Congress" and all that follows through the end of the amendment and insert in lieu thereof the following:

(2) submit a report to Congress annually on the manner and extent to which such remedies are being used and the effect of such use in curtailing drug trafficking. The amendments made by this section shall take effect one day after enactment.

SEC. 43. POLICY TOWARD EFFORT TO RESTORE CONSTITUTIONAL GOVERNMENT IN PANAMA.

(a) FINDINGS.—The Congress finds that General Manuel Noriega—

(1) runs one of the most pervasive police states in the Western Hemisphere;

(2) has usurped the power of the legitimate government of Panama;

(3) has undermined the economy of Panama;

(4) has been indicted in the United States for international drug trafficking and money laundering;

(5) is opposed by the overwhelming majority of the Panamanian people;

(6) has lost support of all democratic governments in the Western Hemisphere; and

(7) has, as evidenced by the attempted coup of October 3, 1989, lost significant support within the Panama Defense Forces.

(b) POLICY.—It is the sense of the Congress that the President in his capacity as Chief Executive and Commander-in-Chief has authority under the Constitution and consistent with relevant laws of the United States and treaty commitments of the United States, including the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal and the Inter-American Treaty of Reciprocal Assistance (also known as the "Rio Treaty"), to protect United States citizens and property, to protect and defend the Panama Canal, and to enforce the laws of the United States.

(2) The Congress hereby supports—

(A) the efforts of the President of the United States to restore constitutional government to Panama and to remove General Manuel Noriega from his illegal control of the Republic of Panama;

(B) The President's utilization of the full range of appropriate diplomatic, economic, and the military options in the Republic of Panama; and

(C) The President's authority to exercise, to the fullest extent, the rights and obligations of the United States to protect the Panama Canal and American citizens in Panama pursuant to the Panama Canal treaties which entered into force in 1978.

(3) It is further the sense of the Congress that the President should inform the Congress of the step he has taken to provide timely assistance for the establishment of a coordinating office for the Panamanian democratic opposition.

Mr. NUNN. Mr. President, I believe that the remarks I made a few minutes ago indicate generally what this amendment is all about. I think it is enormously important, when this body goes on record as to the use of military forces, that we do it carefully, precisely, and that we understand the effect of what we do, both in this country and abroad. I think all of us agree with the situation in Panama, and all of us in this body, I think, wish we had a legitimate government there and wish that the coup had succeeded.

I have a lot of questions that I will be posing later this afternoon relating to what happened in Panama. I have made no public statement on the subject. Every time I believe I have gotten all the facts, I hear something else and start checking, and I find perhaps I did not have all the facts. Until I get all the facts, I am going to withhold my conclusions about whether we took the appropriate action and whether we took advantage of the opportunity that had been presented.

Mr. President, what this amendment does—and I am not sure 40 minutes will be necessary, although I want to give everyone a chance to speak—is it has Congress going on record as to certain findings about General Manuel Noriega. First, that he runs one of the most pervasive police states in the Western Hemisphere; second, that he—

The PRESIDING OFFICER. The Senate will suspend. The Senate is not in order. Those Senators and members of the staff conducting conversations will please cease conversations.

The Senator from Georgia.

Mr. NUNN. First, that he runs one of the most pervasive police states in the Western Hemisphere; second, he has usurped the power of the legitimate Government of Panama; third, that he has undermined the economy of Panama; fourth, that he has been indicted in the United States for international drug trafficking and money laundering; fifth, that he is opposed by the overwhelming majority of the Panamanian people; sixth, that he has lost support of all democratic governments in the Western Hemisphere; and seventh, that he has, as evidenced by the coup of October 3, 1989, lost a significant amount of support within the Panamanian Defense Forces.

This amendment goes on to state that—and this is the heart of the amendment—it is the sense of the Congress that the President, in his capacity as Chief Executive and Commander in Chief, has the authority under the Constitution and consistent with the relevant laws of the United States and treaty commitments, including the treaty concerning the permanent neutrality and operation of the Panama Canal and the Inter-American Treaty of Reciprocal Assistance, known as the "Rio Treaty," to protect U.S. citizens and property, to protect and defend the Panama Canal, and to enforce the laws of the United States.

It goes forward to say the Congress hereby supports the efforts of the President of the United States to restore constitutional government to Panama and to remove General Manuel Noriega from his illegal control of the Republic of Panama. It also goes forward to say the President's utilization of the full range of appropriate diplomatic, economic, and the military options in the Republic of Panama and, the President's authority to exercise, to the fullest extent, the rights and obligations of the United States to protect the Panama Canal and American citizens in Panama pursuant to the Panama Canal Treaties which entered into force in 1978.

Mr. President, the point of this amendment is to basically say what we all know, and that is, the President of the United States has enormous powers, as Commander in Chief and as the leader of our Government, to commit U.S. military forces where he believes it is necessary for the defense of this country or for the protection of our citizens or for the enforcement of our laws.

I have not heard a single person in the administration, not one, since the coup failed in Panama, saying that the President did not have enough authority under the law, or saying that he was impeded from taking action because of any kind of legal requirement under the War Powers Act or any other act of the Congress. They have not said that.

There are a lot of debates about what went on down there. I have serious questions about what went on. I have serious questions about whether we have received all the facts. I have not reached conclusions, and I do not

intend to until I get the answers to these questions. But we should not believe that by passing a statute here, we are going to change the authority of the President's inherent rights under the Constitution. This amendment sets forth the clear and, I believe, very much historically accepted, constitutional authority of the President of the United States.

We also have constitutional responsibilities in this body, and I think it is important for us, even in the heat of the moment, to sort those out and make sure that we have precise language. So I hope that this amendment will be accepted. I do not believe anybody who voted to table the Helms amendment was against the sentiments expressed by the Senator from North Carolina as to the outcome in Panama, but I do think a number of us had some very serious concerns, not about how this amendment be read in critical countries that we are trying to work with now, like Peru and Bolivia and Colombia, on the drug problem.

That is where 100 percent of the cocaine comes from, those three countries. We have very good relations with those countries at this time. Those countries, although, have very severe economic problems, very severe political problems, and also in the case of Peru, very active Communist insurgency.

The last thing we want to do in this body is, in an effort to show how strong we are here in our support for removing Noriega, to take an action that would be counterproductive to our overall drug efforts in those areas where 100 percent of the cocaine comes from.

I also think it is very important for us, as the Vice President just noted, to understand the sensitivity of what is happening in the Philippines, the base rights there. We are going to have a very substantial number of people in the Philippines who oppose the renewal of United States military bases there. The last thing I will negotiate is the need for this body to go on record about the use of military force in a way that offends the sensitivities of those people in the Philippines who support United States military bases. That same thing can be said in other countries in the world. So things that might play well at home, we have to put in a broader perspective.

In terms of the Senate of the United States, our responsibility is to have a broad periscope and to look beyond simply the moment and look to the overall question of what we are doing and the effect on our national security all over the world, as well as the effect on our military forces all over the world. We do not want every country in the world that hosts American military to believe that we are asserting the right of those people to be policemen in other countries of the world. We cannot afford that to happen, unless we want to come home and basically forget about the commitments we have abroad, because that is the quickest way I know for the American military to become the "ugly American" instead of being received, and received well, in those places in the world.

So I think the President has plenty of authority. I do not think anything that happened in Panama, whatever the circumstances and facts prove to be, happened because of a lack of authority of the President of the United States. He clearly had the authority to take action if that action was consistent with his overall responsibilities to this country and consistent with his constitutional duties.

Mr. President, I do not have any further remarks. I think the amendment is clear. I would hope the Senate will support the amendment.

The PRESIDING OFFICER. The time in opposition to the amendment will be controlled by the Republican leader's designee, if the chairman of the committee is in favor of the amendment.

The Chair is advised that Senator HELMS will be designated for the Republican leader for those 20 minutes.

The Senator from Georgia has 11 minutes and 39 seconds remaining. The Senator from North Carolina has 20 minutes remaining.

Who yields time?

Mr. COHEN. Mr. President, will the Senator from Georgia yield?

Mr. NUNN. I am glad to yield. How much time does the Senator need? I will be glad to yield 3 minutes to the Senator from Maine.

Mr. COHEN. Mr. President, I commend the Senator from Georgia for proposing his amendment and commend him for the statement he has just made.

One of the points that he made was that as a practical matter, this particular amendment is unnecessary. It is designed to reaffirm something the President already has, and that is power. He has the power to take action to protect our interests, including the lives of U.S. citizens, their property, and the interests of our allies under existing treaties. He can do that now, so this amendment would not add anything to his powers. So the problem is not an absence of power.

The real question is whether there has been an absence of policy. Was a policy established for Panama: if a policy was established, did we take appropriate action pursuant to that policy?

There is also the issue of whether or not we have accurate information. The Senator from North Carolina has raised questions and they are legitimate questions. There is information that continues to percolate up through the system.

I would say on behalf of my colleague, the chairman of the Intelligence Committee, and myself, that we are going to continue to inquire into the facts surrounding the attempted coup in Panama. We are not at this point satisfied we have received all the facts, and this afternoon, this evening, and tomorrow, we will continue to try to make an assessment as to whether or not we have accurate information. We will continue to pursue the issue of whether or not we had contingency plans to deal with such circumstances, and whether those plans were consistent with the announced policy.

As I understand it, our announced policy is that we will not use force to remove Mr. Noriega from power. If that is the case, then perhaps we need a change of policy. But according to the facts that I have at this time, the administration acted with prudence, caution, and appropriately under the circumstances. That may change as new facts continue to surface. But we will assure the Senator from North Carolina that we are going to make a very good faith effort to get to the bottom of all these circumstances and report back to the Senator and to the full Senate as soon as we can. But, in the meantime, I think that the Senator from Georgia has offered an important amendment that puts the Senate on record reaffirming the Presidential power to take action in Panama as provided for by the Constitution.

I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. SYMMS. Mr. President, will the Senator from North Carolina be kind enough to yield to the Senator from Idaho 4 minutes?

Mr. HELMS. Yes, and then following the Senator from Idaho, I will yield 2 minutes to the distinguished Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Mr. President, the Senate never ceases to amaze the Senator from Idaho. When George Orwell wrote 1984, I think he would have classified the activity here today as a clear case of doublespeak.

Senator HELMS has an amendment here. The language is very clear:

> Notwithstanding any other provision of law, the President's authority is hereby reaffirmed to use the Armed Forces.

Is that the language the Senator had? Was it reaffirmed or was it affirmed?

Mr. HELMS. Reaffirmed, that was the modified amendment that was never permitted to be.

Mr. SYMMS. This is what the Senator wanted to offer.

Mr. HELMS. Exactly.

Mr. SYMMS. He wanted to offer language to hereby use the Armed Forces of the United States and so forth, to protect the Panama Canal pursuant to the Panama Canal treaties of 1978. Now we have this other language. This is what I find real doublespeak. On page 3, the Senate is commending the efforts of the United States to restore a constitutional government to Panama and to remove General Manuel Noriega from illegal control of the Republic of Panama.

I think the Senator from Maine just made a very good statement. I happen to agree with what the Senator from Maine said. If there ever has been a case where we have a very blurred policy, it seems to be in Panama.

It is very clear to the world with regard to the election in Panama, the people with all the guns thwarted the democratic efforts for freedom and fair election. Two out of three people in Panama voted to throw Manuel Noriega out of office. Yet the United States of America, the bastion of liberty and freedom, the strongest, most powerful Nation on Earth stands by wringing its hands as if there is nothing we can do about it.

Then we have to go out and explain to our constituents why it is they pay for the finest military in the world. I think the Senator from North Carolina made a very good point on the floor when he said he asked one of our outstanding American military officers what is our military for if we are going to publicly say we will never use it under any circumstances to defend freedom and justice.

I think this amendment—I am not going to vote against this amendment because, in general, I favor having some kind of a statement here from the Senate to encourage the administration that, for heaven's sakes, stand up for what is right in this world. We need to send a statement that says we will support our friends and oppose our enemies.

I have listened to the statements of other Senators, and if we cannot come up with some kind of a plan for Panama that is more efficient than the ones we have been coming up with, God help this country.

I find it somewhat amazing that my colleagues would vote against the Helms amendment. All it says is we reaffirm what the President's authority already is; we will try to have a show of support.

The PRESIDENT pro tempore. The 4 minutes yielded to the Senator from Idaho have expired.

Several Senators addressed the Chair.

The PRESIDENT pro tempore. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I have 2 minutes, I believe. I would like to ask the distinguished sponsor of the bill a couple questions. The first question is, Why are we doing this? As I understood the Senator from Maine, he indicated this was not necessary.

Mr. NUNN. I believe that the Senate of the United States is going on record stating what authority we perceive the President to have, and that authority is clearly set out in the Constitution of the United States.

I also believe we will be going on record saying that the President shall take all appropriate steps, including political, economic, and military options to carry out the goal of all of us which is to bring Manuel Noriega to justice and to restore true democracy to that country and to recognize the legitimate Government of Panama.

As a matter of fact, I think one of the things that is so lagging in our policy now is recognizing the government that was elected. The Endara government has not officially been recognized, I understand, which is very complicating and perplexing from a legal point of view and from the point of view of basically trying to ascertain not only what our policy is but what our people on the ground should do.

For instance, I will not go further on that answer, but I believe the Senate of the United States does not need to confirm additional authority on the President. But I do believe from time to time when we get in a heated debate like this, it is informative to the people and instructive to all of us to set forth what we think the constitutional authority is.

Mr. CHAFEE. I agree with the Senator from Idaho it is hard to vote against this. I am not sure why we are doing it. I guess we could follow on with a resolution dealing with that too and open our position in the Far East and spend a lot of time on these matters.

I did not quite understand what the Senator from Georgia was saying. Is it that we have to indicate further we are not going to go barging into Bolivia, Ecuador, and Colombia, and other nations with Armed Forces. That is what has been suggested.

The PRESIDENT pro tempore. The 2 minutes yielded to the Senator has expired.

Mr. CHAFEE. Maybe I could get an answer on his time.

Mr. NUNN. Could I give an answer on the time of the Senator from North Carolina?

Mr. HELMS. How long?

I will give the Senator 1 minute.

Mr. NUNN. I will be very brief.

The answer is, yes, a number of people have suggested that we deploy military forces in those countries. A number of people have talked about an international force, including the United States. The Ambassadors from those countries testified last week clearly that they did not want U.S. military intervention and, indeed, that it could very well lead, like in Peru, to worse problems for the government with the guerrillas. So it has been suggested.

Mr. CHAFEE. I think we all accept that.

Mr. SYMMS. Will the Senator yield so I could ask another question of the distinguished Senator?

The PRESIDENT pro tempore. Who yields time?

Mr. SYMMS. Will the Senator from North Carolina yield me 30 more seconds?

Mr. HELMS. Yes.

Mr. SYMMS. I would like to ask my good friend and distinguished chairman of the Armed Services Committee, what kind of message does he think it sends both to the administration and to the rest of the world to have the Senate just vote down the Helms amendment. It is very clear in what it says. It says it reaffirms what authority the President already has. And we voted that down. What kind of message does that send?

Mr. NUNN. Well, it must be the message the administration wanted, because I understand they opposed the Helms amendment and support this amendment. So I think they clearly understand.

I think we have to be sensitive, as I said a few minutes ago, to what other nations think from time to time. I believe that this is one of those times that we have to be sensitive.

Mr. SYMMS. I thank my good friend. I just say that in my opinion what it says is, "Don't stand up for freedom because the United States will not be there."

The PRESIDENT pro tempore. The time of the Senator has expired.

Mr. NUNN. If the Senator is implying that those who voted against the Helms amendment were not in favor of Noriega being kicked out of power, I would say he is absolutely wrong. That did not have that implication.

The PRESIDENT pro tempore. Who yields time?

Mr. NUNN. Mr. President, I yield 2 minutes to the Senator from Oklahoma.

The PRESIDENT pro tempore. The Senator from Oklahoma is recognized.

Mr. BOREN. I thank my distinguished colleague from Georgia.

A number of points have been made here. I first, at the outset, want to state that the Intelligence Committee is looking into this matter right now to determine the facts. We are working with the Armed Services Committee. We are not going to stop our work. We are demanding an explanation of all the facts and a chronology of what actually occurred. We are going to get that information and we are going to get to the bottom of it because I am convinced the full facts have not been laid out to us or to the American

people. We intend to get to the bottom of it.

Second, let me say that I think that the Nunn amendment is very carefully drawn to allow the President to act in appropriate situations to use a military power, if necessary. That is the reason I support this amendment.

I would not say that in any possible circumstance, it would be appropriate to use military force even in the situation in Panama. But yesterday or the day before, when the coup attempt was made, I do think that was an appropriate circumstance for us to use such force to come to the aid of those people who were acting bravely, who had General Noriega in custody for a period of 2 hours, Mr. President. For 2 hours, while they had him in custody where obviously other military leaders, Panamanian units as close as 600 yards, the additional crack military unit, the top military unit of Panama in Panama City, they sat there watching. They did not move. They did not come to the rescue of General Noriega.

Why? They were waiting to see if the United States might act to protect those people who had taken control of that headquarters and to somehow take General Noriega under control. They were on the fence waiting. And they got their answer, Mr. President. They got their answer. The United States would not act. And when they saw that the United States was not going to act, it was then—I ask the Senator from North Carolina to yield me some additional time.

The PRESIDENT pro tempore. The Senator is recognized for 1 additonal minute.

Mr. BOREN. It was then, Mr. President, that 500 members of a motley crew came in and took control of that situation.

Now, if the United States had shown any sign that it was willing to enter into that situation and protect those people, do you think 500 people could have broken in there when we had 12,000 troops in Panama? Do you think they could have? Absolutely not.

But I would add, Mr. President, that I think the real failure here is why has there not been an American policy? Why has there not been a contingency plan? For 2 years now this administration and the President has been saying we hope the PDF will move to throw out Noriega; we hope they will take the situation in hand themselves. And yet we did not have a contingency plan.

Why not? If we were encouraging people to act, why did we not have a plan to say what they would do when they did act? Why had we not, as Senator NUNN said, already cleared up the legal situation? Why had we not recognized the legal Government of Panama? When President Delvalle's rightful term ended, why did we not act to recognize the Endara government that the whole world said had won the election? Then we would have in place a legal entity to request help from the United States when a situation occurred like occurred this week.

We had no policy, Mr. President, in spite of the fact that time and time again many of us have said, "What is our policy? What government do we recognize? What legal authority could we turn to if we had this kind of a situation? What will we do if the PDF and the Panamanian people do what we have been asking them to do, rise up against Noriega?"

For 2 years we asked them to act. They did and we did nothing. Because for 2 years we had not put a policy in place. That is inexcusable, Mr. President, inexcusable.

Mr. NUNN. Will the Senator yield for a brief question?

Mr. BOREN. Yes.

Mr. NUNN. Mr. President, I commend the Senator for his, I believe, very pertinent point here about not having a government recognized. Would the Senator agree with me that if we had a recognized government there in Panama, that we recognized a legally elected government by the Panamanian people, and we told our people down there on the ground, "Look, anyone that takes control down there needs to recognize that government, first of all," then if that government says to us, "We want you to help us," it would put us in a totally different legal situation and totally different political situation; would the Senator agree with me?

Mr. BOREN. I would agree.

I might ask if I might be granted an additional minute to answer fully Senator NUNN's question.

The PRESIDENT pro tempore. The Senator is recognized.

Mr. BOREN. Senator NUNN has asked a very, very important question. We know that we were informed of this coup before it happened. The White House has said so. They said we learned about rumors from three parties. We learned it on very good authority that it was going to happen.

What I wonder is, What did we say to the people that were going to be involved when we learned this coup attempt was going to take place? Did we say to them, as Senator NUNN said, you have to recognize the Endara government, make it clear you are recognizing them so there is a proper legal authority? Or did we say to them we will not help you? Did we say to them that clearly it is our policy not to move any military force on the Panamanian soil?

Did we let them know or did we simply listen and nod gravely as we heard this information?

I would ask, Mr. President, after our Government had said time and time again that we would help you rise up and throw out General Noriega, if someone had come to tell us that information and we sat and nodded gravely, do you think they would feel we were going to help them, since we urged them to act, or do you think they would think we would not help them in their time of need?

The PRESIDENT pro tempore. Who yields time?

Mr. HELMS. Mr. President, I yield myself such time as I may require.

I wonder if any Senator can identify the man who won the election in May of this year in Panama. I am sure Senator KERRY can. What is his name?

Mr. KERRY. President Endara.

The PRESIDENT pro tempore. The Senator must stand if he is to engage in a colloquy.

Mr. HELMS. He said, Mr. Endara, and he is correct.

Do you know where Mr. Endara is? He was just arrested by General Noriega. He is the man who won the election by 2 to 1 in May.

Now, then, about the pending amendment. Several Senators have asked me how I am going to vote. Of course, I am going to vote for it. You know, any time I can get to case a vote that is equivalent to a passionate kiss of my sister, I am going to vote for it. And that is what this is. If ever a mountain labored and brought forth a mouse, this is it. Who can take exception to what is in it? But when you get down to the nitty-gritty, it is the sense of the Congress.

Now, we just defeated the Helms amendment. That is fine. I am used to that.

But, if we want to do something about it, if Congress wants to speak, they had a chance a while ago and they marched up like little tin soldiers and said "aye" on tabling it. Aye, aye—I sat back there in the cloakroom, and I could anticipate the vote of everybody who voted. No, there was one who fooled me a little bit.

Mr. President, I think I am one of three Senators now a Member of this body who voted against the War Powers Act. I think it is an intrusion upon the constitutional power of the President of the United States. I thought so then. So did Sam Ervin. So did Howard Baker. Bartlett, Bellmon, Bennett, Curtis, Eastland—I mentioned Ervin—Fannin.

I ask unanimous consent that the rollcall vote on that be printed in the RECORD at this point.

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

SENATE PASSAGE—JULY 20, 1973

[No. 312 Leg.]

YEAS—72

Aiken, Allen, , Bayh, Beall, Bentsen, Bible, Biden, Brock, Brooke, Burdick, Byrd, Harry F., Jr., Byrd, Robert C., Cannon, Case, Chiles, Church, Clark, Cook, Cranston,

Dole, Domenici, Eagleton, Fong, Fulbright, Hart, Hartke, Haskell, Hatfield Hathaway, Hollings, Huddleston, Hughes, Humphrey, Inouye, Jackson, Javits, Johnston, Kennedy, Long, Magnuson, Mansfield, Mathias, McGee, McIntyre, Metcalf, Mondale, Montoya, Moss, Muskie, Nelson, Nunn, Packwood, Pastore, Pearson, Pell, Proxmire, Randolph, Ribicoff, Roth, Saxbe, Schweiker, Scott, Pa., Sparkman, Stafford, Stevenson, Symington, Taft, Talmadge, Tunney, Weicker, Williams, Young.

NAYS—18

Abourezk, Baker, Bartlett, Bellmon, Bennett, Curtis, Eastland, Ervin, Fannin, Gravel, Griffin, Gurney, Hansen, Helms, Hruska, McClure, Thurmond, Tower.

NOT VOTING—10

Buckley, Cotton, Dominick, Goldwater, McClellan, McGovern, Percy, Scott, Va. Stennis, Stevens.

VETO OVERRIDE—NOVEMBER 7, 1973

[No. 478 Leg.]

YEAS—75

Aiken, Allen, Baker, Bartlett, Beall, Bentsen, Bible, Biden, Brock, Brooke, Burdick, Byrd, Harry F., Jr., Byrd, Robert C., Cannon, Case, Chiles, Church, Clark, Cook, Cranston, Dole, Domenici, Eastland, Fong, Fulbright, Gravel, Hart, Haskell, Hatfield Hathaway, Hollings, Huddleston, Hughes, Humphrey, Inouye, Jackson, Javits, Johnston, Kennedy, Long, Magnuson, Mansfield, Mathias, McClellan, McClure, McGee, McGovern, McIntyre, Metcalf, Mondale, Montoya, Moss, Muskie, Nelson, Nunn, Packwood, Pastore, Pearson, Pell, Percy, Proxmire, Randolph, Ribicoff, Roth, Schweiker, Scott, William L., Sparkman, Stafford, Stennis, Stevenson, Symington, Taft, Tunney, Weicker, Young.

NAYS—18

Abourezk, Bellmon, Bennett, Buckley, Curtis, Dominick, Eagleton, Ervin, Fannin, Griffin, Gurney, Hansen, Helms, Hruska, Saxbe, Stevens, Thurmond, Tower.

Mr. HELMS. Mr. President, I do not have anything more to say. Of course we are going to pass this, and probably unanimously. Maybe Senator CHAFEE will not vote for it. Let us go ahead and vote, and kiss our sister and kiss the mouse that was just brought forth into this world by the mountain.

I yield the remainder of my time.

Mr. SYMMS. Will the Senator yield me 1 minute?

Mr. HELMS. Certainly; I yield the Senator 2 minutes if he needs it.

The PRESIDENT pro tempore. The Senator is recognized for 1 minute.

Mr. SYMMS. In the rush of debate, I wanted to be sure my good friend from Georgia understood I am not impugning the motives of the Senator.

What bothers me—and I agree much with the discussion that has gone on here by the Senator from Maine and the Senator from Oklahoma in appealing for a policy—we would like to know what it is we are doing to successfully win this. I asked the rhetorical question, What kind of a message does this send? In my view, the action of the United States and the entire Panama question and the entire Central America question, the Contras, Panama, other people who have clung to freedom, when we do things like this we send a message: Do not stand up and be counted for freedom because Uncle Sam may not be there.

Yet we have been doing it since 1945, through Hungary, Czechoslovakia, and Cuba. It is a history we should turn around.

I think the Helms amendment is something we can understand. I am going to vote for this amendment—I am sorry it is not stronger—to send a message not only to the world, but to Pennsylvania Avenue, that maybe, just maybe the great United States should start taking the responsibility that it has as the leader of the free world; to demonstrate that we are strong economically, militarily, and we have a political will that will stand up for peace and freedom for both our own citizens and our friends.

That is what we are not doing. It is a tragedy that we have been so inept; that we have not seen a legitimate government of Panama rise to be able to give those people the legitimate leadership that they deserve, that they voted for, that was taken away from them because they did not have any guns and Noriega had all the guns. That is the point I am making.

The PRESIDENT pro tempore. Who yields time?

Mr. CRANSTON. Mr. President, I ask Senator NUNN yield me 2 minutes.

Mr. NUNN. I am committed to the Senator from Virginia first, the Senator from Massachusetts second, the Senator from Rhode Island third, the Senator from California fourth, and I have 6 minutes.

I yield 2 minutes to the Senator from Virginia.

The PRESIDENT pro tempore. The Senator is recognized for 2 minutes.

Mr. KERRY. Mr. President, parliamentary inquiry.

Mr. WARNER. Does the President wish to recognize another Senator?

The PRESIDENT pro tempore. Does the Senator wish to yield on a parliamentary inquiry?

Mr. WARNER. I will yield.

The PRESIDENT pro tempore. The Senator from Virginia is recognized.

Mr. WARNER. May I now proceed for some 2 minutes?

The PRESIDENT pro tempore. Please.

Mr. WARNER. Mr. President, I think the one thing we know for certain is the uncertainty of the facts in the situation.

Members of the Intelligence Committee have been briefed. Members of the Senate as a whole have been offered a briefing. There are additional facts being brought to the attention of the Senate from various sources even now. So I think at this point in time, we should give our President every benefit of the doubt that he acted prudently, based upon the facts that he possessed at the time; he had to make a decision.

Often, it is harder for a Chief Executive to restrain the use of force than it is to use force. This is one of those situations.

Mr. President, all of us are familiar with the constitutional provisions. Article II of the Constitution makes the President both the Commander in Chief of our Armed Forces and the Chief Executive of our Nation. We have been on this floor many times debating these provisions, usually as part of a debate about the War Powers Act. Now fresh in my mind are the debates on the Persian Gulf, where our President did use, very prudently, limited force, and many on this floor sought to prevent that limited force.

The Constitution, in the judgment of this Senator, provides that only the Commander in Chief can make the decision to use force. We as a body cannot compel him to use force, even if the Congress were to declare war, only the President can actually employ the Armed Forces.

There are legitimate constitutional questions, once force is commenced, as to the role of Congress. We have debated those questions many times in the context of the War Powers Act. But the President is best able to determine whether to initially use our Armed Forces.

So my recommendation to the Senate is that we give our President the benefit of the doubt, until such time as the factual situation is clarified.

Mr. NUNN. Mr. President, I yield 2 minutes to the Senator from Massachusetts, but before I do that, I ask unanimous consent there be an additional 10 minutes to be equally divided.

The PRESIDENT pro tempore. Is there objection?

Mr. WARNER. Mr. President, reserving the right to object—I shall not—I wonder if the managers will make the request on behalf of all Senators that, given the limited time, we might have printed in the RECORD additional remarks.

Mr. NUNN. I certainly have no objection.

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

Without objection, there is 10 minutes equally divided.

Mr. NUNN. I yield to the Senator from Massachusetts 3 minutes.

The PRESIDENT pro tempore. The Senator from Massachusetts [Mr. KERRY], is recognized for 3 minutes.

Mr. KERRY. Mr. President, it occurs to me there are not any words and probably no resolution that we can pass or we can utter that is really going to make up for what has brought us to this point with respect to the lack of policy in Panama.

I suggest that that is really the real meaning of this particular resolution. It is not, clearly, giving the President additional power.

Therefore, the question is: Why pass it? I think what the Senate is really trying to say to the President, as well as to the Panamanian people, if they will even listen to us now, is that it is, as the Senator from Oklahoma said, far past the time that this country, given the indictment against General Noriega, given the criminal enterprise he is engaged in against this country, given the theft of a democracy he is engaged in, it is long since time that we had a policy.

There is a failure, and even without the facts all in—and they are not all in—there is clearly a lost opportunity because there is no strategy, Mr. President. I have been working on this issue for 2½ years now or more. I met with the Vice President at his request at his office here with Senator DURENBERGER, with Senator KENNEDY, with Senator MACK, Senator D'AMATO, and others, to talk Panamanian policy.

At that time we said you do not have an end game. You have to have strategy in place. As long as you exhort the Panamanians to some kind of action and as long as you tell the opposition to do something, but do not know what you will do when they do it, you will never remove General Noriega.

We know at this point that we were notified of what happened. We do know that. We do not know the entire chronology, and it is important to have it.

But, Mr. President, it is clear that the United States raised expectations, the United States put sanctions in place, the United States sent additional combat troops to the region, the United States made clear its determination to get rid of Noriega, and people acted on our actions and on our beliefs.

This Senator believes that, under the Canal Treaty, under the Rio Treaty, under the Organization of American States Charter, and under the international law of self defense and rights that we have to defend the interests of these people, the President already had adequate power to deal with this issue.

The problem is the intelligence has not been adequate, the strategy has not been adequate, the contingency plans have not been in place. We are suffering, today, the Senate's frustration with a need to try to say to the President: It is time to end the timidity. It is time, finally, to put in place a real strategy that will not desert the people of Panama.

I received news today. I met with the Panamanian ex-Ambassador this morning. It was his news, directly from Panama and from the people there, that Major Giroldi and Major Sandoval were personally shot by General Noriega. That is the news he related, and that at least seven or eight of the other participants, the lieutenants, sergeants—and I have their names here—are now dead and the others are in jail.

Mr. President, I think we need to take more seriously our responsibility with respect to the lives of these people and to their expectations of our activities. To not have had an adequate strategy to do so I think is a black mark on our diplomacy, as well as on our goals and values.

The PRESIDENT pro tempore. Who yields time? The Senator from Georgia controls the time.

Mr. NUNN. Mr. President, I committed to the Senator from Rhode Island 2 minutes, and then to the Senator from California 2 minutes. And then I will be glad to yield to the Senator—I committed to the Senator from Maine 1 minute, and the Senator from Nebraska I will be glad to yield to, if I have any time left.

The PRESIDENT pro tempore. The Senator from Rhode Island is recognized for 2 minutes.

Mr. PELL. Mr. President, my understanding of the phrase "appropriate diplomatic, economic, and the military options in the Republic of Panama" as stated in the amendment would mean the United States would only use American troops either to protect the canal in accordance with the Panama Canal Treaties, or to defend American lives in self-defense, or to be part of the multilateral forces that might be created by the OAS or the United Nations to restore democracy to Panama.

And in this regard, I would also like today to congratulate President Bush on the way this problem has been handled; congratulate him on his restraint, and hope that restraint will be visible in the future, also.

Mr. President, I well understand the sense of frustration in this body and in the Nation as a result of Tuesday's failed coup attempt against General Noriega. The frustration level even before Tuesday was high because of the prolonged inability to deal effectively with the problems posed by Noriega. To use the phrase originated by the Senator from New York a little "benign neglect" might be in order here, in this case. I caution my colleagues to think very carefully about the grave implications of the unilateral use of United States troops to oust Noriega.

The situation should be resolved by the people of Panama themselves. This was underlined yesterday morning by the democratic opposition's Vice Presidential candidate Billy Ford who spoke against the use of U.S. troops. It would have been easy for President Bush to have respond to the calls for the participation of U.S. troops in actions to throw out Noriega. But if he had done that we would have reaped the bitter frustration of that exercise for many years to come. The nations of the hemisphere would see it as one more example of belligerence on the part of the United States in the region. Unilateral U.S. action would be in violation of international law and would violate the principle of nonintervention which is a precept that the Latin American nations hold sacred. We would most certainly alienate the nations of the region whose support we absolutely need if the policy to force Noriega out is to succeed.

Intervention by United States troops also would be in violation of the Panama Canal Treaties. It would place into question the commitments that the United States has made in hundreds of treaties and base rights agreements with foreign nations. To my mind, as I said before, the only time that United States troops should be used in Panama is either to protect the canal in accord with the Panama Canal Treaties, or to defend American lives, or to be part of multilateral forces that might be created by the OAS or the United Nations to restore democracy to Panama.

Any foreign action must be conducted within the bonds of international law through the use of instruments available such as collective action through the Organization of American States. I will agree that thus far, the OAS effort has been disappointing but I believe that with an even stronger effort by the United States, measures can be taken to isolate the Noriega regime.

I urge my colleagues to move back a few steps and take a reasoned look at the situation in Panama. We should increase our efforts on the international level and we should step up our efforts to support the democratic opposition in Panama. Even the threat of unilateral U.S. military intervention as was embodied in the Helms amendment could serve to give more credence to Noriega's branding the opposition as lackies and puppets of the United States. It could hurt rather than help the opposition today.

Finally, think about the real significance of what happened on Tuesday, even in the failure coup attempt. General Noriega's hold on the armed forces is much weaker today than it was Tuesday morning. He has received a strong signal that there are important elements within the Panama Defense Forces that have had enough of his arbitrary and illegal power. There are important elements in the military who believe that Noriega must go. According to reports, among those arrested by Noriega were three members of the Military High Command. It is especially significant that the officer who is credited with leading Tuesday's coup attempt, is the very same officer who had supported Noriega in a coup

attempt that took place a year and a half ago.

I believe that the fissure that finally has appeared in the PDF will enlarge to become a huge crack that Noriega will not be able to repair. More and more members of the PDF will come to realize that it is in their institutional interests as well as in the interest of the Nation of Panama that Noriega relinquish power. The mid-level and junior-level officers of the PDF will realize that after Noriega the credibility of the Panama Defense Forces will be restored and that the United States will support efforts to reform and professionalize the military.

I hope my colleagues will support this more rational approach to the situation in Panama.

Mr. NUNN. I yield 2 minutes to the Senator from California.

The PRESIDENT pro tempore. The senior Senator from California [Mr. CRANSTON], is recognized.

Mr. CRANSTON. Mr. President, we share views on the desirability of getting rid of Mr. Noriega, obviously, and we must do everything we can within reason to accomplish that. I read this as carefully as possible just to make sure there is no Gulf of Tonkin resolution here, and I do not think there is. I would like to ask a few questions.

One, the question that states the President's utilization of the full range of appropriate diplomatic, economic, and military operations in the Republic of Panama, supporting that does not suggest anything other than what is presently required in consultation with Congress; is that correct?

Mr. NUNN. It is not the intent of the author of this amendment to change the existing law. We cannot change the existing Constitution. The President has certain options, as I mentioned in the dialog with Senator BOREN. If we had recognized that government, which we had not, and that is one of the problems of our policy, if they ask our help in defending that legitimate government there, in that case, that is to me an appropriate military option in protecting our people down there and protecting the canal. If our people are in danger, I think we have the right to take appropriate military steps.

Mr. CRANSTON. Protecting American lives is the principal purpose that is implied and covered by this provision.

Mr. NUNN. And the canal. I think in international law and in our Constitution, the President has a right to help another government in terms of self-defense. The key here, though, is recognizing. If we want a policy to work, we have to recognize the government. The Senator from North Carolina and the Senator from Oklahoma and I agree on that. If we recognize the government down there and somebody takes over and recognizes that government, then that puts us in a totally different legal position. But the problem is we do not have a policy of recognition. That makes everything we do down there much more difficult, and it makes the problem of our military people down there much more difficult. So I would agree with those who are saying we do not have an adequate policy.

Mr. CRANSTON. I thank the Senator.

Mr. NUNN. It is not the intent of the authors of this amendment to change the War Powers Act or the Constitution of the United States.

The PRESIDENT pro tempore. The time of the Senator has expired.

Mr. CRANSTON. I ask unanimous consent for one more minute to address a question to Senator BIDEN.

The PRESIDENT pro tempore. Is there objection.

The Chair hears none. Without objection, it is so ordered.

Mr. CRANSTON. Does the President have constitutional authority to take military action to enforce the Panama Canal Treaty if there is any violation, no matter how minor, or is this a judgment——

Mr. BIDEN. The answer is, no, he does not. He has the power to come to the Congress. Our international treaties are not self-enforcing, and in almost every case we write into a treaty that the President has to conform with the constitutional limitations and requirements that exist on the President. For example, he could not automatically commit troops, with a single exception: When the supreme national interest of the United States is at stake.

I disagree with my friend and the cosponsor of this amendment when he says if we recognized the government, the President could automatically move in. It is clear in this Senator's view he could not do that unless it was concluded by the President that the supreme national interest of the United States was at stake, unless that case could be made.

For example, we have treaties with Japan. Japan as a recognized government could say, come join us and invade China. We could not merely because a recognized government and ally of ours asked us to do that, could we? The President does not have the constitutional authority to do that unless the supreme national interest of the United States is at stake, in which case it is possible under the scenario outlined by the Senator from Georgia.

Mr. CRANSTON. I thank the Senator. That is very helpful.

The PRESIDENT pro tempore. Who yields time?

Several Senators addressed the Chair.

The PRESIDENT pro tempore. The Senator from North Carolina.

Mr. HELMS. I yield to the distinguished Republican leader such time as he requires. How much time remains?

The PRESIDENT pro tempore. Nine minutes, twenty-one seconds. The Republican leader is recognized for such time as he may require.

Mr. DOLE. Mr. President, let me say first that I agree with the distinguished Senator from Wyoming, who spoke earlier, that it is unfortunate the Senator from North Carolina was not given consent to modify the amendment that has just been tabled. I had some reservations about that amendment and, in my view, at least, the President does not need the authorization of Congress to use our Armed Forces to defend the vital interest of the United States or the lives of U.S. citizens. He already has that authority under the Constitution. My guess is that the Senator from North Carolina agrees with me on that interpretation.

I was concerned that the very fact of offering this amendment inadvertently reinforces an already unfortunate tendency here in Congress that we retain to ourselves a right of the President. The Senator certainly had the right aims. He deserved to have a chance to have his amendment voted up or down. So I was pleased to join him in voting against the tabling motion.

Despite the fact the Helms amendment has been tabled, I think it is worthwhile to send a strong signal to Panama and to the world that we are prepared to back the President. All this talk about we do not have any policy is all politics. The same people were up here beating their chests when Ronald Reagan saved Grenada saying it was the wrong policy. Now it is no policy. Next time it will be something else. We understand the politics of it.

I think the President acted properly. He does not need to come to Congress to get our consent to do what he does or does not do. He is in charge of foreign policy, and we can fault him if we wish, but one can think of all kinds of scenarios that might have happened had he taken action. We would have been up here on the floor pounding him daily for doing too much or doing it the wrong way. So I say any President has a difficult job, Republican or Democrat.

As I understand the resolution before us, we are supporting the President, and I support the effort by Senator NUNN and others because it does send a strong message. I also believe it is neutral on some of the contentious questions of Presidential powers. At least that is my interpretation of the Senator's language. I think it is the same interpretation just given by the Senator from California, and I support

the amendment. But I do hope we are not using this—at least I know the principal author is not—to beat the President over the head. But others have been up here giving me a little dose here and there. Maybe that is a fair game and maybe it is not. Maybe we do not have all the facts. Maybe additional facts will indicate otherwise.

But in any event, I am prepared to support what the President did. I think he acted based on the facts he had. And from what I read on the last page of this resolution, it seems to me that we are sending a message that we do support the President of the United States. In this case, the President happens to be Republican. Next time, it might be a Democrat, hopefully not too soon, but it may be some day.

It seems to me we are doing the right thing in supporting the President.

Mr. HELMS. Mr. President, I yield 2 minutes to the distinguished Senator from Rhode Island.

Mr. CHAFEE. I want to say I am sorry this has turned into a political attack on the President. We heard all kinds of terms tossed around here today about timidity on the part of the administration. I must say, things have changed around here. Suddenly this place is filled with hawks. All I can remember is the Persian Gulf, every time the President wanted to move and do anything in the Persian Gulf, all we heard about was the War Powers Act and Grenada and Angola. I think we better be careful about the terms we use. The President moved with great discretion. He did not throw his power around, and he did the right thing in Panama. I think we ought to acknowledge it. I think it is a little odd where the objections are now coming from that they did not take all the actions that armchair generals can now direct him to do with that marvelous incisiveness that comes with 20-20 hindsight. I want to thank the distinguished Chair.

Mr. MURKOWSKI addressed the Chair.

Mr. HELMS. How much time does the Senator need?

Mr. MURKOWSKI. A minute or two.

Mr. HELMS. I yield 2 minutes.

Mr. MURKOWSKI. I thank the Senator from North Carolina. Mr. President, I think on balance, as we reflect on the debate that has occurred here today, we owe a debt of gratitude to the Senator from North Carolina. The merits of the amendment pending and the amendment of the Senator from North Carolina have their own individual interpretation from each Member.

I think we, as a majority, support the President and certainly support the responsibility associated with the action. Nevertheless, there is a democratic process going on here where we are questioning, based on the knowledge available to us, which we all have in different degrees, over the action because we all abhor the situation in Panama as it is relevant to Noriega.

We are aware of numerous contingency plans. We had hoped somehow through economic sanctions and various other means to have a situation where Noriega would no longer be head of the Panamanian Government. We have seen an opportunity fail. Time will tell whether we should have taken action. I think it is quite appropriate to not address the significance of the political motivations or opportunities associated with being critical, but nevertheless send a message that when we look at alternative plans one has to question why the opportunity was not taken, perhaps why it was not successful, and as we reflect in retrospect the reality that there will probably be few opportunities again, particularly with the disposition and the shooting by Noriega, as alleged, of the principals.

So obviously we are going to have to pursue perhaps other alternatives in Panama, and the alternatives are not too numerous. I thank the Chair. I appreciate the yielding of time by the Senator from North Carolina.

The PRESIDENT pro tempore. Who yields time?

Mr. WARNER addressed the Chair.

Mr. NUNN. Mr. President, I yield 1 minute to the Senator from Virginia.

Mr. WARNER. Mr. President, I shall briefly engage in a colloquy with my distinguished chairman and the principal sponsor of this amendment. I listened very carefully to Senator NUNN's opening comments about how Presidents, both this one and his predecessors, here exercised a certain amount of restraint in this hemisphere because we cannot simply focus on one country; our focus must be interlocking throughout the hemisphere.

But when we say we have no policy and no contingency plans, I must reply that we do not publish our contingency plans, the military contingency plans, in the Federal Register. I am certain that Members of this body repose a confidence in this President, as other Presidents, to have contingency plans for this part of the world as other parts of the world. I ask my dear friend if he wishes to reply.

Mr. NUNN. I do not recall having said there was no policy. I do believe that perhaps the Senator from Oklahoma made the statement along that line.

I believe what I said was, and what I intended to say, I think we have to decide clearly what our policy is. One way to decide that—and I think the essential first step—is who do we recognize as the legal government in Panama. That is very important from the point of view of legality; it is important from the point of view of our people on the ground and what they basically communicate to anyone who may wish Noriega to leave the country or to be brought to justice.

So I think part of our policy needs to be clarified. And I also believe that we have to make it clear to our people on the ground what their ground rules are in advance for assisting people who may want to remove Noriega from power, whether that assistance is diplomatic or whether it is economic, and under what conditions it could be military. Those conditions have to be carefully set forth.

I say to my friend from Virginia, if we have such clarity, I have not been able to discern it.

The PRESIDENT pro tempore. The Senator from Georgia has 10 seconds remaining. The Senator from North Carolina has 2 minutes 51 seconds remaining.

Mr. HELMS. Mr. President, I am almost ready to yield back what little time I have remaining, but let me restate the proposition once more.

This entire debate occurred because the administration was just not prepared on Tuesday to deal with it. As I said in my remarks earlier today, there was nobody available to commend or respond to questions except a Deputy Assistant Secretary of State. I do not want to do the young man an injustice, but I never heard of him. Everybody was down at the White House or somewhere wining and dining the President of Mexico. What I heard all day long was, "We don't know whether the President has the authority" to do this or that. And there was confusion.

I do not know of anybody—certainly have not—who has criticized the President of the United States. What I am doing is raising a question about being ready next time, I say to my friend from Virginia. Nobody has criticized George Bush. He is our President. We do not have but one President at a time. But he needs better advice, I think, based on the reinformation I have assembled, than he got on Tuesday, because it is very clear in my mind that had he had full information that even a lowly Senator like me was able to assemble, then I believe he might have thought twice about saying we are not going to get involved. That is the only point I am making.

Now, several Senators, as I said earlier, have asked, "How are you going to vote on this?" I am going to vote for it, and I urge all Senators to vote for it, if there is a rollcall vote. I am not even going to ask for a rollcall vote on it because this is a fait accompli. But I am saying that this is a sense-of-Congress resolution, and I will close as I began. It is a passionate kiss of one's sister to vote on this one way or another. I yield back the remainder of my time.

Mr. NUNN. Mr. President, I ask unanimous consent for 2 additional minutes, 4 additional minutes if the Senator from North Carolina wants 2.

Mr. HELMS. No.

Mr. NUNN. Two additional minutes, one to be yielded to the Senator from Maine and one to the Senator from Nebraska.

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

Mr. COHEN. Mr. President, I indicated earlier that the amendment does not deal with the issue of the absence of Presidential power, but the absence of a policy that would have permitted the use of force to remove Noriega. That really is the heart of the issue.

Our policy is not to use force to remove Noriega. I happen to agree with that policy. We can take out Noriega tomorrow if we have to or we want to.

The real question is, Does the Senate want to go on record to send forces into Panama to remove Noriega and, if so, under what circumstances? After a popular vote, was that the time to send them in? After a coup is underway, do we send them in then?

What I object to is encouraging people to either revolt or vote and take to the streets—with the implied but ambiguous promise that we are going to come to their aid with physical assistance. If that is the case, I think we have an obligation to help them. In sum, I think the President acted appropriately under the circumstances as we know them today. But I also think we need to review and clarify our policy.

The PRESIDENT pro tempore. The Senator from Nebraska is recognized for 1 minute.

Mr. EXON. I thank the Chair. I rise in strong support of the amendment offered by Senator NUNN. I think it is precisely on point. It does what I think most of us want to do, which is to dismiss Noriega at the earliest possible moment.

The grumblings I have heard about the President's lack of action remind me some, Mr. President, of walking out from a football game on one or two occasions when Oklahoma defeated Nebraska and people have said, "Well, if the coach had done this or the coach had done that." But I know the coach in this case, the Commander in Chief, did absolutely the right thing. I think the President would not be hesitant in the proper use of our forces if there was a chance of real success, which I may be proven wrong from later developments, but from what I know now—and I think I know what most of the other Members of the Senate know—he did the right thing given the circumstances that confronted him. There is no need for Presidential bashing at this time at least.

Mr. LEVIN. Mr. President, I commend Senator NUNN on this resolution. I am a cosponsor, because I share the conviction that Noriega should be removed from his illegal control of Panama as quickly as possible. The United States should utilize the full range of appropriate diplomatic, economic, and military options available to resolve the crisis in Panama and the hemisphere, and help restore democratic and constitutional government in Panama.

Mr. President, I am a cosponsor of this resolution because it is well crafted, and expresses the outrage of the American people that this thug has illegal control of Panama. Just last week the Senate approved an amendment I authored which expressed the Senate's conviction that the President should intensify unilateral, bilateral, and international efforts directed at removing Noriega from any position of power in Panama. As I stated last week, this expresses administration policy, the intent of Congress, the fervent desire of the American people, and the hope of civilized people everywhere.

Mr. President, I voted to table the earlier resolution by the Senator from North Carolina because it was poorly crafted. Noriega must go, but that resolution was not the best way to achieve that goal. The administration opposed that resolution, as did the overwhelming majority of the Senate.

I am deeply disappointed that Noriega is still in power. It is in the national security interests of the United States that this dictator be removed, as well as in the interests of people in Panama and throughout the hemisphere.

The PRESIDENT pro tempore. All time has expired. The question is——

Mr. NUNN. Mr. President, I ask for the yeas and nays.

The PRESIDENT pro tempore. There is a request for the yeas and nays. Is the demand sustained? Obviously there is a sufficient second.

The yeas and nays were ordered.

The PRESIDENT pro tempore. The question is on agreeing to the amendment No. 954. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER (Mr. LAUTENBERG). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 99, nays 1, as follows:

[Rollcall Vote No. 229 Leg.]

YEAS—99

Adams	Bradley	Cochran
Armstrong	Breaux	Cohen
Baucus	Bryan	Conrad
Bentsen	Bumpers	Cranston
Biden	Burdick	D'Amato
Bingaman	Burns	Danforth
Bond	Byrd	Daschle
Boren	Chafee	DeConcini
Boschwitz	Coats	Dixon
Dodd	Kassebaum	Packwood
Dole	Kasten	Pell
Domenici	Kennedy	Pressler
Durenberger	Kerrey	Pryor
Exon	Kerry	Reid
Ford	Kohl	Riegle
Fowler	Lautenberg	Robb
Garn	Leahy	Rockefeller
Glenn	Levin	Roth
Gore	Lieberman	Rudman
Gorton	Lott	Sanford
Graham	Lugar	Sarbanes
Gramm	Mack	Sasser
Grassley	Matsunaga	Shelby
Harkin	McCain	Simon
Hatch	McClure	Simpson
Heflin	McConnell	Specter
Heinz	Metzenbaum	Stevens
Helms	Mikulski	Symms
Hollings	Mitchell	Thurmond
Humphrey	Moynihan	Wallop
Inouye	Murkowski	Warner
Jeffords	Nickles	Wilson
Johnston	Nunn	Wirth

NAYS—1

Hatfield

So the amendment (No. 954) was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GRAMM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. We will have order in the Senate, please. All conversations on the floor will cease.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, parliamentary inquiry. What is the pending business?

The PRESIDING OFFICER. The pending business is on amendment 924 of the Senator from Delaware [Mr. BIDEN].

Mr. BIDEN. Mr. President, that amendment is the amendment relating to crack houses, giving civil authority to local officials to be able to close these crack houses down. Believe it or not, we debated it in another life, some time ago, prior to us getting off on the drug-related amendment to Panama, and I would, if there is no opposition to the amendment on the part of my Republican friends or anyone on the floor, I suggest we move to that amendment. I urge its passage.

Mr. HATCH. I have been informed there may be some opposition. Maybe we can work that out.

Mr. BIDEN. Apparently, Mr. President, there is some possible concern. I will not bother the Senate again with further debate on the issue.

May I make another parliamentary inquiry?

The PRESIDING OFFICER. The Senator will state inquiry.

Mr. BIDEN. Once the Biden crack house amendment is disposed of, what will be the pending business?

The PRESIDING OFFICER. At that time, the pending business will be amendment No. 934 proposed by the

Senator from Massachusetts [Mr. KENNEDY].

Mr. BIDEN. Mr. President, I yield to the Senator from Utah with regard to the crack house amendment.

Mr. HATCH. We are ready to proceed with the crack house amendment, Mr. President.

Mr. BIDEN. I urge the adoption of the amendment and suggest that we all vote for it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Delaware.

The amendment (No. 924) was agreed to.

Mr. BIDEN. I move to reconsider the vote by which the amendment was agreed to.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

AMENDMENT NO. 955

Mr. GRAMM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

Mr. FORD. Mr. President, will the distinguished Senator from Texas yield to me for a unanimous consent? I want to read a short statement and get it into the RECORD?

The PRESIDING OFFICER. For the information of the Senator there is a pending amendment.

Mr. GRAMM. Mr. President, I ask unanimous consent that the pending amendment be temporarily set aside.

Mr. BIDEN. Mr. President, reserving the right to object and I do not believe I will object, I indicated to the Senator from Massachusetts that his amendment is the pending business and I was under the impression he was prepared to move immediately.

So I would like to make the following suggestion: Reserving the right to object, I would like to ask unanimous consent in the meantime while we are trying to work this out to allow the Senator from Kentucky who wishes to make a statement on an unrelated matter to proceed if that is all right with the Senator from Texas.

Mr. GRAMM. If I might ask, Mr. President, where will that leave us when the Senator from Kentucky is finished?

The PRESIDING OFFICER. Then the amendment would be pending at that point.

Mr. GRAMM. And I would have the floor, Mr. President?

The PRESIDING OFFICER. If the unanimous-consent request is agreed to.

Mr. GRAMM. I have no objection, Mr. President.

Mr. McCONNELL. Will the Senator yield for a question?

Who has the floor?

Mr. FORD. I have the floor. I am delighted to yield to my colleague for a question.

Mr. McCONNELL. I thank the Senator from Kentucky.

I say to the Senator from Delaware, if I could have the attention of the Senator from Delaware, a question for the Senator from Delaware: Is it the plan of the managers to establish some rotation here? If so, I would like to get aboard.

Mr. BIDEN. It is the plan of the managers to give everyone an opportunity to propose their amendments. What I would suggest is that each of the Senators wishing to propose amendments, not that it is required, but it may be a help to let each of us know, each of the managers know, and then we will try to work out an order in which we could do that.

Mr. McCONNELL. Since the Senator from Kentucky has been here, would the Senator from Delaware have objection to agree that I follow the Senator from Texas?

Mr. BIDEN. I would, because I have an amendment I wish to send to the desk. I have no objection to us alternating back and forth, Republican, Democrat; Republican, Democrat.

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

Mr. FORD. I am glad to get out of this.

The PRESIDING OFFICER. The senior Senator from Kentucky has the floor. Does he yield the floor?

Mr. FORD. For what purpose? Do you want me to yield it completely?

Mr. HATCH. It is up to the Senator. I want to make sure we get this sequence.

Mr. FORD. Why do the managers not work this out while I make a statement about a great Kentucky product?

Mr. HATCH. Can I make a comment before the Senator does?

Mr. FORD. I yield for that purpose only.

Mr. HATCH. If I could have the attention of the Senator from Delaware, since we are moving fast, why do not we do this to expedite matters: Let the distinguished Senator from Texas set aside the pending amendment and then go to the distinguished Senator from Delaware and then go to the distinguished Senator from Kentucky on our side of the floor, Senator McCONNELL, and then go from there?

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. I am prepared to do that only on the condition that we have a time agreement on the amendment of the Senator from Texas because the Senator from Massachusetts has been waiting for 2 days to move on his amendment, and he has had it before the body. It is the pending business. In his absence I am reluctant to set it aside for an indefinite period of time.

Mr. HATCH. Will the Senator yield, 10 minutes divided equally, if the Senator will agree?

Mr. BIDEN. I agree.

Mr. HATCH. I propose a unanimous-consent agreement for recognition of the distinguished Senators from Texas, Delaware, and Kentucky, in that order.

Mr. BIDEN. Mr. President, reserving the right to object.

The PRESIDING OFFICER. If the Senator will suspend just so we can keep abreast of the sequence of things here, does the senior Senator from Kentucky continue to yield the floor? He has the floor.

Mr. FORD. Mr. President, I certainly do and hope that they can work out an agreement so I can have my 2 minutes.

The PRESIDING OFFICER. The Chair recognizes the Senator from Utah.

Mr. HATCH. I propose a unanimous-consent request that we permit the distinguished Senator from Texas to have 10 minutes divided equally between his side and the other side to present his amendment and then move to the distinguished Senator from Delaware for his amendment and then the distinguished Senator from Kentucky.

Mr. BIDEN. Mr. President, reserving the right to object, I suggest we go with the first unanimous-consent request and let the Senator from Texas go on the amendment for 10 minutes and see if we can work out an order.

Mr. HATCH. That will be fine.

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

Mr. BIDEN. We are just getting started, I say to the Senator.

Mr. FORD. I thought I might do this and give them the opportunity to work things out without disturbing the Chair.

SECRETARIAT

Mr. FORD. Mr. President, Kentucky lost a living legend yesterday. Secretariat, arguably the greatest racehorse of all time, was humanely put down late Tuesday morning. This most difficult decision was made by Seth Hancock, president of Claiborne Farm where Secretariat stood at stud for 16 years.

Secretariat was diagnosed on September 4 as having laminitis, an inflammation of the sensitive tissues inside the hoof wall. Although he received the best medical care available and was thought to be on the road to recovery, his condition suddenly deteriorated, putting him in extreme pain. He was buried by sundown near his father, Bold Ruler, in a 6-by-6-foot coffin lined with orange fabric, the color of Claiborne's racing silks.

Secretariat won the Kentucky Derby in 1973 when I was Governor of the Commonwealth. I will never forget how he ran like the wind, his gleaming coat the color of a new penny. He finished in 1 minute and 59 and two-fifths seconds. Secretariat went on to become a Triple Crown winner, winning the Belmont Stakes by an astonishing 31 lengths. His records remain unbroken today.

Mr. President, even people who were uninterested in racing knew and loved Secretariat. "Big Red" was a phenomenal athlete—the perfect running machine who captured the hearts of the American people. Every year over 10,000 people came to see the great stallion who always hammed it up when cameras appeared. He truly was America's horse and we mourn our loss.

I ask unaminous consent that two articles about Secretariat from this morning's Washington Post be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

SECRETARIAT: A TRUE HERO PASSES ON

(By Andrew Beyer)

The film of the 1973 Belmont Stakes is grainy and faded now, but even if you have seen it a hundred times before you can't help feeling a chill when the big red horse pulls away to a lead of 10 lengths, then 15 lengths, then 20 lengths. Announcer Chick Anderson's voice captures the emotion of the moment, the sense that history was being made before your eyes: "Secretariat is blazing along! Secretariat is widening now! He is moving like a tremendous machine!"

When Secretariat crossed the wire 31 lengths ahead of his closest pursuer, shattering the track record and completing his sweep of the Triple Crown, his performance was hailed as the greatest in the history of the sport. And when he died yesterday, the victim of an incurable inflammation in his foot, that opinion still prevailed. No thoroughbred has ever run more brilliantly.

Nor has any racehorse of modern times captured the public's imagination as Secretariat did.

In the era of Watergate and Vietnam, a time of cynicism and disillusionment, he was a genuine hero. People wanted to believe in him so much that his failures—his inexcusable defeats, his disappointing performance at stud—never blemished his image.

His name remains synonymous with excellence, and his death brought sorrow to people who might not have imagined that they could grieve over a 19-year-old horse.

Secretariat's biographer, Bill Nack, was visiting Claiborne Farm yesterday, and he said: "People were crying; they were inconsolable. Even people who weren't big racing fans were touched by his death. The emotions this horse stirred!"

A horse who shows extraordinary talent will commonly be labeled a "freak," but Secretariat was no freak of nature.

He was the end product of the best American breeding—a son of the dominant stallion Bold Ruler, who was a son of the great and influential Nasrullah. And he packed these genes into a body that was the perfect running machine.

Charles Hatton, the late columnist for the Daily Racing Form, described to Nack his feelings when he walked into the Saratoga paddock in the summer of 1972 and saw this chestnut 2-year-old:

"You carry an ideal around in your head and boy, I thought, 'This is it.' I never saw perfection before. . . . The body and the head and the general attitude. I couldn't believe my eyes, frankly, I've made a thing of looking at horses since before the First World War, but I never saw a horse like that."

And Secretariat was dazzling on the track too.

I have never seen a 2-year-old do so many exciting things, show so many dimensions to his talent. In his first stakes race, the Sanford at Saratoga, he was facing the protem leader of his generation, Linda's Chief, and was trapped behind a wall of horses while the favorite surged to a seemingly commanding lead. Secretariat lowered his head and bulled his way through—Hatton wrote that it was like "a fox scattering a barnyard of chickens"—and then accelerated explosively to catch Linda's Chief.

At the end of the season he was voted horse of the year; he was syndicated for future stud duty for the astonishing sum of $6.08 million; he stirred hopes that maybe, just maybe, he had a chance to capture the Triple Crown.

No horse had accomplished the feat since Citation in 1948; many racing experts were beginning to doubt that any horse would ever do it again. The 1973 Triple Crown series generated widespread national attention, and Secretariat responded with performances that even the most casual fan could appreciate.

He set a track record in the Kentucky Derby that still stands.

He set a track record in the Preakness but was deprived of it by a malfunctioning electric timer.

He set a track record in the Belmont Stakes that may never be broken.

Before Secretariat came along, Gallant Man's world record of 2:26⅘ for 1½ miles was considered the most formidable mark in the sport; it had stood for 17 years. Secretariat demolished it.

He raced head and head with his archrival Sham at a sprinter's pace—six furlongs in 1:09⅘—and kept running strongly all the way to the wire, covering the distance in a stunning 2:24 flat. In my system of speed figures, Secretariat earned a rating for the Belmont that no thoroughbred has ever approached. As Hatton wrote, "His only point of reference is himself."

After that performance, anything Secretariat did was going to be an anticlimax. Although he did deliver other sensational performances, his record was marred by losses to Onion in the Whitney Stakes and to Prove Out in the Woodward Stakes, and those losses undermine his claim to being the best horse of all times. The great ones aren't supposed to have so many blots on their records.

SECRETARIAT'S EARNINGS

Year	Sts	1st	2d	3d	Purses
1972	9	7	1	0	$456,404
1973	12	9	2	1	860,404
Total	21	16	3	1	1,316,808

And his stud career was a disappointment. When Secretariat went to Claiborne Farm, there were hopes that he was going to transform his species. While he did sire many outstanding horses, including Risen Star and Lady's Secret, he never lived up to the unrealistically high expectations of him.

His failures, however, will fade from memory. But his triumphs—and his Belmont triumph in particular—will be remembered as long as the sport exists.

SECRETARIAT LAID TO REST NEAR SIRE, BOLD RULER

(By Vinnie Perrone)

Secretariat, whose 31-length victory in the 1973 Belmont Stakes earned him throughbred racing's Triple Crown and affirmed his greatness, was humanely destroyed yesterday following complications from an incurable hoof disorder. He was 19.

The legendary chestnut horse was put down at Claiborne Farm in Paris, Ky., where he had been a stallion since 1974. He was buried at the farm late yesterday afternoon near his father, 1957 horse of the year Bold Ruler.

Secretariat's physical problems came to light after he foundered early last month. He was diagnosed as having laminitis, an inflammation of the inner hoof.

Claiborne assistant manager Gus Koch told the Associated Press that the horse's condition "rapidly worsened" on Tuesday and that he was in "extreme pain for the first time."

"When the inflammation occurs, swelling results," Koch said. "And since there is little room for swelling, this is a very painful condition."

Walter Kaufman, Claiborne's resident veterinarian, administered the lethal injection at 11:45 a.m., putting to rest one of America's fastest and most popular thoroughbreds of all time.

Secretariat was foaled by the Princequillo mare Somethingroyal on March 30, 1970, at Helen Chenery's Meadow Stable in Doswell, Va. The burnished colt, with a white star on his forehead and three white feet, became known as "Big Red" for his accomplishments as much as his size.

He made his racing debut at Aqueduct on July 4, 1972, and placed fourth, his worst finish ever. When he was retired to stud after his 3-year-old season, Secretariat had become the first Triple Crown champion in 25 years, winning 16 of 21 races, earning $1.3 million and establishing two world records and a host of track records.

He was voted horse of the year in 1972—the first 2-year-old thoroughbred ever to receive the honor—and again in 1973 after becoming the ninth 3-year-old to win the Kentucky Derby, Preakness and Belmont Stakes, and the first since Citation in 1948. There have been two Triple Crown winners since, Seattle Slew in 1977 and Affirmed in 1978.

Of those who mastered the Triple Crown, American racing's most demanding and elusive of challenges, none did it quite like Secretariat. After a third-place finish in the 1973 Wood Memorial Stakes, the Lucien Laurin-trained colt won the Kentucky Derby by setting a Churchill Downs track record that still stands: 1 minute 59⅘ seconds for 1¼ miles.

He made an explosive move through the first turn at Pimlico and went on to win the Preakness Stakes by the same margin he won the Derby—2½ lengths—and would have had another track mark had the teletimer not malfunctioned. Secretariat was clocked in 1:54⅘ for 1 3/16 miles, but the

record was not recognized because it was hand-timed.

Then came the June 9 Belmont Stakes, in which Secretariat secured a place in racing lore. His 31-length victory at odds of 1 to 10 seemed nearly mythical, the 1½-mile time of 2:24 crushing the world record even though jockey Ron Turcott never even cocked his whip.

Three months later, Secretariat set another world mark at Belmont Park when he won the 1⅛-mile Marlboro Cup Handicap in 1:45⅕.

The last two races of his career were his only ones on turf. He won them by five and six lengths, respectively.

Secretariat's true likeness never emerged in his progeny; his most talented offspring probably was Risen Star, who could have won the 1988 Triple Crown had he been subject to a less circuitous trip in the Derby. He won the Preakness and Belmont.

Secretariat also sired Lady's Secret, 1986 horse of the year, and more than 40 other stakes winners.

SECRETARIAT'S RACING RECORD

[Stakes races]

Date	Race	Track	Length	Finish	Purse
Aug. 16, 1972	Sanford	Saratoga	6 fur.	1st	$16,650
Aug. 26, 1972	Hopeful	Saratoga	6½ fur.	1st	51,930
Sept. 16, 1972	Futurity	Belmont Park	6½ fur.	1st	82,320
Oct. 14, 1972	Champagne	Belmont Park	1 mile	2nd	32,320
Oct. 28, 1972	Laurel Futurity	Laurel	1 1/16	1st	83,395
Nov. 18, 1972	Garden State	Garden St. Park	1 1/16	1st	179,199
March 17, 1972	Bay Shore	Aqueduct	7 fur.	1st	16,650
April 7, 1973	Gotham	Aqueduct	1 mile	1st	33,330
April 21, 1973	Wood Memorial	Aqueduct	1⅛ mi.	3rd	13,788
May 5, 1973	Kentucky Derby	Churchill Downs	1¼	1st	155,050
May 19, 1973	Preakness	Pimlico	1 3/16	1st	129,900
June 9, 1973	Belmont	Belmont Park	1½	1st	90,120
June 30, 1973	Arlington Invitat'l	Arlington	1⅛	1st	75,000
Aug. 4, 1973	Whitney	Saratoga	1⅛ mi.	2nd	11,847
Sept. 15, 1973	Marlboro Cup	Belmont Park	1⅛ mi.	1st	150,000
Sept. 15, 1973	Woodward	Belmont Park	1⅛ mi.	2nd	23,804
Oct. 8, 1973	Man o' War	Belmont Park	1½ mi.	1st	68,160
Oct. 28, 1973	Canadian Internat'l	Woodbine	1⅝ mi.	1st	92,755

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

IMPLEMENTATION OF THE PRESIDENT'S 1989 NATIONAL DRUG CONTROL STRATEGY

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Texas is recognized.

AMENDMENT NO. 955

(Purpose: To increase the mandatory minimum sentences for adults who involve juveniles in drug offenses)

Mr. GRAMM. Mr. President, I ask unanimous consent that the pending amendment be set aside, and I have sent an amendment to the desk and ask for its immediate consideration.

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

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM] proposes an amendment numbered 955.

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

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

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . MANDATORY MINIMUM SENTENCES FOR ADULTS WHO INVOLVE JUVENILES IN DRUG OFFENSES.

(a) DISTRIBUTION TO PERSONS UNDER AGE TWENTY-ONE.—Section 405 of the Controlled Substances Act is amended—

(1) in subsection (a) by striking "Except to the extent a greater minimum sentence is otherwise provided by section 401(b) of this title, a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extent a greater minimum sentence is otherwise provided by section 401(b) of this title, a term of imprisonment under this subsection shall be not less than 10 years. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence."; and

(2) in subsection (b) by striking "Except to the extent a greater minimum sentence is otherwise provided by section 401(b) of this title, a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extent a greater minimum sentence is otherwise provided by section 401(b) of this title, a term of imprisonment under this subsection shall be not less than 20 years. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence.".

(b) EMPLOYMENT OF PERSONS UNDER 18 YEARS OF AGE.—Section 405B of the Controlled Substances Act is amended—

(1) in subsection (b) by striking "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extent a greater minimum sentence is otherwise provided by section 401(b) of this title, a term of imprisonment under this subsection shall be not less than 10 years. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence"; and

(2) in subsection (c) by striking "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extent a greater minimum sentence is otherwise provided by section 401(b) of this title, a term of imprisonment under this subsection shall be not less than 20 years. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence.".

Mr. GRAMM. Mr. President, this is a very simple amendment. It is an amendment that we adopted in the Omnibus Drug Act of 1988. We went to conference with the House and in the waning hours of the session the amendment was deleted. It is an amendment that I feel very strongly about. It is an amendment that imposes a mandatory prison sentence without parole for people who sell drugs to minors or who use minors in drug trafficking.

As we look at our problem with drugs and as we ponder its impact on our society and on us as a people, I think more than anything else the part of it that most enrages us, the part of it that most frightens us, is the selling of drugs to children.

Mr. President, this amendment simply requires 10 years in prison without parole for those who sell drugs to a minor. It does not matter who their daddy is or how society has done them wrong; if they sell drugs to a child and they are apprehended and convicted in the Federal system under this amendment they will go to prison for 10 years and they will serve every single day of that 10 years in prison. The second part of the amendment says that on the second offense they will serve 20 years in prison without parole.

Mr. President, if there is one thing that I have heard over and over again in more than 90 counties where I have met with the local sheriff, local police officers, the department of public safety, the drug task force, it is that we are losing the credibility of the

criminal justice system because people know that they are not going to spend time in jail.

In my State, which has been famous in the past for tough justice, if someone is convicted of selling drugs to a child in the State system and they are sentenced to 10 years in jail, they are probably going to do about 11 months in prison and in all probability they are going to be right back out on the street selling drugs to a minor.

What we do here is establish a Federal standard to assure that that will not happen in the Federal system. And in doing so, we set a standard that the 50 States and the District of Columbia can then replicate.

I believe that this is an important amendment. I think under ordinary circumstances that allowing the judge to have some discretion might be good policy. But I do not believe, Mr. President, that these are ordinary circumstances. I think, given the problem that we face, that we have to have an effective deterrent, and I believe that this gives us an effective deterrent.

I urge my colleagues to adopt the amendment.

I reserve the remainder of my time.

The PRESIDING OFFICER. Is there further debate?

Mr. BIDEN. Mr. President, I do not intend to oppose the amendment. I would just like to lay out a few points very briefly.

We have in the last 3 years increased this offense for selling to minors, I believe, on three different occasions. Most recently in the drug bill, we went up to 5 years. And by the sentencing guidelines, there is a 5-year minimum mandatory now. That is just going into effect now.

I have no argument with the Senator from Texas in wanting to get tough with those who sell to minors. But statistically, we are building into the criminal justice system a very, very difficult dilemma.

We have thousands of minimum mandatory sentences out there now, and we are talking about taking literally years and years and years to clear the dockets and provide prison space for these folks.

But I am not going to object to it. I think it is wiser to let the sentencing guidelines, which will just go into effect beginning November 1 of this year, to work. We just bumped it up to 5 years, and now we are going to do it to 10 without even having moved on the 5 years.

Again, I would rather not have the amendment, but I understand the intention of the Senator. It is not something I have any philosophic disagreement with. I have a practical concern about the ability of the system to tolerate all these minimum mandatory sentences.

I yield the floor.

Mr. HATCH. Mr. President, I compliment the distinguished Senator from Texas. He knows that the only way we are going to ever resolve these problems is to get tough on them.

So by asking for the mandatory sentence to go to 10 years, as I understand it, he is going to get tough about it. Agreed, I am concerned, as the distinguished Senator from Delaware is, that we might not have the jail space for some of these people. But I would rather work on that problem in a separate way, and I agree with the distinguished Senator from Texas.

Mr. KENNEDY. Mr. President, as I understand it, we are on a time limitation. Will the Senator from Delaware yield me 2 minutes?

Mr. BIDEN. I do not control the time.

The PRESIDING OFFICER. For the information of the Senator from Massachusetts, we are not under any time agreement. That unanimous-consent request was not offered.

Mr. KENNEDY. Mr. President, I certainly welcome both the interest and involvement of my friend, the Senator from Texas, in incorporating certainty and predictability in sentencing. As he is probably familiar, the chairman of the Judiciary Committee, myself, and others worked hard to ensure that we were going to have certainty and predictability with the establishment of the U.S. Sentencing Commission.

During the long range of hearings that we had setting that Commission up, we were cautioned by those involved in law enforcement and the criminal justice system about instituting mandatory minimum sentences. We have seen some retreat from that position over recent years.

In a 1989 study entitled "Drugs and Justice, A System Abandoned" by the Boston Bar Association Task Force and Drugs and the Courts—I will include the study itself in the RECORD—concluded on the issue of mandatory minimums:

> Even if a dealer is not immediately released, mandatory sentences have created an intolerable trial backlog in Suffolk County, making speedy justice all but impossible. It can take up to two years to try a drug trafficking case in Suffolk Superior Court. This is exactly the wrong message to send as a deterrence to illegal drug dealers.

Mr. President, I ask unanimous consent that the report be printed in the RECORD.

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

[Boston Bar Association]

DRUGS AND JUSTICE: A SYSTEM ABANDONED

(Report and Recommendations of the Boston Bar Association Task Force on Drugs and the Courts)

PREFACE

With a current membership of about 7,000, the Boston Bar Association is one of the oldest and most prestigious bar associations in the United States. Historically the Association's activities were concentrated in two areas—its section and committee work dealing with substantive law matters and its pro bono efforts dealing with the delivery of legal services to the poor. At its October, 1988 Retreat, after a long and vigorous debate, the Council (governing body) of the Association decided to add a third focus—active involvement in civil and community affairs. At a Boston City Hall press conference later that month, the Association announced the first specific project undertaken in furtherance of this new goal—the formation of a special Task Force to examine how the criminal justice system is coping with the virtual flood of drug cases entering the system. This report contains the preliminary findings and recommendations of that Task Force.

The observations and findings of the Task Force are disturbing. Essentially the Task Force concludes that we are currently losing the War on Drugs. This is a message many will not want to hear. I would suggest, however, that we ignore it at our peril. The group conveying the message has collectively well over a hundred years of experience in dealing with our criminal justice system and no vested interest to protect or further their own ends. Their concern is only the well being of our metropolitan community. Hopefully those who share this concern will heed their warning and give prompt and careful consideration to their recommendations.

All of us who are concerned with the health of our community owe a deep debt of gratitude to the Task Force members who have contributed so much of their time to this important effort. This is particularly true with respect to the chair of the Task Force—Allan van Gestel, one of the most able and respected litigators in the city. Our thanks must also go to Allan's firm, Goodwin, Procter & Hoar, and its Chairman Bob Fraser for their unstinting support of the project, both moral and logistical, and to Pandick Press which has printed the report without charge as a public service to the bar and to the community.

EDWARD F. HINES, Jr.,
President.

INTRODUCTION

Over the past six months, the Boston Bar Association Task Force on Drugs and the Courts has conducted a study of the effect of the efforts of public safety forces to enforce the narcotics laws through the criminal justice system in the Boston metropolitan area. Some initial observations and recommendations are reflected in this interim report. We intend to file several detailed "action plans" by September 30, 1989. The focus of those plans will be discussed below.

The members of this Task Force unanimously agree that we are losing the War Against Drugs. On every battlefront the forces of law and order, whether police prosecutors, judges, probation officers, sheriffs or correction officials, are being overrun. In many cases, major elements of our criminal justice systems are in total retreat and chaos.

Of far greater concern to this Task Force is the overwhelming evidence that there is no real strategy to win any major battles, let alone the War itself. We seem determined to arrest more drug offenders without any consideration for the fact that they will not receive punishment for one to two years. We seem determined to increase mandatory sentencing provisions of our drug

laws with no consideration of the substantial evidence that those laws, however well intentioned, have greatly contributed to the collapse of the criminal justice system. The infrastructure itself is literally falling apart. There are too few judges, in too few courtrooms, to send too many inmates to too few jail cells.

In all our work we have discovered one point of consensus. It is the simple truth that "justice delayed is justice denied." We speak not only of the justice for the criminal offender but also for the victims of this drug plague. We have substantial evidence that entire sections of our cities are under the increasing control of drug-based gangs. If we cannot develop a winning strategy in the very near future, then we are destined for total defeat.

The members of this Task Force can assure the Bench, the Bar and the public that recourse to traditional solutions will not have any significant impact in the years ahead. What this crisis demands is a new and invigorated will to set aside agency rivalries, turf battles and personality conflicts. The public wants this problem solved. It is up to our elected and appointed leaders, as well as all members of the legal profession, to demand a strategy based on reason, not emotion of political advantage.

This interim report will focus on much of the evidence we have received describing the magnitude of the problem. It does not, in most instances, offer any detailed program to solve these problems. That is not our purpose here. We seek merely to alert the reader that this problem requires a reaffirmation of our public will to survive as a civilized society as well as our public commitment to share in the solution.

A. OUR LOCAL CRIMINAL JUSTICE SYSTEM

The picture does not improve when we focus on our local criminal justice system.

Here there really is no system at all. Our criminal justice program aptly can be seen as the orphan of government, the wastebasket of society, for what it receives and the manner in which it is treated by almost everyone who comes in contact with it. At every level, and in all departments, we find too few people, with too little financial support, grossly inadequate facilities, shackled by inconsistent and wholly uncoordinated rulings and legislation, for the most part neglected by the executive and legislative branches of government, and ignored by a society which, through its own actions, has revealed a stunning ambivalence to the drug problem. To suggest any modification of the legislated penalties against narcotic use or sale or to suggest decriminalization in any form evokes instant reactions of extreme rejection. These reactions, however, come from the same people who won't hire, train, supervise or pay more police, won't site or build more penal or treatment facilities, won't appropriate more funding for more judges, won't fund more court and probation department support personnel, in short, won't pay for or permit in their neighborhood, any of the several extensive and expensive tools that are needed to enable our criminal justice system to effectively attack the drug problem.

Justice Holmes taught us that the law is not what judges or others say it is, but what actually happens to people who transgress the apparent behavioral code. Thus, the first and largest question to be asked is whether we really are involved in a War Against Drugs, whether society really wants or expects its criminal justice system to solve the narcotics problem. The response to date, at almost all levels, does little to suggest that it does.

The failure to address the problem of drugs in a coordinated and effective way, has overwhelmed the local criminal justice at all levels. Followers, as well as leaders, have let the system down. There is a crisis of will. Until adequate funding for each of the inter-connected parts of the criminal justice system is provided, and until major changes are introduced, the war will continue as a lost cause.

Drug arrests have increased dramatically in recent years. There are, however, few additional judges, and no additional courtrooms, to try existing or new cases, and grossly inadequate jail space to hold those awaiting trial and after sentence. Because there is no space in the jails, many drug dealers who are awaiting trial are released back into the neighborhoods legitimizing the charge of "revolving door justice". Even if a dealer is not immediately released, mandatory sentences have created an intolerable trial backlog in Suffolk County, making speedy justice all but impossible. It can take up to two years to try a drug trafficking case in Suffolk Superior Court. This is exactly the wrong message to send as a deterrence to illegal drug dealers.

Speedy dispositions of drug cases are not possible under existing circumstances. This leads the residents of communities most impacted to identify the criminal justice system with the problem rather than the solution. Until swift and certain justice is possible, public confidence in the courts will continue to erode.

Today's drug problem is not only different in degree, it is different in kind. Crack, a relatively new drug, can easily be manufactured in the home, creating a growing cottage industry. Barriers to entry into the crack business are virtually nonexistent. Violence on our streets has escalated to an unprecedented level. Sophisticated weaponry, particularly automatic weapons, have proliferated to protect and expand drug networks. Innocent victims have been caught in the deadly crossfire of a private war between competing drug gangs. Drug dealers will become more bold as the perception grows that society is impotent to stop them.

Tragically, drug traffickers have become role models emulated by the young. It is difficult to say "no" to drugs when profits are so large and meaningful punishment only an abstraction.

The criminal justice system can be saved, but only if public indifference to the problem can be moved out of the way.

B. TASK FORCE RESOURCES

Our study included conversations with a wide and diverse number of individuals experienced, involved and interested in all facets of the problem. In each instance, everyone we spoke with was extremely cooperative and supportive of the effort. Included were representatives of Boston Mayor Raymond Flynn; representatives of the Boston Police Department; judges at all levels of the court system, including the Supreme Judicial Court, the Chief Administrative Justice, and the Superior and District Court Departments of the Trial Court; key personnel in the Suffolk County District Attorney's Office; the Sheriff of Suffolk County; the Attorney General and members of his staff; the Governor's Legal Counsel; representatives of the Corrections Department; public and private defense counsel; and private citizen representatives from affected neighborhoods. Visits were made to District Courts in the metropolitan area, the Boston Municipal Court, the Suffolk Superior Court and the Special N Part Narcotics Prosecution Court Project in New York City. Numerous publications from federal and state legislative groups, criminal justice agencies, academics, editorial writers, the local and national press, and others have been gathered and studied. Statutes, court decisions and rules of practice have been reviewed.

C. SIGNIFICANT OBSERVATIONS

In the process, we observed the following:

1. The illegal narcotics problem itself is overwhelming. There are too many narcotics users, too many narcotics dealers, too many narcotics traffickers and too many offshoot narcotics related crimes. The inability to keep illegal narcotics out of our maximum security prisons demonstrates the utter futility of attempting to seal off the borders of Massachusetts or the United States. There are simply too many ways and too many willing participants to ever hope to mount a successful interdiction program which will eliminate the supply of narcotics. In fact, the evidence suggests that as we have stepped up interdiction, the supply of drugs have grown steadily more plentiful, of better quality and of lower prices.

There are misunderstandings at all levels about drugs and the problem they cause. Simplistic solutions overlook the fact that different responses are required to different drugs, different uses of the same drug, and different users. Heroin, for example, with its reliance on needles and tie-in with AIDS, is quite different from cocaine. Snorting cocaine is quite different than smoking crack.

2. Law enforcement agencies appear to be losing an uphill battle and are themselves becoming buried and battered in the process. The largest police department in the metropolitan area, the Boston Police Department, reports making arrests on narcotics charges at a current rate in excess of 7,000 per year. There is no way that 7,000 people can be tried each year in the courts of Suffolk county, or jailed or treated, should it turn out that they warrant or need one of the other.

The Boston Police Department is incapacitated by a Drug Control Unit that is too small, having only approximately 60 officers assigned to it. The DCU is overburdened by court appearances, its officers often being called to testify in multiple courts at the same time on the same day.

Language problems, Hispanic, Oriental, and others, and complications presented by justifiable constitutional limitations, make it nearly impossible for the Boston Police Department to conduct an effective wiretap investigation of a narcotics ring. Seemingly simple things like the safe storage of drugs, money, equipment, and even automobiles, seized by the Boston Police Department present immense problems. The officers assigned to the Drug Control Unit are subjected, on a daily basis, to ever-increasing and deadly personal risks as the greater use of weapons and violence pervades and infects the illegal drug trade. Temptations abound and the potential for corruption within police departments is frightening.

And, as the Boston Police Department gets more sophisticated and more effective, the Balkanized local governmental structure in the greater Boston metropolitan area invites those conducting illegal drug activities to avoid that sophistication by moving their operations a few miles or a few subway stops over the city line to Quincy, or Cambridge, or Chelsea, or Revere, or any of the

other nearby, but wholly-separate governmental entities in the metropolitan community.

Perhaps most significant of our observations about the law enforcement side was the near total lack of trust, cooperation and coordination among and between the agencies involved. In Boston for example, drug arrests are made by the Boston Police, the Metropolitan District Commission Police, the State Police, the MBTA Police, Housing Authority Police and Federal Drug Enforcement Agency officers, to name only the most active of the group. Those various police agencies seem in constant turf wars and appear wholly distrustful of each other. Certainly they do little to work in any coordinated manner. Not only is this wasteful and duplicative of resources, it is also extremely dangerous for those who are performing undercover operations. On more than one occasion, officers from one force have come close to arresting or shooting at officers from another force that they did not realize were involved in undercover activities. We observe the anomalous situation where the head of the Federal Drug Enforcement Agency in Boston and the newly designated United States Attorney want to join in combat with the Boston Police and the request is rejected.

3. The situation with regard to jails, houses of correction and prison facilities is complicated, expensive and wholly inadequate for the task. The jail problem is probably the biggest current impediment to an effective drug program. Setting aside for the moment the serious societal question of who should be imprisoned, for what, and whether we imprison too many people, it is absolutely clear that police departments, district attorneys' offices and courts are being asked to arrest, prosecute and incarcerate vastly more people than the existing jail facilities can ever hope to accommodate.

The situation is as bad for post-trial incarceration as it is for pre-trial detainees. Almost every local jail has, or is about to have, imposed upon it, by some federal or state court order, a cap or limitation on the number of people it can accept and house. These orders, valid in every instance, come from a variety of different courts and different judges, are not coordinated in any way, and seem oblivious to the realities and burdens placed on the sheriffs and courts which have to deal with the situation.

The example at the Charles Street Jail in Boston is revealing. There a Federal judge has furthered an earlier order of that court regulating conditions at the jail which has resulted in an effective upper limit of 342 inmates. A justice of the Supreme Judicial Court, has issued orders with regard to the steps which can or must be taken by the Suffolk County Sheriff and the Superior Court in attempting to deal with problems when the cap is reached. Those orders require that certain kinds of pre-trial detainees must remain in jail, while others can be considered for release to halfway facilities, or even the street, at the times when the cap is to be exceeded. Until recently, those included among the group who could not be released were people awaiting trial on charges of operating a motor vehicle while under the influence of alcohol, a legalized drug. The result was bizarre. People charged with trafficking in cocaine, an illegal drug, were eligible for release to halfway houses, and in some instances to the street, because there wasn't enough room at the Charles Street Jail, while people charged with operating under the influence of a legal drug were kept locked up.

Even more peculiar is the result that, in order to protect the constitutional rights of prisoners to a single cell at the Charles Street Jail, the Sheriff has had to move prisoners, at enormous expense and personnel dislocation, to other jails throughout the Commonwealth. When moved, however, the detainees often end up in facilities in other counties not subjected to the Federal court order and, therefore, in cell situations with multiple prisoners, under conditions far worse than if they were simply double-bunked at the Charles Street Jail.

The ability of the state and local governments to construct prisons is immensely hampered by the rigid laws which were enacted during the tenure of the Ward Commission, particularly Chapter 579 of the Acts of 1980. Worse is the reluctance of the General Court to fund the construction, and the unwillingness of the people themselves, often acting with the assistance of their local state legislators, to allow the facilities to be built in their communities. The construction of jails is a very expensive, time-consuming operation and, it seems, as soon as a new jail is built, it is immediately filled. The numbers being arrested will probably increase rather than decrease, thus still further exaggerating and aggravating the jail problems. No one, however, seems to be considering alternative sentencing for drug offenders.

As bad as the situation may be with the siting, funding and construction of prisons, the problem of treatment facilities is much worse. There is almost no attention or funds, being made available for treatment.

4. The District Courts are the courts closest to the people in our system. The inner-city District Courts, particularly those in Dorchester, Roxbury, West Roxbury and Chelsea, are being swamped with proceedings related to narcotics arrests. Similar problems exist in other urban District Courts, particularly in Springfield, New Bedford, Lawrence, Worcester and Lowell. Of the 69 District Courts in the system, the nine listed here account for nearly 50% of all drug cases.

The Court buildings are, for the most part, in deplorable physical condition, understaffed by judges and greatly lacking in sufficient support personnel. The allocation of judicial resources is complicated by the fact that judicial vacancies remain too long unfilled. New judges under last year's Judicial Needs Bill, Chapter 206 of the Acts of 1988, are only now starting to be appointed by the Governor. Their compensation, however, has not been fully funded yet. Additional court support personnel are also in great need. Under an economy measure in the FY '89 budget, vacancies in court support personnel that occur by attrition may not be filled. This has caused a 10% diminution in the number of court employees in a system which needs more, not fewer, people in support positions. An equally serious complication is that although judges can be moved around from court to court under certain circumstances, the same movement of clerk personnel cannot be accomplished under present laws.

It is the belief of some in the District Court Department that a different approach is taken to the inner-city courts from those in the more affluent suburban cities and towns. Conditions that would not be tolerated in the less urban community courts are the routine in places like Dorchester, Roxbury, West Roxbury and Chelsea. These courts have no particular supportive constituency and the neighborhoods themselves seem unable to generate concern on the part of those controlling the situation.

5. The Superior Court in Suffolk County suffers from similar limitations in resources, facilities and support personnel to those which plague the District Courts. There are not enough Superior Court judges, nor are there enough clerks, stenographers and support personnel to assist them. Like the District Court system, the provisions for the Superior Court in the Judicial Needs Bill have been abandoned in the current fiscal crisis. Judicial positions created almost a year ago are just now being filled, and those judicial offices remain significantly unfunded in the proposed budget.

Demands for creating specialized narcotics courts or night courts can hardly be taken seriously when present vacancies and deficiencies in the courts remain unattended to.

Another complicating factor in the Superior Court is the implementation of the Supreme Judicial Court's Time Standards Order. This plan, designed to reduce the huge backlog in civil cases, is already straining the system to the core. Any shift of resources to the criminal side will surely cause that laudable and necessary program to fail.

6. There is concern that the criminal defense bar, both public and private, is, for the most part, too small, too inexperienced and too underfunded to be able to effectively handle the crush of business which could come about if corrections were made in the other parts of the system. Compensation for private counsel, engaged in cases through the auspices of the Committee for Public Counsel Services, remains at $25.00 per hour for out-of-court time and $35.00 per hour for in-court time. These amounts have not been adjusted since 1981. Compensation for entry level prosecutors is equally poor. The Suffolk County District attorney's office starts its lawyers at as low as $21,780 per year.

There is very little to attract lawyers to criminal defense or prosecution work of the nature needed in the District Courts, and even the Superior Court. Compensation is low, the conditions are as poor as most clients, and, for the defense bar at least, community opprobrium is all too frequent. There is even less to hold them in those kinds of positions when their colleagues can practice civil trial work, or non-trial law, in elegant downtown office buildings and command 2, 3 and 4 times as much in compensation for such "clean" legal work.

7. The laws, decisions and court rules that deal with narcotics cases are a hodgepodge of inconsistency, adopted with the best intentions, but resulting in as much aggravation to the problem as the unwillingness of the other two branches of government to provide the necessary funding and support for the courts. Mandatory sentencing is perhaps the most pernicious of the problems. Intended to show a toughness and intolerance for the evils of narcotic violations, the effect is to clog the courts and make them even less able to handle the crush of business because the opportunity to resolve cases by plea bargaining is all but eliminated. Criminal defense lawyers are forced to "play for the fumble" by raising every conceivable defense and insisting on a full and complete trial in the hopes that the government somewhere along the line will stumble in a way that will provide relief for the accused.

Laws relating to the allocation of jurisdiction, even despite the recent *Cedeno* decision by the supreme Judicial Court, remain

uncertain. Bail presents similar problems. If it is set too high, it can't be met and the people involved must be held in jail awaiting trial. The jails, however, are subject to caps and are already crowded beyond the overflowing stage and, therefore, there is no real room. Thus, courts must consciously keep bail at a lower level so that people can post it and return to the street while awaiting trial. As noted earlier, this creates the "revolving door justice" phenomenon, a legitimate concern in the neighborhoods where drug trafficking is rampant, and a source of demoralization and anger for police and other public officials.

8. Given the problems in arresting, prosecuting, trying and punishing those involved with illegal drugs, thoughts turn to the other side, which involves treatment. Here, like everything else, there is far too little available. There is almost no treatment that is realistically up to the task of attempting to cure those who have become seriously addicted. Certainly, there is essentially no treatment in our prisons. Treatment facilities, however, like everything else are expensive and their siting, because people don't like those people who go there for treatment, is as difficult as siting a prison.

9. Even in relatively small and technical areas, problems abound. The Public Health Drug Analysis Laboratory at Jamaica Plain analyzes most of the materials seized in Boston from drug dealers. The laboratory is too slow. The average response time as of this writing is about six weeks. Judges' suggest even longer delays, predicated upon statements by prosecutors that seek trial continuances because the lab reports are not back. It is unclear, however, whether the problem isn't perhaps a bit more complicated. There certainly seems to be room for improvement at the laboratory, a situation that should not be terribly expensive. Simply adjusting the lines of communication between the laboratory, the police and the District Attorney's office would be an easy start.

At the same time, it appears that on some occasions, those responsible for picking up and delivering the drug results, the police department generally, may have been using the laboratory as an excuse for their own purposes. Similarly, there may be occasions in which a prosecutor who is not really ready for trial for another reason uses the laboratory as a convenient scapegoat. Improvements at the laboratory and tightening up on supervision at both the police departments and in the District Attorney's office would seem a simple cure.

10. There is a significant lack of coordination between and among federal, state and local agencies; federal legislative and state legislative bodies; the federal executive branch and the state executive branch; and federal courts and state courts, in their dealings with drug issues. Given the magnitude of the problem and the immense amounts of money that is being spent in connection with it, it is unfortunate that a vastly greater degree of inter-agency, interdepartment and inter-government cooperation cannot be fostered. Many metropolitan areas run coordinated drug task forces where resources of people, information and statutory power are pooled. This not only prevents confusion and waste, but makes available to local authorities the federal resources and forfeiture laws that work.

11. Interdiction, the prevention of the importation of drugs into this country, is a failed effort. The United States' borders are far too large and far too vulnerable to be able to be policed effectively. The American public is far too willing to pay for drugs that are brought in. The business community cites drug use by employees as one of its greatest problems. Foreign countries where drugs are produced are too small, too weak, too corrupt, or too antagonistic towards the United states to mount any effect programs within their own boundaries to control the drug lords who start the entire chain. And even if any of that were effective, it seems certain that the ingenuity of the criminal mind, given the immense temptation of the huge amounts of money involved, would enable those criminals to produce the product within the boundaries of the United States if the borders ever could be sealed.

12. The present approach, criminalizing everything, has not succeeded. It has made many criminals extremely rich, has increased the number of offshoot crimes and violence, and has placed many of the most needy neighborhoods in total jeopardy, held hostage to drug trafficking and the misery that follows in its wake. This Committee concludes that locally, at least, the problem cannot be solved. Like the medical profession's battle with cancer, the most that can happen is that it can be better controlled and managed. Even the latter, however, will only be a realistic possibility if society demonstrates that it really cares enough to support the effort and demands action from its leaders. We have serious doubts that the Massachusetts Legislature or the Executive, in the absence of strong public demand, will appropriate the funds and revise the legislation necessary to attempt to effectively control the problem. Nevertheless, we reach the following conclusions and make the following recommendations. With regard to each major recommendation, we intend to prepare or commission, and publish, a detailed plan for its implementation. We submit our recommendations now because we believe them important and believe that they will help to provide public understanding and a basis for free and open discussion.

D. CONCLUSIONS

It is clear from what we have observed, that the present strategy is not succeeding; that we need a new set of tools and approaches. To develop those tools, to select policies which have a chance of success, we need to know much more than we do today. The Committee, therefore, publicizes the findings of Mark A.R. Kleiman and Kerry D. Smith of the Program in Criminal Justice Policy and Management at the Kennedy School of Government at Harvard University. In a January 31, 1989, paper in progress, entitled "State and Local Drug Enforcement: In Search of a Strategy" Messrs. Kleiman and Smith said:

"In principle, the right way to choose a drug policy for a city would be to describe the problem, invent some alternative approaches to addressing that problem, predict the costs and the likely result of each approach, and choose the least painful. Then, after a while, one could measure the results and compare them with the predictions. Unexpected results or new situations would call for changes in policy.

"In practice, no city has anything resembling a quantitatively accurate description of its own drug problem. Nor is there a well-worked-out body of theory or experience to allow predictions of the likely results of alternative approaches.

"Theory and experience agree that neither high-level enforcement nor unfocused retail-level enforcement is likely to contribute much to solving the problem under current big-city conditions. Yet local drug enforcement consists primarily of a mix of those two strategies. A growing share of local law enforcement budgets is thus being committed to programs that are both unproven and implausible.

"Law enforcement agencies, like boxers, need to learn to fight their weight. In a city that has a small crack market, for instance, investing early and heavily may succeed in keeping the market small or driving it out. Where a large crack market already exists, consideration should be given to whether even maximal efforts are likely to have much effect. There will come a point of diminishing returns, when throwing more police resources into the pot will no longer produce significant social benefits. Refining the techniques for making those calculations poses a substantial intellectual and practical challenge.

"Crackdowns focused on particular neighborhoods have some theoretical advantages, and a little experience to suggest they can work. But the extent to which they simply push the problem around is undetermined. For neighborhood crackdowns to be a viable citywide strategy, it must be possible after a time to move enforcement resources to a new area and repeat the process. That, in turn, requires both the development in the crackdown area of indigenous capacity to resist the return of drug dealing and a willingness on the part of residents to see the focus of police attention shift once the problem has subsided. How local governments can create that capacity and that willingness remains an open problem.

"Drug markets dominated by warring youth gangs will leave more corpses behind them than drug markets not so dominated. Routine drug enforcement may have little to contribute to gang control; police need to learn how to make life particularly miserable for gang-related drug dealers (and gang members committing other crimes).

"There is some evidence—not yet much—that putting police in the classroom as "drug education" teachers can reduce the rate at which adolescents are initiated into illicit drug use. Whether such programs are an efficient use of police work-years depends in part on the value of alternative uses of the same work-years. If current drug activities are already overloading the capacity of prosecutors, courts, and jails, the arrests sacrificed by putting some police in classrooms may not matter much.

"Considering how much of the public concern about drugs centers on the link between drugs and crime, it is surprising how ill-designed current policies are to discourage the long drug/crime careers characteristic of heroin users (and almost certainly of some crack users). Mandatory drug abstinence for drug-involved offenders, verified by testing and backed with the threat of reincarceration, ought to be a centerpiece of any serious 'career criminal' or 'dangerous offender' program.

"Research, which has contributed relatively little to the current decisionmaking process, seems ill-positioned to contribute much more. The most obvious need is for a set of plausible, computable models of local drug sales activity as a function of local enforcement activity. This would likely involve some combination of microeconomics and operations research.

"But better models will be of limited practical use unless someone collects the data to feed them with. Numbers of users, numbers of sellers, numbers of transactions, total revenue; all of these data are needed, and

needed down to the neighborhood level. This requires some very expensive data collection: surveys, street ethnography, and the development of user, ex-user, and potential-user panels. No police chief will ever know as much about the cocaine market in his or her city as the local manager for R.J. Reynolds knows about the cigarette market, but we can be, and need to be, much closer to that position that we now are.

"One way to start would be to collect more information about drug enforcement. Local, state and national data collection systems often fail to make essential distinctions or to be kept in comparable categories; the Uniform Crime Reports, for example, lump heroin and cocaine together. Questions of the form, "How many crack sellers were arrested in Chicago last year, and how many aggregate years of confinement were they sentenced to?" need to be routinely answerable before any serious study can be made of the results of alternative strategies.

"Beginning to collect at least the minimal level of information would suggest a new level of seriousness about developing responses to the drug problem that produce publicly valuable results. Until then, state and local drug enforcement will remain a collection of activities in search of a strategy."

E. SHORT-TERM RECOMMENDATIONS

1. We conclude that it is far more important that justice be swift, than that sentences be long. Adjustments must be made and programs instituted in the District and Suffolk Superior Court Departments of the Trial Court to provide swift, efficient and certain justice. This should include consideration of a fast-track drug offender's program in the Superior Court and a modification of the New York N Part approach for the District Courts. This system is based on a speedy initial hearing program. In New York, laboratory results are produced within 6 days of arrest. At that time a defendant is given an opportunity to plead to an offense for which he will face a less severe penalty or be directly indicted on the most serious charge. District Courts should adopt a similar system supported by speedy test results, swift indictments and the opportunity to plead to a less serious offense in the District Court prior to an indictment.

Early intervention and more careful screening of cases should be instituted in the District Courts by experienced Superior Court Assistant District Attorneys in an effort to dispose of more cases at that level and to determine if the more serious trafficking cases can, or should, be the subject of direct indictments in the Superior Court. The continued use of probable cause hearings in the District Courts is recommended, but they must be tied to better case screening and a better allocation of judicial resources to conduct those hearings, particularly in Roxbury, Dorchester and Chelsea. At the same time, particularly if there is to be a fast-track drug offenders program and more direct indictments, there ought to be assigned 3-4 judge teams to Suffolk Superior Court, each team to sit for 3-6 months, with one judge hearing pleas, deciding motions and assigning trial dates, and the others presiding on trials. Both the District Court N Part type program and the Superior Court Drug offenders plan will also require the infusion of money and resources at the laboratory, in order to produce fast and accurate test results.

Attention must be given by the Governor and the Legislature to the implementation of last year's Judicial Needs Bill, such that it gets fully funded and the judges authorized thereunder are promptly appointed. There will be a need for an immediate addition of new court clerk and probation office personnel in those courts most seriously affected (Roxbury, Dorchester, West Roxbury, Chelsea, Suffolk Superior, etc.).

2. Means should be devised for coordination among the critical federal, state and city agencies and among all affected parties. In particular, there should be a major coordination among police departments in the Metropolitan Boston area somewhat like the Allied governments got together and cooperated against a common enemy in World War II. Every opportunity to develop a joint task force should be considered, even if it means hiring more Boston patrolmen or promoting them to detective rank. There also should be coordination among the judges in the various courts including the Supreme Judicial Court, the Appeals Court, the Superior Court, the District Court, the Boston Municipal Court, the Housing Court and the Federal Court. Similar kinds of cooperation and coordination should be worked out with the offices of the Suffolk, Middlesex. Norfolk and Essex County District Attorney's office, the U.S. Attorney's office and the State Attorney General's office. There should be established a permanent coordinating group with representatives of courts, prosecutors, police departments, the organized Bar and neighborhood spokesmen which meets on a regular basis to discuss problems of common interest and avoids inconsistent and counter-productive efforts. A similar multi-interest group should be created to review and assist in the drafting and passage of related legislation.

3. Massive public educational programs about the function, role and workings of the criminal justice system and all of its branches, including explanations of the roles of prosecutors, defense counsel, District Courts, Superior Courts, Sheriffs, jails, Probation Departments and explanations of legal principles, such as those relating to bail, jurisdiction, sentencing, constitutional rights, etc., etc., should be undertaken. *The Boston Globe, The Boston Herald* and the major local television and radio stations should be asked to set aside their rivalries and join in this effort. A Special Education Committee or the Criminal Justice Section of the Boston Bar Association could be asked to attend to this task and to coordinate its activities with the Boston Against Drugs program already in place.

4. In order to bring the most affected communities into the process and to provide them with support, the formation of Community Advisory groups should be encouraged in order to coordinate and meet on a regular basis with representatives of the Courts, of the District Attorney's office, of the Police Department, and of such other agencies as may deal with the problem at any given time. The Mayor should consider the appointment of a Deputy Mayor specifically charged to lead this effort.

5. The Police Department needs more, and better trained, officers in its Drug Control Unit. More senior officers need to pay greater attention to the day-to-day activities of the Drug Control officers. The City should provide its Police Department with the facilities necessary for the Drug Control Unit to operate efficiently. These facilities should include ample and secure room for the safekeeping of drugs, money, and other things recovered, and the disposal thereof. There must be far greater coordination between the District Attorney's office and the Police Department so that the officers are given better guidance on the important legal and constitutional principles that apply to their daily activities.

But most of all there needs to be a leadership effort by the Police Commissioner to redirect the police approach to the drug problem. This redirection should be along the lines which proved so successful a decade and more ago when the current Commissioner led the Community Disorders Unit in the battle against racial violence. At one time, as fire bombing and violence engulfed several neighborhoods, that battle too seemed beyond the power of the police alone to win; prejudice and racial hatred was too ingrained in Boston's ethnic neighborhoods, went the prevailing wisdom, for the police and the criminal justice system to turn matters around. But turn them around they did. Through a process of open information exchange between citizens and police, through building a sense of public trust, through never waivering decisions of Superior Court judges in their support of what was lawful and right, the police and the justice system finally made the difference.

It can be done again, but it will require application of the same principles, building the same trust and opening up and keeping open the same informational exchange between citizens and police. It will require true community policing, police that become a part of the neighborhood to which they are assigned. It will require citizens willing to help and assist and inform those police. It will require close coordination with the Drug Control Unit. It will require from the police and courts assurance that punishment for offenders will be swift and certain. It will require the development of ways to mobilize the resources of the local community to work closely with the Police Department. Combined with the other reforms to the criminal justice system suggested by this report, all of these requirements should be capable of being met successfully.

6. The prison system is perhaps the largest single impediment to the effectiveness of the present program. Its solution is complex and expensive. Nevertheless, early attention must be given to commandeering sites to hold pretrial detainees; much more speedy construction of modular prison units must be accomplished; and, as the Governor has recently urged, changes in the Ward Commission law, Chapter 579 of the Acts of 1980, must be made to permit faster attention to the construction of new facilities. The Legislature should consider requiring a prison inmate impact statement before any new law becomes effective which would result in increasing the prison population. The Governor and the Mayor must each be convinced to proceed much more aggressively with the siting of facilities and must not permit localized opposition to stand in the way. The Mayor's Office should undertake an immediate program to inventory and identify all unused or underutilized city property to locate sites which can readily be converted to emergency pretrial holding facilities. A similar project is needed to develop locations for sentenced Suffolk County inmates. The Governor should conduct the same kind of inventory for the same reasons, at the state level. The Federal court should be asked to re-examine its orders regarding the Suffolk County Jail upon completion of the new facility.

In addition, and clearly much more important, there should be careful attention given to alternative sentencing and punishment

techniques. Programs should be devised to control and regulate offenders outside of prisons, using the latter only as a last resort.

7. The laws that relate to drug violations should be subjected to an immediate study with the object of clarifying them, coordinating them, and putting them together in a cohesive whole. In that regard, serious attention should be given to eliminating, or modifying radically, mandatory sentencing to better facilitate plea bargaining and the processing of cases in court. The laws should be amended to permit judges the discretion to override mandatory sentencing for first time offenders and those who cooperate with the prosecution. Defining the crimes themselves in a way that realistically attends to the situation as it exists is equally important. A more clear allocation of jurisdiction between and among the courts is needed. A forfeiture bill, such as that sought by the Attorney General, is highly recommended. At the same time we consider the proposed change in drug sentencing to include a ⅔ parole requirement, rather than the more usual ⅓ provision, to be counterproductive.

8. The Suffolk County District Attorney's office has a unique opportunity to play a leadership role in the fight against drugs. The assistants involved in drug cases need better training and supervision and must be encouraged to work much more closely with the Police Department and neighborhood groups. Far greater flexibility in charging on drug cases should be encouraged. Compensation adjustments are needed to attract people to longer terms of service as prosecutors.

Similarly, the criminal defense bar needs augmentation and support. Among other things, the budget of the Committee for Public Counsel Services ought to be expanded so that the payment for private counsel can be brought up to more realistic levels above the $25.00/$35.00 per hour rate currently in effect.

9. The Boston Bar Association ought to give consideration to the creation of a Drug Corps or a Criminal Justice Corps whereby the private civil bar would be encouraged to support, with people, a program that makes bright, young lawyers available: to assist the District Attorney's office as prosecutorial aides; to advise the Police Department as law enforcement counsellors on search warrants, wire taps, etc.; to help the Committee for Public Counsel Services with legal research and case preparation; and to aid the Courts, as research and case management assistants. This would serve the purpose of getting some of the rest of the Bar involved directly with the criminal justice system and, hopefully, would have a spill-over effect that would cause an upgrading and greater support for that system.

F. LONG-TERM RECOMMENDATIONS

1. The drug problem is overwhelming and devastating in its effect, not only on Metropolitan Boston, but on Massachusetts and the country as a whole. It is contributing significantly to the breakdown in the criminal justice system. It is in danger of seriously corrupting law enforcement entities. It is causing the expenditure of immense amounts of tax dollars in a losing fight. It is making criminals immensely wealthy and destroying our most vulnerable and needy neighborhoods. Under all of the circumstances, it would be an abdication of responsibility for this Committee not to recommend that a very serious, long-term and detailed study based upon information derived from our conclusion about the need for hard data, should be made of the basic strategic approach we are following in dealing with narcotic drugs.

It may be that expecting the problem to be cured by the criminal justice system is wholly unrealistic and that, in fact, the problem is destroying the criminal justice system and at great expense. It may also be that the problem lies at the other end of the scale and that, in fact, an approach aimed at arresting and jailing all users would be a more effective way to break the drug culture than concentrating only on dealers and suppliers. Society's ambivalence about the use of drugs and its utter unwillingness to date to pay the high cost of having the criminal justice system effectively address the problem, makes the study of basic strategies logical and proper for this Committee to advocate.

2. Our study has revealed a criminal justice system which, wholly separate from the strains imposed upon it by the drug problem, is in desperate condition. It truly has become the orphan of government. Resources, both personnel and physical, and of all kinds, are needed at all levels. There are not enough judges, and they are not compensated well enough. There are not enough clerks and probation personnel, and they are not compensated well enough. Laws have been passed which inhibit the efficient utilization and mobilization of personnel resources to affected courts and communities. Court buildings are crumbling and falling down around the people who attempt to work in them. The whole system has been grossly neglected. The courts lack an advocate and a constituency. As a result, the system is archaic, medieval, bizarre in its details—wholly inadequate to its high mission of administering and delivering justice to our society.

A massive effort must be made by responsible parties and institutions to develop and build a constituency of support for our state justice system. The courts are not just another agency, they are a co-equal branch of government which, much more than the legislative and executive branches, exist to protect the rights of the people. The Boston Bar Association ought to devise a long-term program, perhaps in conjunction with the Massachusetts Bar Association, whereby ongoing and substantial support for the justice system is made a regular and expected duty of every lawyer who practices in the state. Ways must be found to educate and build a constituency to rebuild this vital branch of our state government.

3. American society imprisons offenders at a far greater rate than any other non-communist society except South Africa and yet, at the same time, we seem to have a crime rate that generally outstrips our civilized neighbors. It is not unusual leniency that distinguishes ourselves from less violent nations. It has been asserted that the United States differs from other industrial societies in several dimensions of social and economic life that are crucial in accounting for our high levels of criminal violence. These include a wider spread of inequality, greater extremes of poverty and insecurity, the relative absence of effective policies to deal with unemployment and subemployment, greater disruption of community and family ties through job destruction and migration, and fewer supports for families and individuals in the face of economic and technological change and material deprivation. Social mobility contributes greatly to the breakdown in societal mores and sociological control.

It is certainly true that the growth and threat of drug-related criminal activities is at its greatest in those communities that suffer most from our extremes of inequality and the wide disparities between the rich and the poor. If, as seems likely, the causes behind the vulnerability of our poorest, most segregated neighborhoods to drugs lie in the social deprivation from which these communities suffer, the lack of decent, affordable housing, good jobs, and an adequate public education system, then the solution must lie in improvements to these areas as well. Simply building more prisons and writing more laws will not be a sensible or productive means of addressing the problem in the long run if major efforts are not begun to improve the conditions of inequality and deprivation under which too many Americans presently live.

Respectfully submitted,

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MAY 23, 1989.

Mr. KENNEDY. Mr. President, this situation that we are confronting in Boston is replicated in many jurisdictions, and certainly in New York, New York City.

One of the outstanding district attorneys in the country, Bob Morgenthau, who has been about as tough on criminals and has been as tough at obtaining sentences as any district attorney, has cautioned Congress about moving in this area just to demonstrate that somehow Congress is being tough on the drug sellers.

So I had hoped, Mr. President, that we would have an opportunity to examine this concept as it relates to our criminal justice system, the speediness of trials, and whether we are really going to achieve the objectives which I share with the Senator from Texas.

We have now seen, as a result of the mandatory sentencing provisions that we included on the omnibus drug bill last year, the judicial conferences of the 3d, 8th, 9th, and 10th circuits, of the courts, have adopted resolutions condemning mandatory minimum sentences, just like those being proposed, as being counterproductive in trying to ensure swift and speedy justice for

those that are involved in drug trafficking. Copies of those resolutions were included in the Senator from Delaware's remarks and I commend them to every Member of the Senate.

I could go on, Mr. President. I understand what the Senator from Texas is attempting to achieve. But I do think that the kinds of concerns which have been expressed by the chairman of the committee and those who are involved in the prosecution of these criminals, prosecutors like Bob Morgenthau, who takes a place second to none in this country in being tough on drug traffickers, realize now that as many as 60 percent of those who are actually arrested for trafficking are out, and the principal reason that they are out is because the courts are jammed. And the principal reason the courts are jammed is because of minimum sentencing.

We are trying to address the jamming in the courts with a number of reforms which are included in the amendments of the Senator from Delaware on the criminal justice system. But I would just caution those that want to ensure that those that are trafficking and selling to children—and all of us realize now the penalty is 5 years—we put the mandatory in.

I am just wondering how many others that are caught up in the whole drug syndrome that may not either be tried or may be out on the streets, and are involved in drug trafficking while awaiting trial.

So I just mention those brief points, Mr. President, so we have some idea of what the basic substantive issue is.

Mr. GRAMM. Mr. President, I do not want to get into a long debate here. Let me first say that one of the reasons our courts are so crowded is we keep trying the same people over and over again.

The advantage of my amendment is if we try them once and we convict them, we do not have to try them again for 10 years. In my State, we try the same people over and over and over again because they are not being kept in prison.

It is true that we are moving in the direction of tougher sentencing, but the Senate expressed itself very strongly on this bill last December. We adopted a 10-year mandatory sentence. That, then, died in conference. As long as we are debating the drug bill, it gives us an opportunity to go back to our position.

Also, let me remind my colleagues that we just provided over $1 billion to build new prison space. We are going to build almost 24,000 new prison beds. Who better to put in these beds than people who are selling drugs to children?

So, I do not understand how mandatory sentencing, 10 years in prison without parole, crowds the court docket. In fact, I think it lessens the crowding by assuring we only try these guys every 10 years on the first offense and every 20 years on the second one.

Second, building all this new prison space, I believe that people who sell drugs to children ought to be first in line in getting an opportunity to use it.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I think the Senator from Texas is right about who he wants to fill the beds first. I might add it was the Senator from Massachusetts who first introduced the notion of same time for the same crime, setting up the sentencing commission so the judges would not have discretion so when we gave them a sentence they went to jail, they did not get out on parole or probation.

So we are all in agreement here. The problem is—and I am prepared to accept the amendment—that the RECORD should show several things. One, that of all those folks in Texas and Delaware and Massachusetts and Utah that we all want to put away, 98 to 99 percent of them are under State jurisdiction, and this law will not affect them at all. It will have absolutely no impact on them at all.

As a matter of fact, one of our problems is that, until the other night, if we followed President Bush's proposal of not providing significantly larger numbers of prosecutors and not providing a significantly larger number of police, we were not even able to or willing to try those cases in Federal court where we had jurisdiction and where they were ours. We were passing them off to the State courts.

That is why the State court dockets are so crowded, in part because the Federal Government is not imposing the penalties that they could impose if they wished to. The Federal Government says the reason we are not is we do not have enough prosecutors, we do not have enough people in the system to do it.

The Senator from Texas has been forthright and helpful in providing, notwithstanding the fact there has been some opposition downtown to it, more money and more authorization to provide for more prosecutors and more agents. So we are on our way. But I want the RECORD to show that my folks in Delaware are not going to be affected much by this amendment, which I am prepared to support.

Second, I would like to have printed in the RECORD a resolution of the Committee on Criminal Law and Probation Administration concerning mandatory minimum sentences that have been passed by the 3d, 8th, 9th, and 10th judicial circuits, where they plead with us to reconsider the issue of whether we are going to continue to add minimum mandatory sentences in light of the fact we now have a sentencing commission.

I might add, I may be wrong but I think I was the first one to get passed a minimum mandatory law for life imprisonment for certain crimes here.

So I share the view of my colleague. I think we are going to have to be a little cautious here.

I ask unanimous consent that be printed in the RECORD.

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

RESOLUTION OF COMMITTEE ON CRIMINAL LAW AND PROBATION ADMINISTRATION CONCERNING MANDATORY MINIMUM SENTENCES

The Judicial Conference Committee on Criminal Law and Probation Administration's ongoing review of the impact of guideline sentencing on the federal courts has disclosed that a significant number of sentences imposed are effectively determined not by Sentencing Guidelines that reflect the judgment of the United States Sentencing Commission but by mandatory minimum sentences set by the Congress.[1]

As has been noted by several Sentencing Commissioners, including its Chairman Judge Wilkins, and by a number of Senators including Senators Kennedy and Thurmond, mandatory minimum sentencing laws are inconsistent with the scheme of guideline sentencing and impair the efforts of the Commission to fashion sentencing guidelines in accordance with the dictates of the Sentencing Reform Act. Additionally, many district judges have reported that mandatory minimum sentences have frequently had to be imposed in factual situations in which the district judge was convinced that Congress could not have intended that such defendants receive long mandatory minimum sentences without parole. Those judges have also expressed the view that sentences in such cases would be more appropiately governed by sentencing guidelines in which the Congress directed the Commission to set the guidelines at certain high levels. Such Guideline Sentences would, however, import some measure of flexibility into the system because the guideline structure permits departures in extraordinary cases not fitting the conventional profile of the Guideline involved.

Concerned about the matter in view of the foregoing, the Committee requests the Administrative Office Statistical Analysis and Reports Division, the Federal Judicial Center, the U.S. Bureau of Prisons and the U.S. Sentencing Commission to study the problem, develop data on the number of sentences that are driven by the mandatory minimums, and assess the impact of such sentences on the system. The Committee will reconsider the matter after receiving these reports and make an appropriate recommendation.

Resolved on June 23, 1989.

RESOLUTION CONCERNING MANDATORY CRIMINAL SENTENCES SUBMITTED BY THE DISTRICT AND CIRCUIT JUDGES OF THE THIRD CIRCUIT

Whereas, over the past several years congress has enacted numerous laws requiring the district courts to impose mandatory prison sentences for various offenses;

[1] Moreover, a number of the Guidelines themselves reflect the impact of mandatory minimum sentences that pre-dated the Guidelines.

Whereas, as has been noted by several members of the United States Sentencing Commission, including its Chairman Judge Wilkins, and by a number of Senators including Senators Kennedy and Thurmond, mandatory minimum sentencing laws are inconsistent with the scheme of guideline sentencing and impair the efforts of the Commission to fashion sentencing guidelines in accordance with the dictates of the Sentencing Reform Act;

Whereas, these statutory provisions leave no discretion with the trial courts, forcing the courts in many instances to impose long sentences, not subject to parole, which are inordinately harsh;

Whereas, sentences in such cases would be more appropriately governed by sentencing guideliens in which the Congress directed the Commission to set the guidelines at certain high levels, but would at least permit some measure of flexibility because the guideline structure permits departures in extraordinary cases not fitting the conventional profile of the Guideline involved; and

Whereas, the Judges of the Third Circuit look with disfavor on statutory minimum sentences for these reasons;

Now, therefore, be it resolved that the Third Circuit Judicial Conference urge the Judicial Conference of the United States to submit a resolution to the Congress, urging the Congress to reconsider the wisdom of all mandatory minimum sentencing statutes, and to establish such alternate Congressional policy as the Congress deems appropriate to retain some degree of flexibility in the criminal sentencing process.

RESOLUTION OF THE EIGHTH CIRCUIT JUDICIAL CONFERENCE, JULY 19, 1989

The Judicial Conference Committee on Criminal Law and Probation Administration's ongoing review of the impact of guideline sentencing on the federal courts has disclosed that a significant number of sentences imposed are effectively determined not by Sentencing Guidelines that reflect the judgment of the United States Sentencing Commission but by mandatory minimum sentences set by the Congress.[1] As has been noted by several Sentencing Commissioners, including its Chairman Judge Wilkins, and by a number of Senators including Senators Kennedy and Thurmond, mandatory minimum sentencing laws are inconsistent with the scheme of guideline sentencing and impair the efforts of the Commission to fashion sentencing guidelines in accordance with the dictates of the Sentencing Reform Act. Additionally, many district judges have reported that mandatory minimum sentences have frequently had to be imposed in factual situations in which the district judge was convinced that Congress could not have intended that such defendants receive long mandatory minimum sentences without parole. Those judges have also expressed the view that sentences in such cases would be more appropriately governed by sentencing guidelines in which the Congress directed the Commission to set the guidelines at certain high levels. Such Guideline Sentences would, however, import some measure of flexibility into the system because the guideline structure permits departures in extraordinary cases not fitting the conventional profile of the Guideline involved.

Concerned about the matter in view of the foregoing, the Eighth Circuit Judicial Conference (Executive Session) requests the Administrative Office Statistical Analysis and Reports Division, the Federal Judicial Center, the U.S. Bureau of Prisons and the U.S. Sentencing Commission to study the problem, develop data on the number of sentences that are driven by the mandatory minimums, and assess the impact of such sentences on the system.

[1] Moreover, a number of the Guidelines themselves reflect the impact of mandatory minimum sentences that pre-dated the Guidelines.

RESOLUTION NO. 6—MANDATORY CRIMINAL SENTENCES

(Submitted by the Chief District Judges of the Ninth Circuit)

Whereas, over the past several years Congress has enacted legislation requiring the court to impose mandatory prison sentences for various offenses;

Whereas, the statutory provisions leave no discretion with the trial courts, forcing the courts in many instances to impose sentences which are manifestly unjust and harsh;

Whereas, some members of Congress are in the process of urging the Congress to reconsider the wisdom of all mandatory minimum sentencing statutes;

Whereas, the Chief District Judges of the Ninth Circuit look with disfavor on statutory minimum sentences since their inflexibility often results in too harsh a sentence and detrimental circumvention of the law;

Now, therefore, be it resolved, that the Ninth Circuit Judicial Conference urge the Judicial Conference of the United States to submit a resolution to the Congress, urging the Congress to reconsider the wisdom of all mandatory minimum sentencing statutes, and to establish such alternate Congressional policy as the Congress deems appropriate to retain some degree of flexibility in the criminal sentencing process.

RESOLUTION—MANDATORY CRIMINAL SENTENCES

(Submitted by the Tenth Circuit District Judges Association)

Whereas, over the past several years Congress has enacted legislation requiring the court to impose mandatory prison sentences for various offenses;

Whereas, the statutory provisions leave no discretion with the trial courts, forcing the courts in many instances to impose sentences which are manifestly unjust and harsh;

Whereas, some members of Congress are in the process of urging the Congress to reconsider the wisdom of all mandatory minimum sentencing statutes;

Whereas, the Tenth Circuit Judicial Conference looks with disfavor on statutory minimum sentences since their inflexibility often results in too harsh a sentence and detrimental circumvention of the law;

Now, therefore, be it resolved, that the Tenth Circuit District Judges Association urges the Judicial Conference of the United States to submit a resolution to the Congress, urging the Congress to revisit and reconsider the wisdom of all mandatory minimum sentencing statutes, and to establish such alternate congressional policy as the Congress deems appropriate to retain some degree of flexibility in the criminal sentencing process.

Mr. BIDEN. Unless someone wishes to continue to debate the issue, I am prepared to accept the amendment.

Mr. HATCH. We are prepared to accept the amendment.

Mr. GRAMM. I want to thank the distinguished chairman. We are moving greater resources into the Federal system which will give us the capacity to prosecute more people in the Federal system. Almost everybody guilty of a drug crime can be prosecuted in either the Federal or State system based on our resources and on the will of the prosecutors. I think this mandatory minimum sentence of 10 years in prison without parole for selling drugs to minors will put more people into the Federal system.

Finally, let me say I am hopeful, given our standard, that Delaware and Texas and Utah and all other States will move to a similar, and hopefully some day a single, standard.

I thank the distinguished chairman.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Texas.

The amendment (No. 955) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GRAMM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BIDEN. I realize the pending business is the Kennedy amendment, but I ask, consistent with the unanimous-consent request submitted earlier, upon completion of the Kennedy amendment may we move to the McConnell amendment? A half hour equally divided?

Mr. McCONNELL. That is fine.

Mr. BIDEN. Half hour equally divided, and then move to a Biden amendment. I am prepared to have a half hour equally divided, hopefully with no amendments in order on either of those amendments.

Mr. KENNEDY. Reserving the right to object, and I do not intend to object, we have one amendment, but it is in two parts, two amendments considered en bloc. So I imagine the consent means disposing of both, either one amendment or the two amendments en bloc; am I correct?

Mr. BIDEN. I say to my colleague, my unanimous-consent request does not apply to the Senator's amendment at all. It just applies to what we do after the completion of the amendment of the Senator from Massachusetts. It only applies to the time agreement and no amendments in order to Senator McCONNELL's amendment and the amendment of the Senator from Delaware.

Mr. HATCH. Reserving the right to object, I am informed on our side there may possibly be amendments or at least debate with regard to the Biden amendment.

Mr. BIDEN. I withdraw the unanimous-consent request. We will make more progress.

Mr. HATCH. Let us just go ahead. That will be good enough. Let us not set any ground rules.

The PRESIDING OFFICER. The Senator from Massachusetts.

AMENDMENT NO. 934, AS MODIFIED

Mr. KENNEDY. Mr. President, I send a modification of my amendment to the desk and ask that it be divided into two amendments and considered en bloc.

The PRESIDING OFFICER. Is the Senator suggesting division of the originally proposed amendment?

Mr. KENNEDY. Yes. I would like to have it divided into two amendments but considered en bloc.

The PRESIDING OFFICER. Is there objection to dividing the amendment proposed into two parts and for consideration en bloc? Hearing none, without objection, it is agreed to.

The amendment, as modified, is as follows:

DIVISION I

At the appropriate place, insert the following new sections:

SEC. . STATEWIDE DRUG TREATMENT PLAN.

(a) IN GENERAL.—Title XIX of the Public Health Service Act is amended by inserting after section 1916A (42 U.S.C. 300x-4a) the following new section:

"SEC. 1916B. STATEWIDE DRUG TREATMENT PLAN.

"(a) NATURE OF PLAN.—To receive the drug abuse portion of its allotment for a fiscal year under section 1912A, a State shall develop, implement and submit, as part of the application required by section 1916(a), an approved statewide Drug Treatment Plan, prepared according to regulations promulgated by the Secretary, that shall contain—

"(1) a single, designated State agency for formulating and implementing the Statewide Drug Treatment Plan;

"(2) a description of the mechanism that shall be used to assess the needs for drug treatment in localities throughout the State including the presentation of relevant data;

"(3) a description of a Statewide plan that shall be implemented to expand treatment capacity and overcome obstacles that restrict the expansion of treatment capacity (such as zoning ordinances), or an explanation of why such a plan is unnecessary;

"(4) a description of performance-based criteria that shall be used to assist in the allocating of funds to drug treatment facilities receiving assistance under this subpart;

"(5) a description of the drug-free patient and workplace programs, that must include some form of drug testing, to be utilized in drug treatment facilities and programs;

"(6) a description of the mechanism that shall be used to make funding allocations under this subpart;

"(7) a description of the actions that shall be taken to improve the referral of drug users to treatment facilities that offer the most appropriate treatment modality;

"(8) a description of the program of training that shall be implemented for employees of treatment facilities receiving Federal funds, designed to permit such employees to stay abreast of the latest and most effective treatment techniques;

"(9) a description of the plan that shall be implemented to coordinate drug treatment facilities with other social, health, correctional and vocational services in order to assist or properly refer those patients in need of such additional services; and

"(10) a description of the plan that will be implemented to expand and improve efforts to contact and treat expectant women who use drugs and to provide appropriate follow-up care to their affected newborns.

"(b) SUBMISSION OF PLAN.—The plan required by subsection (a) shall be submitted to the Secretary annually for review and approval. The Secretary shall have the authority to review and approve or disapprove such State plans, and to propose changes to such plans.

"(c) GUIDELINES.—

"(1) IN GENERAL.—The Secretary, in consultation with the States, shall develop guidelines for each area to be covered by the State plan prepared under subsection (a).

"(2) CONFORMITY.—Beginning in fiscal year 1991, no payment shall be made to a State under section 1914 for the substance abuse portion of its allotment under section 1912A unless such State has submitted a plan under this section that is in reasonable conformance with the guidelines developed under paragraph (1), except that with respect to the performance criteria for treatment facilities described in subsection (a)(4), the State plan shall provide a reasonable time for such conformance.

"(3) MONITORING.—The Secretary shall monitor the compliance of the State with the plan submitted under this section and provide technical assistance to assist in achieving such compliance.

"(d) SUBMISSION OF PROGRESS REPORTS.—Each State shall submit reports, in such form, and containing such information as the Secretary may, from time to time, require, and shall comply with such additional provisions as the Secretary may from time to time find necessary to verify the accuracy of such reports and not overly burdensome on the State.

"(e) WAIVER OF PLAN REQUIREMENT.—At the discretion of the Secretary, the Secretary may waive any or all of the requirements of this section on the written request of a State, except that such waiver shall not be granted unless the State implements an alternative treatment plan that fulfills the objectives of this section.

"(f) MODEL STATE PLAN.—The Secretary shall establish a model State drug abuse treatment plan to guide States in establishing State plans under subsection (a), and shall provide technical assistance to assist States in complying with such plan.

"(g) DEFINITION.—As used in this section, the term 'drug abuse portion' means the amount of a State's allotment under section 1912A that is required by this subpart, or by any other provision of law, to be used for programs or activities relating to drug abuse.

"(h) ADMINISTRATIVE COSTS.—Expenses incurred for the training of individuals as required under any plans submitted under this section shall not be included in determining the costs of administering funds made available under section 1914.".

(b) REGULATIONS.—The Secretary shall promulgate regulations necessary to carry out section 1916B of the Public Health Service Act (as added by subsection (a)) not later than 6 months following the date of enactment of this section.

(c) EFFECTIVE DATE.—

(1) PERFORMANCE CRITERIA AND WORKPLACE REQUIREMENT.—Sections 1916B (a)(4) and (a)(5) of the Public Health Service Act (as added by subsection (a)) shall become effective on October 1, of the second fiscal year beginning after the date that final regulations under subsection (b) are published in the Federal Register.

(2) REMAINING PROVISIONS.—The remaining provision of such section 1916B shall become effective beginning on October 1, of the first fiscal year beginning after the date final regulations under paragraph (1) are published in the Federal Register.

SEC. . USE OF ADAMHA ALLOTMENTS.

Section 1915 of the Public Health Service Act (42 U.S.C. 300x-3) is amended—

(1) in subsection (b)—

(A) by inserting after the comma in paragraph (1), the following: "except that funds may be used to pay for inpatient hospital drug treatment services pursuant to a contractual arrangement with a hospital if—

"(A) needed residential treatment services could not otherwise be provided; and

"(B) the rates paid for such services do not exceed 125 percent of the cost of the rates typically required for comparable residential services."; and

(B) by inserting after the fifth sentence in the matter following paragraph (5), the following new sentence: "The Secretary may waive or reduce the matching rate requirement of the preceding sentence if the State request such a waiver and the Secretary determines that a failure to grant such a request would result in a reduction in the resources that would otherwise be used to provide direct treatment services and that are essential to implementation of the State drug abuse plan.";

(2) in subsection (c)(1)—

(A) by inserting "including social and health services necessary to improve treatment outcomes," after "drug abuse in subparagraph (A),";

(B) by striking out "and" at the end of subparagraph (B);

(C) by striking out the period and inserting in lieu therof "; and" in subparagraph (C); and

(D) by adding at the end thereof the following new subparagraph:

"(D) to provide counseling to family members of drug abusers, including such family members in group and family counseling service settings for the treatment of drug abusers."; and

(3) in subsecton (d), by adding at the end thereof the following new sentence: "Expenses incurred for the training of individuals as required under this subpart shall not be included in determining the costs of administering funds made available under section 1914.".

DIVISION II

At the appropriate place, insert the following new section:

SEC. . DRUGS FOR THE TREATMENT OF ADDICTIONS.

Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.) is amended by adding at the end thereof the following new subchapter:

"Subchapter C—Drugs for the Treatment of Addiction to Illegal Drugs

"SEC. 529A. RECOMMENDATIONS FOR INVESTIGATIONS OF DRUGS FOR THE TREATMENT OF ADDICTIONS TO ILLEGAL DRUGS.

"(a) IN GENERAL.—The sponsor of a drug for the treatment of an addiction to illegal drugs may request the Secretary to provide written recommendations for the nonclinical and clinical investigations that must be conducted with the drug before—

"(1) it may be approved for treatment of such addiction under section 505;

"(2) if the drug is an antibiotic, it may be certified for treatment of such addiction under section 507, or

"(3) if the drug is a biological product, it may be licensed for treatment of such addiction under section 351 of the Public Health Service Act.

"(b) RECOMMENDATIONS FOR INVESTIGATIONS.—If the Secretary has reason to believe that a drug for which a request is made under this section is a drug for the treatment of an addiction to illegal drugs, the Secretary shall provide the person making the request with written recommendations for the nonclinical and clinical investigations that the Secretary believes, on the basis of information available to the Secretary at the time of the request under this section, would be necessary for approval of such drug for treatment of such addiction under section 505, certification of such drug under section 507, or licensing of such drug under section 351 of the Public Health Service Act.

"(c) REGULATIONS.—The Secretary shall by regulation promulgate procedures for the implementation of subsections (a) and (b).

SEC. 529B. DESIGNATION OF DRUGS FOR THE TREATMENT OF AN ADDICTION TO ILLEGAL DRUGS.

"(a) IN GENERAL.—

"(1) REQUEST.—The manufacturer or the sponsor of a drug may request the Secretary to designate the drug as a drug for the treatment of an addiction to illegal drugs. A request for designation of a drug shall be made before the submission of an application under section 505(b) for the drug, the submission of an application for certification of the drug under section 507, or the submission of an application for licensing of the drug under section 351 of the Public Health Service Act. If the Secretary finds that a drug for which a request is submitted under this subsection is being or will be investigated for the treatment of an addiction to illegal drugs and—

"(A) if an application for such drug is approved under section 505;

"(B) if a certification for such drug is issued under section 507; or

"(C) if a license for such drug is issued under section 351 of the Public Health Service Act;

the approval, certification, or license would be for use for treatment of such addiction, the Secretary shall designate the drug as a drug for the treatment of an addiction to illegal drugs. A request for a designation of a drug under this subsection shall contain the consent of the applicant to notice being given by the Secretary under subsection (b) respecting the designation of the drug.

"(2) DEFINITION.—As used in paragraph (1)—

"(A) the term 'drugs for the treatment' means those pharmacological agents or medications that—

"(i) reduce the craving for abused drugs;

"(ii) block the behavioral and physiological effects of abused drugs;

"(iii) safely serve as replacement therapies for the treatment of drug abuse;

"(iv) moderate or eliminate the process of withdrawal;

"(v) block or reverse the toxic effects of abused drugs; or

"(vi) prevent, where possible, the initiation of drug abuse in individuals at high risk;

"(B) the term 'addiction' means the state of an individual where that individual habitually uses an illegal drug in a manner that endangers the public morals, health, safety, or welfare, or who is so addicted to the use of illegal drugs that such individual loses the power of self-control with reference to such individuals addiction; and

"(C) the term 'illegal drugs' means a controlled substance, as defined in section 102(6) Schedule I of the Controlled Substance Act (21 U.S.C. 892(6)).

"(b) CONDITIONS.—A designation of a drug under subsection (a) shall be subject to the condition that—

"(1) if an application was approved for the drug under section 505(b), a certificate was issued for the drug under section 507, or a license was issued for the drug under section 351 of the Public Health Service Act, the manufacturer of the drug will notify the Secretary of any discontinuance of the production of the drug at least one year before discontinuance, and

"(2) if an application has not been approved for the drug under section 505(b), a certificate has not been issued for the drug under section 507, or a license has not been issued for the drug under section 351 of the Public Health Service Act and if preclinical investigations or investigations under section 505(i) are being conducted with the drug, the manufacturer or sponsor of the drug will notify the Secretary of any decision to discontinue active pursuit of approval of an application under section 505(b), approval of an application for certification under section 507, or approval of a license under section 351 of the Public Health Service Act.

"(c) NOTICE.—Notice respecting the designation of a drug under subsection (a) shall be made available to the public.

"(d) REGULATION.—The Secretary shall by regulation promulgate procedures for the implementation of subsection (a).

"SEC. 529C. PROTECTION FOR DRUGS FOR THE TREATMENT OF AN ADDICTION TO ILLEGAL DRUGS.

"(a) IN GENERAL.—Except as provided in subsection (b), if the Secretary—

"(1) approves an application filed pursuant to section 505,

"(2) issues a certification under section 507, or

"(3) issues a license under section 351 of the Public Health Service Act

for a drug designated under section 529A for the treatment of an addiction to illegal drugs, the Secretary may not approve another application under section 505, issue another certification under section 507, or issue another license under section 351 of the Public Health Service Act for such drug for the treatment of such addiction for a person who is not the holder of such approved application, of such certification, or of such license until the expiration of seven years from the date of the approval of the approved application, the issuance of the certification, or the issuance of the license. Section 505(c)(2) does not apply to the refusal to approve an application under the preceding sentence.

"(b) ISSUANCE OF ANOTHER LICENSE, APPLICATION, OR CERTIFICATION.—If an application filed pursuant to section 505 is approved for a drug designated under section 529A for the treatment of an addiction to illegal drugs, if a certification is issued under section 507 for such a drug, or if a license is issued under section 351 of the Public Health Service Act for such a drug, the Secretary may, during the 7-year period beginning on the date of the application approval, of the issuance of the certification under section 507, or the issuance of the license, approve another application under section 505, issue another certification under section 507, or issue a license under section 351 of the Public Health Service Act, for such drug for the treatment of such addiction for a person who is not the holder of such approved application, of such certification, or of such license if—

"(1) the Secretary finds, after providing the holder notice and opportunity for the submission of views, that in such period the holder of the approved application, of the certification, or of the license cannot assure the availability of sufficient quantities of the drug to meet the needs of persons with such addictions for which the drug was designated; or

"(2) such holder provides the Secretary in writing the consent of such holder for the approval of other applications, issuance of other certifications, or the issuance of other licenses before the expiration of such seven-year period.

"SEC. 529D. OPEN PROTOCOLS FOR INVESTIGATIONS OF DRUGS FOB THE TREATMENT OF AN ADDICTION TO ILLEGAL DRUGS.

"If a drug is designated under section 529A as a drug for the treatment of an addiction to illegal drugs and if notice of a claimed exemption under section 505(i) or regulations issued thereunder is filed for such drug, the Secretary shall encourage the sponsor of such drug to design protocols for clinical investigations of the drug which may be conducted under the exemption to permit the addition to the investigations of persons with such addictions who need the drug to treat such addiction and who cannot be satisfactorily treated by available alternative drugs.

"SEC. 529E. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subchapter, such sums as may be necessary in each of the fiscal years 1990 through 1992.".

Mr. KENNEDY. Mr. President, last week the Senate approved a substantial increase in funds for the President's war on drugs in the area of treatment. As a result, the so-called ADAMH block grant, the principal source of Federal funds to the States for alcohol and drug treatment programs, will be doubled—from $500 million in fiscal year 1989 to $1 billion in fiscal year 1990.

These funds are a welcome—and long overdue—increase, but they are still far from adequate to meet the current demand for treatment of drug abuse and drug addiction. It is essential, therefore, to see that our limited resources are used as wisely and stretched as widely as possible.

The amendment I am proposing is designed to reach this goal by requiring the Secretary of Health and Human Services to establish guidelines for the States in allocating block grant funds for treatment of drug abuse.

President Bush's drug strategy makes a number of worthwhile recommendations for the types of treatment programs to be supported, such as patient referral services, better training for drug treatment professionals, and

earmarked funds for geographical areas of greatest need.

But without at least minimum guidelines to ensure that the recommendations of the national drug strategy are actually carried out, the goals we are setting are less likely to be met.

The guidelines to be developed by the Secretary of HHS under this amendment will apply to each of the programs recommended in the President's program. In addition, the guidelines will require State and local treatment programs to include three additional important types of services:

Aftercare, to help clients who have successfully completed formal, intensive treatment programs;

A targeted program to treat women and minorities, in order to expand the services available to those who need help the most;

A stopgap assistance program to provide interim services such as counseling and referral for addicts who make the decision to seek treatment, but who find themselves condemned to waiting lists because local treatment prgrams are overcrowded.

In addition, the amendment contains three other provisions.

First, it gives States greater flexibility to meet local needs by permitting grant funds to be used for in-patient treatment; under current law, such funds are limited to nonhospital residential facilities.

Second, block grant funds may also be used to provide counseling and other services to families of substance abusers, since the role of family members may well be critical in ensuring lasting results of treatment.

Third, the amendment permits State matching requirements to be waived, so that Federal dollars can be used to pay for the construction of treatment facilities. Construction is costly and is usually not the top priority for treatment funds. But in some communities, existing facilities are so overcrowded that the highest priority for the next treatment dollar is the construction of new facilities.

The second amendment I intend to offer contains an imaginative provision originally suggested to me by Senator BIDEN. The idea is to encourage new investment in pharmaceutical therapies to treat addiction by enabling antiaddiction drugs developed for this purpose to obtain the benefit of the Orphan Drug Act.

The Orphan Drug Act is designed to encourage research and development on drugs to treat so-called orphan diseases—those which afflict relatively small numbers of people, and which therefore offer little potential for profit to drug firms that make investments in these areas.

The Orphan Drug Act has worked brilliantly—far beyond the expectations of Congress when we originally enacted it in 1983. Nearly 300 drugs have received orphan designations from the Food and Drug Administration, entitling the firms to FDA assistance in designing research and testing protocols; 36 drugs have completed the process and obtained final FDA approval, entitling the firms to exclusive marketing of their drugs for 7 years.

Although the estimated number of addicts in the Nation is in the range of 6 million—far above the 200,000 person cutoff in the Orphan Drug Act—the need for new antiaddiction drugs, especially to treat cocaine addiction, is so great that it is time to enlist the concept of the Orphan Drug Act in the war on drugs.

To preserve the current unique character of the Orphan Drug Act as an independent program, the amendment establishes a parallel orphan-drug-type program in the FDA for antiaddiction drugs. Our hope is that with these new incentives, the pharmaceutical industry will invest more heavily in the war on drugs and help us win the war.

Finally, let me just say that many of us who whole heartedly support the Orphan Drug Act have been concerned in recent years that in certain cases it has been too successful, in the sense that the marketing exclusivity feature has enabled particular firms to reap windfall profits by charging exorbitant prices and tapping far larger markets than were anticipated for an orphan drug.

We are continuing to monitor this problem closely, and we intend to do the same for the new Antiaddiction Orphan Drug Program, since with the larger population of addicts, there is even greater potential for abuse.

These two treatment amendments are important contributions to the national drug strategy. They go hand-in-hand with the expansion of treatment resources that we obtained last week, and I urge the Senate to accept them.

I am enormously grateful for the help and the support of my good friend and colleague, the Senator from Utah, who has been very much involved in the fashioning and the shaping of both these amendments as were other members of our committee.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I am pleased the distinguished Senator from Massachusetts was willing to work out a compromise to improve legislation to require States to develop statewide treatment plans. In essence, this compromise will require the Secretary of Health and Human Services to publish guidelines so that States may understand what is required to be in compliance with this new law. These guidelines will not be mandatory upon the States and no Federal minimum standards will be developed which will be imposed upon the States.

In addition, the Secretary will prepare a model statewide treatment plan and provide technical assistance to those States who need help in developing their programs.

I believe that these three new additions will only strengthen the State's ability to better allocate resources for treatment, and I want to applaud the distinguished Senator from Massachusetts for his help.

In addition, I believe that the current plan required by the States should include information on aftercare for those who have completed services; expansion of treatment opportunities for specific populations, including women and minorities; and stopgap assistance so that individuals who cannot be treated immediately will not be lost from the treatment system.

On therapies to treat addictions, Mr. President, I want to thank my esteemed colleague from Massachusetts for modifying his language to provide incentives to companies to develop drugs for cocaine addiction, heroin addictions, and other addictions of class 1 controlled substances.

I also appreciate his willingness to add an authorization to appropriations so this will not not go into effect until there is funding. We have given the Food and Drug Administration, it seems to me, too many responsibilities without the sufficient resources to carry them out. So I thank the Senator from Massachusetts for his help on this.

Further, I would just like to ask a question or two of him so we can clarify the record. It is my understanding that this is not part of the Orphan Drug Act, but it is going to be a new program established similar to or patterned after the Orphan Drug Act.

Mr. KENNEDY. The Senator is exactly correct. The initial proposal we were looking at amended the Orphan Drug Act, but we found we were able to find and achieve our objectives by not amending that act, by developing another title which basically tracks that act. We are not in any way affecting the orphan drug legislation.

Mr. HATCH. I thank my colleague. Further, I would like to enlist my colleague's support and ask him for his assurance that we will not in conference allow a fallback on this particular amendment, a fallback to the Orphan Drug Act and other controls; in other words, we will fight to keep this a separate program and see how it works and hope that it does work.

Mr. KENNEDY. I think the Senator makes a good point. Maybe if we are successful in this area we can use that particular model perhaps in some other areas of national need, and I think it is fair to see how this procedure would work. I believe it can make an important impact and, if it is suc-

cessful, then it will be available to go into other areas. But in the meantime, we will not in any way disturb the integrity of the Orphan Drug Act.

Mr. HATCH. I hope the Senator can work side by side with me to keep it separate. I believe that little act has proven to be one of the most efficient, well thought out, and workable statutes that we have ever passed here in the Congress. It has really been working. If every statute worked like the Orphan Drug Act has worked, I think the American people would have a lot more confidence in the Congress.

I want to thank my dear colleague for that. I really enjoy working with him in this area. In fact, I enjoy working with him in all areas in which we work, and that is a pretty broad coverage here in the Congress. But in this particular area, it is a real rare privilege to work with one of the leaders in all public health and related matters in the Congress of the United States. I have learned a lot from my colleague, and I certainly want to compliment him for his work in this area and hope we can continue to work together in the future.

Mr. KENNEDY. Mr. President, in working out our agreement, the amendment dealing with guidelines for block grant funds, we agreed that it was our intention that the Secretary incorporate certain key items in the guidelines that could be considered to be covered generally in the legislation, but were not identified as specifically as we desired or as would be necessary to achieve the objective of the amendment. Is this correct?

Mr. HATCH. Yes. We both agree that the Secretary will need to give far more specific guidance to the States and that there are some key things that need to be addressed in the State plan.

Mr. KENNEDY. Let me outline the areas that, at a minimum should be addressed in the State guidelines.

TARGETING

The guidelines should specify that States should direct funds into the areas of greatest need within the State and should make clear that the State should take into account at least the following factors in identifying priority areas for support:

Current unmet treatment needs in the State, including both the inpatient, outpatient, and long- and short-term drug treatment service needs of defined populations and the availability of essential ancillary services;

The incidence of deliveries of infants who are adversely affected by the maternal use of drugs;

The incidence of communicable diseases transmitted by drug abuse.

PERFORMANCE CRITERIA FOR LOCAL TREATMENT PROGRAMS

The guidelines should include requirements for:

The provision of outpatient aftercare for those individuals completing residential treatment, either directly or through arrangements with other individuals or entities, for patients who have ended a course of treatment provided by the facility, that shall include periodic appointments with the patient to monitor the patient's progress and provide support services or additional treatment as needed, and, for those individuals completing outpatient treatment, periodic contacts, to the extent feasible, to monitor the individual's progress and provide the individual with, or refer the individual for, additional services or treatment as needed;

The coordination and referral of patients to social, health, and employment services in order to assist patients in need of counseling, psychiatric or medical treatment, or job training services to function in society and remain drug free;

The provision of employment, educational, or social services, directly or by referral or arrangement, by facilities that serve a clientele for whom such services are essential to improve treatment outcomes;

The retention of patients in treatment until such treatment is appropriately completed, taking into account the characteristics of patients that may make retention more or less difficult and any other performance-based measures of quality programming as may be appropriate.

WOMEN AND MINORITIES

The guidelines should specify that specialized treatment opportunities for minorities and women should be expanded, if needed.

MONITORING

The guidelines should specify that State plans should include mechanisms for monitoring compliance of federally funded treatment facilities with any standards established in the State plan pursuant to the guidelines.

TRAINING

The guidelines should specify reasonable standards for the training and retraining of employees of publicly funded treatment facilities to assure that employees remain informed about the most effective diagnostic and treatment techniques.

REFERRAL

The guidelines should provide for a referral method to be established in each area of the State that shall assure that each individual is, to the extent feasible, appropriately assessed and referred to the most appropriate treatment facility, and that a current list of unfilled treatment slots is available to assist in such referrals.

STOPGAP ASSISTANCE

The guidelines should provide for the establishment of a program of stopgap assistance for individuals who apply for treatment but who must wait for the availability of treatment opportunities that shall include:

Treatment ready education and counseling; and

Referral to, or provision, of other necessary health and social services that may include primary health care, nonmedical education, and vocational training services.

PATIENT TESTING

The guidelines should make clear that patient drug testing should not be performed more frequently than is necessary to achieve the objective of such testing and that policies established to deal with patients failing such tests should be clinically appropriate.

Mr. HATCH. The Senator has correctly identified the items that, at a minimum, must be part of the guidelines if they are to achieve their purpose.

Mr. KENNEDY. Mr. President, finally, I want to thank the Senator from Utah for his kind words. Basically, what we have attempted to build into our national program are the few but very extraordinary successes that we have seen both educationally and from a community and from community-based systems. We have done that in a strong bipartisan way with members of our committee making very substantial and significant contributions in fashioning these amendments. I think we built upon what I think were important recommendations that the President made and which have generally been included. We have built on them on the basis of the experience of the committee.

We can give assurance to the Senate that with these amendments, we will give careful oversight on these measures because I believe, as the Senator from Utah does, that how we as a Nation are going to deal with the issues of education, prevention, rehabilitation treatment and developing our research capabilities in these areas, and doing it in a responsible and effective way, is going to be enormously important as we are challenged by the scourge of drugs.

I believe that we are off to a very good start and, to a great extent, it has been because of the good work of the Senator from Utah and the members of our committee who have been enormously helpful in shaping and fashioning these amendments.

As I said earlier, the idea of the development of this orphan drug research, which I think is a brilliant idea, was recommended initially to me by the Senator from Delaware. I think it can make a very important and significant contribution to our understanding and treatment of drug addiction.

Mr. HATCH. Mr. President, I thank my distinguished colleague from Massachusetts. I appreciate what he is

trying to do in this Kennedy-Hatch set of amendments. I am happy to cosponsor them with him and work with him in all ways in these areas. I think he has done a great job of bringing them together in the committee where everybody has worked together on these issues, and I think we have a better package as each one of them comes up.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

Mr. BIDEN. Mr. President, I will not take the Senate's time except to say that as one who does not know as much about the area as either Senator KENNEDY or Senator HATCH, I am absolutely convinced of what I do know, that one of the most promising areas in this whole question of dealing with drug abuse in this country is in pharmacology and the whole public health area and research and development. I thank Senator KENNEDY for the overgenerous comments.

Mr. HATCH. I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment (No. 934), as modified, was agreed to.

Mr. KENNEDY. I move to reconsider the vote by which the amendment was agreed to.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 956

(Purpose: To provide Federal drug interdiction agencies with the authority to use necessary and appropriate force to compel airborne drug traffickers to land their aircraft)

Mr. McCONNELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Kentucky [Mr. McCONNELL] for himself, Mr. KERRY, and Mr. D'AMATO, proposes an amendment numbered 956.

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

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

The amendment is as follows:

At the appropriate place add the following:

GENERAL AUTHORITY

SECTION 1. (a) The purpose of this amendment is to provide Federal drug interdiction agencies with the authority to use necessary and appropriate force to compel airborne drug traffickers to land their aircraft.

(b) Whenever any law enforcement officer of the United States Customs Service, United States Coast Guard, or Drug Enforcement Administration, commanding an aircraft displaying proper identifying insignia, instructs an aircraft to land on the basis of knowledge that the aircraft is transporting illegal narcotics on board, and the aircraft does not land or make preparations to land; then, after observing all appropriate safeguards established under section 2 of this Act, the law enforcement officer is authorized to fire a warning signal; and if the aircraft does not land or prepare to land in response to such warning signal and other previous instructions, the law enforcement officer is authorized to fire into the aircraft.

PROCEDURAL SAFEGUARDS

SEC. 2. (a) The United States Customs Service, United States Coast Guard, and Drug Enforcement Administration are required to adopt regulations to implement section 1 of this Act, providing that neither a warning shot, nor disabling or deadly force, may be used against an aircraft until all of the following safeguards have been met:

(1) public notice has been provided, through the Federal Aviation Adminstration, informing all private aircraft operators entering United States airspace that they are required to obey any instructions from United States law enforcement agents, including instructions to land their aircraft, and that failure to obey such instructions may result in use of force;

(2) such aircraft is flying outside of flight corridors established and maintained by the Federal Aviation Administration, which shall in no case be lower than an altitude of three thousand (3,000) feet, except to provide reasonable access to designated airports and landing strips, and provide for emergency flight conditions;

(3) the airborne law enforcement officer has visually confirmed that such aircraft is engaging in illegal narcotics trafficking;

(4) the airborne law enforcement officer must use all means of communication that are available, internationally recognized, and accepted by the International Civil Aviation Organization, including, but not limited to, radio communications on the international emergency frequencies, rocking of wings, and flashing landing lights, to order such aircraft to land;

(5) if such aircraft fails to comply with such instructions to land, the airborne law enforcement officer must notify his command authority located on the ground of the circumstances and seek permission to fire a warning signal to land;

(6) if such aircraft fails to comply with such instructions to land after a warning signal has been fired, the airborne law enforcement officer must notify his command authority located on ground of the circumstances and seek permission to fire into the aircraft; and

(7) no use of disabling or deadly force shall be permitted while such aircraft is over land, or if the airborne law enforcement officer has reason to believe that, under the circumstances, innocent person would be harmed by the use of disabling or deadly force against such aircraft.

(b) The regulations required by this section shall be promulgated and adopted by the United States Customs Service, United States Coast Guard, and Drug Enforcement Administration not later than January 1, 1990.

(c) No officer of the United States Customs Service, United States Coast Guard, or Drug Enforcement Administration shall be deemed to have the authority provided under section 1 of this Act until the regulations required by this section have been promulgated and adopted.

(d) For the purposes of this section, "airborne law enforcement officer" means an officer in command of an aircraft operated by the United States Customs Service, United States Coast Guard, or Drug Enforcement Administration.

INDEMNIFICATION

SEC. 3. The person commanding an aircraft of the United States Customs Service, United States Coast Guard, or Drug Enforcement Administration, and all other persons acting under such person's direction, shall be indemnified from any penalty or action for damages resulting from the firing at or into any aircraft pursuant to section 1 of this act. If such person or persons are arrested or prosecuted as a result of such firing pursuant to section 1 of this Act, such person or persons shall be forthwith admitted to bail.

Mr. McCONNELL. Mr. President—

Try to imagine drug gangsters murdering both Attorney General Dick Thornburgh and his predecessor Edwin Meese. Next, pretend that drug triggermen and their guerrilla allies rub out Justices William Brennan, Sandra Day O'Connor, Byron White and Antonin Scalia—along with hundreds of prominent Federal judges.

Expand the list to include Washington Post Editor Ben Bradlee and Los Angeles chief of police Darryl Gates, both slain; add Amy Carter, kidnaped and held as a warning to authorities who might get tough with narco-barons.

Then the grand climax: the 1987 assassination of George Bush, murdered at a campaign rally just as he had become the favorite to be elected President the following year.

In the U.S. such carnage would be unbelievable. yet an almost precisely equivalent list of crimes has been committed in Colombia. * * *

Mr. President, I have just read Time magazine's opening paragraph for a September 4 story on the crisis in Colombia.

Over the last several years, 178 judges, nearly half the Supreme Court, one attorney general, the leading candidate for the Presidency, the chief of police and the editor of El Espectador have been gunned down by assassins led by the drug cartels.

Last month, President Bush offered emergency aid to Colombia and President Barco, to help fight these vicious, unprincipled, and heavily armed drug thugs.

As a nation, we have asked the Colombian people for their courage and conviction in sustaining their war on drugs.

In the face of the drug cartel's reign of ruin and terror, we have asked each Colombian, including President Barco, to put their lives on the line—literally—as they try to escape from the cartel's stranglehold.

The war against drugs and drug dealers must begin in Colombia, but the course of consumption leads to the United States. We must make every effort at each point along that chain linking source countries to our communities—to stop the flow. That means improving education and local

law enforcement as the President recommended in his national drug control strategy, but it also means that we must step up interdiction efforts.

On August 1, the Senate voted to improve our interdiction capabilities by giving the U.S. Coast Guard, Customs Service, and Drug Enforcement Administration the authority to use disabling, and if absolutely necessary, deadly force to interdict drug smuggling aircraft. The Senate responded to the fact that roughly 50 percent of all cocaine coming into the United States is smuggled on board private aircraft.

Since introducing the amendment, I have discussed the issue at length with several of my colleagues, constituents, private pilots and representatives of the Aircraft Owners and Pilots Association. I decided to revise the amendment to respond to some of the legitimate concerns I heard expressed, and I offer it today in a new form which includes in the text of the legislation all necessary safeguards to prevent the possibility of accident.

First, the Federal Aviation Administration must issue a public notice advising all private pilots to comply with any instruction to land given by a properly marked and identifiable law enforcement aircraft—which I might note is consistent with current law and practice. The FAA must advise the public that failure to comply with such instructions may result in the use of force against a suspect aircraft.

At the suggestion of the Aircraft Owners and Pilots Association, I have added language requiring the FAA to establish and maintain flight cooridors for private aircraft. While the width of the corridor is undefined, pilots will not be allowed to fly below 3,000 feet unless they are experiencing an emergency or, in fact, are intending to land. AOPA advised me that most private pilots fly around 4,000 to 5,000 feet.

I think the concept of flight corridors is a good one because it essentially protects the legal pilot flying home on vacation. If he's in a designated corridor, he will not have a problem with airborne law officers. The problem the legislation addresses is the drug smuggler who may fly a legal route within a designated corridor, but most, sooner or later, drop to 1,000 feet to kick out his lethal cargo or risk having it explode on impact.

Once below the corridor's 3,000-foot floor, force still may not be used unless a series of tests are met. The airborne law enforcement officer must visually confirm that the aircraft has engaged in illegal activity. I believe this is the most effective of all safeguards since the law enforcement officer knows he must see proof that will hold up in court.

Once having identified illegal activity, the law enforcement aircraft still must make every effort to communicate with the suspect aircraft. The FAA and the International Civil Aviation Organization recognize an extensive list of methods of communication including by radio on any number of emergency frequencies, or visual signals such as by crossing the path of the intercepted aircraft and rocking wings or by flashing landing lights. The pilots I have quizzed all have acknowledged familiarity with each of these signals.

So let's review the scenario and safeguards: we have a private plane which has left a landing strip in a remote part of Colombia. It proceeds along a designated corridor until it enters U.S. airspace when it suddenly drops below the 3,000-foot corridor floor.

A few miles from the Florida Keys, the suspect aircraft's back door opens and 10 to 15 40-pound bales are kicked out of the plane. An average smuggling flight drops about 1,000 pounds of cocaine.

As the smuggler turns south for safe haven and the promise of an average $200,000 paycheck per run, a clearly marked Customs Service aircraft pulls along side and radios the suspect, ordering it to land.

This is where Secretary Bennett has pointed out our law enforcement officers are usually given—and I quote: "the most emphatic hand signals by the suspect," and to press the point, I don't think they are waving goodbye.

Without the amendment I am offering today, this would be the end of the encounter right here: The drug smuggler flies back to safety, ready to load up another deadly cargo for delivery to the United States.

But under my proposal, this frustrating outcome may turn out differently: First, that twin-engine Customs Service plane could be armed with light air-to-air weapons.

After the drug smuggler communicates his intention with his hand signal, the law enforcement officer still would have to make every effort to advise the smuggler to land. He communicates on the radio, and by rocking his wings and flashing his lights.

After he has repeated and exhausted every single option, he reports to his commander on the ground and seeks approval to fire a warning shot.

Once that authority is granted and exercised, the law enforcement officer again tries to communicate instructions to land. If he is still unsuccessful, he must again seek authority from the ground to fire into the aircraft. When he finally fires, he does so only over water.

One final safeguard, which really becomes a judgment call, is the law enforcement officer may decide not to use force if he believes he will risk innocent lives.

I think that with all of the safeguards now written into the language of the bill, I simply can't see the room for error.

I have made every effort to satisfy those who are justly concerned about the possibility of accident—without compromising the basic principle that our law enforcement officers should have the authority to use force when it is absolutely necessary and when absolutely every other effort to compel an aircraft to land fails.

Short of this authority, there simply is no real deterrent to smuggling drugs into the United States by air.

I think the Senate—like the courageous combatants in Colombia—has reached a crossroads. We either are serious about stopping half the cocaine smuggled into the United States—which comes in by air—or we will stand by and see a steady increase in the use of our air routes by continuous cocaine airlifts into the United States.

The Senate has voted once before on this issue. A strong, bipartisan majority of the Senate is on record on the Defense bill in support of this amendment.

In anticipation that the conferees on the Defense bill may decide that my amendment has no bearing on the Defense Department and should be stripped off the authorization package, I believe my colleagues should have an opportunity to vote once again to give our law enforcement agencies the authority they need to effectively end the air war on drugs.

Right now, when our narcotics agents see 1,000 pounds of cocaine kicked out the back of a suspect aircraft, they can only wave goodbye. Our law enforcement community needs our support to secure our skies and close down the drug dealers avenue of safe access and choice: the air.

Fifty percent of the cocaine coming in is smuggled on private planes. Cutting 50 percent of the supply of cocaine is not the final cure, but it would be a meaningful advance in this war we are waging.

Mr. President, it is time to stop the cocaine airlift. Back in August, the Senate approved an amendment that I offered to the Department of Defense authorization bill which dealt with a very serious problem, and the problem is this. Fifty percent of the cocaine coming into this country is coming through private aircraft. Under current rules, regulations, and the law, there is simply nothing that our authorities can do other than shoot film of these drug smugglers kicking bundles of drugs out the back of their airplanes.

Mr. President, that has to stop. It is the opinion of the Senator from Kentucky that if we leave this loophole open, if we leave this gaping gap in our defenses, pretty soon a lot more than 50 percent of the cocaine is going

to be coming into this country. I am not going to take the time of the Senate to describe what a serious problem that is. We all know. So let us get right down to the nub of the issue.

The Senate, in approving the amendment to the DOD bill 55 to 45 in August, said that it wanted to do something about that. That amendment is currently pending before the conference committee of the House and Senate on the DOD authorization bill. There are some Senators who feel it should not be on that bill because, frankly, it has nothing to do with the Defense Department. My amendment authorizes Customs, Coast Guard, and DEA. It has nothing to do with the Defense Department whatsoever. And so, Mr. President, since this is a bill about drugs, it appeared to this Senator that this amendment should be offered to this particular bill.

In addition, I think it is important to point out that this is not the same amendment the Senate approved in August 55 to 45. We have made substantial changes. We have made substantial changes in order to reassure those who had some legitimate concerns that some innocent pilot might be wrongfully fired upon.

We have crafted a new amendment which I think meets virtually all of the objections that have been made about the previous amendment which the Senate nevertheless supported. I have been told by a number of Members of the Senate on my side that they will support the amendment today even though they did not support it in August because they are convinced that the safeguards we have added have virtually eliminated the possibility of some innocent pilot being shot out of the sky.

The purpose of my amendment, obviously, is to create a deterrent to stop the wholesale use of our skies as the drug smugglers' avenue of choice into Main Street U.S.A. Without this deterrent, Secretary Bennett has testified that we can expect to see a large increase in air drug smuggling. My amendment gives drug enforcement agents the authority to use force in compelling drug smugglers to land for inspection and arrest.

Now, let us look, Mr. President, at the changes that I have made in this amendment as compared to the previous amendment which, as I repeat, the Senate approved 55 to 45.

To prevent any mistake in use of force against innocent persons, I have incorporated all of the safeguards that I discussed the last time this provision was considered into the actual text of the amendment which is at the desk. Further, Mr. President, we have met with the AOPA, the Aircraft Owners and Pilots Association, and we have incorporated a suggestion that they made.

Now, I am not going to imply that they are for this amendment. They are not. But we have, in an effort to compromise and to further reassure them that there would be no loss of innocent lives, adopted one of their important suggestions. So, Mr. President, let us go right down the list of safeguards that are incorporated in this amendment. First, the FAA has to notify all private pilots that they must land if ordered to do so by a properly marked and identifiable law enforcement aircraft. Failure to comply with such orders may result in the use of force.

No. 2, at the suggestion of the AOPA, I have added language requiring the FAA to develop flight corridors for private aircraft and no force may be used against any aircraft unless it is flying outside of the corridor. So as I said, Mr. President, we have incorporated into this amendment a useful suggestion made by the AOPA.

At a minimum, such a corridor would have to be at least 3,000 feet above ground level. The only thing we are saying to FAA is the corridor has to begin at last 3,000 feet and up except for access to airports in emergency flying conditions. That is where the corridor would have to start.

AOPA has advised me that most private pilots fly around 4,000 to 5,000 feet. Flight corridors are a good idea because they protect the legal pilot flying home on vacation. Drug smugglers, Mr. President, on the other hand, need to drop below the corridor to make a drug drop to boats waiting below.

Even if an aircraft is flying below the flight corridor, force may not be used unless the airborne officer visually confirms that the aircraft is engaged in illegal trafficking activity.

This provision in my amendment clarifies language in the 1986 drug bill that we passed which makes it a crime to drop drugs from an aircraft to awaiting boats below. This requirement is the most effective of all safeguards since the law enforcement officer knows he must actually witness proof that will hold up in court.

Now, the next safeguard, Mr. President. Having seen this, the airborne officer must make every effort to communicate with the smugglers' aircraft. My amendment requires the officer to use an extensive variety of methods approved by the FAA and international civil aviation organizations including radio contact on many internationally known emergency frequencies and by visual signals such as crossing the path of the intercepted aircraft and flashing the landing lights.

Next, Mr. President, if the smugglers' aircraft still refuses to land, after we have gone through all of that—you have tried to communicate by radio, by visual warnings—if the smugglers' aircraft still refuses to land, the airborne officer must notify his ground commander of the situation and ask for permission to fire a warning signal in the direction of the other plane.

Let me repeat, Mr President, you could not even fire a warning signal without permission from somebody else on the ground. Not even a warning signal.

If that permission is granted, the airborne officer may then, as I indicated, fire the warning signal. If the aircraft still refuses to land or make preparations to land, the airborne officer must once again—once again—notify his ground commander of the situation and request permission to use disabling or deadly force against the other aircraft.

If that permission is granted, Mr. President, then only if the airborne officer is absolutely certain that no innocent person will be harmed, the airborne officer may use force against the smuggler's aircraft.

Mr. President, the issue is this: There has been a lot of talk by the AOPA and some critics of the earlier amendment, and I suspect there will be additional discussion about this amendment as to the possibility some innocent pilot may be shot out of the air.

With all of these safeguards, Mr. President, I think it is virtually impossible for that to happen. I will not stand before the Senate and say there will be no accidents in life. There are accidents in life. One of us may get hit by a car on the way home tonight. But we have incorporated numerous safeguards that make it virtually impossible for that to happen.

Mr. President, we need to weigh that which is virtually impossible to happen against what we know is happening. What is happening is that 50 percent of the cocaine is coming through the cocaine airlift into this country. What is happening is that there are 5,000 new cocaine addicts every day.

What is happening is that lives are being ruined and 50 percent is coming in through private aircraft, and I predict that unless this loophole is closed, unless this gap in our defenses is closed, pretty soon well more than 50 percent of the cocaine will be coming in through private aircraft because it is a mesage to the cartel: "Get yourself a plane and come right on in. Get yourself a plane and come right on in."

Mr. President, this loophole has to be closed. It is not the intent of the Senator from Kentucky to delay consideration of this amendment. I have gone over the safeguards in some detail here. I do want to add as cosponsors of the amendment Senator KERRY of Massachusetts, Senator

D'AMATO of New York, and for the moment, Mr. President, I am happy to yield the floor.

Mr. BIDEN. Mr. President, I liked the last bill, so I like this one. I voted with the Senator last time. I would like to mention two things. I will be very brief. The first is the concern that we are going to shoot down an innocent party.

Well, first of all, I thought there were enough safeguards the first time. Safeguards have been added this time significantly increasing or diminishing—depending on how you look at it—increasing the safety or diminishing the prospects of an accident occurring. But I hate to say this: the police in my city, Wilmington, DE, or Washington, DC, or anywhere in the country this very night if they are in hot pursuit of a criminal will speed through the streets at 20, 35, 50, 70, 80 miles an hour, depending on what is needed in order to catch that criminal. Innocent people sometimes get killed. I do not say that cavalierly. When you are dealing with going after people who in fact are breaking the law and are a public hazard, sometimes accidents happen.

The notion that anything short of 99 percent of the people would not land, would not respond, or could not respond, to everything but a scene from "Top Gun" when the kid flew upside down and just about touched his canopy on top of the other guy's canopy—short of that, that is the only thing we are not demanding be done here.

So something may happen. But the fact of the matter is that it is a big problem, and this has many safeguards built in.

There is a second concern people raise; that is, the broader concern of whether or not we should be forcing down aircraft in the sky. Let me make this point. I will only make it once tonight, and I will cease and desist on this point.

We had no reluctance when the CIA was informed and in turn informed our military by informing the President that the terrorists who were involved in the *Achille Lauro* hijacking were on board a non-U.S. commercial airliner leaving from territory that was not the United States and landing in territory that was not the United States, in another part of the world, not even near our border. We had no reluctance to force a commercial aircraft down on a NATO air force base, not a United States Air Force base, and in fact hold at bay the Italian authorities while we took the terrorist off the airplane.

If we are willing to do that, as I think we should be willing to do, my goodness, the idea that we are going to tie the hands of those attempting to interdict aircraft coming into the United States seems to me somewhat bizarre.

I use this example when the Senator from Kentucky and I discussed this with our colleagues, I believe, in the Foreign Relations Committee. I said no one in this body would say that if the military received information and saw on the radar screen that there was an incoming jet aircraft, that was a fighter aircraft loaded with bombs and ordnance, no one would suggest that there be any reluctance to shoot it down after giving it appropriate warnings to turn or to land.

I would respectfully suggest more damage is done to the American people by one carload of cocaine, which can reach in tons and hundreds and thousands on occasion kilos, of cocaine being flown into the United States on twin engine aircraft, and sometimes on Lear jets and other aircraft, more damage is done by that than can be done to the United States of America by any aircraft flying in here, other than being equipped with a hydrogen weapon. And we would not hesitate to shoot that one down.

I realize these are two separate issues. One is knowledge that the aircraft we are ultimately giving the authority to shoot down if need be—that is one issue, whether or not that aircraft—is, in fact, figuratively speaking an enemy aircraft with a drug dealer flying it. But some have argued this is a separate issue, and that we should not be doing it anyway even if a drug dealer was flying it.

I respectfully suggest I have no hesitation were I in the position to be able to have the authority to do anything about it to suggest to anyone under my command, had I anyone under my command, to blow that aircraft out of the sky after sufficient warning.

Second, the likelihood of there being an innocent—we used to hear about the dentist from Peoria and his family going to Disney World. Well, the dentist from Peoria going to Disney World is not likely to be flying 400 feet above the ground coming off the Caribbean in the middle of the night heading due north. If the dentist from Peoria is doing that, the dentist is probably a drug dealer.

Mr. McCONNELL. Will the Senator yield on that point?

Mr. BIDEN. There are some dentists who are drug dealers.

Mr. McCONNELL. If the dentist wanted to fly below 3,000 feet, he could stay over the land, and then he still would not be covered. The amendment applies if you are over water. The Senator is right on the mark with every point he has made. There is virtually no chance that the dentist from Peoria is going to get shot out of the air.

Mr. BIDEN. Mr. President, in all law enforcement undertakings there is a chance that someone will be hurt. I am not promising, by supporting this amendment, that will not happen. There are people hurt when police officers go in and raid places where there are people engaging in illicit activity; even though some there are engaging in licit activity, people are hurt by stray bullets, and it will happen.

I cannot believe that this is an issue where we are going to find that our law enforcement and military operations are going to act irresponsibly on this. Obviously, if that is shown to be the case, we would have to respond. Obviously, there could be a mistake. My goodness, we are not talking about people flying from Peoria to Disney World. We are talking about people flying from Colombia to Miami or Texas or South Carolina, or other shore points to drop off these drugs.

I am prepared to accept the amendment, and I do not know whether or not there is an objection to the amendment.

Mr. McCONNELL. I would like to ask for the yeas and nays, but I want to make a final point. The authority that we are talking about here is not all that unusual. The Coast Guard has had this authority, with regard to boats, for quite some time. It has been exercised very responsibly. Over the last 9 years, there have been 1,500 interdictions, gunfire on 18 occasions, two people injured, and no one killed.

This authority is being given, not to DOD, but to Customs, Coast Guard, and DEA. They are three law enforcement agencies that, I think, know what to do with this additional authority. The drug czar is in favor of this amendment. I suspect that the majority of the Senate is in favor of this amendment. Mr. President, I have concluded my remarks, and I am happy to vote.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. I hope the Senator would consider withholding the request for the yeas and nays. There appears to be uniform support here. We have a lot of amendments. We have been in here late every night for the past 3 weeks. There are about 15 amendments to go. When we both practiced law and were trial lawyers, it was a good idea when you are winning to sit down, but——

Mr. McCONNELL. Mr. President, there are a number of people on my side who voted against the amendment in August, who tell me they are going to vote for it this time. I would like to have the yeas and nays. It is not my desire to delay the Senate. I have been prepared to offer this amendment for 2 days, and I know there have been other sorrows and problems.

Mr. BIDEN. I understand, Mr. President. All politics is local, though.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. 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. DOMENICI. Mr. President, I am only going to take a minute, I say to my friend.

NEW MEXICO HELPING VICTIMS OF HURRICANE HUGO

Mr. DOMENICI. Mr. President, as Hurricane Hugo victims continue to rebuild their lives after the devastating storm, I want to take a couple minutes to recognize a medical team from New Mexico that performed an invaluable service to the people of St. Croix, a team of New Mexicans, all members of the National Disaster Medical System, which consists of 71 medically trained people who volunteered a week of their time to care for people who have nowhere to seek treatment because the island hospital was destroyed during the storm.

This New Mexico team was selected as the best-trained medical group available and was first to be sent to this disaster area. The team is made up of 11 physicians, 6 registered nurses, 27 emergency technicians, and a number of other valuable people.

I can only begin to imagine what conditions are like there, and this New Mexico team has gone there to treat victims and help to get this island hospital operating again. They are volunteering their own time, medical equipment, and clothing. Such volunteer service to the people of St. Croix deserves recognition.

I commend these fine New Mexicans, and I ask unanimous consent that an article contained in the Albuquerque Journal be printed in the RECORD. I yield the floor.

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

NEW MEXICO VOLUNTEERS BRING MEDICAL CARE TO ISLAND

New Mexico has sent a disaster response team of 71 medically trained people to hurricane-ravaged St. Croix in the Virgin Islands.

The volunteers will spend about a week helping to care for people who normally would seek treatment at the island hospital. The hospital building was destroyed by Hurricane Hugo Sept. 17-18.

All the team members are part of the National Disaster Medical System, established in 1984 to respond to disasters anywhere in the United States.

The New Mexico team was selected as the best prepared and became the first team to be sent to an actual disaster area.

At its first staff meeting in the open field Saturday morning, the team gathered in a circle around Dr. Cy Stockhoff and listened to his admonishments against "freelancing the medical care here."

"If someone you never saw before comes and grabs you by the arm and wants you to go somewhere to treat someone, don't do it. We can't have members of this team running off to all parts of the island on individual missions, not without telling someone and knowing what it entails."

Stockhoff said the team's principal mission would be to put medical care on St. Croix back on its feet. "What they need us to do is to open this hospital and get it functioning. Medical people here have been pretty much overwhelmed; we need to give them a break," he said.

"We raised a lot of our own money to come down here," said Dr. Albert Vogel. "We bought our own medical equipment and clothing. Everyone on this team, including communications personnel, has medical training of some sort. We won't take anyone off to a disaster who can't contribute medically."

The team is made up of 11 physicians, six registered nurses, 27 emergency medical technicians and paramedics, and 27 support staff and lab technicans.

Many members of the team declined to be identified for security reasons. But personnel for the New Mexico Disaster Medical Assistance Team have listed the members of the coordinating staff. All but one are from the University of New Mexico Medical Center. They are:

Dr. Paul Roth, medical director.

Dr. Al Vogel, Public Health Service liaison.

Dr. George Key, lead doctor.

Sally Coan, lead nurse,

Rebecca Dickerson, lead paramedic.

Cy Stockhoff, team administrator.

Denis McKeon, assistant administrator.

Col. Robert Blair, Kirtland Air Force Base, communications coordinator.

IMPLEMENTATION OF THE PRESIDENT'S 1989 NATIONAL DRUG CONTROL STRATEGY

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, this weekend, over a dozen law enforcement officers dressed in military fatigues descended on a crack house. The officers found a large quantity of what appeared to be illegal drugs. They found dozens of hypodermic needles, pipes, and other drug paraphernalia. They found equipment used to process cocaine into crack. Where were they? Helena, MT; not the inner city, not the areas of the country where one would expect to find the crack house, in the District of Colombia; Helena, MT.

During a recent hearing before the Senate Governmental Affairs Committee a witness mentioned that members of a Columbia drug cartel had purchased land in the United States, laundering their drug proceeds.

I found out that some of this land is in one if the most beautiful spots in this country, the Flathead Lake region in my home State of Montana.

I am joining my colleagues, Senators PRYOR and BIDEN and others to once again stress the need for an adequate Federal commitment to the rural war on drugs.

A crack house in Helena and drug money in the Flathead brought home to me the enormity of the drug problem in this country. It is everywhere. Just last March I came to the floor in support of William Bennett's nomination as the first director of national drug control policy. At that time, I stressed the need for an overhaul of Federal policy concerning drug interdiction in rural areas.

Last July, I introduced a bill to increase funding for law enforcement efforts in rural States, because of dramatic increases in drug-related crime. For instance, Drug Enforcement Administration cocaine arrests in Montana have increased 100 percent in the last 5 years. My colleague from Arkansas, Senator PRYOR, tells me his State has experienced a similar increase.

Rural areas are especially conducive to methamphetamine production, since crack labs are less easily detected in the countryside than they are in the cities. A crank high—that is a substance made from various drugs which is, I think, even worse than crack—is similar to a cocaine high, except for one major difference: The cocaine high lasts for a few minutes, at most, but a crank high lasts for hours. And drug dealers do not have to import crank. They can make it anywhere. They can make it in rural areas, they can make it in America, and, unfortunately, they are making it in Montana and Arkansas and other rural States.

The Federal Government can no longer afford to underestimate the effects of drug-related crime in rural areas.

Last week Senator PRYOR and I joined together in introducing a bill to encourage the implementation of treatment programs in rural areas. In addition, we introduced another bill to provide for the establishment of a clearinghouse for information on rural drug education progams.

Substance abuse, including alcoholism, has taken its toll in Montana, as it has in Arkansas, California, New York, and other places across our country. But access to treatment is not readily available in many rural areas. This must change.

Senator BIDEN, Senator KENNEDY, and Senator HATCH worked with Senator PRYOR and myself to incorporate major provisions of our legislation into amendments to the bill that we are now considering. I hope these provisions are accepted.

I appreciate the cooperation of my colleagues. They realize that the battlefield for the war on drugs stretches across the entire country. No State, no city, no county, is exempted.

Mr. President, I also wish to thank Senator BIDEN, chairman of the committee, for being very, very helpful in incorporating these rural drug provisions. I thank him at this time.

Mr. President, I yield the floor.

Mr. PRYOR. Mr. President, I rise today in support of the rural drug provisions contained in Senator BIDEN's State and local law enforcement amendment. I take pride that these rural drug provisions are based on several measures that I have introduced with Senator BAUCUS. In fact, these amendments include all central features of S. 1634, the Drug-Free Rural America Act, and S. 1353, the Rural Drug Initiative Act.

I applaud the distinguished chairman of the Judiciary Committee for recognizing that the scourge of drugs is not confined to our Nation's large cities, but has spread to small towns and rural areas throughout our country. The sad fact is that no community is safe from illegal drugs and the dangerous criminals who sell them.

Let me cite a few examples from my home State of Arkansas:

In El Dorado, a community of 25,000 in southern Arkansas, drug arrests have almost doubled in a single year. The police chief attributes almost all of this to the introduction of crack cocaine early last year.

Los Angeles street gang members have been seen walking the streets of several southern Arkansas communities.

As of July 1989, the DEA had already located and shut down seven clandestine drug labs operating in remote areas of Arkansas.

Admissions at State-funded substance abuse treatment facilities outside the Little Rock region increased 33 percent between 1985 and 1988.

As of August 1989, the average waiting period at State-funded treatment facilities in Arkansas was 3 weeks.

These alarming facts illustrate the growing severity of the drug problem in rural areas of our country. Now is the time to declare war against the drug crisis in rural America. It is a war we must wage on two fronts: Reducing the supply of drugs through increased support for rural law enforcement and cutting demand for drugs through expanded rural treatment and prevention programs.

Tuesday night, the Senate provided needed assistance to one front of the rural drug war. By establishing a rural drug clearinghouse and authorizing grants to rural substance abuse treatment and education programs, the Senate brought rural America one step closer to the goal of providing treatment to all drug abusers who seek help. These proposals originated in two rural drug treatment and education bills I introduced with Senator BAUCUS. I am pleased that these proposals had the support of the distinguished chairman and ranking minority member of the Labor and Human Resources Committee.

Today, I urge my colleagues to assist rural America on the other key front of the rural drug war by increasing support for rural drug interdiction. Senator BIDEN's law enforcement amendment establishes a $20 million rural supplement to the law enforcement block grant program, targeting $10 million to special-need rural States, such as my home State of Arkansas, and channeling another $10 million for use in rural areas within other States. This measured block grant supplement will send Federal resources to rural law enforcement officers who are crying out for help in the fight against drugs.

Again, I wish to praise the chairman of the Judiciary Committee for including rural drug provisions in his State and local law enforcement amendment. Rural Americans will surely welcome this assistance in their fight against drug abuse in their communities.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GLENN. 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. GLENN. Mr. President, we are all busy around here, and I am no exception. I have been in a number of meetings today. I did not realize this particular subject was going to come up again this soon. Although I did not have a fully prepared speech, when I found out this was on the floor and about to be voted I felt compelled to come to the floor to speak on it, if only briefly.

One of the biggest shocks I have had since I have been in the U.S. Senate was when this matter came up before, just a few weeks ago, and passed. I had not even come over to talk about this, because I thought it was such a ludicrous proposal I was not going to bother with it. I supposed it would go down by 8 or 10 votes and that would be it, but in fact it passed by a substantial margin.

I have done a quite a bit of flying. I have an airplane of my own. I have experience as a private pilot, as well as flying militarily. I have been in aerial combat and know about airplanes and being shot at.

How some of these provisions in this thing are to be carried out, I do not know. If I have ever seen anything that I thought was posturing on behalf of the U.S. Senate, this is it. All we have to do is go into a frenzy around here to get our names on it quick so we can release our press releases.

Here we are saying nothing about the frequencies, the kinds of warning shots, and what about international situations, saying nothing about night flying when most of this occurs. It says nothing about flying around our borders, which I do occasionally, and have done in my own airplane.

So I will run through this very briefly here. I do not plan to take a lot of time because I do not want to delay the Senate's time on this. But I just do not see how any of this really, truly works.

Now, the only thing to be said on the other side is that we do have lined up a number of things here that have to be met, which, if we really put a strict interpretation on this, which we have to do to keep from losing lives unnecessarily, means that all we are doing is setting up something that looks like we have done something that will never possibly be used, as I see it.

The amendment reads:

> Whenever any law enforcement officer of the United States Customs Service, United States Coast Guard, or Drug Enforcement Administration, commanding an aircraft displaying proper identifying insignia, instructs an aircraft to land on the basis of knowledge that the aircraft is transporting illegal narcotics on board, and the aircraft does not land or make preparations to land; then, after observing all appropriate safeguards established under section 2 of this Act, the law enforcement officer is authorized to fire a warning signal; and if the aircraft does not land or prepare to land in response to such warning signal and other previous instructions, the law enforcement officer is authorized to fire into the aircraft.

Fire, shoot him down, kill him.

Now, let me go back to this: "* * * an aircraft displaying proper identifying insignia." That is the No. 1 qualifier right there.

Let us say I am flying my Beech Baron, flying around the Mexican border, well on the American side on a beautiful night. There is no requirement for me to have the radios on, even if I am flying on a visual flight plan, as it is called. I am navigating, in that case, by looking from one town to another, going along, flying at the proper altitude. I do not even have to be on a particular frequency, and there is not any FAA requirement.

Let us say the aircraft that comes up to challenge me on that night flight has identifying insignia. I cannot see him. I do not know what he is doing. He has no searchlights on him or anything like that. I have no floodlights that I can illuminate an aircraft with. I might not even see him if he comes up behind me. But he is supposed to

have identifying insignia and then he instructs me to land.

Now, how does he instruct me to land? That is a good one.

Senator HUMPHREY is here. He is a former airline pilot. He knows all these same things. How does somebody instruct you to land at night on a VFR flight plan? There is no way that you could do that that I know of.

Mr. HUMPHREY. If the Senator will yield, I agree with the Senator. I would not want anyone in a pursuit aircraft maneuvering close to me at night, close enough so that he could signal me by hand that he wants me to land, because he is going to bump into me.

Mr. GLENN. I tell the Senator that I agree with him 100 percent. If I am flying my airplane and someone comes flying up beside me at night and I see him up close enough that I could get some sort of signal, I am going to turn my lights off and take evasive action. And he will not hit me. I will guarantee that. I have had practice doing that, as a matter of fact.

So I think the whole thing is just so ridiculous to assume that this can be done.

Now, then we get into the procedural safeguards, all of which have to be met, I grant you, so there will not be anybody shot at if—and this is a big "if"—if the Customs Service and people like that do not get carried away with this new authority and go ahead and do some dumb things and shoot at airplanes.

We are supposed to adopt regulations "providing that neither a warning shot, nor disabling nor deadly force, may be used" unless all the safeguards have been met.

Now, what does this warning shot consist of? Is this a very pistol? Is it a tracer?

In the original legislation, there was going to be a warning shot fired. I would ask the author of this legislation: Has he ever watched a shot go by? You do not see many of them. Yet, we are going to fire a warning shot. We do not say if it has to be a tracer. What if I am not looking out when this warning shot goes past? What if I am in my airplane, flying in there, talking to somebody, looking down on the floor at instruments, picking up a chart or something, and somebody fires a warning shot and I do not see the warning shot? Then, supposedly, they can shoot me down?

Mr. JOHNSON. Will the Senator yield for a question?

Mr. GLENN. Yes.

Mr. JOHNSTON. When we were down in El Salvador, Senator CHILES and I, our helicopter came under fire from the ground. We were told later by the other helicopter that they were shooting tracers at us, but we did not see the tracers. We could hear the bullets, and some hit the helicopter.

The Senator from Ohio has been shot at with tracers a lot. Can you always see the tracers?

Mr. GLENN. No; I have been hit 12 times by antiaircraft fire, never saw a single bullet coming that hit me yet; five times in World War II, seven times in Korea.

Now, I have seen tracers go by. It scares the devil out of you, I can tell you that.

The first thing you do is take evasive action and get out of there as fast as you can.

Let me continue on some of these. We are going to fire these warning shots. You cannot fire a warning shot nor disabling or deadly force unless you have some other things met first. The FAA has to provide public notice. They have to inform "all private aircraft operators entering U.S. air space that they are required to obey any instructions from U.S. law enforcement agents, including instructions to land their aircraft, and that failure to obey such instructions may result in use of force."

Who identifies these airplanes? What tells me that they are a U.S. law enforcement agency if I see an aircraft coming toward me out there, particularly at night? You do not see them coming. How on Earth do I know that this is a U.S. law enforcement airplane that is coming at me out there? And yet, failure to obey such instructions may result in use of force. And I am completely innocent, flying, with my family, along the border space.

Well, No. 2: "Such aircraft is flying outside of flight corridors" and the flight corridors are 3,000 feet wide.

Now, I would ask anybody that does any flying these days—well, this is 3,000 feet lower. OK. This is altitude.

Now, what if you are flying over land? Is this 3,000 feet altitude above ground level? Airplanes fly these days above sea level. Even though you are going to Denver, when you land at Denver, your altitude on your airplane indicates 5,000 feet or so because that is what you are interested in, avoiding running into the ground when you are one of these flights.

Let us say you are going along in this airplane——

Mr. McCAIN. Will the Senator yield on that point.

Mr. GLENN. No, not on that point. I want to continue. Then I will respond to anything the distinguished Senator has to offer on this. But I would like to complete this while I have my thoughts going here.

So we find out here that we are not even specifying here. Are we saying an altitude of 3,000 feet above mean sea level? Is that what they mean? That is what they are flying at.

Now, if they get below that, are we saying that if all other criteria have been met now that we can shoot at them? Are you going to shoot somebody down?

We do not even spell out these things in this proposed legislation. Yet we are sayng that "in no case be lower than an altitude of 3,000 feet except to provide reasonable access to designated airports and landing strips, and provide for emergency flight conditions."

How on Earth does the other airplane know that there are emergency flight conditions? I have no way of informing somebody else. There is no requirement to be on emergency frequency here. There is no requirement to be on anything. And if I am flying into a field out here at some elevation, it does not even say whether I am above cloud level or above sea level, which is the normal way of flying.

No. 3:

The airborne law enforcement officer has visually confirmed that such aircraft is engaging in illegal narcotic trafficking.

Can anybody tell me how they can look in another airplane and tell me that that other airplane has in it, not just my wife and my two kids, but a load of cocaine in the backseat? I really do not know how we know something like that.

No. 4:

The airborne law enforcement officer must use all means of communication that are available, internationally recognized, and accepted by the International Civil Aviation Organization, including, but not limited to, radio communications on the international emergency frequencies, rocking of wings, and flashing landing lights, to order such aircraft to land.

I, as a private pilot flying in this country, am not required to monitor a single one of those frequencies. As a domestic pilot, I do not have to monitor international emergency frequencies.

The rocking of wings? What if I am flying at night. I do not look at somebody rocking wings at me in the middle of the night. How on Earth do I see him? I do not have floodlights on this thing. This gets a little crazy. I cannot believe people took this seriously and voted on this. Flashing landing lights. That is fine, but landing lights are on the forward part of the airplane and they face forward.

When somebody comes up to my airplane he has to be behind me when he flashes his landing lights. No. 1, if he is behind me, I cannot see his landing lights and if he is ahead of me, he is out ahead of me and I cannot see his landing lights. So how does he flash his landing lights to signal me to do anything? He cannot do it.

Rocking his wings. That is a great one in the middle of the night. I am going to rock my wings until I wear out the wheel on the airplane and it is not going to make any difference. This is supposed to be part of our signaling system.

Then, if such aircraft fails to comply with such instructions to land, the airborne law enforcement officer must notify his command authority located on the ground of the circumstances and seek permission to fire a warning signal to land; undesignated as to what type signal. What is it? We fire a bullet? Do I watch that bullet go by? Then I know I should land real quick when I see that bullet. That is a good one.

Tracers? What intensity of tracer? Tracers will get my attention but what if it is at night and I am looking down in the cockpit getting a chart or something and I do not see that tracer go by? Are you going to shoot me down? My wife, my kids, me, private pilot flying along minding my own business?

We are going to fire a warning signal to land yet we do not designate even what that warning signal is.

No. 6:

If such aircraft fails to comply with such instructions to land after a warning signal has been fired, the airborne law enforcement officer must notify his command authority located on the ground of the circumstances and seek permission to fire into the aircraft.

I certainly hope the command authority is consulted on that.

No. 7:

No use of disabling or deadly force shall be permitted while such aircraft is over land, or if the airborne law enforcement officer has reason to believe that under the circumstances, innocent persons would be harmed by the use of disabling or deadly force against such aircraft.

How on Earth can an intercepting aircraft come up and fly alongside my Beech Baron cruising along and know whether there are innocent people inside or not? There is no possible way we can do the things we are talking about here.

Then we get off of all those things and say, "The regulations required by this section shall be promulgated and adopted by the U.S. Customs Service, U.S. Coast Guard, and Drug Enforcement Administration not later than January 1, 1990."

If anybody can tell me how they are going to do that and how this thing will not have the potential of creating much more havoc than it is going to correct, I just do not know what it is.

And then, on top of this we finish up by saying that if anybody makes a mistake and shoots down innocent people we are going to indemnify them and say they are not held responsible for just doing what they did.

As I said, I did not even come over before when this was up because I trusted the judgment of the U.S. Senate to be more mature than it was. I think we have to fall back once in a while, even if it is drugs, even hard drugs. No one has been more consistent in calling for penalties on hard drugs than I have, but let us not go into a piranha-like feeding frenzy here every time somebody says drugs. We all rush to support something if somebody says it is against drugs, even with the potential of shooting down innocent people in private airplanes.

Do I want to stop that kind of drug traffic? Of course I want to stop that kind of drug traffic. But not at the expense of taking a chance of having innocent people shot down in their private airplanes.

I will not belabor this any further. My colleagues may guess from this I am against this piece of legislation. I think it is ludicrous and I suggest that everybody vote against this thing and let us send it back where it came from before we kill some innocent people out there. I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I have voted against this amendment every time I had an opportunity to vote against it, but I must say I have never heard a more compelling, persuasive reason than the Senator from Ohio has just delivered.

I say there is not a person here in this body who commands more respect than the Senator on almost any issue, and certainly on this one.

Here is a decorated marine combat pilot who has been shot at, who has been hit, and who understands what it is like in the air, and who understands what it is like in the air at 2 a.m. That expression over in the House, "if you fly you die," may be some hyperbole. But I can tell my colleagues one thing, I can conceive of 20 scenarios in the middle of the night, of an innocent family coming back from the Bahamas or St. Croix or St. Johns in their little Beech Baron, the father a weekend pilot, off the corridor, off the beaten path. My gosh, if a KAL Airlines 747 can get out of its corridor, pop, who is a weekend pilot, can certainly get out of the corridor.

This is just a disaster waiting to happen, if the Senate ever takes leave of its senses and approves this thing.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I have to confess from listening to the distinguished Senator from Ohio, if one were to take any one of the points that he makes—we may say flashing lights cannot be seen from behind, but then if they are behind, then they are tail lights, and they get ahead—certainly, we might say, that is not adequate warning.

Mr. President, let me suggest, though, that there is a comprehensive set of procedures delineated and there will be additional procedures as they relate to the rulemaking capability of CAB, FAA, and also the other agencies involved.

But these are some of the safeguards. We are not talking about anyone. We are not talking about a visual contact that somebody makes with plane that he or she does not recognize and therefore becomes a target. That is nonsense.

We are not talking about shooting planes down over land, over a populated area. The legislation specifically says that it will only be used over waters. It does not have land mass. This is nonsense.

The FAA publishes announcements to all pilots. All pilots are going to know. This is not going to be implemented without there being the widest possible dissemination. The FAA establishes and maintains air corridors with a floor of 3,000 feet. Aircraft dropping below this floor for anything other than emergency landing, yes, they know that they will be suspect. They will know that.

There is the issue of transponders, whether or not they can be utilized in furtherance of this.

Law enforcement agencies visually confirm illegal activity. There has to be a reason. Not just that the plane is below 3,000 feet and has not been identified. We are not just going to come out and shoot them down. They see things such as emptying bales, suspicious activities, place of origination.

We are not going to find a plane that happens to cross our path and we do not know where it started. Most of these planes are going to be tracked from the airfield they take off from when there is pretty darned good reason to know and suspect they are drug planes, involved in illegal activity. We have those capabilities.

This is nonsense to say it is just going to be the poor guy coming from the Bahamas on a family trip and he has lost his way and we are going to shoot him down. That is not the case at all. And if he lands on a field in America and is held there we are going to follow him in. The problem is when he heads to Mexico to outrun us, or heads to another country. That is the problem.

What do we do then? What about hot pursuit? What about the local law enforcement people?

When somebody commits a bank robbery, shoots people, hops in a car and takes off, how do you know that was the car that was identified?

Day in and day out our law enforcement officers are called upon to make critical choices and critical decisions. We can say, following the same logic, does a bad guy run around with a headlight behind him that says I am a bad guy? I am the guy that did it.

It is just about as silly as taking every single one of these and saying any one of these is fatal. Take the totality of the law. Law enforcement agencies must repeatedly attempt to

communicate by radio and visual signals to instruct the suspects to land.

We have to trust in the common sense of our law enforcement officers. These are law enforcement officers, DEA people, customs people, trained in this. They certainly are going to give every benefit of the doubt, and err on the side of caution. Unless they know and unless everything possible has been done, and yes unless they ascertain that these are people who are trying to run.

The PRESIDING OFFICER. The Senate will be in order.

Mr. D'AMATO. Mr. President, this discussion goes further. It says if this decision is not made by the fellow up there in the sky who may become trigger happy, he has to seek permission from the ground commander before firing a warning shot. We are not saying just a warning shot, the kind of warnings that are necessary that would be given.

These decisions are made every day on the ground, on the water and, Mr. President, we are suggesting it is about time we had it in the air. Let me tell you why. Because our people are being brutalized on the ground. They are being killed. There are 200,000 crack babies born addicted. Nineteen thousand planes it was estimated crossed our border by the DEA. We intercepted 1 percent of it. Hopefully, by using the kind of technology we will have, we will be able to do better. And if we shoot down a couple of these guys, maybe there will not be 19 planes to carry in the bulk of cocaine.

Mr. President, we can find a way to pick at anything. I suggest we stop picking and start going after the drug dealers. I am pleased to support this legislation.

Mr. McCONNELL. Will the Senator yield just for an observation?

Mr. D'AMATO. Yes, certainly.

Mr. McCONNELL. The Dominican Republic went to this procedure 2 years ago. They do not have a flight problem. It stopped, it ended it. It stopped once and for all. I thank the Senator from New York for his support for the amendment and articulate comments.

Mr. D'AMATO. The Cubans do not have an overflight problem that they do not want and do not know about. People know. You do not hear people getting shot down willy-nilly. I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I am a supporter; I am a cosponsor and I think the Senator from Ohio has done a masterful job of ridiculing a plan, but it is not this plan, No. 1, and I think that a great many of his comments, which I enjoyed listening to, also, simply do not apply to what this particular piece of legislation is trying to do. There are few Americans with the distinguished flying record of the Senator from Ohio, with the distinguished combat record, and the combination of the two is powerful when he speaks to this. Very powerful.

I am a pilot with a mere 1,200 civilian hours. I have never flown in combat, although I have been in combat and I have had tracers fired at me and I worked under rules of engagement, very complicated rules of engagement in Southeast Asia. But as a private pilot with an instrument flight rules commercial rating, I am not intimidated by what this represents to me as a private pilot. There is not a pilot who is worth their salt flying across a body of water, which is what this contemplates, who does not check with their notice to airmen, who does not first file a flight plan on almost all occasions, who is not tuned in to the frequencies, checking in if you are leaving from Miami, whatever, which is controlled air space, talking with the tower and the flight center and eventually with the arrival authorities in another country.

This specifically does not apply over land. It is not meant to. It also specifically contemplates that regulations are going to be issued by the appropriate people; specifically, regulations would be issued by the Coast Guard, Customs, the DEA and until those regulations are adopted, obviously nothing can happen. I presume, and we have to make some presumptions of common sense here, that the Coast Guard, the DEA and Customs are going to issue regulations which are within the realm of common sense with respect to any kind of engagement, No. 1.

No. 2, this legislation is directed only at that situation where there has been a visual confirmation of illegal narcotics activity. What this is specifically designated to do is not to deal with the dentist flying from Peoria. They do not come under this whatsoever. There has to be a visual confirmation of bags of heroin, whatever, being kicked out in a drop, that is, in the Bahamas or somewhere.

Why is this legislation designed this way? Because we have heard from countless agents and we have seen the films. With infrared photography, you can see at night. And with the infrared photography, we have seen the actual films of these people flying low, dropping their drugs and then dipping their wings and flying away. Our agents who film these are powerless to do anything about it—powerless. We have had daytime photography and we actually had daytime sightings where as they fly in and drop the drugs, they turn around and the pilot flips the bird to our agents and flies away with impunity. Now that is what this bill is supposed to deal with. There is no permission going to be granted if there is any doubt whatsoever if there has not been a visual observation of illegal narcotics activity.

So the distinguished Senator from Ohio has spoken effectively, and he has adequately ridiculed the concept of shooting down planes anywhere over the United States. I agree with that ridicule. That would be folly. It would be insanity. But that is not what this legislation does or is intended to do. It applies only to that situation where you have visual sightings of narcotics trafficking taking place; where you have rules and regulations; where you have checked with the authorities and it is over water, and it is specifically designed to deal with flights from Colombia, flights from the islands.

I think that regulations can be put together within the realm of common sense that allow our enforcement officials to stop being made into people who are put out on this line without the ability to do anything about it. I respectfully suggest that it is simply not the kind of open-ended turkey shoot that the Senator from Ohio has suggested it is.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER (Ms. MIKULSKI). The Chair recognizes the Senator from Ohio.

Mr. GLENN. Madam President, let me go to the authorities on this. I was a bit emotional a while ago. Let me be a bit dispassionate at this time and quote from those people who are charged with enforcing the drug enforcement laws of this country. The chief operations officer for the drug enforcement agency came before the Permanent Subcommittee on Investigations on September 26. During that hearing, he was asked some questions by Senator NUNN with regard to this particular situation. His name is David Westrate, chief operations officer for DEA. Senator NUNN said:

> I want to get back to the source in a moment, but just one other question, because we are having to struggle with it, or will soon, in conference. What do you think the need is, is there a need for the ability of law enforcement to shoot down aircraft in this country that do not respond to orders to land?
>
> Mr. WESTRATE. Well, Mr. Chairman, that is a very sensitive thing. I have been trained as an agent. I have 25 years of experience, and one of the fundamentals we learn as Federal agents is you never shoot at a fleeing felon. If a felony were committed in my presence here on the streets in Washington, let's say we had 5 hand-to-hand purchases of drugs from somebody, we went to arrest him and that person ran, or jumped in a car and ran, we can't shoot at him as a matter of policy.
>
> So, first of all, when we talk about shooting down an aircraft, you are talking about shooting at a fleeing felon, in a sense, one nobody.
>
> Senator NUNN. Suspected felon.
>
> Mr. WESTRATE. Right, suspected. I mean, who knows who is in the airplane, is it perhaps an undercover agent somebody doesn't

know about it? Is it an informant? Is it some innocent people along with a guilty party? What are we really dealing with here? So, you know, is it somebody maybe who doesn't have a full understanding of the language? Who knows, there are a million possibilities here.

On the other hand, I think we have to have some strength in our interdiction activities. I don't think a shootdown policy is something that will ultimately come to pass, in my view. It might, but I don't think it will.

Senator NUNN. You don't think that is needed now, or desirable?

Mr. WESTRATE. Well, I don't think it is, for the reasons I have said. You know, we have a constitutional rule that says you are innocent until proven guilty, and to me proven guilty means a trial.

Now, when you shoot across the bow of a vessel or you shoot into the engine compartment of a vessel, that is disabling fire and that boat stops and you arrest the people. When you shoot an aircraft, there is only one way that plane is going and that is down. I mean, the odds of someone surviving that, I don't think are very strong.

Senator NUNN. So there is no such thing as shooting not to kill in terms of downing an aircraft.

Mr. WESTRATE. Not that I know of. You would have to be awful lucky.

Senator NUNN. What I was trying to get at in terms of percentage, is the question of how much cocaine comes in by air, what percentage of the cocaine coming into America comes by air, therefore how important is this, even if the authority was given?

Mr. WESTRATE. A rough guess, between *10 and 20* percent. I will get you the specific estimates, but I would say 10 to 20 percent.

But let me add something real quick. If we do not have a shootdown policy, I still think we have the opportunity to address these people if we are organized as police forces multi-nationally. That is why we can pursue these people back. If the Colombians have the air capacity to chase an aircraft that has gone to the Bahamas, seen law enforcement presence and decided to flee back to Colombia, we have every capability of being able to communicate, to track through radar, U.S. military, U.S. Customs, U.S. Coast Guard, to track that aircraft all the way to Colombia, having alerted our Colombian counterparts. They will make a seizure of that airplane when it lands, simple.

The question is having the Colombia police or the Colombian military, whatever their choice is, to be able to fly to a target and arrest them, it is not a difficult thing to do.

That is the Chief Operations officer of the Drug Enforcement Administration.

Mr. KERRY. Will the distinguished Senator yield for a question?

Mr. GLENN. I will yield but I think that says it all, in addition to what I said before. As soon as the remarks are finished, I will move to table.

Mr. MITCHELL. I will ask if both Senators will yield.

Mr. GLENN. I am finished.

HL RECONCILIATION

Mr. MITCHELL. Madam President, if the Senator from Ohio has yielded the floor, I seek recognition.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Madam President, I remind Senators that for this week we must complete action on the pending measure. Then we have to complete action on the catastrophic measure, on which we hope we will be able to obtain a time agreement, limiting the amendments, but that would still take several hours under the best of circumstances. And then we must proceed to the reconciliation bill.

I have already indicated that we will be in session this weekend in an effort to complete that prior to Sunday evening. If we fail to do that, then the Senate will return to session on Tuesday and continue until such time as we do complete action on the reconciliation bill.

There has been a great deal of discussion and comment and analysis about the reconciliation process. The House passed their bill today. I have several times in the last few days, beginning with the lengthy Finance Committee meeting earlier this week, said to the distinguished Republican leader it is my belief that the best approach we could take as a Senate, as a Congress, and as a Government is to attempt to return the reconciliation process to its original intention, which was a limited process, to achieve meaningful deficit reduction.

For a variety of reasons, which need not be detailed now, it is apparent that that process has gone awry and the reconciliation process, because it contains limitations in an effort to give prominence to the original objective of deficit reduction, has by virtue of those limitations served as a magnet to a great deal of other legislation.

One need only look at the House bill passed today as dramatic evidence of the statement I have just made.

To help move us toward the public policy that is in the best interest of the country, I have met on several occasions with the distinguished chairman of the Budget Committee and the distinguished chairman of the Finance Committee.

I have advised the distinguished Republican leader of our discussions in this regard and of our intention to present a suggestion to our colleagues this evening on how best to proceed in that regard.

Accordingly, Madam President, I am going to ask that we permit that discussion to occur now, having been notified the former chairman of the Budget Committee and ranking member, the Senator from New Mexico, is present, as is the distinguished Republican leader.

I will yield, asking that the chairmen of the Budget Committee and the Finance Committee be recognized to make a suggestion, and then yield to the distinguished Republican leader or, if he wishes, to yield to him now to respond.

Mr. DOLE. Only briefly now. I am more interested in trying to get a tighter agreement on catastrophic. I would just say to all Senators we submitted a list I think of four amendments plus there will be a budget waiver, which I think both sides will have to do if you are going to have any plan, and the time is about 4½ hours.

I was prepared to go back to those Senators to see if we could reduce that time. This thing has been argued so often I cannot believe we need more than 30 minutes equally divided on any plan or at most 40 minutes equally divided.

I think I can encourage Senator MCCAIN and others to abide by that because it would be my hope, if we take up catastrophic, we could vote on these various plans and complete action in a day or less because, as the majority leader indicated, there is a lot of work to be done.

So I did submit earlier today a proposal to the majority leader. I understand now that he has had some indication on his side of the number of amendments.

I urge my colleagues on both sides, if we want to leave on Sunday sometime, then we should not take—I think I counted last time 15 hours on the catastrophic bill—15 hours. By the time you have quorum calls and rollcalls, you are talking about a good day and a half of an all-night session.

As far as catastrophic is concerned, I think the principal person on this side, Senator MCCAIN, would be willing to settle for less than an hour, much less than an hour, and all those who feel constrained to speak could speak sometime during the day on one of the amendments or one of the plans.

So I want to join the majority leader in suggesting if we can put that consent agreement together tonight, that would be something we might be able to do starting early tomorrow morning and maybe finish it by 2 or 3 o'clock.

Mr. DOMENICI. Will the leader yield on catastrophic?

Mr. DOLE. Yes.

Mr. DOMENICI. I might say to the distinguished majority leader——

Mr. DOLE. I do not have the floor.

Mr. MITCHELL. Certainly.

Mr. DOMENICI. On catastrophic, there is a genuine concern about the point of order. If you have five or six agreed-upon amendments, I think all of them that I have seen would technically require a waiver of the Budget Act.

I think our Republican leader will be suggesting that we find a mechanism whereby we could test the Senate on a waiver of the budget process for all of them, once they have been looked at, so we either vote yes or no.

I am not suggesting that. I am saying there is talk about it. It might alleviate some of the problems. I would think it makes sense. I merely suggest it. I think our Republican leader is aware of it.

Mr. MITCHELL. I thank the Senator. I thank the distinguished Republican leader and join him in requesting restraint from all Members. Senators constantly ask me during the evenings why we are here so long. The answer is—it is, of course, a rhetorical question in reality because everyone knows why we are here for so long—because we move slowly during the day, and then there are a number of amendments and lengthy debate.

Mr. McCAIN. Madam President, will the distinguished majority leader yield?

Mr. MITCHELL. Yes.

Mr. McCAIN. I thank the majority leader.

I was looking at the proposed amendments. There are several of them that say they request 2 hours equally divided, 90 minutes equally divided. They are issues well-known to all of us. I hope we can agree to, on some of these, 15 minutes to a side.

I might also add that some of them are basically minor iterations of other amendments.

It seems to me, Mr. President, that particularly given the knowledge that most of us have on this issue, we should be able to cut this down to 4 or 5 hours. I hope the distinguished Finance chairman will agree with that.

Mr. BENTSEN. I say that I certainly share the viewpoint that we ought to be able to cut them substantially. I hope we can do it. We are much more familiar, of course, with the amendment of the Senator from Arizona, although he just changed it some. I understand he is asking permission to further change it to an additional form.

But if we have a few amendments that have quite a different approach to it, it is not one of those things that we can settle in 15 minutes with some of those, but to the extent I can convince those members to cut back on time, amendments from our committee, I will be so doing.

Mr. MITCHELL. I will urge that. I would like, according to my prior statement, to yield to the distinguished chairmen of the Budget Committee, and the Finance Committee, who are prepared to present the suggestion to which I earlier alluded, and then obviously the opportunity to respond will be available to the distinguished ranking member of the Budget Committee. And I would like to make some additional comments as well.

Mr. SASSER. I thank the distinguished majority leader for yielding.

Mr. President, it is critical that we avoid sequester. I have taken the floor of this Chamber three times this week to speak on the question of sequester and about the necessity of avoiding sequester. Sequester will take place on October 16 unless we pass reconciliation in both Houses and a reconciliation in the conference is agreed to.

October 16 is only a short time away. When you deduct from the remaining time the 2 weekends and the holiday for Columbus Day, and a religious holiday, that gives us 7 working days to avoid sequester.

In the event of sequester, that is going to create chaos. It will be a chaotic condition.

It is elementary that one of the fundamental duties of government is to bring order to human affairs. If government is there for no other reason, it is for that. And for us to allow a sequester to take place I believe destroys confidence in government and destroys confidence in those who are responsible for government, whether they be in the White House, whether they be in the U.S. Senate, or in the House of Representatives.

I am pleased to see the distinguished ranking member of the Senate Budget Committee on the floor because I know he shares my concern about sequester and the consequences of sequester.

He and I worked hand in hand for long hours, long days, and weeks to come up with what we thought was a fair bipartisan budget agreement. And the driving force behind that was that we could bring order to the budget process for fiscal year 1990.

We are faced now with the task of avoiding a sequester with time running out. We are faced with a reconciliation bill here in the U.S. Senate that is fairly heavy with extraneous matter.

I say to my colleagues that many, in fact most, of these extraneous matters are meritorious. They are matters that I think most of us would support. But the fundamental fact is that they have no place on a reconciliation bill. They simply load it down, and make it too heavy to carry.

I have been in meetings with the distinguished majority leader, the very distinguished chairman of the Senate Finance Committee, and I think we have concluded jointly—the chairman of the Finance Committee can certainly speak for himself. But I think we have concluded there is only one responsible course to take at this very late hour; that is, to strip the bill, the reconciliation bill, of every extraneous provision, every single one of them, and we must lay aside the capital gains debate, lay aside all matters that would keep us from finishing the reconciliation bill in time to avoid sequester.

That I think is the only responsible course to take at this particular time.

I know that the distinguished ranking member of the Budget Committee shares my concern about extraneous matters. He circulated a letter which detailed the various extraneous provisions on the House reconciliation and on the Senate reconciliation at the time it was circulated. I say to may friend form New Mexico that we picked up quite a few more heavy matters since then. The reconciliation bill has been weighted down even more.

So the proposal that I would like to lay before this body this evening is that all Senators, our friends on the other side of the aisle, join us in restoring the improved function of the reconciliation bill, join us in stripping it clean, join us in laying aside the debate over capital gains which has been so divisive, and let us simply let the Finance Committee go forward and raise the $5.3 billion and no more which was the basis of the bipartisan budget agreement that we made a few months ago—a bipartisan budget agreement that was announced with such fanfare in the Rose Garden, one that some of us took some dubious pride in, and certainly it was one supported by the administration and by our friends on the other side of the aisle.

We simply have an obligation to move forward, meet our fiscal responsibilities to this reconciliation bill, and then deal with extraneous matters and capital gains on another day.

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Madam President, we have reached a critical position in trying to achieve a cut in the deficit that we think is important to our country. It is impeded by the fact that we have a difference of opinion on what to do on capital gains. The President of the United States thinks that we ought to move on the capital gains. This Senator thinks that should be a lower priority. But that kind of a debate is going to continue. When you reach that kind of an impasse, then I think it is time to look at the procedures to see if we should not take a different approach.

We fought part of this fight night before last. And the chairman's position was debated, and we won that point. We are now in the position where the capital gains provision would take 60 votes to be able to win that point and establish a waiver.

So from a tactical standpoint at least the IRA has the advantage for the moment. But we have a higher priority. I am well aware of that; that is, to try to achieve what we have to do, reach the Gramm-Rudman targets, and avoid sequester.

So with that in mind, in spite of a great amount of work done by the members of the Finance Committee,

whether we are talking about rural health or talking about child tax credit, et cetera, whether we are talking about earnings limitations raised on Social Security or talking about the elderly, which I feel so strongly about.

I am ready, if the leadership on both sides is ready, to see that we move to a stripped-down bill, and that would be the removal of the IRA's, and that would also mean no capital gains offer. If we take out some of these measures that so much work and so much effort has been made on, that does not mean that they will not be visited at another time after we get past reconciliation.

They will be coming back. Capital gains will come back, and the IRA will come back, child tax credits will be coming back, and certainly raising the earnings limitations on Social Security will be coming back.

I am prepared to explore with the majority leader and with the chairman of the Budget Committee and the leadership on the Republican side to see if we cannot arrive at an accommodation, so we can get the job done and do it in time to meet the sequester deadlines. I will tell you, my friend, I am ready to do that, if it will accomplish an objective.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Madam President, I will be very brief. The two chairmen have stated well the situation and the mechanism we propose to deal with. I simply say to my colleagues that this is a good faith, serious suggestion. It would obviously require participation by Senators from both sides of the aisle in making determinations as to what is extraneous, what should be excluded, and what should not be.

But every single Senator, without exception, has made countless speeches on the problem and threat to our future and our economy posed by the Federal budget deficit and the rapidly growing Federal debt. We devised a mechanism that attempted to focus our energy and effort on dealing with it, and each of us now knows that that mechanism is not achieving its intended purpose.

What we must do is restore a sense of responsibility and discipline when dealing with the deficit. This would not disadvantage anyone, any proposal or legislative initiative or amendment to be offered at some other time to some other measure. It simply says that we have a crisis in this country, we have an impending deadline, and I hope that we can join together and deal with it in a serious and responsible way.

This is not a gimmick; this is not a mechanism to gain tactical or other advantage; this is a serious effort to deal with a very serious problem, and I hope very much that we will be able to do so.

I thank my colleagues for their patience. I am pleased to yield the floor.

Mr. PACKWOOD. Madam President, I think the words of the chairman of the Budget Committee and the majority leader and the chairman of the Finance Committee have been most generous. I am totally inclined to agree for a variety of reasons, and one more that I will add on my own. It is responsible to strip this out.

Second, it does not serve any of us well, the majority or minority, to start this body down the process where the majority decides to use the reconciliation process—It started out as itsy, bitsy things, and now it has become a super appropriations finance budget bill and put everything into it you can, prohibit debate on it, and that does not serve this body well, Republican or Democrat, majority or minority.

I think this offer is a generous, intelligent offer. I hope we can sit down and honestly try to bargain out what is extraneous and what is not. We may have slight differences of opinion, but I will wager that on 95 percent of the things in that bill, we will go yes, yes, that is extraneous. Even if there are things we want, we know if they are extraneous.

I thank the majority leader and the chairman of the Budget Committee and the chairman of the Finance Committee.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Let me first thank the distinguished Senator from Oregon who had to rush back to be here. As I started to say earlier, the reconciliation process which was established in 1974, and I was here at that time, and I remember all the debate we had and all the good intentions that went into that.

There were a lot on both sides of the aisle. I remember, particularly, Senator Muskie and Senator Percy spent many hours trying to put something together on a bipartisan basis.

But the process has been used for unintended purposes since it was first initiated, making it sort of a mockery. The inclusion of unrelated provisions, referred to extraneous matter in reconciliation legislation, has long been criticized since it was started by the Congress and the Senate in 1980.

That was a Democratic-controlled Senate, but I must say Republicans thought it was a pretty good thing, and it was continued.

We tried to curb the practice with the adoption of the Byrd rule, which happened in a Republican Senate, to eliminate extraneous provisions. But I must say, I think we have sort of gone back to where we were in the early eighties.

In addition to the extraneous provisions, another concern is "what type of deficit reduction is considered appropriate for reconciliation measures?" The type of provision that produces only one-time savings and that may result in greater costs in the future years, such as asset sales or shift in payments and other transactions from one fiscal year to another are harmful and we use them all the time. They should not be considered reconciliation.

Under the 1985 Balanced Budget Act asset sales and loan payments generally may not be counted as deficit reduction. This year we adopted a sense-of-the-Congress provision that asset sales and loan payments should be counted as reconciliation.

The 1987 Balanced Budget Reaffirmation Act expanded the definition of extraneous matters under the Byrd rule to include provisions increasing outlays for decreasing revenues in fiscal years beyond those covered by the reconciliation measure, and extended the expiration date of the rule to September 30, 1992.

The act also prohibited counting as deficit reduction the transfer of any government transaction including any payment, expenditure, asset sale, or revenues from one fiscal year to another, with certain exceptions. But it is clear that the exceptions are too broad, so we found all kinds of ways to get around that.

It seems to me that when we come up with the bill that we now have the question is, "Is it a reconciliation bill at all?" We might ask for a ruling on whether this is a reconciliation bill. It seems to me that there may be an opportunity here to set a precedent for fiscal sanity.

I know that there is concern about the capital gains reduction. If that prompted this, maybe it is worth it. If we start cleaning up our own act, perhaps we can deal, as the chairman of the Finance Committee indicated, with some of the other matters later on.

I think there may be other questions that arise, speaking from this side, and I certainly consider the offer to be in good faith and not a gimmick or whatever. We would want to know who determines what is extraneous. Is it going to be a joint decision? Are Republicans going to be invited to that meeting? I assume they will, based on the statements made by the majority leader and others.

Can we get a commitment from the House to follow suit? I know the majority leader has spoken to the Speaker. I know the Speaker feels as strongly about this as the majority leader does, and I think I can say that the minority leader, Congressman MICHEL, feels about the same even though the

vote on the House side today was overwhelming.

But, if we strip ours and the House keeps theirs, then I am not certain what happens in conference, and I guess we would have to know what is the plan for all those items that are stricken out of reconciliation. Is there somebody who has already thought how we will put them all on a revenue bill and send them out next week or the following week? I do not oppose that necessarily. At least we would not be under time constraint or under some 20-hour rule. And when you combine all these measures that are kicked out and stripped out into one package, it will be a number of packages, and I would guess that would depend on whether or not the chairman of the Finance Committee has any revenue measures that he could make available for the IRA package or any other revenue packages.

But having said that, I can tell the majority leader and anyone else who may be interested that I want to put the record of the vote on the Byrd rule back in the RECORD because I think we did try to deal with it at that time thanks to the distinguished President pro tempore now because we knew it was getting out of hand, it was being abused by everyone on both sides. Everybody waited for reconciliation; we could not get it passed, stick it in reconciliation. What was surprising to me, you did not put minimum wage in reconciliation. That is about the only thing that has been overlooked. So it would seem to me that if, in fact, we can have some time to sit down with Senator DOMENICI meeting with Senator SASSER, and Senator PACKWOOD meeting with Senator BENTSEN and other appropriate committees, the two leaders, we might be able to put together a deal that would be good for the country for a change.

Madam President, I ask unanimous consent to print in the RECORD the vote to which I made reference.

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

VOTE No. 254

YEAS—96

Republicans: Abdnor, Andrews, Armstrong, Boschwitz, Chafee, Cochran, Cohen, D'Amato, Danforth, Denton, Dole, Domenici, Durenberger, East, Evans, Garn, Goldwater, Gorton, Gramm, Grassley, Hatch, Hawkins, Hecht, Heinz, Helms, Humphrey, Kassebaum, Kasten, Laxalt, Lugar, Mathias, Mattingly, McClure, McConnell, Murkowski, Nickles, Packwood, Pressler, Quayle, Roth, Rudman, Simpson, Specter, Stafford, Stevens, Symms, Thurmond, Trible, Wallop, Warner, Weicker, Wilson.

Democrats: Baucus, Bentsen, Biden, Bingaman, Boren, Bradley, Bumpers, Burdick, Byrd, Chiles, Cranston, DeConcini, Dixon, Dodd, Exon, Ford, Glenn, Gore, Harkin, Hart, Heflin, Hollings, Inouye, Johnston, Kennedy, Kerry, Lautenberg, Leahy, Levin, Long, Matsunaga, Melcher, Metzenbaum, Mitchell, Moynihan, Nunn, Pell, Proxmire, Pryor, Riegle, Rockefeller, Sarbanes, Sasser, Zorinsky.

Nays—0.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, first, I want to say that I join the distinguished Republican leader in saying that I believe this offer is made in good faith and obviously it is directed at solving a very, very thorny problem that is serious.

I would just like to make a couple of points to my good friend, the chairman of the Budget Committee. The target is continually moving, so I assume in the last few days he has found more potentially extraneous material than we did. We think there are at this point 300 known provisions on the Senate side that are probably extraneous, and you note, I say to the distinguished chairman of the Appropriations Committee, the Senator from New Mexico said "probably" because I submit that the Byrd rule on extraneousness and all the rules we adopted are pretty subjective. We could not draw them as objective as our precedents on germaneness, and the like. So right off I am delighted that the Senator is suggesting that this is not an easy task. Clearly, we have plenty to work on without any question.

Second, I do want to make a couple of points that the Republican leader made. Frankly, I think I would start working on this, if I am asked to, with the idea that we may not have a reconciliation bill at all. That is not terribly relevant if we make a deal, but I think it is important in terms of how we negotiate because this whole thing may not be a reconciliation bill. I am not sure how the Parliamentarian is going to rule when it is all packaged up, but I have looked at it, and I really have some serious doubts about the precedents of the Senate, the Byrd rule in its entirety.

I do not know that we have a reconciliation bill. I am concerned when I look at our reconciliation bill and it is vested with all of the negative aspects that Senators have all talked about, including our leader on this side. But I submit, if that is the case, the House bill is vested with perhaps three times as many and in some cases they are far more important issues from the partisan standpoint to maybe that side of the aisle or this side of the aisle.

I think it is important that we know whether we are working to fix something that needs fixing and then we are going to go to the House with a package that is absolutely enormous and try to negotiate what we would call a stripped-down bill. I think there is a lot of danger in that.

Just two more points: I am not at all sure that we do not already have a sequester.

So I say to my good friend, the chairman of the Budget Committee, as I read the law, we already have one. I am not so sure how we get out of it, but I would like to act in such a way that we really reduce the deficit. So I am interested in that as we talk about cleaning up this bill because there are so many ways to figure out that you cut the deficit when you have not, that the spirit and the words are genuine, that we are here because we have a deficit and we want to fix it. When we have finally agreed, if we do, I am kind of interested in whether we really have had a positive effect on the deficit or not.

Last, since it has not been said by either of the two Republicans, the Senator from New Mexico is not at all sure that unless we want to agree to this that capital gains of necessity by definition is subject to the Byrd rule and extraneous. We may end up agreeing we are not going to take up capital gains. But I just want to make the point that we do not know yet that a capital gains amendment cannot be crafted and drafted which is indeed not extraneous and not subject to the Byrd rule. That is entirely possible. That is an important issue on this side and important to the President of the United States.

So while I am saying we are taking a good step forward with the Senator's ideas to come back to our senses, I wish we would have had our senses as we produced the bills that are packaged up in that reconciliation bill, and I wish we would have had our senses about us in the last 3 or 4 weeks when we even produced some new ones. I am not speaking of Finance. We could not get finished. We even had committees report a second time within the last 2 or 3 weeks.

So I am willing to work on this under the direction of our leader, but, frankly, we have to make sure we know that we have a game plan. It could go on forever, and we could have all kinds of definitions. I do not want to be part of that. I do not want to be that referee, but I do not mind working, and I do not mind doing my share if I know what I am trying to do.

So I thank the majority, including the chairman of the Finance Committee and Budget Committee and the distinguished majority leader for the proposal here. I do not want the palaver here tonight exhilarated. We are a long way from solving the problem of avoiding a sequester, but what we do should at least reduce the deficit. I am sure we are not talking about other things that will reduce the deficit. I am not sure the reconciliation we are talking about and appropriations we are talking about and everything else that we all fund, that we would reduce the deficit. But I am sure the sequester will.

I am willing to do what the distinguished leader suggests and I thank him for the proposal.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Madam President, I will yield in a moment.

I wish to respond to one question and one point that were raised.

The distinguished Republican leader asked who will make the decisions. Will they be joint? Will Republicans be invited?

Let me assure him that the only decision that was not joint, that was unilateral, was the decision to make this suggestion. I made that decision after consultation with the chairmen of the Budget Committee and the Finance Committee, and I emphasize that it could not conceivably succeed in any event if this be unilateral in any sense; it must be a joint effort.

I propose that the chairmen of the Budget and Finance Committees begin meeting with the ranking members of those committees promptly to address the admittedly difficult questions which the distinguished Senator from New Mexico has pointed out. No one disputes the difficulty of this course of action. On the other hand, no one can dispute the difficulty of the alternative. And that is proceeding down the road which this reconciliation process is now taking us.

We expend so much energy and effort here seeking to gain and retain tactical partisan advantage that it is often difficult to keep a focus on what our central objective is, and that is to deal with the very serious problem in a responsible way. That is all that motivates this.

I am heartened by the response, and I suggest that the four Members whom I have just indicated meet as promptly as possible to begin to address it to see if there is some way to work through these very difficult, admittedly very difficult, questions.

Madam President, I yield the floor.

Mr. BRADLEY. Madam President, let me compliment the majority leader and the distinguished chairmen of the Finance Committee and the Budget Committee for making this offer to the Republican side. Let me also compliment the Republican leader for his willingness to entertain this. This is really an effort to let reconciliation be reconciliation.

In the Finance Committee, on the revenue side, that means raising $5.3 billion. That is clearly what is required for us to do. I hope that we would do that and little if anything else. I think then we could be fulfilling our responsibilities and reducing the deficit in the process.

I thank the majority leader for making this offer and I hope the Republican side will take it up seriously and use reconciliation to reduce the budget deficit.

Mr. PRYOR. Madam President, I am a member of the Senate Finance Committee. I, like my colleagues and the distinguished chairman, worked diligently with our colleagues on the Republican side until 3 a.m. the night before last.

Frankly, as I was walking back to get in my car, I heard many, many people in the respective offices kind of opening champagne bottles and celebrating individual victories that some of us had accomplished in getting our little deal in the tax bill, and winking at this person for slipping this in, and having someone else put this in for us.

Madam President, I must tell you—this is not an admission, this is a fact—I come to the floor tonight as one who ended up with a busload of extraneous matter.

It was nothing more or nothing less than a feeding frenzy. What started simply as a $5.3 billion reconciliation bill ended up, Madam President, to be a $37 billion bill.

As I was driving home, I did not feel very good about myself. I truly did not. I also felt, Madam President, that somehow or other that we did not act responsibly. I felt that after all this frenzy was over, had I gone back there to the lobby of the Dirksen Office Building outside the Finance Committee room, and looked down that long hall of lobbyists, I should say, well-meaning, good people, representing a lot of fine institutions and companies, whatever, I sometimes wondered during the course of that evening if I went out there and shouted down the hall, "Does anyone out here represent Maude Smith?" Somehow or other I felt like Maude might not have been represented that night.

I think what the proposal has been, and the advancement of this idea of stripping and of being responsible, would probably send a shock wave through this country that for once we have done something extremely responsible on the eve of a sequester, a tremendous national debt, uncertainties about the market. But more than anything else there is the fear that we do not have the discipline to do it.

Madam President, I hope we will have that discipline. I also hope we will have that joint leadership between both sides of the aisle in this good-faith effort. I hope that we will succeed. I am willing to be a part of attempting to make it succeed, even though I would like IRA's, I say to my distinguished chairman; even though I am one who would like to see at some time some form of capital gains. I think that there will be another day. But I think this day should be marked as one when we must be responsible.

The majority leader has proposed, I think, a responsible package. I appreciate very much the comments of the minority leader, Senator PACKWOOD and the distinguished chairman. I hope it will work. I yield the floor.

Mr. DOLE. Madam President, I am not going to prolong this because I think we heard some statements that I know are sincere on each side. But if I did not make it clear, there is one other person in this town who has an interest in what we do, and obviously many more than that, and that is the President of the United States. I have not discussed this with him. He will be visiting up here in the morning about 9:30. I know by then he will have heard about this. In fact, we have already had a call from somebody in the White House, some unidentified source. [Laughter.]

So I would be very happy to start the process, however the majority leader wishes to proceed. I know the ranking Republican on the Budget Committee is prepared to do that.

I indicated earlier I want to put the vote on the Byrd amendment in the RECORD. I was reminded by the distinguished Senator from West Virginia that it was fairly unanimous. It was. It was 96 to 0. There were four absentees.

So it indicated on that date we felt pretty much as we feel tonight. That was October 24, 1985. So perhaps there is still time to come to grips with this issue.

I wish to thank the distinguished Senator from Arkansas, because I thought he had done pretty well that night. [Laughter].

And he did. As we all did. The chairman was very generous. Those are difficult things to do in the Finance Committee.

I also noted that large group of public-spirited citizens, who were just there observing the process, out in the audience. Some were happy and some were a little sad after it was over.

Mr. DOMENICI. Did they know the Byrd rule, Mr. President? Were they aware of the Byrd rule?

Mr. DOLE. They were in flight, but I do not think so. They were not concerned about the Byrd rule.

In any event, I am prepared to do whatever the majority leader wishes to do. We could start meeting now on our side or we could start early in the morning. I do not know what the plan is for the rest of the evening.

Mr. MITCHELL. Under the circumstance, I do not think we have any alternative but to proceed this evening on the pending measure and hope to complete action on it as soon as possible. I implore all concerned to show restraint in the amendment that they offer.

We are going to return to the pending amendment, I believe, by the distinguished Senator from Kentucky. I hope there will be vote on that soon and then we will just proceed.

Mr. DOLE. I am advised that on the night we were marking up the bill in the Finance Committee there were 31 amendments agreed to on this bill. I do not have the foggiest notion what is in each of those amendments. But I understand there are some on each side who were a little displeased when they found many of the amendments had been accepted.

I now understand there are between 12 and 20 on this side and maybe a dozen that side. That means there are at least 20 or 30 on the drug bill. This amendment has taken a couple of hours. If that is the case, we will probably not be able to complete action this evening.

Mr. DOMENICI. If the distinguished majority leader will yield on this point, I do not know if the distinguished Senator from Arkansas [Mr. PRYOR] was here when I spoke. But I was here at the end of his discussion. I want to just repeat again my observation.

It has been referred to as a package. I think we have a proposal to try to negotiate a bill that is something that we could all call a reconciliation bill. But the discussion now seems to be that we can take up capital gains at some later time. I am not so sure that you all suggested that capital gains is off the table. If that is the case, then I am not so sure we are ready to talk.

I thought we were supposed to talk about getting a reconciliation bill that we were absolutely certain met the Byrd test on extraneousness, but that we were not here negotiating what the tax package might look like that met the test of reconciliation or amendments that might meet the test of the Budget Act. So I hope nobody thinks that my agreement means that.

We can offer amendments, if you get 60 votes that pass here, that become a part of reconciliation whether they are extraneous or not. You can offer nonextraneous amendments. There is not much latitude, they are pretty limited, but you can. A package that is discussed that could be within the most narrow definition could be negotiated. Certainly the Senator from New Mexico is not saying capital gains is off the table here.

Mr. MITCHELL. Let me just say that no one is attempting to establish preconditions. But I say to the Senator, we understand the practical reality is that, if we are going to strip this down, it means effectively stripping those things that are involved with both sides. We are simply not going to have a bill that takes things out that one side is concerned about without an agreement on the other.

Mr. DOMENICI. That is not in any bill, is my point.

Mr. MITCHELL. I understand that. The IRA's are in. Of course my colleague's remark is there is no point debating it now, negotiating it now. The Senator said he may be able to come up with a capital gains amendment now that is germane. The IRAs do not need that. He is able to take the IRA's out even though they do not need to meet that test; and a great many other things that are of keen concern to Members on this side.

I think it is most useful not to attempt to reach a decision on negotiations now; that we will enter the negotiations without precondition. But as a practical matter that is going to be, obviously, a major part of the decision.

Mr. DOMENICI. I understand.

Mr. MITCHELL. I yield.

IMPLEMENTING THE PRESIDENT'S 1989 NATIONAL DRUG CONTROL STRATEGY

The Senate continued with the consideration of the bill.

Mr. BIDEN. Mr. President, on the matter we are returning to, the so-called drug bill, I heard the distinguished Republican leader—I apologize, I was in the Cloakroom—indicate how many amendments there were.

I have been working with his staff—he has been extremely cooperative—and with some of my colleagues with whom I have been trying to be extremely persuasive. I do not know that I have been. But right now there are a total of 46 amendments.

It is the hope of the Senator from Delaware we could reduce that to less than 18 to 20 amendments, and that we would be able to voice vote them. My proposal, that the Senator's staff will soon make to him, is that we take all of the amendments we are ready to accept on both sides, put them in one package and tell every Senator if he wants to posture on his amendment, wait until we pass the bill, stay later tonight, have their statements printed in the RECORD, and then from 11 p.m. to 3 a.m. this morning come to the floor ans speak to those issues, depending on what time zone they find themselves in.

But I really mean this sincerely. I think we are able to package the amendments that can be agreed to and put them in one package. We would be able to do literally in 5 minutes what otherwise will take 3 hours, of what we are willing to accept.

The Senator from Delaware has about nine amendments. I will not propose those amendments. There are only three in one package that I am prepared to propose, and I think they will be accepted. I may be wrong. If there is one piece that is not, we can even negotiate that.

But I strongly urge my colleagues, if in fact they come to the floor and the managers of the bill are willing to accept their amendments, it will be only on the condition that they do not speak. I mean this sincerely.

If a Senator speaks, this manager will not accept the amendment and will fight the amendment. I mean if the Senator speaks at all. Come and send the amendment to the desk, put the statement in the RECORD and come later when we pass the bill and make the speech.

Most of the ones who want to speak the most on both sides are in different time zones anyway and they will be all right. But, please, please let us see if we can work this out. And I think we can.

Mr. DOLE. Will that take care of all the amendments?

Mr. BIDEN. That will take care of every amendment. In other words, we have a total of 46 amendments. I believe we can talk our colleagues out of 24 to 26 of them, and that will leave 18 to 20. Of those, somewhere between 10 and as many as 14 can be agreed to. And we really can get ourselves down to, hopefully, somewhere between four to eight that would be debatable.

I see my friend, the chairman of the Finance Committee who is used to having to deal with this a lot, looking at me like: Young man, it is nice for you to try. And, he is new to this business. And the Senator is right. I have only been here 17 years. I might not be able to do this. But I think everyone on the floor is probably drugged out.

Mr. LEAHY. So to speak.

Mr. BIDEN. So to speak.

I might say, by the way, staffs on boths sides of the aisle have been ready to admit to me when I have been sitting with the staff trying to negotiate this, that both sides are running out of things that they can think of to put on the bill.

Of those 46 amendments, at least 26 represent runout ideas. And so hopefully we can move. I really think with a little bit of effort in the next half hour we ought to be able to finish this whole matter this evening, by 10 p.m. If there is any good will.

If we cannot finish by 10 p.m. and there is not any good will here, then we are in for God knows how long.

Mr. DOLE. As I understand it there would only be about four that may require rollcalls? Is that what the Senator is saying?

Mr. BIDEN. My most optimistic projection would be four requiring rollcalls. My most pessimistic would be eight, if we can get any agreement. I do not think we have to get to eight. I think we can move to four.

I know the Senator from California has been on the floor and he is willing to give up some of his amendments. I am willing to give up some of my amendments. The Senator from Massachusetts has in the past given up some of his. And so on.

So I think the best thing for us to do is get moving, vote on the one before

us without any further debate, let our staffs continue to work and try to package this thing.

Mr. DOLE. Anything we cannot take care of we will put in reconciliation.

Mr. BIDEN. Since I am the only one not in that conference, I think that is a good idea. Let us vote on that McConnell amendment.

AMENDMENT NO. 956

The PRESIDING OFFICER (Mr. BREAUX). Is there further debate on the amendment of the Senator from Kentucky, Senator MCCONNELL? The yeas and nays have been ordered. Is there further debate?

Mr. GLENN. Mr. President, I move to table.

Mr. JOHNSTON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. There being no further debate, the question is on the motion to lay on the table the amendment of the Senator from Kentucky. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 52, nays 48, as follows:

[Rollcall Vote No. 230 Leg.]

YEAS—52

Bentsen	Glenn	Mikulski
Bingaman	Gore	Mitchell
Boren	Harkin	Moynihan
Bradley	Hatfield	Murkowski
Breaux	Hollings	Nunn
Bumpers	Humphrey	Pell
Burdick	Inouye	Riegle
Byrd	Jeffords	Robb
Cochran	Johnston	Rudman
Cohen	Kassebaum	Sanford
Conrad	Kennedy	Sarbanes
Cranston	Kerrey	Sasser
Danforth	Kohl	Simon
Daschle	Lautenberg	Simpson
Dodd	Leahy	Warner
Durenberger	Matsunaga	Wirth
Ford	McCain	
Fowler	Metzenbaum	

NAYS—48

Adams	Garn	McClure
Armstrong	Gorton	McConnell
Baucus	Graham	Nickles
Biden	Gramm	Packwood
Bond	Grassley	Pressler
Boschwitz	Hatch	Pryor
Bryan	Heflin	Reid
Burns	Heinz	Rockefeller
Chafee	Helms	Roth
Coats	Kasten	Shelby
D'Amato	Kerry	Specter
DeConcini	Levin	Stevens
Dixon	Lieberman	Symms
Dole	Lott	Thurmond
Domenici	Lugar	Wallop
Exon	Mack	Wilson

So the motion to lay on the table the amendment (No. 956) was agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote by which the motion to table the amendment was agreed to.

Mr. GLENN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 958

Mr. BIDEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Delaware [Mr. BIDEN] proposes an amendment numbered 958.

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

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

The amendment is a follows:

On line 3 of the bill, strike "Section" and all that follows through the period on line 4 and insert the following:

CHAPTER .—RURAL DRUG ENFORCEMENT ACT

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rural Drug Enforcement Act."

SEC. 2. LEADERSHIP ON RURAL DRUG POLICY.

(a) DESIGNATION OF OFFICIAL.—The Director of National Drug Control Policy (hereafter in this chapter referred to as the "Director") shall designate an official in the Office of National Drug Control Policy to act as the Rural Drug Policy Coordinator.

(b) DUTIES OF OFFICIAL.—The Rural Drug Policy Coordinator shall—

(1) examine the special needs of rural areas in drug interdiction;

(2) recommend to the Director policy options for the enhancement of drug interdiction in rural areas;

(3) coordinate the drug interdiction efforts of Federal agencies (including the Drug Enforcement Administration, Bureau of Land Management, the Bureau of Indian Affairs and the National Forest Service) in rural areas; and

(4) make available to law enforcement agencies in rural areas materials pertinent to drug interdiction in rural areas.

SEC. 3. RURAL DRUG ENFORCEMENT ASSISTANCE.

(e) Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding a new section 509 as follows:

"RURAL DRUG ENFORCEMENT ASSISTANCE

"SEC. 509. (a) There is authorized to be appropriated $20,000,000 for fiscal year 1990 and such sums as may be necessary for each of the fiscal years 1991 and 1992.

"(b) Of the total amount appropriated for this section in any fiscal year:

"(1) 50 per centum shall be allocated to and shared equally among rural States as described in subsection (c); and

"(2) 50 per centum shall be allocated to the remaining States for use in non-metropolitan areas within those States, as follows:

"(A) $100,000 to each non-rural State; and

"(B) of the total funds remaining after the allocation in clause (A), there shall be allocated to each State an amount which bears the same ratio to the amount of remaining funds described as the population of such State bears to the population of all States.

"(c) For the purpose of subsections (b) and (c), the term "rural State" means a State that has a population density of 52 or fewer persons per square mile or a State in which the largest county has fewer than 150,000 people.".

(b) Section 503(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)) is amended by:

(1) at the end of paragraph (10) strike the "." and insert in lieu thereof "; and";

(2) inserting a new paragraph (11) as follows:

"(11) A separate and detailed request for a grant under section 509 of this subpart, including how the funds provided by a grant under section 506 shall be coordinated with the funds provided by a grant under section 509.".

SEC. 4. FEDERAL DRUG ENFORCEMENT ASSISTANCE.

(a) In order to provide adequate Federal drug enforcement assistance to each of the several States, and to encourage Federal, State and local drug enforcement cooperation, the Attorney General shall attempt to assign not less than 10 Drug Enforcement Administration special agents to each of the several States.

(b) In order to provide adequate Federal drug enforcement assistance to rural States for any rural State that is currently assigned less than 10 * * *; the Attorney General shall attempt to assign not less than 4 additional Drug Enforcement Administration special agents to each rural State as defined in section 3 of this Act.

SEC. 5. TRAINING FOR RURAL LAW ENFORCEMENT OFFICERS.

(a) IN GENERAL.—The Secretary of the Treasury, acting through the Federal Law Enforcement Training Center, shall develop a drug training program for law enforcement officers in rural areas.

(b) TRAINING.—By no later than September 30, 1991, the Secretary of the Treasury shall double the number of law enforcement officers from rural jurisdictions in each of the several States that receive drug enforcement training.

(c) AUTHORIZATION—There is authorized to be appropriated $1,000,000 for fiscal year 1990 and such sums as may be necessary for each of the fiscal years 1991 and 1992 to carry out the purposes of this Act.

SEC. 1002. BASE ALLOCATION FOR DRUG ENFORCEMENT GRANTS.

(a) AUTHORIZATION.—Paragraph (5) of section 1001(a) of part J of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended to read as follows:

"(5) There are authorized to be appropriated $600,000,000 for fiscal year 1990 and such sums as may be necessary for each of the fiscal years 1991 and 1992 to carry out the programs under parts D and E of this title.".

(b) BASE ALLOCATION.—Section 506(a) of part D of title I of the Omnibus Crime Control and Safe Streets Act (42 U.S.C. 3756(a)) is amended to read as follows:

"(a) Of the total amount appropriated for this part in any fiscal year, the amount remaining after setting aside the amount to be reserved to carry out section 511 of this title shall be set aside for section 502 and allocated to States as follows:

"(1) 0.40 percent shall be allocated to each of the participating States; and

"(2) of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each State an amount which bears the same ratio to the amount of re-

maining funds described in this paragraph as the population of such State bears to the population of all the States.".

(c) MATCHING REQUIREMENTS.—Section 504 of part D of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3754(a)) is amended to read as follows:

"(a) A grant made under this subpart may not be expended for more than 75 percent of the cost of identified uses for which such grant is received to carry out any purpose specified in section 502, except that in the case of funds distributed to an Indian tribe which performs law enforcement functions (as determined by the Secretary of the Interior) for any such program or project, the amount of such grant shall be equal to 100 percent of such cost. The non-Federal portion of the expenditures for such uses shall be paid in cash.".

SHORT TITLE

SEC. . (a) This section may be cited as the "Department of Justice Community Substance Abuse Prevention Act of 1989".

(b)(1) COMMUNITY PARTNERSHIPS.—Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end thereof the following:

"Subpart 4—Community Coalitions on Substance Abuse

"GRANTS TO COMBAT SUBSTANCE ABUSE

"SEC. 531. (a) DEFINITION.—As used in this section, the term 'eligible coalition' means an association, consisting of at least seven organizations, agencies, and individuals that are concerned about preventing substance abuse, that shall include—

"(1) public and private organizations and agencies that represent law enforcement, schools, health and social service agencies, and community-based organizations; and

"(2) representatives of 3 of the following groups: the clergy, academia, business, parents, youth, the media, civic and fraternal groups, or other nongovernmental interested parties.

"(b) GRANT PROGRAM.—The Attorney General, acting through the Director of the Bureau of Justice Assistance, shall make grants to eligible coalitions in order to—

"(1) plan and implement comprehensive long-term strategies for substance abuse prevention;

"(2) develop a detailed assessment of existing substance abuse prevention programs and activities to determine community resources and to identify major gaps and barriers in such programs and activities;

"(3) identify and solicit funding sources to enable such programs and activities to become self-sustaining;

"(4) develop a consensus regarding the priorities of a community concerning substance abuse;

"(5) develop a plan to implement such priorities; and

"(6) coordinate substance abuse services and activities, including prevention activities in the schools or communities and substance abuse treatment programs.

"(c) COMMUNITY PARTICIPATION.—In developing and implementing a substance abuse prevention program, a coalition receiving funds under subsection (b) shall—

"(1) emphasize and encourage substantial voluntary participation in the community, especially among individuals involved with youth such as teachers, coaches, parents, and clergy; and

"(2) emphasize and encourage the involvement of businesses, civic groups, and other community organizations and members.

"(d) APPLICATION.—An eligible coalition shall submit an application to the Attorney General in order to receive a grant under this section. Such application shall—

"(1) describe and, to the extent possible, document the nature and extent of the substance abuse problem, emphasizing who is at risk and specifying which groups of individuals should be targeted for prevention and intervention;

"(2) describe the activities needing financial assistance;

"(3) identify participating agencies, organizations, and individuals;

"(4) identify the agency, organization, or individual that has responsibility for leading the coalition, and provide assurances that such agency, organization or individual has previous substance abuse prevention experience;

"(5) describe a mechanism to evaluate the success of the coalition in developing and carrying out the substance abuse prevention plan referred to in subsection (b)(5) and to report on such plan to the Attorney General on an annual basis; and

"(e) PRIORITY.—In awarding grants under this section, the Attorney General shall give priority to a community that—

"(1) provides evidence of significant substance abuse;

"(2) proposes a comprehensive and multifaceted approach to eliminating substance abuse;

"(3) encourages the involvement of businesses and community leaders in substance abuse prevention activities;

"(4) demonstrates a commitment and a high priority for preventing substance abuse; and

"(5) demonstrates support from the community and State and local agencies for efforts to eliminate substance abuse.

"(f) REVIEW.—Each coalition receiving money pursuant to the provisions of this section shall submit an annual report to the Attorney General evaluating the effectiveness of the plan described in subsection (b)(5) and containing such additional information as the Attorney General may prescribe. The Attorney General, in conjunction with the Director of the Bureau of Justice Assistance, shall submit an annual review to the Committees on the Judiciary of the United States Senate and United States House of Representatives. Such review shall—

"(1) evaluate the grant program established in this section to determine its effectiveness;

"(2) implement necessary changes to the program that can be done by the Attorney General; and

"(3) recommend any statutory changes that are necessary.

"(g) AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated to carry out the provisions of this section, $15,000,000 for fiscal year 1990, $20,000,000 for fiscal year 1991, and $25,000,000 for fiscal year 1992.".

(2) The table of sections of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end thereof the following:

"SUBPART 4—COMMUNITY COALITION ON SUBSTANCE ABUSE

"Sec. 531. Grants to combat substance abuse.".

At the end of the bill add the following new section:

SEC. . ENHANCED STATE AND LOCAL LAW ENFORCEMENT PROGRAMS.

Section 503(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)) is amended by adding at the end thereof the following new paragraphs:

"(11) A certification that State and local law enforcement agencies, prosecuting attorneys, and courts have in place, or are committed to develop, arrangements, to the extent permitted by law, for—

"(A) the prosecution and sentencing of drug offenders within 100 days after arraignment;

"(B) the use of civil injunctive and other remedies to limit illegal activities; and

"(C) the use of civil and criminal forfeiture proceedings, including—

"(i) authority to seize real property, cash proceeds, cash found in proximity to a criminal enterprise or activity, and substitute assets;

"(ii) civil remission or mitigation and innocent owner protections; and

"(iii) distribution of forfeited proceeds from illegal drug activity evenly between State supply and demand reduction programs (after reimbursement of agencies of the cost of conducting forfeiture proceedings).

"(12) An agreement to report to the Bureau concerning—

"(A) the results) of the programs described in paragraph (11); and

"(B) the need for changes in State laws to allow more effective use of the programs described in paragraph (11).".

Subtitle C—Juvenile Justice Anti-Drug Grant Program

SEC. 21. GRANT PROGRAM.

The Juvenile Justice and Delinquency Prevention Act of 1974 is amended in part * * * by—

(1) inserting after the heading for such part the following:

"Subpart I—General Grant Programs"

; and

(2) adding at the end thereof a new subpart III, as follows:

"Subpart III—Juvenile Drug Trafficking and Prevention Grants

"FORMULA GRANTS

"SEC. 231. (a) The Administrator is authorized to make grants to States and units of general local government or combinations thereof to assist them in planning, establishing, operating, coordinating, and evaluating projects directly or through grants and contracts with public and private agencies for the development of more effective programs to reduce the use and sale of illegal drugs by juveniles, including education, prevention, treatment and enforcement programs.

"(b) The grants made under this section can be used for any of the following specific purposes:

"(1) To reduce the participation of juveniles in drug related crimes (including drug trafficking and drug use), particularly in and around elementary and secondary schools;

"(2) To develop within the juvenile justice system, including the juvenile correction system, new and innovative means to address the problems of juveniles convicted of serious criminal, drug-related and gang-related offenses;

"(3) To reduce juvenile involvement in organized crime drug and gang-related activity, particularly activities that involve the distribution of drugs by or to juveniles;

"(4) To reduce juvenile drug and gang-related activity in public housing projects;

"(5) To provide technical assistance and training to personnel and agencies responsible for the adjudicatory and corrections components of the juvenile justice system to identify drug-dependent juvenile offenders and to provide appropriate counseling and treatment to such offenders;

"(6) To promote the involvement of juveniles in lawful activities, including in-school education and prevention programs and after-school programs;

"(7) To facilitate Federal and State cooperation with local school officials to develop education, prevention and treatment programs for juveniles who are likely to participate in the drug trafficking, drug use of gang-related activities;

"(8) To prevent juvenile drug and gang involvement in public housing projects through programs establishing youth sports and other activities, including girls club, boys club, scout troups and little league.

"(9) To provide pre- and post-trial drug abuse treatment to juveniles in the juvenile justice system; with the highest possible priority to providing drug abuse treatment to drug-dependent pregnant juveniles and drug-dependent juvenile mothers; and

"(10) To provide drug abuse education and prevention involving police and juvenile justice personnel in demand reduction programs.".

"(c) Of the funds made available to each State under this section (Formula Grants) 50 percent of the funds made available to each State in any fiscal year shall be used for juvenile drug supply reduction programs and 50 percent shall be used for juvenile drug demand reduction programs.

"SPECIAL EMPHASIS DRUG DEMAND REDUCTION AND ENFORCEMENT GRANTS

"SEC. 232. (a) The purpose of this section is to provide additional Federal assistance and support to identify promising new juvenile drug demand reduction and enforcement programs, to replicate and demonstrate these programs to serve as national, regional or local models that could reused, in whole or in part, by other public and private juvenile justice programs, and to provide technical assistance and training to public or private organizations to implement similar programs. In making grants under this section, the Administrator shall give priority to programs aimed at juvenile involvement in organized gang- and drug-related activities, including supply and demand reduction programs.

"(b) The Administrator is authorized to make grants to, or enter into contracts with, public or private agencies, institutions, or organizations or individuals to carry out any purpose authorized in section 231. The Administrator shall have final authority over all funds awarded under this subchapter.

"(c) Of the total amount appropriated for this subchapter, 20 per centum shall be reserved and set aside for this section in a special discretionary funds for use by the Administrator to carry out the purposes specified in section 231. Grants made under this section may be made for amounts up to 100 percent of the costs of the programs or projects.

"AUTHORIZATION

"SEC. 233. There is authorized to be appropriated $100,200,000 in fiscal year 1990 and such sums as may be necessary in each of the fiscal years 1991 and 1992 to carry out the purposes of this subpart.

"ALLOCATION OF FUND

"SEC. 234. Of the total amounts appropriated under this subpart in any fiscal year to carry out the purposes of section 231 (formula grants) the amount remaining after setting aside the amounts required to be reserved to carry out section 232 (discretionary grants) shall be allocated as follows:

"(1) $400,000 shall be allocated to each of the participating States;

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

"APPLICATION

"SEC. 235. (a) Each State applying for grants under section 231 (Formula Grants) and each public or private entity applying for grants under section 2322 (Discretionary Grants) shall submit an application to the Administrator in such form and containing such information as the Administrator shall prescribe.

"(b) To the extent practical, the Administrator shall prescribe regulations governing applications for this subpart that are substantially similar to the applications required under part I (general juvenile justice formula grant) and part C (special emphasis prevention and treatment grants), including the procedures relating to competition.

"(c) In addition to the requirements prescribed in subsection (b), each State application submitted under section 231 shall include a detailed description of how the funds made available shall be coordinated with Federal assistance provided in parts B and C of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 and by the Bureau of Justice Assistance under the Drug Control and System Improvement Grant program.

"REVIEW AND APPROVAL OF APPLICATIONS

"SEC. 236. The procedures and time limits imposed on the Federal and State governments under sections 505 and 508 respectively, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 relating to the review of applications and distribution of Federal funds shall apply to the review of applications and distribution of funds under this subpart.".

SEC. 22. CONFORMING AMENDMENTS.

(a) Section 291 of title II of the Juvenile Justice Delinquency Prevention Act of 1974 (42 U.S.C. 5671) is amended—

(1) in subsection (a)—

(A) in paragraph (1) by striking "(other than part D)";

(B) and by striking paragraph (2) in its entirety; and

(2) in subsection (b) by striking "(other than part D)".

(b) Part D of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 is hereby repealed.

(c) Part E of title II of such Act is redesignated as part D.

SEC. 2. AMENDMENT RELATING TO JUSTICE ASSISTANCE AND DRUG TESTING.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end of part E (42 U.S.C. 3750-3766b) the following:

Mr. BIDEN. Mr. President, I am sure all my colleagues are working hard, and the reason they are talking on the floor is to eliminate the number of amendments that are on this bill, but I would suggest the Senate is not in order.

The PRESIDING OFFICER. The Senator from Delaware is correct. The Senate is not in order.

Mr. BIDEN Mr. President, this amendment is in three parts. The first part adds $150 million to State and local drug block grants above the level provided in last week's drug bill. And I might note that it also adds $15 million for citizen action groups to fight drug-plagued neighborhoods.

Many organizations have joined with police departments and formed citizens coalitions to take back their neighborhoods. This is an idea that has been put forward by the junior Senator from Wisconsin [Mr. KOHL]. It is of significant merit in my opinion.

The second part of this amendment is for rural drug initiative. I think most of my colleagues, whether they are from an urban or rural State, understand that in the rural parts of their States there is significant trouble and there is a need for help.

This week the DEA chief, John Lawn, told me that DEA simply does not have the resources to pursue major drug cases in rural areas. I might add, to make it clear to my friends on the minority side who were concerned about this amendment, I originally wrote this law so that it would require the DEA to have at least 10 DEA agents in every State. Keep in mind now, just the other day you voted for a Biden amendment that added 300 DEA agents. DEA is in desperate need of more agents. The rural communities are in desperate need. I gave as one example, so I will not be too parochial, the State of Montana. The State of Montana, a vast State, is becoming the home of the synthetically produced methamphetamine that is being distributed throughout the country.

I see my friend from South Dakota [Mr. PRESSLER] on the floor. His State as well is becoming a place in which methamphetamine is being distributed. Methamphetamine is equally as addictive as crack. It has similar properties. It is called the poor man's crack. It is becoming a major epidemic in this country. In the State of Montana, I believe, there are only three agents and only two in South Dakota. This is a place where there is a major need in such a vast territory.

So I insisted at first there be a requirement that in every State there be at least 10 DEA agents. I have withdrawn that. I have amended the amendment to say that we recommend that the DEA place no fewer than 10 agents in every State. It would add 14

States, I might point out, which do not fall within this category.

Also, this provides a $20 million grant for rural drug agencies at the State and local level. They could establish rural drug-enforcement task forces in over 200 rural counties. There are certain counties in the country, we know, where there are particular problems. Again, I will not take the Senate's time.

Anyone who has followed this area—I know all my colleagues on the floor have been deeply involved in this drug issue—all of them will tell you, I suspect, the degree to which the law enforcement agencies in this country need help in rural States. It is a problem, and a big problem.

Third, this would require Federal law enforcement training, the Federal Law Enforcement Training Center at Glynco, GA, to develop a specialized training course for rural drug enforcement and provide the money to train an additional 700 police officers for those rural agencies. That totals $1 million.

We are not talking about breaking the bank. But the idea here is to require us to put more focus on the problems in—I see my friend from Wyoming is here—Wyoming and southern Delaware.

There is no city in my State with more than 85,000 people. It is a rural State; the same with a number of people on the floor. Essentially, the DEA and the trained police agencies have had to ignore these areas. I am suggesting that there be training money here.

There is slightly more in there. I will not take the time to go into it.

The third part of this amendment is the portion that my friends on the other side may have trouble with, and that is it establishes a juvenile justice antidrug and antigang initiative in the Department of Justice. We all know the extent to which gangs are not only a menace in our communities, but they have become the vehicle by which the dissemination of some of the most dangerous drugs in America takes place.

This is a means, an attempt to deal, through the Justice Department, with setting up juvenile antidrug and antigang initiatives. It would allow us to do so in over 250 cities, and this amendment would fund 1,000 drug prevention projects, including youth sports programs, projects in public housing, and boys and girls clubs.

So, Mr. President, I obviously could and I and I obviously will not go on in greater detail. But these proposals here are designed in summary to basically do three things: One, to help train and help provide the expertise for the drug war in rural America; two, in the urban areas to provide for antigang and juvenile progams that provide for outlets not only for those gangs and those gang members, but within the housing projects within those communities; and, third, it provides for block grant money that is distributed not based on any formula other than the one that exists now in the law to provide help for State and local law enforcement agencies which would include the suburban areas, as well as what we particularly focus on with regard to rural America.

I yield the floor.

Mr. KOHL addresssed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. Mr. President, Senator BIDEN's package of amendments contains many thoughtful proposals, and I am pleased that he continues to be a leader on this important issue. I want to spend a few moments addressing one particularly exciting provision. It was inspired by Senator CRANSTON, and it is something that he and I have worked hard to promote. And it is finally coming to fruition. In fact, later today I will be joining the senior Senator from California when he offers the amendment to establish a related program in HHS.

The idea is community-based action against drugs. As I discussed this morning, grassroots activity produces creative and lasting solutions. Local communities know what they need; how to achieve it; and whether it works. The best thing Washington can do is spur coalitions in each city among business leaders, neighborhood activists, municipal officials, teachers, parents, labor unions, police organizations, religious groups, and others. We're talking about community self-help, community self-reliance, and community repair.

This amendment will spark such action. It would authorize the Attorney General to assist communities in planning and implementing comprehensive drug abuse programs. A community that organizes a representative coalition may receive a grant through the Bureau of Justice Assistance. That money would be used to plan strategies and coordinate prevention activities. But the coalition would also be required to identify and solicit funding source to make its activities self-sufficent. In other words, we're talking about seed money only. We're providing seeds for trees planted and nurtured by the neighbors—not by Federal agencies.

I think all of us could agree that we need to concentrate on the next generation. Accordingly, receipient coalitions must involve those who work with children, such as teachers and coaches. Also, coalitions must include police and social service agencies.

Mr. President, I am actuely aware of the need to assess our antidrug efforts as we go along. We simply cannot afford to throw money at problems. We have to make sure each program is getting results, and in a cost-efficient way. That's why this amendment requires every coalition to provide an annual report to the Attorney General. In turn, the Attorney General must evaluate the effectiveness of the grant program in an annual report to the House and Senate Judiciary Committees. In this way, Congress will maintain oversight of the entire program and can make any necessary modifications.

I want to close by emphasizing the promise of community-based activity. Take the case of Kansas City. Leaders there organized a comprehensive community program involving parents, local groups, the media, and the schools. They targeted teens with an antidrug message—and it worked. Adolescents who participated in the program were less likely than their peers to use cigarettes, alcohol, or marijuana, which are the gateways to harder drugs. The authors of the study said it was because of "multiple environmental influences"—a fancy way of saying that they got the whole community involved.

Mr. President, I hope my colleagues will support this important proposal. Community self-help is not a partisan issue. It's a matter of letting the people who experience a problem devise methods for fixing it.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Delaware.

The amendment (No. 958) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

Mr. HATCH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

Do we need to ask unanimous consent to set anything aside?

The PRESIDING OFFICER. The bill is open for amendment.

AMENDMENT NO. 959

(Purpose: To authorize additional judicial positions for the Courts of Appeals and District Courts of the United States)

Mr. HATCH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. HATCH] proposes an amendment numbered 959.

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

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

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

SEC. .—AUTHORIZING ADDITIONAL JUDICIAL POSITIONS.

(a)(1) The President shall appoint, by and with the advice and consent of the Senate, two additional circuit judges for the third circuit court of appeals, four additional circuit judges for the fourth circuit court of appeals, one additional circuit judge for the fifth circuit court of appeals, two additional circuit judges for the eighth circuit court of appeals, and two additional circuit judges for the tenth circuit court of appeals.

(2) In order that the table contained in section 44(a) of title 28, United States Code, will, with respect to each judicial circuit, reflect the changes in the total number of permanent circuit judgeships authorized as a result of subsection (a)(1) of this section, such table is amended to read as follows:

"Circuits:	*Number of judges*
District of Columbia	12
First	6
Second	13
Third	14
Fourth	15
Fifth	17
Sixth	15
Seventh	11
Eighth	12
Ninth	28
Tenth	12
Eleventh	12
Federal	12".

(b)(1) The President shall appoint, by and with the advice and consent of the Senate, one additional district judge for the western district of Arkansas, two additional district judges for the northern district of California, six additional district judges for the central district of California, two additional district judges for the district of Connecticut, two additional district judges for the middle district of Florida, one additional district judge for the northern district of Illinois, one additional district judge for the southern district of Iowa, one additional district judge for the western district of Louisiana, one additional district judge for the southern district of Mississippi, one additional district judge for the eastern district of Missouri, three additional district judges for the district of New Jersey, one additional district judge for the district of New Mexico, one additional district judge for the southern district of New York, one additional district judge for the eastern district of New York, one additional district judge for the southern district of Ohio, one additional district judge for the northern district of Oklahoma, two additional district judges for the western district of Oklahoma, one additional district judge for the district of Oregon, three additional district judges for the eastern district of Pennsylvania, one additional district judge for the eastern district of Tennessee, three additional district judges for the southern district of Texas, one additional district judge for the western district of Texas, and one additional district judge for the district of Utah.

(2) The President shall appoint, by and with the advice and consent of the Senate, one additional district judge for the northern district of Alabama, one additional district judge for the eastern district of California, one additional district judge for the district of Hawaii, one additional district judge for the central district of Illinois, one additional district judge for the southern district of Illinois, one additional district judge for the district of Kansas, one additional district judge for the middle district of Louisiana, one additional district judge for the district of Maryland, one additional district judge for the district of Massachusetts, one additional district judge for the western district of Michigan, one additional district judge for the eastern district of Missouri, one additional district judge for the district of Nebraska, one additional district judge for the district of Nevada, one additional district judge for the northern district of New York, one additional district judge for the northern district of Ohio, one additional district judge for the southern district of Ohio, one additional district judge for the western district of Oklahoma, one additional district judge for the eastern district of Pennsylvania, one additional district judge for the middle district of Tennessee, one additional district judge for the eastern district of Texas, and one additional district judge for the eastern district of Virginia. The first vacancy in the office of district judge in each of the judicial districts named in this subsection, occurring five years or more after the position for that district authorized by this subsection is first filled, shall not be filled.

(3) The existing district judgeships for the northern district of Illinois, the northern district of Indiana, the district of Massachusetts, the western district of New York, the northern district of Ohio, and the western district of Washington heretofore authorized by section 202(b) of the Bankruptcy Amendments and Federal Judgeship Act of 1984 (Public Law 98-353, 98 Stat. 347-348) shall, as of the effective date of this Act, be authorized under section 133 of title 28 of the United States Code, and the incumbents in those offices shall henceforth hold the office under section 133, as amended by this Act.

(4) The existing two district judgeships for the eastern and western districts of Arkansas, heretofore provided by section 133 of title 28 of the United States Code, shall hereafter be district judgeships for the eastern district of Arkansas only, and the incumbents of such judgeships shall henceforth hold the offices under section 133, as amended by this Act. The existing district judgeship for the northern and southern districts of Iowa, heretofore provided by section 133 of title 28, shall hereafter be a district judgeship for the northern district of Iowa only, and the incumbent of such judgeship shall henceforth hold the office under section 133, as amended by this Act. The existing district judgeship for the northern, eastern, and western districts of Oklahoma, heretofore provided by section 133 of title 28 and the occupant of which has his official duty station at Oklahoma City on the date of enactment of this Act, shall hereafter be a district judgeship for the western district of Oklahoma only, and the incumbent of such judgeship shall hereafter hold the office under section 133, as amended by this Act.

(5) In order that the table contained in section 133 of title 28, United States Code, will, with respect to each judicial district, reflect the changes in the total number of permanent district judgeships authorized as a result of subsections (b)(1), (b)(3), and (b)(4) of this section, such table is amended to read as follows:

"Districts:	*Number of judges*
Alabama:	
Northern	7
Middle	3
Southern	3
Alaska	8
Arizona	8
Arkansas:	
Eastern	5
Western	2
California:	
Northern	14
Eastern	6
Central	28
Southern	7
Colorado	7
Connecticut	8
Delaware	4
District of Columbia	15
Florida:	
Northern	3
Middle	11
Southern	15
Georgia:	
Northern	11
Middle	3
Southern	3
Hawaii	3
Idaho	2
Illinois:	
Northern	22
Central	3
Southern	3
Indiana:	
Northern	5
Southern	5
Iowa:	
Northern	2
Southern	3
Kansas	5
Kentucky:	
Eastern	4
Western	4
Eastern and Western	1
Louisiana:	
Eastern	13
Middle	2
Western	7
Maine	2
Maryland	10
Massachusetts	12
Michigan:	
Eastern	15
Western	4
Minnesota	7
Mississippi:	
Northern	3
Southern	6
Missouri:	
Eastern	6
Western	5
Eastern and Western	2
Montana	3
Nebraska	3
Nevada	4
New Hampshire	2
New Jersey	17
New Mexico	5
New York:	
Northern	4
Southern	28
Eastern	13
Western	4
North Carolina:	
Eastern	3
Middle	3
Western	3
North Dakota	2
Ohio:	
Northern	11
Southern	8
Oklahoma:	
Northern	3
Eastern	1
Western	7
Northern, Eastern, and Western	1

Oregon	6
Pennsylvania:	
Eastern	22
Middle	5
Western	10
Puerto Rico	7
Rhode Island	3
South Carolina	8
South Dakota	3
Tennessee:	
Eastern	5
Middle	3
Western	4
Texas:	
Northern	10
Southern	16
Eastern	6
Western	8
Utah	4
Vermont	2
Virginia:	
Eastern	9
Western	4
Washington:	
Eastern	3
Western	7
West Virginia:	
Northern	2
Southern	4
Wisconsin:	
Eastern	4
Western	2
Wyoming	2".

(c)(1) The President shall appoint, by and with the advice and consent of the Senate, one additional judge for the District Court of the Virgin Islands, who shall hold office for a term of 10 years and until a successor is chosen and qualified, unless sooner removed by the President for cause.

(2) In order to reflect the change in the total number of permanent judgeships authorized as a result of subsection (c)(1) of this section, section 24(a) of the Revised Organic Act of the Virgin Islands, Chapter 558, 68 Stat. 506, as amended (48 U.S.C. § 1614(a)), is further amended by striking out "two" and inserting in lieu thereof "three".

(d) This Act shall take effect on the date of enactment of this Act.

(e) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

Mr. HATCH. I do not expect to take very long.

This is a very serious and significant amendment. This particular amendment I am offering of the drug bill is the Federal Judgeship Act of 1989. This is as proposed by the Judicial Conference. This amendment would authorize 11 new Federal Appeals Court Judges and 60 new Federal District Court Judges.

These numbers reflect the Conference's recommendations as of the end of 1987, and if anything, the situation is much worse. These are new positions that the Conference recommended even before the enactment of the 1988 omnibus drug bill and the changes in the drug laws that we have voted upon in the last couple of weeks.

So these are very, very needed judges. If we need 1,000 FBI agents, 350 DEA agents, new U.S. marshals and others, you can imagine the need we must have for Federal judges in both the district and circuit courts.

Mr. President, these additional judges are clearly needed even without the new drug legislation. In other words, they were recommended before the legislation. You can imagine the pressure this legislation is going to bring.

Criminal caseloads particularly on drug issues are increasing dramatically. One of the concerns expressed by many court commentators has been the burden of these caseloads on the Federal judges. Given the provisions of the 1988 drug bill and the measures that we have included in this and the appropriations bills, it is reasonable to expect that these caseloads will increase.

Just last night, as well as in the appropriations bills, we voted to increase by several hundred the number of Federal agents and Federal prosecutors. If they do the job that we expect them to do, we will shortly be confronted with a severe bottleneck in the criminal justice system of our Federal courts. And it will occur in the courts.

Federal speedy trial rights will require that these cases be disposed of in an expeditious fashion or be dismissed. We must not let the fine work of these agents and prosecutors be wasted due to the lack of judges to hear these cases.

The following jurisdictions will benefit under this bill with the addition of new district court judges: Alabama, Arkansas, California, Connecticut, Florida, Hawaii, Illinois, Iowa, Kansas, Louisiana, Maryland, Massachusetts, Michigan, Mississippi, Missouri, Nebraska, Nevada, New Jersey, New Mexico, New York, Ohio, Oklahoma, Oregon, Pennsylvania, Tennessee, Texas, Utah, Virginia, and the Virgin Islands.

Mr. President, it is my fear that we are overburdening our Federal courts. It is stated in the judiciary speech that the Chief Justice indicated we need additional judges. And with the changes we are making in the laws today, and with the bill we passed last week, we are increasing that need dramatically. Without more judges to handle the increased case load, I am afraid that the results of all of our efforts of the last couple of weeks will be greatly reduced.

So I urge my colleagues to support this amendment so that the war on drugs can be fought and won. I hope nobody is going to raise the issue that this is just a Judicial Conference recommendation. We have always followed those recommendations.

As a matter of fact, they have been conservative, if anything. I think we just simply have to get serious about what we are doing in this country, and if we are going to need all these other officers which the distinguished chairman of the Judiciary Committee called for yesterday, and which we passed, then we certainly are gong to need the judges.

Even if we did not have the additional FBI agents, the additional DEA agents, additional marshals, and other courtroom officials, we would still need these judges, because the judicial conference recommended this in 1987, which is 2 years before today, and they were necessary then, and you can imagine the increased need today.

Mr. THURMOND. Mr. President, I just want to endorse this amendment. The judicial conference had already recommended these people before this vital drug question came up. We have to have these judges sometime, and there is no use delaying it. I think now is a good time to get these judges so they can be installed into office and go to work, because we need them very badly. I hope the amendment will be adopted.

AMENDMENT NO. 960 TO AMENDMENT 959

(Purpose: To authorize the appointment of 20 additional district court judges in districts with heavy caseloads of drug-related prosecutions)

Mr. BIDEN. Mr. President, I send an amendment in the second degree to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN] proposes an amendment numbered 960 to amendment No. 959.

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

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

The amendment reads as follows:

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

(a) UNITED STATES DISTRICT COURT JUDGES.—(1) In accordance with the provisions of paragraph (2), the President shall appoint, by and with the advice and consent of the Senate, 20 district judges in addition to those appointed pursuant to section 133 of title 28, United States Code.

(2) Prior to the appointment of any judge pursuant to paragraph (1), the number and locations of such judges among the several judicial districts shall be established by law after consideration, by the Congress, of the recommendations of the Judicial Conference of the United States submitted pursuant to subsection (b).

(b) JUDICIAL CONFERENCE.—The Judicial Conference of the United States shall prepare a report evaluating the impact of drug-related criminal activity on the Federal district courts. Such report shall contain recommendations as to how the additional United States District Court judges should be allocated based on criminal drug-related felony filings per judgeship in each district. The report shall be transferred to the Committees on the Judiciary of the United States Senate and the House of Representatives not later than 120 days after the date of enactment of this section.

Mr. BIDEN. Mr. President, I cannot argue with the Senator from Utah. I do not like to do that anyway. I cannot argue with him on the basic premise that he has put forward, that we need

more judges, because there is no question about that.

The problem that the Senator from Delaware has is that notwithstanding the fact that the judicial conference recommended these 80 judges, it is not clear that the assignment program—and let me ask this as a question, actually. Are we agreeing, I ask the Senator from Utah, if we were to accept his amendment, to the assignment as proposed by the Judicial Conference?

Mr. HATCH. We are, and my amendment, as proposed by the Judicial Conference—because we have always abided, as far as I recall, by their recommendations with regard to assignments. That does not mean that we cannot change that.

Mr. BIDEN. I thank the Senator for his answer. I want to discuss briefly what my perfecting amendment does. My perfecting amendment says that we will now authorize 20 judges tonight and 80 judges, and those 20 judges must be distributed around the country by the Judicial Conference, based upon high intensity drug areas.

For example, that will mean that, if the amendment of the Senator from Delaware were to be adopted, we would have the Judicial Conference probably sending additional judges to Miami and Houston and Los Angeles and the southern district of New York and so on, where there is phenomenal overload. That is No. 1.

No. 2, the remaining 47 judgeships which are vacant and for which we have no nominees, and 56 vacancies total that we have sitting out there, would mean that in the very near term, we would be able to put—if the administration would move and nominate people—on the bench, roughly, 80 judges. And I will commit, as I have, and no one ever suggested I would not, to take up the judgeship bill now in committee, as we had planned to do anyway, and ask the Judicial Conference to update their recommendations.

For example, I see the Senator from California here. He badly needs additional judges in California, particularly in the Los Angeles and San Diego area. He needs it throughout the State, but particularly there. I made a commitment to the former Republican Senator from Florida, Senator Paula Hawkins, when she was here, that I would try to get more judges for south Florida, which are badly needed because of the drug problem.

I am recommending the following: That the combination of adding the 20 new judges, requiring them to place those judges in high intensity areas, and couple that with the 57 vacancies that now exist, 47 or thereabouts for which we have no nominees. This is not January or the day before. This is 8 months ago that these vacancies have existed. We will end up with roughly 77 judges instead of 80, and it will give us the chance to do what we should be doing, intelligently studying this proposal by the judicial conference.

Mr. President, I hope that the purpose of the Senator from Utah will be fulfilled. Let me set one thing aside, by the way. I am sure that there are some on the floor on both sides who know that over the past 20 years, depending on who is President, the other team that may be in power will say, hey, wait a minute, we do not want to let this President appoint x number of new judges.

Well, the record of the Senator from Delaware shows that has not been his position. I think we badly need additional judges, and whether it is a Republican President and a Republican Congress or a Democratic President and a Democratic Congress, it does not matter. I come in here on the floor tonight as chairman of the Judiciary Committee. I will move rapidly to expand the number of judges, but make a sound recommendation that after everything, the Judicial Conference will come in and make their recommendation and update it for us this year.

So, Mr. President, I again suggest that adding 20 judges immediately to drug-impacted areas, plus the 57 vacancies or 54 vacancies that now exist—do not hold me to the precise number—over 50 vacancies now that are not filled, we will be able to meet the needs the Senator talks about and also do what we normally do. We do not just come to the floor and one night add 80 judges, bingo.

That has not been the practice. I do not think we should start it now, and I hope that my colleague will consider accepting my modification on the absolute commitment to him that it will come out of the Judiciary Committee; if not, I will come with him to the floor, before this Congress is over, to add additional judges to the district courts. I make that commitment to him now that, even if the Senator and I cannot get it passed out of the committee—and I believe we can—I promise the Senator I will come to the floor and introduce legislation moving on additional judgeships beyond the 20 that I am offering tonight.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Let me ask my distinguished colleague from Delaware a question. As I understand what my friend is saying, he is not ignoring the fact that the Judicial Conference has called for these additional judges?

Mr. BIDEN. I am not ignoring that fact.

Mr. HATCH. And he is saying what was true in 1987 is probably true today?

Mr. BIDEN. Probably more, quite frankly.

Mr. HATCH. We listed these States that need these judges, and that is probably true?

Mr. BIDEN. Probably true.

Mr. HATCH. The distinguished Senator wants to discuss this further with members of the Judiciary Committee and, of course, his friend from Utah. The Senator would like to approve 20 judges tonight?

Mr. BIDEN. Correct.

Mr. HATCH. Then that is, before the end of this Congress and in time to get it through both Houses?

Mr. BIDEN. Correct.

Mr. HATCH. We should bring up additional judges?

Mr. BIDEN. Maybe even more, I say to my friend.

Mr. HATCH. Maybe more.

Mr. BIDEN. That is more than have been put forward here tonight. There is no question additional judges are needed. My friend from Utah knows full well I am not one who ever subscribed to the school of thought I will not vote for more judges because a Republican President is going to appoint them. If I subscribed to that theory when I came to the Senate we would never have any additional judges.

Mr. HATCH. I would also like to ask my friend: The Judicial Conference recommendation embodied in my amendment does indicate we need 60 district judges and 11 appellate court judges?

Mr. BIDEN. Correct.

Mr. HATCH. Does my friend from Delaware have any appellate court judges in his?

Mr. BIDEN. No, the Senator's friend from Delaware does not. Only trial court judges, 20 of them.

Mr. HATCH. I wish to have a chance to talk to my friend about having 11 appellate court judges, so we get those done. I suspect that is where we are going to have a major logjam in this country.

Mr. BIDEN. I would respectfully decline because as we both know the appellate court is where there is the most controversy as to what the workload is. There is no controversy relating to the trial court. Everyone knows the trial courts are up to their ears in cases.

Let me say further to my friend from Utah—and I just note this and I think my friend from Utah supported me in this this time last year when we had the drug bill up—last year he will recall we wanted to add 20 judges in drug-impacted areas. The administration, as well as my colleagues on the Republican side, opposed that at that time. So what I am coming back to here now is referencing that original request of 20 for drug-impacted areas and let the Judicial Conference make the recommendations where they should go.

As we all know, and I say to my friend from South Carolina who has forgotten more about appointing judges than this Senator is going to know, we will and should continue to make our views known to the Judicial Conference as to where we think those judges should go. We have never been reluctant to do that in the past and I am not inclined to reluctance to do that now.

Although I greatly respect the Judicial Conference, the Judicial Conference consists of what we might call a lot of home boys; they are all getting together, they know what they want, where they want it; they make their deals, not deals in a bad way, in a nefarious way, but they make their own arrangements and allegedly based on statistical need. The fact of the matter is we have not hesitated to intervene.

My view is we would be much wiser to let the committee work its progress. I commit, and I have no doubt the ranking member will commit, we will move on the judgeship bill quickly and like we have in the past with genuine hearings, bringing people before us, bringing the Judicial Conference up. And if I remember correctly the last time we did this the ranking member, the Senator from South Carolina, was the chairman, and at that time as he will recall I remember making an argument to him that the third circuit needed an additional judge and the Judicial Conference resisted. But we ended up putting an additional judge on the third circuit. That is in the normal process the way it works.

I would commit to continue that because I believe there is no question the Senator from Utah is right. As we add additional prosecutors, additional prison space, and additional agents, we are adding additional workload on the court.

Mr. HATCH. If I could make a comment, I can appreciate what the distinguished Senator from Delaware is saying. As a matter of fact, I take his word, because I know it is good, that he will proceed in an expeditious fashion to come up with Judicial Conference recommendations, move to the Judiciary Committee, and move through the Judiciary Committee these judges.

But there is one thing I need to point out. The distinguished Senator from Delaware knows as well as I that it will take time to get a bill through the committee and right now we have a stack of bills that literally makes it impossible to get it out before the end of the year.

Mr. BIDEN. I go on to suggest that if we cannot get it out of committee in time to be deliberated by the total body, the House and the Senate, then what I will do is, I will come to the floor and attach a judgeship bill based on our hearings without having had it reported out of committee, because we need additional judges. I might add some of my Democratic friends are not really crazy about the commitment I am making, I am sure.

Mr. HATCH. I understand.

Mr. BIDEN. But I believe they are needed. I do not want to do it without having hearings on the conference recommendations.

Mr. HATCH. I would do the same thing if I were in the distinguished Senator's position, if there were a Democratic President, because I think we need these judges. I have confidence that George Bush will appoint decent strong judges.

Let me just make one other request of my dear friend. I appreciated his comments, and I do appreciate his commitments here on the floor. I know he will live up to those and I have not the slightest doubt about that. I am grateful to him. If we needed 60 additional district court judges and 11 appellate court judges in 1987, 2 years ago before the legislation and this pressure came to bear, we need them more today.

I, myself, agree with the Senator that this administration has to get more serious about getting these judgeships up here because we do have some vacancies that are putting even additional pressures on our current judges. I will do everything in my power to encourage and help the administration to do that. The process is a very slow process, as I see it, but perhaps a necessary one. But is it possible that the distinguished Senator knowing that they recommended 60 district court judges and 11 appellate court judges would go with a higher number than 20 here tonight, maybe 30.

Mr. BIDEN. The answer is no, Mr. President, and the reason for that is that is as far as I can get consent for us to move tonight.

Mr. HATCH. On the Senate's side. I think I can get 100 percent on our side who would support the 71 judges, but I know I could get them to support 10 judges. I cannot see why the Senator's side would not do the same since we need them.

Mr. BIDEN. Mr. President, we beg the question a bit. The Senator from Utah is assuming that the Judicial Conference recommendation is legitimate, that is the one that is needed and the numbers are correct. That is the reason I want to hold the hearings, No. 1, and No. 2, I have always had the unfortunate habit of being frank. It is clear that the Senator's side opposed 20 judges last October or September.

Mr. HATCH. No; it was a bipartisan position. There were some on the Democratic side.

Mr. BIDEN. It was not bipartisan. The GOP flat out opposed it. It was simple. They looked at the polling data and then the Governor of Massachusetts was wining in the polls and they said "no."

I, unlike my colleagues tonight, am saying we have a Republican President; no wonder, of course, the Senator's side would get 100 percent of the vote tonight. They would not take 20 before the election because they wanted to know what the outcome would be. That is not the Senator from Utah, in particular.

Mr. HATCH. I was for it.

Mr. BIDEN. The Senator did not want to take 20 before he knew the outcome of the election. I was for 20 before, I am for 20 now. I was for more judges before and for more judges now.

The issue is how many the Judicial Conference recommends, and how many we think they recommend are, in fact, needed. We have historically cut back on their recommendations and sometimes added to their recommendations.

So, I really think in the interest of time we should end the discussion. I hope my friend will take the 20 judges with the modification that was sent to the desk and drop his insistence on the remainder of the judges for this evening.

Mr. HATCH. Let me just say this one final sentence. I appropriate the commitments of the distinguished Senator from Delaware here this evening. I think even 20 is a move in the right direction, and certainly he is committed to do much better than that within a short period of time. I have no qualms or difficulties about hearings.

I do want to make it clear though that I certainly was for 20 judges back then and a lot more than that, regardless of who was going to be elected President. I have always taken that position. I am for the 71 judges today and, frankly, I think the Judicial Conference will come up with more judges as they look at the burdens that have been placed upon the court by the legislation that we passed just the last couple of weeks, not considering other legislation that we passed over the last couple of years, the intervening years since the 1987 recommendation.

So with the recommendation of the distinguished chairman of the Judiciary Committee and his good commitments here this evening, I would agree to his amendment that modifies or that is amended to my amendment.

Mr. BIDEN. Mr. President, I would like the RECORD to show, so later it is not assumed that the Senator from Delaware did not know, I am aware of the modification, I accept the modification to my amendment, and I yield back my time.

Mr. HATCH. I urge the amendment of the distinguished Senator.

The PRESIDING OFFICER. The Chair will note for the record that the

modification was to the amendment of the Senator from Utah.

Mr. BIDEN. Mr. President, I think what we are trying to get at here is I am prepared to go with 20 judges with the Judicial Conference dispensing them as modified by the request of the Senator from Utah.

The amendment, as modified, is as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . AUTHORIZING ADDITIONAL JUDICIAL POSITIONS.

(a)(1) The President shall appoint, by and with the advice and consent of the Senate, two additional circuit judges for the third circuit court of appeals, four additional circuit judges for the fourth circuit court of appeals, one additional circuit judge for the fifth circuit court of appeals, two additional circuit judges for the eighth circuit court of appeals, and two additional circuit judges for the tenth circuit court of appeals.

(2) In order that the table contained in section 44(a) of title 28, United States Code, will, with respect to each judicial circuit, reflect the changes in the total number of permanent circuit judgeships authorized as a result of subsection (a)(1) of this section, such table is amended to read as follows:

"Circuits:	*Number of judges*
District of Columbia	12
First	6
Second	13
Third	14
Fourth	15
Fifth	17
Sixth	15
Seventh	11
Eight	12
Ninth	28
Tenth	12
Eleventh	12
Federal	12".

(b)(1) The President shall appoint, by and with the advice and consent of the Senate, one additional district judge for the western district of Arkansas, two additional district judges for the northern district of California, six additional district judges for the central district of California, two additional district judges for the district of Connecticut, two additional district judges for the middle district of Florida, one additional district judge for the northern district of Illinois, one additional district judge for the southern district of Iowa, one additional district judge for the western district of Louisiana, one additional district judge for the southern district of Mississippi, one additional district judge for the eastern district of Missouri, three additional district judges for the district of New Jersey, one additional district judge for the district of New Mexico, one additional district judge for the southern district of New York, one additional district judge for the eastern district of New York, one additional district judge for the southern district of Ohio, one additional district judge for the northern district of Oklahoma, two additional district judges for the western district of Oklahoma, one additional district judge for the district of Oregon, three additional district judges for the eastern district of Pennsylvania, one additional district judge for the eastern district of Tennessee, one additional district judge for the district of South Carolina, three additional district judges for the southern district of Texas, one additional district judge for the western district of Texas, and one additional district judge for the district of Utah.

(2) The President shall appoint, by and with the advice and consent of the Senate, one additional district judge for the northern district of Alabama, one additional district judge for the eastern district of California, one additional district judge for the district of Hawaii, one additional district judge for the central district of Illinois, one additional district judge for the southern district of Illinois, one additional district judge for the district of Kansas, one additional district judge for the middle district of Louisiana, one additional district judge for the district of Maryland, one additional district judge for the distinct of Massachusetts, one additional district judge for the western district of Michigan, one additional district judge for the eastern district of Missouri, one additional district judge for the district of Nebraska, one additional district judge for the district of Nevada, one additional district judge for the northern district of New York, one additional district judge for the northern district of Ohio, one additional district judge for the southern district of Ohio, one additional district judge for the western district of Oklahoma, one additional district judge for the eastern district of Pennsylvania, one additional district judge for the middle district of Tennessee, one additional district judge for the eastern district of Texas, and one additional district judge for the eastern district of Virginia. The first vacancy in the office of district judge in each of the judicial districts named in this subsection, occurring five years or more after the position for that district authorized by this subsection in first filled, shall not be filled.

(3) The existing district judgeships for the northern district of Illinois, the northern district of Indiana, the district of Massachusetts, the western district of New York, the northern district of Ohio, and the western district of Washington heretofore authorized by section 202(b) of the Bankruptcy Amendments and Federal Judgeship Act of 1984 (Public Law 98-353, 98 Stat. 347-348) shall, as of the effective date of this Act, be authorized under section 133 of title 28 of the United States Code, and the incumbents in those offices shall henceforth hold the office under section 133, as amended by this Act.

(4) The existing two district judgeships for the eastern and western districts of Arkansas, heretofore provided by section 133 of title 28 of the United States Code, shall hereafter be district judgeships for the eastern district of Arkansas only, and the incumbents of such judgeships shall henceforth hold the offices under section 133, as amended by this Act. The existing district judgeship for the northern and southern districts of Iowa, heretofore provided by section 133 of title 28, shall hereafter be a district judgeship for the northern district of Iowa only, and the incumbent of such judgeship shall henceforth hold the office under section 133, as amended by this Act. The existing district judgeship for the northern, eastern, and western districts of Oklahoma, heretofore provided by section 133 of title 28 and the occupant of which has his official duty station at Oklahoma City on the date of enactment of this Act, shall hereafter be a district judgeship for the western district of Oklahoma only, and the incumbent of such judgeship shall hereafter hold the office under section 133, as amended by this Act.

(5) In order that the table contained in section 133 of title 28, United States Code, will, with respect to each judicial district, reflect the changes in the total number of permanent district judgeships authorized as a result of subsections (b)(1), (b)(3), and (b)(4) of this section, such table is amended to read as follows:

"Districts:	*Number of judges*
Alabama:	
Northern	7
Middle	3
Southern	3
Alaska	3
Arizona	8
Arkansas:	
Eastern	5
Western	2
California:	
Northern	14
Eastern	6
Central	28
Southern	7
Colorado	7
Connecticut	3
Delaware	4
District of Columbia	15
Florida:	
Northern	3
Middle	11
Southern	15
Georgia:	
Northern	11
Middle	3
Southern	3
Hawaii	3
Idaho	2
Illinois:	
Northern	22
Central	3
Southern	3
Indiana:	
Northern	5
Southern	5
Iowa:	
Northern	2
Southern	3
Kansas	5
Kentucky:	
Eastern	4
Western	4
Eastern and Western	1
Louisiana:	
Eastern	13
Middle	2
Western	7
Maine	2
Maryland	10
Massachussetts	12
Michigan:	
Eastern	15
Western	4
Minnesota	7
Mississippi:	
Northern	3
Southern	6
Missouri:	
Eastern	6
Western	5
Eastern and Western	2
Montana	3
Nebraska	3
Nevada	4
New Hampshire	2
New Jersey	17
New Mexico	5
New York:	
Northern	4
Southern	28
Eastern	13
Western	4
North Carolina:	
Eastern	3
Middle	3
Western	3

North Dakota	2
Ohio:	
Northern	11
Southern	8
Oklahoma:	
Northern	3
Eastern	1
Western	7
Northern, Eastern, and Western	1
Oregon	6
Pennsylvania:	
Eastern	22
Middle	5
Western	10
Puerto Rico	7
Rhode Island	3
South Carolina	8
South Dakota	3
Tennessee:	
Eastern	3
Middle	3
Western	4
Texas:	
Northern	10
Southern	16
Eastern	6
Western	8
Utah	4
Vermont	2
Virginia:	
Eastern	9
Western	4
Washington:	
Eastern	3
Western	7
West Virginia:	
Northern	2
Southern	4
Wisconsin:	
Eastern	4
Western	2
Wyoming	2".

(c)(1) The President shall appoint, by and with the advice and consent of the Senate, one additional judge for the District Court of the Virgin Islands, who shall hold office for a term of 10 years and until a successor is chosen and qualified, unless sooner removed by the President for cause.

(2) In order to reflect the change in the total number of permanent judgeships authorized as a result of subsection (c)(1) of this section, section 24(a) of the Revised Organic Act of the Virgin Islands, Chapter 558, 68 Stat. 506, as amended (48 U.S.C. § 1614(A)), is further amended by striking out "two" and inserting in lieu thereof "three".

(d) This Act shall take effect on the date of enactment of this Act.

(e) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

Mr. HATCH. Mr. President, I think, since the distinguished Senator from Delaware does not recommend where the judges will be placed but merely that there will be 20 judges, we will then make those determinations in the Judiciary Committee. I am sure the modification of the distinguished ranking member will be considered at that time.

Mr. BIDEN. Mr. President, let me make sure how my amendment is hereby being modified.

The Senator from Utah has been kind enough to withdraw his amendment—not withdraw. I should not say that. I am not being very articulate here.

Mr. HATCH. I am happy to accept the amendment of the distinguished Senator from Delaware.

Mr. KENNEDY. Mr. President, I am pleased to cosponsor this alternative. A winning strategy against drug abuse involves three approaches: Law enforcement, prevention, and treatment. Each is vital, and none can be downgraded or ignored.

We have stepped up the pressure on the law enforcement component in the drug war, with enhanced resources and penalties. These enhancements have taken many drug traffickers off our streets, but at the same time we have put a tremendous strain on our criminal justice system.

Our efforts over the past several years have already saddled us with a criminal justice system that is bursting at the seams, causing prosecutors, courts, and prisons to call out for help.

We need to address the fact that Federal court dockets are heavily clogged by narcotics prosecutions. The current number of district court judges—575—is based on 1984 caseload needs. Since 1984, the criminal caseload has increased 20 percent from 36,000 to 44,000 cases. The burden on the courts is continuing to increase under the 1986 and 1988 drug legislation, and it will become even heavier under the new national strategy. An omnibus judge bill has no place as part of this important drug bill, however. An omnibus bill should be given full consideration by the Judiciary Committee.

This compromise proposal, to authorize 20 new judges to be assigned to districts whose dockets are hardest hit by drug prosecutions, is the same proposal I included in the 1988 Democratic drug bill. My proposal fell victim to partisan opposition last year. If we had prevailed last year, the criminal caseload in the Federal courts would not have been as pressing.

The PRESIDING OFFICER. Is there further debate on the amendment of the Senator from Delaware? If not, the question is on agreeing to the amendment of the Senator from Delaware [Mr. BIDEN] to the amendment of the Senator from Utah [Mr. HATCH].

The amendment (No. 960) was agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now occurs on agreeing to the amendment, as amended, of the Senator from Utah.

Mr. BIDEN. Mr. President, as amended, is the only thing left in the amendment of the Senator from Utah what was the Biden amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. BIDEN. I thank the Chair very much.

The PRESIDING OFFICER. The question now occurs on agreeing to the amendment, as modified, as amended, of the Senator from Utah [Mr. HATCH].

The amendment (No. 959) as modified, as amended, was agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. WALLOP. Mr. President, the Senator from Wyoming would just note that he has been on his feet waiting for recognition for an hour.

The PRESIDING OFFICER. The Senator from California sought recognition.

AMENDMENT NO. 961

(Purpose: To provide for comprehensive community substance abuse programs)

Mr. CRANSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. LIEBERMAN). The clerk will report.

The legislative clerk read as follows:

The Senator from California, [Mr. CRANSTON], for himself, Mr. HARKIN, Mr. KOHL, Mr. DECONCINI, Mr. GRAHAM, Mr. KENNEDY, and Mr. LEAHY], proposes an amendment numbered 961.

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

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

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . COMPREHENSIVE COMMUNITY SUBSTANCE ABUSE PREVENTION PROGRAMS.

(a) FINDINGS AND PURPOSE.—

(1) FINDINGS.—Congress finds that—

(A) preventing substance abuse is the key to reducing the demand for illegal drugs and stopping the drug epidemic;

(B) substance abuse prevention activities have been seriously ignored and underfunded;

(C) successful prevention efforts require the involvement of all segments of the community including those in leadership positions and other concerned individuals and organizations on the grassroots level;

(D) many communities lack the tools, resources, and knowledge to mount an effective and comprehensive substance abuse prevention program; and

(E) the Federal Government should be a partner with local and State governments and community organizations in an effort to prevent substance abuse.

(2) PURPOSE.—It is the purpose of this section to assist communities in planning, developing, and implementing long-term com-

prehensive substance abuse prevention strategies and programs—

(A) by developing communicative and cooperative relationships between various organizations, agencies, businesses, clergy, schools, parents, youth, and interested citizens regarding substance abuse prevention activities; and

(B) by assisting communities in training individuals in methods of planning, developing, and implementing substance abuse prevention and intervention programs and activities.

(b) COMMUNITY PARTNERSHIPS.—Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) as amended, is amended by adding at the end thereof the following new sections:

"SEC. 509H. COMMUNITY COALITIONS ON SUBSTANCE ABUSE.

"(a) DEFINITION.—As used in this section, the term 'eligible coalition' means an association, consisting of at least seven organizations, agencies, and individuals that are concerned about preventing substance abuse, that shall include—

"(1) public and private organizations and agencies that represent law enforcement, schools, health and social service agencies, community-based organizations, and substance abuse prevention specialists; and

"(2) at least three representatives of the clergy, academia, business, parents, youth, the media, civic and fraternal groups, or other nongovernmental interested parties.

"(b) GRANT PROGRAM.—The Secretary, acting through the Director of the Office, shall make grants to eligible coalitions in order to—

"(1) plan a comprehensive long-term program for substance abuse prevention;

"(2) implementing such substance abuse prevention program, including the development of materials, public awareness campaigns, and community events;

"(3) develop a detailed assessment of existing substance abuse prevention programs and activities to determine community resources and to identify major gaps and barriers in such programs and activities;

"(4) identify and solicit funding sources to enable such programs and activities to become self-sustaining;

"(5) develop and implement a consensus regarding the priorities of a community concerning substance abuse;

"(6) provide outreach prevention services to target populations; and

"(7) coordinate substance abuse services and activities, including establishing referral linkages, between prevention activities in the schools and communities and substance abuse treatment programs.

"(c) COMMUNITY PARTICIPATION.—In developing and implementing a substance abuse prevention program, a coalition receiving funds under paragraph (1) shall—

"(1) emphasize and encourage substantial voluntary participation in the community, especially among individuals involved with youth such as teachers, coaches, parents, and clergy; and

"(2) emphasize and encouraging the involvement of businesses, civic groups, and other community organizations and members.

"(d) APPLICATION.—An eligible coalition shall submit an application to the Secretary in order to receive a grant under this section, such application shall—

"(1) describe and, to the extent possible, document the nature and extent of the substance abuse problem including any identifiable target groups;

"(2) describe the activities and services needing financial assistance;

"(3) describe the substance abuse prevention plan;

"(4) identify participating agencies, organizations, and individuals;

"(5) identify the agency, organization, or individual that has responsibility for leading the coalition and provide assurances that such agency, organization or individual has previous substance abuse prevention experience;

"(6) describe a mechanism to evaluate the success of the coalition in developing and carrying out the substance abuse prevention plan referred to in subsection (b)(5); and

"(7) contain such additional information and assurances as the Secretary may prescribe.

"(e) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to a community that—

"(1) provides evidence of significant substance abuse;

"(2) proposes a comprehensive and multifaceted approach to preventing substance abuse;

"(3) encourages the involvement of businesses and community leaders in substance abuse prevention activities;

"(4) demonstrates a commitment and a high priority for preventing substance abuse; and

"(5) demonstrates support from the community and State and local agencies for efforts to eliminate substance abuse.

"(f) EVALUATION.—The Director shall establish a mechanism to evaluate the effectiveness of community coalitions established under this section in preventing substance abuse and to disseminate the results of such evaluations to community coalitions.

"(g) AUTHORIZATION OF APPROPRIATION.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $60,000,000 for fiscal year 1990, $70,000,000 for fiscal year 1991, and $80,000,000 for fiscal year 1992.

"(2) SIZE OF COMMUNITIES.—The Secretary shall allocate at least 35 percent of the amount appropriated under paragraph (1) for a fiscal year to communities, with populations of no more than 250,000 individuals, that have made substance abuse prevention a high priority, as determined by the Secretary.

"SEC. 509. SUBSTANCE ABUSE PREVENTION TRAINING.

"(a) ESTABLISHMENT.—The Secretary, acting through the Director of the Office, shall establish a National Substance Abuse Prevention Training Program (hereinafter in this section referred to as the 'Program').

"(b) PROGRAM DIRECTOR.—The Progam shall be headed by a Director who has extensive experience in substance abuse prevention (hereinafter in this section referred to as the 'Program Director').

"(c) DUTIES.—The Program Director shall—

"(1) develop a substance abuse prevention training curriculum for community groups in organizing development, program operation, prevention concepts, and models;

"(2) provide technical assistance and support for community training on substance abuse prevention, including organizing the community, developing skills, and establishing program goals;

"(3) provide technical assistance and support for advanced prevention and intervention training for the community organizing staff and State and local substance abuse agency staff;

"(4) develop specific training modules for problem areas such as substance abuse, teen pregnancy, and acquired immune deficiency syndrome and for professional groups that work with children and adolescents, such as juvenile court judges, pediatricians, coaches, and counselors;

"(5) provide substance abuse prevention outreach and support to communities with substantial minority populations through workshops and collaborative initiatives with organizations serving such populations;

"(6) disseminate successful curricula and training practices in substance abuse prevention in communities through involvement with parents, civic groups, members of the business community, clergy, law enforcement representatives, and community leaders; and

"(7) evaluate the appropriateness and effectiveness of substance abuse prevention training.

"(d) AUTHORIZATION.—There are authorized to be appropriated to carry out this section $15,000,000 for each of the fiscal years 1990 through 1992.

"SEC. 509J. SPECIALIZED TRAINING PROGRAM.

"(a) GRANT PROGRAM.—The Secretary, acting through the Director of the Office, shall make grants to States, local agencies, and community organizations in order to—

"(1) provide substance abuse prevention training to representatives of such organizations and agencies;

"(2) provide substance abuse prevention training to parents, teachers, clergy, the business community, and civic groups;

"(3) coordinate with other community resources and programs; and

"(4) provide specialized training programs for professional groups that work with children and adolescents, or that are targeted to specific population groups.

"(b) AUTHORIZATION.—There are authorized to be appropriated to carry out this section $20,000,000 for each of the fiscal years 1990 through 1992.".

"(c) OFFICE FOR SUBSTANCE ABUSE PREVENTION.—Section 508(d)(2) of the Public Health Service Act (42 U.S.C. 290aaa(d)(2)) is amended by striking out "$5,300,000" and inserting in lieu thereof "$4,000,000".

Mr. CRANSTON. Mr. President, let me say to my friend from Wyoming that I will be very brief. I believe we are rotating back and forth between both sides and the last amendment came from that side. I will be exceedingly brief in stating the reason for this amendment, as is my usual custom, and it is my hope that will help lead to enthusiastic support from as many as possible who know that we should be completing our business as rapidly as possible.

Mr. President, my amendment would address the one area of the drug war that I believe has been most neglected—substance abuse prevention. Specifically, it would establish a community-based substance abuse prevention program. I am delighted that the amendment is cosponsored by Senator HARKIN, the chairman of the Labor-HHS Appropriations Committee, Senator KOHL, and Senator DECONCINI—all of whom I know share my belief that drug prevention must be a high priority in our drug efforts. Also co-

sponsoring the amendment are Senators GRAHAM, KENNEDY, and LEAHY.

Mr. President, if we as a society are ever going to be successful in stopping drug abuse, and increasingly violent crime that often goes along with it, we must stop the demand. We can step up efforts to stop the flow of drugs at our borders and increase law enforcement efforts to crack down on drug trafficking—and I think these activities are important—but they cannot ultimately stop people using drugs.

Unfortunately—until this year—substance abuse prevention programs—particularly those that focus on community efforts—have received very little attention or funding. Communities represent an untapped resource in our war against drugs. I believe, with some assistance, community coalitions would be a very effective force in helping young people stay off of drugs.

Mr. President, the Senate-passed Labor-HHS Appropriations Act as amended by the Byrd-Hatfield amendment provides a total of $60 million for community substance abuse prevention efforts.

Mr. President, I believe that this money will be well invested. However, this is a substantial amount of new money for which very little congressional direction is provided. I believe—to ensure that the program has the greatest chance to succeed—we should more clearly spell out its intended use.

Early this summer I introduced legislation—S. 1233, the Comprehensive Community Substance Abuse Prevention Act of 1989—that would provide a blueprint for a program to support community prevention efforts. My amendment, which is based on S. 1233, would complement the appropriations action. It would specifically authorize for 3 years an initiative to assist communities in planning, developing, and implementing a substance abuse prevention and intervention program. It would provide direction for what community prevention coalitions should be composed of and provide guidelines for assigning priority to grants. It would also stipulate that 35 percent of the funding must go to communities with populations of no more than 250,000 individuals.

The legislation would also establish a national substance abuse prevention training program. Although an amendment was adopted last week that would expand training of drug treatment professionals, training programs for individuals in substance abuse prevention were not included.

COMMUNITY-BASED PREVENTION PROGRAMS WORK

Mr. President, recent research has found that a comprehensive community program—involving schools, businesses, parents, community organizations and leaders, and the media—is the most successful in preventing drug and alcohol use. A recent study conducted in the Kansas City area has followed sixth- and seventh-graders for the last few years who have participated in an experimental drug prevention program which involved parents and family members, community organizations, and the media in addition to the schools. After the first year, students who participated in the experimental program reported that they used drugs and cigarettes far less than those who did not. I am informed that the program effects may even be greater in the subsequent 2 years.

Mr. President, I have seen such coalitions in action, and I have been greatly impressed by their ability to rally people to develop innovative responses to the drug problem. Over the last few months I have been holding community forums throughout California to learn about what they are doing and what needs to be done to stop the scourge of drugs.

I have heard from ordinary citizens rising to the challenge of fighting back. Communities coming together with limited resources and unlimited heart to send a strong and united message that goes beyond urging young people simply to say "no" to drugs.

Mr. President, the Appropriations Committee has provided the funding for these prevention projects, and I congratulate Senators BYRD, HARKIN, and others for their efforts. My amendment would provide the blueprint to carry out the program. It would provide for program evaluation and instill accountability. It would help ensure that Congress knows how the funding for community prevention efforts is spent. I urge all my colleagues to support the amendment.

The PRESIDING OFFICER. Is there further debate?

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

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

AMENDMENT NO. 962

(Purpose: To recognize the organization known as the 82d Airborne Division Association, Inc.)

Mr. THURMOND. Mr. President, I send an amendment to the desk which grants a Federal charter to the 82d Airborne Division Association. This legislation currently has bipartisan support.

The PRESIDING OFFICER. The Chair must inform the Senator that there is a pending amendment which is offered by the Senator from California.

Mr. BIDEN. Mr. President, I ask unanimous consent that we temporarily lay aside the pending amendment, because we have to anyway while we are waiting, and give the Senator from South Carolina the opportunity to propose for no more than 5 minutes his amendment.

Mr. WALLOP. Mr. President, reserving the right to object, and I shall not object, but I would hope that this would not be viewed by the Chair as an alternation between the Democratic side and the Republican side. This Senator has been standing here, while other Senators have been off eating dinner, waiting to present an amendment, and people who just wander in on the floor seem to be able to get recognition.

Mr. BIDEN. Mr. President, that is not the intention of the Senator from Delaware. I am just attempting to accommodate the senior Senator here, and it will then go to the Republican side.

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

Mr. THURMOND. Mr. President, this amendment grants a Federal charter to the 82d Airborne Division Association. This legislation currently has the bipartisan support of 49 cosponsors and the companion legislation on the House side has 221 cosponsors. Identical legislation which I introduced last Congress passed the Senate with 55 cosponsors.

The 82d Airborne Division was activated initially as an infantry division which participated in three of the major campaigns of World War I: Lorraine, St. Mihiel, Meuse-Argonne. On May 27, 1919, the 82d Airborne was inactivated. The division was reactivated on March 25, 1942, under the command of Maj. Gen. Omar Bradley and became the Army's first airborne division under the command of Maj. Gen. Matthew B. Ridgway. Deployed to North Africa in 1943, the 82d made parachute and glider assaults on Sicily and Salerno. In a 2-year period during World War II, the regiments of the 82d saw action in Italy at Anzio, in France at Normandy, where I landed with them, and at the Battle of the Bulge.

Following the end of the war, the sky soldiers of the 82d were ordered to Berlin to serve as "America's Guard of Honor" for 5 months of 1945. Due to logistical problems associated with the servicing of an airborne division overseas, the division returned to the United States where it was greeted with a New York City tickertape reception as it marched triumphantly on Fifth Avenue, on January 12, 1946.

The division was assigned to Fort Bragg, NC, to become a leading element of the Nation's military reaction force as well as to participate in a number of peacekeeping missions. Elements of the division have valiantly served in Korea, the Dominican Re-

public, Vietnam, and Grenada. Peacekeeping units have served in Sinai.

Designed to move quickly to any part of the world and to be prepared to fight immediately upon arrival, the members of the 82d Airborne have served with distinction for over 45 years. They have demonstrated a tireless commitment to our Nation's defense and ideals. Therefore, I can think of no other military association more deserving of the recognition given by Congress in the granting of a Federal charter. I urge my colleagues to join me in supporting the passage of this measure to grant such a charter to the 82d Airborne Division Association.

Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND] proposes an amendment numbered 962.

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

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

The amendment is as follows:

At the appropriate place add the following:

CHARTER

SECTION 1. The 82d Airborne Division Association, Incorporated, a nonprofit corporation organized under the laws of the State of Illinois, is recognized as such and is granted a Federal charter.

POWERS

SEC. 2. The 82d Airborne Division Association, Incorporated, (hereinafter in this Act referred to as the "corporation") shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State or States in which it is incorporated and subject to the laws of such State or States.

OBJECTS AND PURPOSES OF CORPORATION

SEC. 3. The objects and purposes of the corporation are those provided in its articles of incorporation and shall include—

(1) perpetuating the memory of members of the 82d Airborne Division who fought and died for our Nation,

(2) furthering the common bond between retired and active members of the 82nd Airborne Division,

(3) providing educational assistance in the form of college scholarships and grants to the qualified children of current and former members,

(4) promoting civic and patriotic activities, and

(5) promoting the indispensable role of airborne defense in our national security.

SERVICE OF PROCESS

SEC. 4. With respect to service of process, the corporation shall comply with the laws of the State or States in which it is incorporated and the State or States in which it carries on its activities in furtherance of its corporate purposes.

MEMBERSHIP

SEC. 5. (a) Subject to subsection (b), eligibility for membership in the corporation and the rights and privileges of members of the corporation shall be as provided in the constitution and bylaws of the corporation.

(b) Terms of membership and requirements for holding office within the corporation shall not discriminate on the basis of race, color, national origin, sex, religion, or handicapped status.

BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES

SEC. 6. The composition of the board of directors of the corporation and the responsibilities of such board shall be as provided in the articles of incorporation of the corporation and shall be in conformity with the laws of the State or States in which it is incorporated.

OFFICERS OF CORPORATION

SEC. 7. The positions of officers of the corporation and the election of members to such positions shall be as provided in the articles of incorporation of the corporation and shall be in conformity with the laws of the State or States in which it is incorporated.

RESTRICTIONS

SEC. 8. (a) No part of the income or assets of the corporation may insure to the benefit of any member, officer, or director of the corporation or be distributed to any such individual during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers of the corporation or reimbursement for actual and necessary expenses in amounts approved by the board of directors.

(b) The corporation may not make any loan to any officer, director, or employee of the corporation.

(c) The corporation and any officer and director of the corporation, acting as such officer or director, shall not contribute to, support or otherwise participate in any political activity or in any manner attempt to influence legislation.

(d) The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

(e) The corporation shall not claim congressional approval or Federal Government authority for any of its activities.

LIABILITY

SEC. 9. The corporation shall be liable for the acts of its officers and agents whenever such officers and agents have acted within the scope of their authority.

BOOKS AND RECORDS; INSPECTION

SEC. 10. The corporation shall keep correct and complete books and records of account and minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors. The corporation shall keep, at its principal office, a record of the names and addresses of all members having the right to vote in any proceeding of the corporation. All books and records of such corporation may be inspected by any member having the right to vote in any corporation proceeding, or by any agent or attorney of such member, for any proper purpose at any reasonable time. Nothing in this section shall be construed to contravene any applicable State law.

AUDIT OF FINANCIAL TRANSACTIONS

SEC. 11. The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law," approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end thereof the following:

"(74) 82nd Airborne Division Association, Incorporated".

ANNUAL REPORT

SEC. 12. The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be summitted at the same as the report of the audit of the corporation required by section 2 of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101). The report shall not be printed as a public document.

RESERVATION OF RIGHT TO AMEND, ALTER, OR REPEAL CHARTER

SEC. 13. The right to amend, alter, or repeal this Act is expressly reserved to the Congress.

DEFINITION OF STATE

SEC. 14. For purposes of this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States.

TAX-EXEMPT STATUS

SEC. 15. The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1986.

TERMINATION

SEC. 16. If the corporation fails to comply with any of the restrictions or provisions of this Act, the charter granted by this Act shall expire.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from South Carolina.

The amendment (No. 962) was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 961

The PRESIDING OFFICER. The question now occurs on amendment of the Senator from California.

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

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

Mr. HATCH. Mr. President, in the interest of time, I have to say this amendment of the distinguished Senator from California is going to require a new grant program for comprehen-

sive community substance abuse activities. I am extremely supportive of prevention efforts, especially those in local communities. As a matter of fact, we, in Congress, have been so supportive of such efforts that we have already established several such programs in current law.

For example, we created the Office of Substance Abuse Prevention to provide demonstration grants to local communities for the development of community-based prevention activities. We have also set aside a part of the Drug-Free Schools Act for community-based prevention activities. And, we have a 20-percent set-aside in the Alcohol, Drug Abuse and Mental Health Services Block Grant for community-based prevention activities relating to substance abuse.

Mr. President, if we need to modify our existing efforts, let us discuss it and decide. However, I reject the idea that we should abandon our current efforts, or at the worst duplicate these programs, just so we can claim we are fighting the war on drugs.

If we are going to do it, let us do it with common sense and practicality, not duplication of the funding or more bureaucracy. That is what this amendment does. It just duplicates an existing number of programs already in existence that are in the prevention area that will do this as well, if not better.

I might add, the administration is opposed to this amendment as well. Why do it? Why add another bureaucracy on top of four or five already existing ones and on top of OSAP which is very capable of seeing that these funds are well utilized.

That is the problem here, and I hate to let this amendment through. On the other hand, I do not want to hold colleagues up by having a rollcall vote.

I am going to make it clear. I have to say it is not cleared on this side. I have been trying to clear it just to let it go through and hopefully knock it out in conference, but, frankly, I cannot even get that kind of clearance.

Mr. President, I am going to ask the distinguished Senator from California to allow us to set this aside while I try to clear it. If I cannot clear it, I will try to come up with some other solution while we go to the amendment of the Senator from Wyoming. I ask unanimous consent that that be done.

The PRESIDING OFFICER. Hearing no objection, the Chair recognizes the Senator from Wyoming.

AMENDMENT NO. 912

(Purpose: To require drug testing for applicants for title IV, Social Security Act benefits aid to families with dependent children)

Mr. WALLOP. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. WALLOP], for himself and Mr. NICKLES, proposes an amendment numbered 912.

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

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

The amendment is as follows:

At the end insert the following new section:

SECTION . DRUG TESTS FOR CERTAIN INDIVIDUALS APPLYING FOR OR RECEIVING AID TO FAMILIES WITH DEPENDENT CHILDREN.

Section 402 (a) of the Social Security Act (42 U.S.C. 602(a)) is amended—

(1) by striking out "and" at the end of paragraph (39);

(2) by striking out the period at the end of paragraph (40) and inserting in lieu thereof "; and"; and

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

"(41) provide that the State agency—

"(A) shall require each applicant who is a parent or caretaker of a dependent child, as a condition of eligibility for aid under this part, to submit to a confidential test for illegal drugs approved by the Secretary;

"(B) shall implement a drug testing program under which any individual who receives aid under this part may be selected to submit to a confidential test for illegal drugs approved by the Secretary (such individuals selected for testing under this clause shall be selected on a random basis);

"(C) shall require that any individual required or selected to submit to a test for illegal drugs under this paragraph resulting in evidence of illegal drug use by such individual shall register for and participate in a drug treatment program approved by the State as a condition for continued eligibility for aid under this part; and

"(D) shall provide that—

"(i) if an individual who is required or selected pursuant to the provisions of this paragraph to submit to a test for illegal drugs and without good cause fails to submit to such test or refuses to participate in the State approved drug treatment program the needs of such individual shall not be taken into account with respect to such individual's family under paragraph (7) of this subsection, and if such individual is the parent or other caretaker relative, payments of aid of any dependent child in the family in the form of payments described in section 406(b)(2) (which in such a case shall be without regard to clauses (A) through (D) thereof) will be made unless the State agency, after making reasonable efforts, is unable to locate an appropriate individual to whom such payments can be made;

"(ii) any sanction described in clause (i) shall continue—

"(I) In the case of the individual's first failure to comply, until the failure to comply ceases;

"(II) in the case of the individual's second failure to comply, until the failure to comply ceases or 3 months (whichever is longer); and

"(III) in the case of any subsequent failure to comply, until the failure to comply ceases or 6 months (whichever is longer); and

"(iii) the State will promptly remind any individual whose failure to comply has continued for 3 months, in writing, of the individual's option to end the sanction by terminating such failure.".

SEC. . DEFINITION OF ILLEGAL DRUGS.

Section 406 of the Social Security Act (42 U.S.C. 606) is amended by adding at the end thereof the following new subsection:

"(i) The term 'illegal drugs' means a controlled substance in Schedule I or II, as defined under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)); the possession of which is unlawful under such Act. The term 'illegal drugs' does not include a controlled substance used pursuant to a valid prescription or authorized by law.".

SEC. . REGULATIONS.

The Secretary of Health and Human Services shall prescribe such regulations as the Secretary deems necessary to implement the illegal drug testing program and required by the amendments made by section 2.

SEC. . EFFECTIVE DATE.

The amendments made by this Act shall become effective on October 1, 1990.

Mr. WALLOP. Mr. President, the Senator from Wyoming always thought he knew why America's legal bills are so high. He has now seen it along, of course, with the rest of America who may be watching on C-SPAN. Why, when the clock runs, the lawyer's fees go up.

We have had a surfeit of redundancy, I would suggest, in the last couple of amendments. But this one, Mr. President, I hope will go quickly.

The amendment I offer is similar to a proposal that I offered in the 100th Congress to the Welfare Reform Act. During the debate on the welfare bill it was suggested by the bill's managers—Senator MOYNIHAN in particular—it would be more appropriate to offer my amendment to the drug bill. They agreed with the concept behind my amendment but wanted it debated in the context of the Omnibus Drug Act.

However, when we got to the Drug Act, it was on a fast track, late in the session, and amendments were strongly discouraged.

Today, we have an opportunity to revisit my amendment. The proposal is simple. As a condition of eligibility for aid to families with dependent children, the title 4 AFDC benefits, a parent applicant must submit to a drug test.

If the individual tests positive for abuse of illegal substances, he or she must register for a drug treatment program to obtain eligibility for benefits. Random drug testing of current welfare recipients would also be required.

There are, Mr. President, already a number of requirements to be eligible for AFDC benefits. Individuals must, of course, have dependent children. They must register for employment training. They have to meet income limits.

A drug testing requirement is but one more simple eligibility requirement. It is based on a concept of individual responsibility that is all too often missing from public policy.

It is my belief that if we do not require some sort of self-discipline, some accountability on the part of those who benefit from the generosity of the American taxpayer and the public welfare program, we will never have any success in our campaign against drug abuse.

This is nothing more than a recognition of the extent of and the extant problem of drug abuse.

America's low-income neighborhoods are ravaged by drugs. Drug lords prey on the poor. The poor are America's most vulnerable population. We have just passed the Byrd amendment which increases funding for drug education and treatment. Earlier, we passed an amendment of the Senator from California, Mr. WILSON, that, in the process of cutting down some of the Senate's own self-promotion, provided money for the treatment of children of drug-dependent mothers.

We have the resources to respond to drug addiction. It seems now only appropriate to take the steps to ensure that those most in need can no longer evade their addiction and can find treatment for it in the process of receiving the other generous help that America provides for them.

It is not appropriate to evade an addiction at the expense of the American taxpayer. The generosity of the American people should not be obliged to pay for a drug habit. The generosity of the American people has already been expressed in a desire to pay for a treatment of drug problems. How are we to discover drug problems in families with dependent children if we are not going to do the testing suggested in this amendment?

When I introduced my amendment as a bill earlier this year, I cited a recent news story about the Democratic mayor of San Diego, a liberal, self-professed, woman. She had spent some time on her own initiative acting as, behaving as and living amongst the homeless people to learn about the extent of that problem in her community. Her shocking discovery was the openness of the drug trade in low-income communities and how dependent the drug dealers were on the benefits of their victims. Sales picked up noticeably on the days when welfare checks were distributed. This is not right. It is not right for the recipients; it is not right for America's contributors.

Some will argue that my amendment discriminates against the poor. In my opinion, it is an attempt to help the poor. The whole purpose of America's welfare program is to elevate people from the binding poverty, from the binding ignorance, and it should be the binding addictions of that world.

We already, Mr. President, require Federal contractors to have drug-free workplaces. We already require America's military to submit to drug testing. Just last week the Senate approved random drug testing for transportation workers. The purpose of my amendment is not discrimination but in elevating these folks who necessarily have become dependent on the aid that America gives in the welfare system to totally rehabilitate.

It is not possible to rehabilitate when we ask somebody to register for job training if that same individual is drug dependent. It is impossible to suppose that in job training, whatever dimension it is, that jobs will be the ultimate result and freedom from dependency upon the welfare system will be the ultimate consequence.

So the purpose of the amendment is not discrimination. It is accountability; accountability for the program of welfare; accountability for the recipients of welfare. I challenge my colleagues to explain why this might be a bad idea.

Drug testing, since it is a condition of eligibility, would be funded out of the administrative expenses of the title 4 program. One estimate we have received from the Department of Health and Human Services is that the cost of a drug test is $26 per applicant, a small cost to pay in a war against drugs and an even smaller cost to pay if in the process of receiving treatment and counsel and freedom from addiction, we would have saved the American taxpayer a bundle of money and America's welfare recipients, some few of them at least, the possibility of evading a lifetime of addiction to debilitating substances.

Mr. President, that is my amendment. It would be my hope that the managers might see their way fit to accept it.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I do not know that I am up to the challenge, but I will rise to the challenge of trying to show the Senator why his amendment is not a good idea, with all due respect.

First of all, I know of no statistics that demonstrate that women receiving welfare, women receiving aid to dependent children, have a higher percentage of drug addiction than any other percentage of the population. That may be a stereotypical prejudice we have, but I know of no evidence to prove that, and I would be delighted to be educated if that, in fact, is not the case, if there is evidence. There may be; I know of none.

Can the Senator tell me how many people are receiving AFDC now?

Mr. WALLOP. Roughly 10 million. I would say to my friend that is including children. That figure is not just parents. I would also say to my friend no longer, because of changes we have made, is it just women who receive AFDC.

Mr. BIDEN. But is the Senator suggesting all persons receiving AFDC be drug tested?

Mr. WALLOP. All parents.

Mr. BIDEN. So the man or woman receiving AFDC would be required to be drug tested and the cost of that, by the Senator's admission, if they are drug tested once a year, is $26 million. It is $26 a test, we agree. If there are roughly 1 million people, and let us assume that.

Mr. WALLOP. But I say to my friend, it would not be $26 million. I point out again that it is 10 million people who are recipients. That includes a number of children. It would be down closer to a figure less than 5 million.

Mr. BIDEN. I am prepared to say only 1 million. It may be 5 million. Even if it is only 1 million people that will be tested, that is $26 million per test.

Mr. WALLOP. Will the Senator yield, not $26 per test. I would say to my friend that it only applies to initial applicants.

Mr. BIDEN. I see. How about people, I ask my colleague from Wyoming, who already are receiving AFDC, would not they have to be tested under this amendment?

Mr. WALLOP. We are talking about new applicants.

Mr. BIDEN. Only new applicants?

Mr. WALLOP. Under the amendment, there is some provision for random testing, but it would not be universal among the recipients.

Mr. BIDEN. If I understand correctly, then, every new applicant for AFDC would have to be drug tested, and all those who receive AFDC would be subject to random testing. Does the Senator have any idea what the cost of this testing program would be per year?

Mr. WALLOP. The Senator has not received a specific figure on that, but I ask my friend to contemplate how much money, talking in the abstract, one would save by elevating people off of AFDC, which would not be possible to us so long as they are drug-dependent.

Mr. BIDEN. Mr. President, I am not at this moment trying to argue the case. I am trying to ascertain the facts. Let me now go to arguing the case from the position of the Senator from Delaware.

Again, let me point out that to the best of my knowledge—and there are enough qualified staffs on both sides of the aisle that can correct me if I am wrong—the Senator from Delaware is unaware of any study to indicate that recipients of AFDC are more or less likely to be drug addicted.

Now, assume for the moment the Senator from Delaware is correct about that. If that is true, then there is no reasonable rationale for us, it

seems to me, not to go out and insist on drug testing for Social Security recipients, Medicare recipients, Medicaid recipients in States, small business administration loans, farm benefits, grazing rights on Federal land, student loan programs, veterans benefits, aid to disabled, unless the underlying rationale is that somehow AFDC types are those who are likely to be the ones to break the law and be addicted, and that once we find out whether or not they are addicted we will somehow tell them they will not receive benefits, ergo they will no longer participate in drug abuse and therefore they will have elevated themselves out of poverty, because the presumption is the only thing that keeps them in poverty is their drug addiction.

Now, it seems to me to be somewhat circular reasoning we would have to subscribe to to reach that conclusion.

I think it is a notable idea and a worthy notion that the Senator from Wyoming puts forward that anyone who would test positive would be able to go into a drug treatment program.

I would like to point out to my friend from Wyoming that NASADAD points out, after having recently done a survey, that the State agencies have come back and said there are 58,460 persons currently listed—not guessing—on treatment program waiting lists—58,460 persons.

In addition to that, I would add that as estimated by the Federal and local drug agencies, there are roughly 10,262,878 people including 8,333,000 adults and 1,451,000 adolescents who are in need of drug treatment programs now. The money we came up with, and the States have available to them, allows for fewer than 50 percent of these people to be able to receive treatment.

Further, the average waiting list for people to get into a treatment program runs anywhere from 8 months in large cities to 30 days in other cities. So although the notion arguably about providing treatment for people who in fact test positive is a good one, it only works if we are willing to add, to allow treatment on demand, $6.1 billion tonight.

If we add $6.1 billion, we will be able to provide treatment on demand so that the program the Senator from Wyoming says he wishes to be able to make available to people, which is to put people into treatment programs in order that their children continue to receive those benefits, is something that would be needed.

If you have to wait 8 months to get into a treatment program after having tested positive, as I understand the amendment of the Senator from Wyoming, you would in the meantime I assume be kicked off of the AFDC anyway. Who are we hurting when we do that? The 9 million children that we acknowledge make up part of the 10 million people with whom we are dealing.

Roughly, we are saying, for the sake of argument, 1 million people are adults and 9 million people are children. So a parent comes in and tests positive. In order to accept this amendment, you have to adopt the rationale that the reason to do it is because they are more likely to be abusers; and second, once you determine they are abusers, you will be able to provide them treatment immediately so they can get off their habit to help their children and society, and to get off their addiction to welfare as well, and further, that if they were faced with the prospect of this occurring, they would become productive citizens because by implication the only thing that keeps them on AFDC in the first place is their drug addiction.

Mr. President, I think it would be equally as reasonable to say that among the criminal element there are a lot of drug addicts. A significant portion of the criminal element either illegally goes out and buys guns or legally buys guns. It would make sense to insist there be a drug treatment program for anyone seeking a license to go fishing or hunting, a drug treatment program for the protection and the welfare of society. It would be equally as reasonable to come along, and I am not suggesting it, and say that some day in order to purchase a gun someone should have a drug treatment program.

I respectfully submit if we want to deal with the safety of society and the money society spends through taxes on things they could otherwise avoid spending, then maybe we should go back to the recommendation of the former Governor from Delaware, Governor du Pont, who said all students getting a driver's license should be drug tested.

Most of the people who commit accidents driving under the influence are not student age. They are older. So why not implement a program in the name of the welfare of America that everyone who seeks renewal of their driver's license has to be drug tested.

The rationale is in terms of cost to the public in reducing the number of police that are required to go to accidents, reducing the number of bills that come as a consequence of having to deal with everything from the tow truck to the hospital bill, and the insurance rates that go up, we will save society a lot more money by doing that. And unlike with AFDC, we have statistics showing the percentage of accidents that involve people under the influence of drugs.

So I would respectfully suggest that this is, unintentionally, incredibly discriminatory, and incapable, notwithstanding its discriminatory nature, of solving the problem it allegedly intends to solve, which is to cause people to raise themselves up by their bootstraps, because once they shed this drug dependency, which it is implied they have, if in fact they are going to seek welfare, they will have become productive citizens.

I respectfully suggest it does not comport with reality or with the facts. But I understand that it may sound appealing to some to suggest that.

For example, we do know the percentage of drug users among adolescents and college-age students. We know from statistics what they are. Should we not drug test every person who receives a student loan?

I yield the floor, Mr. President.

At some appropriate point, if the Senator does not withdraw the amendment, and he is perfectly entitled not to withdraw it—this side cannot accept the amendment—I will move at the appropriate time to table the amendment.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah [Mr. HATCH].

Mr. HATCH. Mr. President, I just have a few comments to make about this amendment. I hope the distinguished Senator from Delaware will not do that, because this is a commonsense amendment. The taxpayers of this country are not opposed to helping those who are in need.

What they are opposed to is helping those who do not want to help themselves. That is where we get into trouble. We are helping too many people who will not do anything to help themselves, who cannot.

It is not too much to expect for a person receiving Federal benefits to be drug-free. It is not too much to expect they will be law abiding. Do not forget the use of drugs is, after all, illegal. That is what we are attacking here.

This amendment, as I understand it, would require persons applying for Federal benefits, such as AFDC or food stamps, to have a drug test. If the test is positive, then these persons can be enrolled in appropriate treatment programs. That is the bottom line. If it is positive, they are going to get the treatment they need.

It is not an excuse for cutting Federal benefits to those who are in need. It is a way of identifying users and getting them into the treatment programs. There are a lot of users who are on AFDC. I do not want them to lose their benefits. Mothers receiving AFDC may love their children, but they cannot be truly good parents if they do not get help to kick their drug or alcohol dependence problems. Their first priority is their next dose of crack, and their children often come second. We are not helping these families if we continue to send them checks and make no requirement that these individuals are identified and enrolled in treatment programs. That has to be

the first step toward helping them get their lives together. Job training, education, and the other programs that might help these families receiving these benefits cannot be effective if the individual is still abusing drugs and alcohol.

So persons receiving public assistance cannot reclaim their self-esteem and get the welfare monkey off their backs if they first cannot throw out the gorilla that amounts to drug addiction or alcohol.

So, I think that the distinguished Senator from Wyoming is right. It is not an attempt to hurt these people. It is not an attempt to deprive them of benefits. It is an attempt to get them help.

Mr. BIDEN. Mr. President, will the Senator yield for a question?

Mr. HATCH. Yes.

Mr. BIDEN. The Senator is as well-schooled in this as anyone I know. Does the Senator know if there is any evidence to indicate a recipient of AFDC is more likely to be a drug addict than someone who is not?

Mr. HATCH. I do not know of any particular study that would show one way or the other except we know it exists. We know the problems are there. We know many of these people are in many cases not as highly educated—they have been deprived of education and opportunities that others benefit from. The purpose of this amendment is to get them help. We know a number of the people in our society on some of these programs have these problems.

Mr. BIDEN. Will the Senator yield for another question?

Mr. HATCH. Yes.

Mr. BIDEN. Is it not true that you cannot be a truly good hunter or a truly good driver if you are on drugs?

Mr. HATCH. I think it is probably true that you cannot.

Mr. BIDEN. Is it not true that you cannot be a truly good anything if you are on drugs? I believe the Senator from Utah, one of the most capable debaters in this body, is engaged in a series of nonsequiturs that are quite fascinating. He says we want to get people off drugs because you cannot truly be a good mother. Obviously, you cannot. You cannot be a truly good driver. Why not test all drivers? You cannot be truly a good hunter. Why not test all hunters?

Mr. HATCH. Some may suggest that. On the other hand, here we have a group of people who cannot help themselves, where hunters and drivers can. Here we have a group of people who basically need this type of help, some of them.

This is a way of determining and finding it out. I personally have lots of difficulties in forcing anybody to take any kind of a test. Here is a situation where I believe a fairly substantial number of people would benefit from this amendment. But be that as it may, I understand the distinguished Senator's argument, and I think we ought to move ahead.

Mr. BIDEN. I am going to move to table at the appropriate time. I do not want to cut off the Senator from Wyoming.

The PRESIDING OFFICER. The Chair recognizes the Senator from Wyoming [Mr. WALLOP].

Mr. WALLOP. Mr. President, I have no hope of trying to displace the Senator from Deleware, but let me suggest to him it is not the point whether fewer or more families with dependent children are drug addicted than other ones. One can site any number of statistics. One can quote from the Washington Post article last Saturday in which they stated the Washington infant mortality rate has soared because of mothers addicted to crack—low-income, and a large proportion of them on welfare. Mortality has increased 50 percent, comparable to Third World Nations.

I want to clear up a few of the things that my friend from Delaware said because he has a habit of creating a monster when there is a relatively simple point at hand.

I did not state, and would not state, that AFDC parents are more likely to break the law, but ask only that having been tested, they register for treatment if found positive. This is the same eligibility requirement, Mr. President, that we have now. They lose their benefits if they do not register for job training. They lose them, straight out.

Mr. BIDEN. Mr. President, will the Senator yield for a question?

Mr. WALLOP. Yes.

Mr. HATCH. Does the Senator think there are any programs available for treatment that they could get into? Is the Senator aware of the statistics that there are no programs?

Mr. WALLOP. The Senator is totally aware, and the Senator from Delaware once again makes this thing somehow or another they are going to lose their benefits if they are not in treatment. That is not the amendment. The amendment merely requires that they register. If it is not available, they do not lose it. But the same thing with job training as a matter of fact. There are some communities in America where job training is not available. But we have eligibility requirements for all other kinds of other professions—military, and I mentioned transportation. We are not suggesting that they ask for treatment on demand. I am also not suggesting to the Senator they would be kicked off but for the fact that a drug treatment program was available and they did not accept the treatment.

I say to my friend that this does not deny children of AFDC parents any benefit. It denies parents benefits; the children are still eligible as they are if they fail to register for job training. The children are taken care of under this. Current law treats parents who will not register for job training the same way. They lose their benefits.

I made no such implications, I say to my friend from Delaware, that these people seek welfare because they are drug dependent. But I would say this: The American taxpayer has no obligation to sustain a drug habit. The American taxpayer has every obligation to provide humane welfare programs and benefits to get people elevated out of the welfare trap. That was the whole purpose of the welfare reform.

Mr. President, I am not going to state any more about this tonight. I know the Senator from Delaware is going to move to table. I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BIDEN. Mr. President, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second on the motion to table? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Delaware to lay on the table the amendment of the Senator from Wyoming. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from New Hampshire [Mr. HUMPHREY] is necessarily absent.

The PRESIDING OFFICER (Mr. ROBB). Are there any other Senators in the Chamber who desire to to vote?

The result was announced—yeas 75, nays 24, as follows:

[Rollcall Vote No. 231 Leg.]

YEAS—75

Adams	Dodd	Lugar
Baucus	Durenberger	Matsunaga
Bentsen	Ford	Metzenbaum
Biden	Fowler	Mikulski
Bingaman	Glenn	Mitchell
Bond	Gore	Moynihan
Boren	Gorton	Nunn
Bradley	Graham	Packwood
Breaux	Harkin	Pell
Bryan	Hatfield	Pryor
Bumpers	Heflin	Reid
Burdick	Heinz	Riegle
Burns	Hollings	Robb
Byrd	Inouye	Rockefeller
Chafee	Jeffords	Roth
Coats	Johnston	Rudman
Cochran	Kassebaum	Sanford
Cohen	Kennedy	Sarbanes
Conrad	Kerrey	Sasser
Cranston	Kerry	Shelby
D'Amato	Kohl	Simon
Danforth	Lautenberg	Specter
Daschle	Leahy	Stevens
DeConcini	Levin	Warner
Dixon	Lieberman	Wirth

NAYS—24

Armstrong	Hatch	Murkowski
Boschwitz	Helms	Nickles
Dole	Kasten	Pressler
Domenici	Lott	Simpson
Exon	Mack	Symms
Garn	McCain	Thurmond
Gramm	McClure	Wallop
Grassley	McConnell	Wilson

NOT VOTING—1

Humphrey

So, the motion to lay on the table the amendment (No. 912) was agreed to.

AMENDMENT NO. 963 TO AMENDMENT NO. 961

Mr. HATCH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to setting aside the amendment of the Senator from California?

Mr. HATCH. It is an amendment to the amendment of the Senator from California.

The PRESIDING OFFICER. The amendment is in order.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. HATCH], proposes an amendment numbered 963 to the Cranston amendment numbered 961.

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

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

The amendment is as follows:

In lieu of the matter proposed to be inserted, insert the following: Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) as amended is amended by adding at the end thereof the following new section:

SEC. 509H. COMMUNITY COALITIONS ON SUBSTANCE ABUSE.

The Director of the Office of Substance Abuse shall develop model programs for community prevention activities.

(b) The Director of the Office of Substance Abuse Prevention shall provide assistance to coalitions consisting of public and private organizations and agencies that represent law enforcement, schools, health and social service agencies, community-based organizations and substance abuse prevention specialists and including representatives from among the following: Clergy, academia, business, parents, youth, the media, civic and fraternal groups, or other nongovernmental interested parties in order to develop and implement comprehensive substance abuse programs.

(c) The Director shall establish a mechanism to evaluate the effectiveness of community coalitions established under subsection (b) in preventing substance abuse and to disseminate the results of such evaluations to community coalitions.

(d) The Director shall develop a substance abuse prevention training curriculum for community coalitions and shall provide technical assistance, and support for community training on substance abuse prevention.

Mr. HATCH. Mr. President, this amendment is agreed to not only by the distinguished Senator from California but by this side and I believe the other side, as well. I ask that the amendment be adopted.

Mr. CRANSTON. Mr. President, I will accept the compromise proposed by the Senator from Utah [Mr. HATCH]. Although I have agreed to drop some of the specifications regarding the types of services and programs that the coalitions should provide, I believe that the amendment retains the core elements: Community coalitions to develop and implement comprehensive substance abuse prevention programs; evaluation of the programs' effectiveness; training in substance abuse prevention; and model curricula for community substance abuse prevention.

I thank the Senator from Utah for his cooperation and urge adoption of the amendment. I thank too, the Senator from Delaware for his helpfulness.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the amendment of the Senator from Utah, Mr. HATCH.

The amendment (No. 963) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH. Mr. President, I send an amendment to the desk on behalf of Senator STEVENS.

The PRESIDING OFFICER. The Chair would remind the Senator that the amendment just agreed to was a second-degree amendment to the amendment offered by the Senator from California. Final consideration of that amendment has not taken place.

The question is on agreeing to the amendment of the Senator from California, Mr. CRANSTON.

The amendment (No. 961) was agreed to.

AMENDMENT NOS. 964 THROUGH 975

Mr. HATCH. Mr. President, I send an amendment (No. 964) to the desk for and on behalf of Senator STEVENS; an amendment (No. 965) for and on behalf of myself; an amendment (No. 966) for and on behalf of the distinguished Senator from New Mexico, Mr. BINGAMAN, and also Mr. BOND; an amendment (No. 967) for and on behalf of Senator D'AMATO; an amendment (No. 968) by Senator KOHL on TV drugs; an amendment by Senator KOHL on a study——

Mr. BYRD. Mr. President, may we have order in the Senate? There is important business being transacted here. Some of us cannot hear.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Utah.

Mr. HATCH. Three amendments by Senator KOHL.

Mr. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senator will suspend.

The Senator from Utah.

Mr. HATCH. Mr. President, I send four amendments to the desk on behalf of Senator KOHL; two (Nos. 972 and 973) by Senator GRAHAM of Florida; one (No. 974) by Senator BIDEN; and another one (No. 969) by Senator SIMON. I ask unanimous consent that they be considered en bloc.

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

Mr. HATCH. Mr. President, I ask that all of these amendments be agreed to en bloc. They have been accepted by both sides.

Mr. BIDEN. Mr. President, we accept them, as well.

The amendments are as follows:

AMENDMENT NO. 964

On page 1, line 8, strike "(21 U.S.C. 802(6))," and insert "(21 U.S.C. 802(6)) except when authorized under the Controlled Substances Act".

On page 1, line 10, strike "the second undesignated paragraph of subsection (h)" and insert "the first undesignated paragraph following subsection (i)".

AMENDMENT NO. 965

(Purpose: To require the Secretary of Defense to educate senior officers of the Armed Forces of the United States on the policies, strategies and related purposes of the national drug control effort, with emphasis on the military interdiction activities of such military personnel)

At the appropriate place, insert the following new section:

MILITARY INTERDICTION EDUCATION PROGRAM

SEC. . (a) PROGRAM REQUIRED.—The Secretary of Defense or his designee, shall provide that instruction on the military role in drug interdiction will be established for all senior officer personnel in the Armed Forces of the United States at basic, intermediate and advanced military educational facilities, to be selected at the discretion of the Secretary of Defense.

(b) PROGRAM CONTENT.—Instruction at such facilities shall include, but shall not be limited to the following topics:

(1) The nature of the threat posed to the national security of the United States by drug trafficking.

(2) Posse comitatus and other legal and constitutional restrictions on the participation of military personnel in law enforcement activities.

(3) The national drug control strategy of the United States and the United States Government organizations mandated to implement it.

(4) The history of United States Armed Forces' participation in drug interdiction, to include the types of assistance and equipment generally employed by DOD for such purposes.

(5) Other instruction, as appropriate, tailored to the specific mission, roles, organization, and functions of the military service providing such instruction.

(6) The Director of the Office of National Drug Control Policy is further directed to

coordinate with the Secretaries of Defense, State, Commerce, Transportation and Treasury, and with the Attorney General in establishing at the National Defense University a program designed to foster interagency cooperation on drug interdiction matters, emphasizing joint and combined operations between and among the participating agencies and the military services.

(c) REPORTING REQUIREMENTS.—The Secretary of Defense will submit to Congress not later than December 14, 1990, a report to the President on the value and status of such training, along with recommendations appropriate to the future value of interagency cooperation and education on drug interdiction activities involving the use of military assistance.

Mr. HATCH. Mr. President, this amendment fills a gap in our drug control strategy—it establishes a program to educate military personnel on drug interdiction policy and strategy.

It is my understanding that the amendment has the support of the chairman of the Senate Armed Services Committee.

Last year, the Defense Department provided over 28,000 hours surveillance support from the air, and over 2,000 ship-days of support to the Coast Guard. As we all know, the revisions to posse conmitatus doctrine allow for extensive military involvement. My amendment seeks to assure that military personnel assigned to interdiction duties clearly understand the President's policy, and, more importantly to me as a member of the Judiciary Committee, the constitutional and statutory restraints on their conduct when engaged in interdiction assistance to law enforcement officials. For example, military personnel cannot make arrests or seizures of traffickers—and there are very real limits on their use of force—all of which assures that innocent persons are not harmed in the midst of the authorized use of force or in arrest situations.

The amendment therefore directs the Secretary of Defense to take two basic actions:

First, prepare appropriate instructional materials on drug policy and strategy to be included in the curricula of military schools that provide training for the senior officers of our Armed Forces.

In addition, the Secretary of Defense will establish at the National Defense University, instruction that is oriented to interagency cooperation, especially between the military services and the Coast Guard, DEA, Customs, Justice, FBI, CIA, and others

I happen to know that this type of instruction is not currently provided. Yet, because of the level and scope of military involvement, we simply can't afford to do without it

The President, Secretary of Defense, and the National Security Adviser have all acknowledged that drug trafficking is a threat to our national security interests. This amendment asks Congress to endorse that commitment, while assuring that military persons engaged in interdiction understand exactly the purpose and importance of their mission.

AMENDMENT No. 966

Amendment No. 938, offered by the Senator from New Mexico [Mr. BINGAMAN] and adopted on October 3, 1989, as an amendment to S. 1711, is hereby amended as follows:

Amend section 1212 of the Higher Education Act of 1965 as follows:

(1) In subsection (a), strike "of law," and insert in lieu thereof "of law, except as provided in subsection (c),"

(2) In subsection (a), strike "and has implemented" and insert in lieu thereof "a plan with a timetable to implement"

(3) Strike sections 1212(a) (2), (3), and (4) and insert in lieu thereof the following:

"(2) a policy that restricts distribution on campus of any promotional material that encourages consumption of alcoholic beverages by persons under the state's legal drinking age;

"(3) In the case of the financing, sponsoring, or supporting of any athletic, musical, cultural or social program, event, or competition of such institution by any alcoholic beverage company or industry, the acknowledgement of such financing, sponsorship, or support in promotional material shall be limited to statements of corporate identification;

"(4) a policy that encourages such institution's newspapers and other publications to reject advertisements promoting irresponsible or illegal consumption of alcoholic beverages;"

(4) Add a new subsection (c) to read as follows:

"(c) Upon application by an institution of higher education, the Secretary shall grant a waiver of the sanctions authorized by this section to any institution of higher education which demonstrates that it is in the process of developing and implementing a plan required by subsection (a), for up to one year from the date of enactment of this section."

AMENDMENT No. 967

At the appropriate place, insert the following:

SEC. . STATEMENT OF CONGRESSIONAL FINDINGS.

(a) FINDINGS.—The Congress finds that—

(1) this Nation is engulfed in an epidemic of drug abuse that is threatening our country's productivity and, in particular, the minds and future of our youngest citizens;

(2) there is an urgent need to interrupt drug-related criminal activities and behavior of our youth through instilling discipline, self-respect, literacy, social and vocational skills, and a personal commitment to family values and the community;

(3) the proposals for addressing that need contained in a National Institute of Justice paper, entitled "About Face: Civil-Military Youth Leadership Program for the District of Columbia" needs to be evaluated by the Office of National Drug Control Policy; and

(4) said paper proposes applying the positive aspects of basic military training, which reinforces and encourages discipline, responsibility and teamwork. It also proposes a program to improve literacy and vocational skills of program participants in ways that lead to real career opportunities for participants returning to their community after their participation in the progam.

SEC. . STUDY ON THE FEASIBILITY OF A CIVIL-MILITARY YOUTH LEADERSHIP PROGRAM.

(a) REPORT TO THE CONGRESS.—Not later than February 1, 1990, the Director of National Drug Control Policy shall submit a report to the Congress containing:

(1) an evaluation of the Department of Justice, National Institute of Justice concept paper entitled "About Face: Civil-Military Youth Leadership Program for the District of Columbia" (hereinafter referred to as the "Program");

(2) the feasibility of implementing the Program; and

(3) the feasibility of implementing the Program as a five-city pilot project;

Mr. D'AMATO. Mr. President, I rise today to propose on behalf of myself, Senators DECONCINI, DOMENICI, and GRAHAM, an amendment to S. 1711, the bill to implement the President's 1989 national drug control strategy.

The National Institute of Justice has prepared a proposal entitled "About Face: Civil-Military Youth Leadership Program for the District of Columbia." The proposal grows out of concern at the Justice Department that there has been a great deal of interest in so-called boot camps or shock incarceration for drug offenders, but too few standards or guidelines for these programs.

The National Institute of Justice proposal contains a number of suggestions for those wishing to establish boot camp or shock incarceration programs that go beyond mere detention. It addresses the need for literacy and job skill training, as a means to reduce and prevent criminal activity by young people living in areas of high drug use and crime.

It calls for a program to instill in them discipline, self-respect, and a personal commitment to family values and the community.

It calls for a program that targets both those young people who are under the formal authortiy of the juvenile justice system and young people who, although not under the formal authority of the juvenile justice system, are considerably at-risk for drug involvement.

It suggests separate tracks for youth in different age groups—for example, 16 to 18, 18 to 22. It calls for separate programs for sentenced drug offenders and for at-risk youth who have committed no crimes.

For those in the juvenile justice system it suggests: discipline training, confidence training—for example, outward bound-type programs—and community aftercare.

For those with no criminal history it suggests: junior reserve officer training corps recruit training and community aftercare.

It emphasizes the need to help graduates improve their literacy and vocational skills to give them career opportunities after graduation.

It calls on all levels of government and society to participate in the program, and suggests possible ways for them to do so.

Mr. President, we need to find innovative ways to deal with the problem of drugs and crime among our youth. I believe that this program should be reviewed and, if it is favorably considered by the Director of National Drug Control Policy, it should be implemented.

I urge my colleagues to support this amendment.

Mr. President, I ask unanimous consent that the National Institute of Justice proposal be printed in the RECORD.

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

"ABOUT FACE" CIVIL-MILITARY YOUTH LEADERSHIP PROGRAM FOR THE DISTRICT OF COLUMBIA

Introduction: The Civil-Military Youth Leadership Program concept paper describes an approach for containing the costs associated with the achievement of major domestic policy goals. The paper focuses on the control of drug abuse and related criminal activity among youth in the District of Columbia and is based on the following premises: Existing civil-military resources at the Federal, state and local levels must be mobilized to meet National goals.

Cost containment: Concentration of effort will result in greater efficiency and cost-effectiveness and will reduce the demand for additional resources.

Purpose: To interrupt drug-related criminal activities and behavior of participating District of Columbia youth through instilling discipline, self-respect, literacy, social and vocational skills, and a personal commitment to social values and the community.

To provide an opportunity to test a cost containment strategy involving Federal, state, and local government agencies working together to control drugs and crime by marshalling existing civil-military resources.

Benefits: Executive leadership and model development.

Efficiency and cost savings: Trained staff, existing facilities, and quick start-up.

Reduces social cost of drugs and crime in the community.

Urban revitalization.

Environmental advocacy.

Replicability.

This concept paper introduces a framework for the development of a comprehensive domestic policy initiative to reduce drug abuse and interrupt drug-related criminal activity among the inner city youth in the District of Columbia. A pilot demonstration program is proposed, under the leadership and direction of the Attorney General, that is civil-military in nature and coordinates the resources of a broad range of Federal agencies. If successful, this program could be replicated in other jurisdictions nationwide.

A summary of the target population, eligibility/discharge criteria and processes, program elements, and potential agency involvement is displayed in matrix form in Exhibits A and B.

Program design criteria: The following factors were considered key to this initiative and incorporated into the conceptual design presented in this document.

The strategy should provide a key role for the Department of Defense to play in the "war on drugs" through use of the agency's existing resources and expertise in the provision of socialization programs.

The program design will be consistent with established military standards and practice for basic training. A by-product of this effort will be operational standards needed by correctional jurisdictions that have instituted or are planning "boot camp" type facilities. Currently, there are no guidelines for the operation of this type of program.

Any programming strategy for intervention in the District of Columbia's problem with drugs and crime must consider the profile of the District's inner-city youth population; discipline and incarceration alone do not provide the skills necessary for them to adopt an alternative lifestyle.

The strategy must recognize that for any programming to be successful it must ensure that the district's inner city, to which participants will return, has the resources to support returning program graduates and reflects an environment that is conducive to perpetuating a positive alternative lifestyle.

The program should be congruent in content with intensive substance abuse programming currently being provided in the pilot program for the proposed Correctional Treatment Facility by the D.C. Department of Corrections, i.e., voluntary, skill development intensive.

Program design should build on the positive aspects of basic military training; that reinforces and encourages internalization of discipline, responsibility and teamwork; and applies those traits to the improvement of literacy and vocational skills in ways that lead to legitimate career alternatives when participants return to their community.

An underlying philosophy: a theme and a message should characterize the program. This must include society's intolerance for crime and drug abuse. But it must also extend opportunities for meaningful employment, personal growth, and prosperity to residents of the community and program participants, including those who don't presently perceive American society as truly available to them, and those who have violated its laws; the proposed program provides this opportunity.

Purpose: To reduce recidivism by interrupting the drug-related criminal activities and behavior of participating District of Columbia youth through instilling discipline, self-respect, literacy, social, and vocational aptitude training that will provide them with the skills required to engage in a meaningful alternative lifestyle when the program is completed. This would include a commitment to accepted social values and their community. The program will provide the opportunity for the successful participant to either volunteer for the armed forces or to return to the community where a support system will facilitate his entry into community-based vocational training or apprenticeship programs, education, and meaningful work opportunities. It also includes the commitment of Federal and local resources to the inner-city community to which program graduates will return, to develop the support necessary to assist them in maintaining an alternative lifestyle as a contributing member of their community.

Target population: At-Risk Youth from the District of Columbia. Three categories of youth are identified who could benefit from the proposed program. They are divided into three tracks for the purpose of programming.

TRACK 1

Youth sentenced under the DC Youth Rehabilitation Act (YRA) between the ages of 18 and 22 years and serving indeterminant sentences. The following provisions of the YRA make these individuals promising candidates for the proposed program:

An extensive diagnostic evaluation has been conducted from which the judge determines YRA sentencing based on each individual's potential for rehabilitation.

Under the YRA, successful rehabilitation can result in the individual's record being expunged.

If the individual does not demonstrate progress in rehabilitative programming, he/she can be returned to the court for a "no benefit" determination, which results in resentencing as an adult.

Eligibility criteria: Sentenced, drug user or convicted of a drug-related charge, no history of mental illness, non-violent, not an escape risk, has received a formal orientation to the program, motivated, volunteers. The selection process is described under Phase I of the program (below).

Discharge Criteria: *Positive:* Program staff recommendation to the DC Board of Parole. *Negative:* Infraction of cardinal rules (drug use, sex, violence), finding of mental disorder, finding of "no benefit" as determined by the treatment team, participant request.

Discharge Process: The process for positive discharge from the residential phases of the program would require a report to the DC Board of Parole recommending parole release to the community aftercare phase of the program, with parole supervision. Discharge for other reasons would require formal program staff review and consideration prior to a determintion to return the individual to the custody of the DC Department of Corrections. For participants who are not progressing satisfactorily, discharge would entail a staged review through which expectations for progress would be defined to the individual to provide him/her with a minimum of at least three opportunities to meet expectations prior to discharge.

TRACK 2

Juvenile offenders pending commitment to custody of the DC Youth Services Administration (YSA). Between the ages of 16 and 18 years. The program would represent a commitment alternative to sentencing in a YSA facility.

Eligibility criteria: Unsentenced, drug user or convicted of a drug-related charge, no history of mental illness, non-violent, not an escape risk, has received a formal orientation to the program, motivated and, is offered the opportunity to volunteer for, and complete, the program in lieu of incarceration. The selection process is described in Phase I of the program below.

Discharge criteria: *Positive:* Program staff determination. *Negative:* Infraction of cardinal rules (drug use, sex, violence), finding of mental disorder, finding of "no benefit", as determined by the treatment team, and participant request.

Discharge process: The process for positive discharge from the residential phases of the program would require a report from program staff to the DC Superior Court Family Services, Juvenile Probation Division, of the individual's progress and pending discharge to the community aftercare

phase of the program, with probation supervision. Discharges for other than successful completion may require that the individual be returned to family court for further disposition. Similar to Track 1 participants, formal staged review by program staff would be required for participants who are not progressing satisfactorily.

TRACK 3

Underprivileged youthful volunteers. Between the ages of 15 and 18 years. These youth are not under the formal authority of the juvenile justice system, but are considerably at-risk. They will have had a history of poor academic performance, truancy, and parental ability to control the individual is minimal.

Eligibility criteria: Has received a formal orientation to the program, is suspected to be a drug user or involved in drug sales, is a potential drop-out, and volunteers. The selection process is described under Phase I of the program (below).

Discharge criteria: *Positive:* Program staff determination. *Negative:* Infraction of cardinal rules (drug use, sex, violence), finding of mental disorder, finding of "no benefit" as determined by the treatment team, participant request.

Discharge Process: The discharge process for these participants would be similar to that for juveniles, except that they would be returned to the care of their family or other responsible sponsor in the community.

The Civil-Military Youth Leadership Program: The program is divided into two subprograms: the Correctional Youth Leaders Program and the Junior Leaders Program. Each consists of several phases, beginning with screening and selection of volunteer candidates. Selected participants progress through a rigorous regimen that is varied in length according to which program the individual is assigned, ending with the individual returning to the DC community where they will participate in a mandatory aftercare program. The aftercare phase of the program requires that graduates participate in mandatory community based aftercare activities in addition to participating in vocational training, work, school, or community service projects.

The Correctional Youth Leaders Program (CYLP). This program is designed to be conducted by civil jurisdictions. Successful Track 1 participants proceed through the program and are paroled to the community and the aftercare phase of the program upon completion of the residential phases.

The Junior Leaders Program (JLP). This program is designed to be conducted initially at military facilities with some military assistance. It is designed for juveniles who are not convicted felons and for juveniles who come from high risk areas. In the early phases of the program participants would progress through military self-discipline/self-confidence training prior to entry into the civilian corps phases that are the foundation of the Civil-Military Youth Leadership Program.

CORRECTIONAL YOUTH LEADERS PROGRAM

Phase I—Screening

Location: DC Department of Corrections Youth Center.

Objectives: Screening, Referral, and Selection.

Duration: Approximately 4 weeks.

YRA Candidates—Screened and referred to the program by DC Department of Corrections Youth Center staff. Interviewed and selected by program staff.

Phase II—Discipline Training

Location: DC Department of Corrections Youth Leaders Facility Objectives: Self-Discipline and Team Building.

Duration: Approximately 9 weeks.

Program Elements—Track 1:

Intensive medical, psychiatric, psychological, substance abuse, academic and vocational assessment.

Military discipline/physical training.

Academic education/intensive literacy training/English as a second language.

Substance abuse education and treatment.

Physical training and athletics.

Family counseling.

Religious services.

Phase III—Confidence Training

Location: Remote Non-Military Facility With Appropriate Training Facilities and Challenging Terrain.

Objectives: Self-Confidence, Team Building, Skill Training.

Duration: Approximately 7 weeks.

Program Elements—Track 1:

Continued acdemic education, intensive literacy training and English as a second language.

Continued substance abuse education and treatment.

Continued family counseling.

Outward bound training: Leadership, confidence building, endurance, and team building.

Physical training and athletics.

Self-maintenance and life skills development.

Religious services.

Phase IV—Conservation Corps

Location: Controlled Rural or Urban Work Site.

Objectives: Civil Conservation Tasks.

Duration: Approximately 20 weeks.

Program Elements—Track 1:

Continued remedial education, intensive literacy training, English as a second language.

Continued substance abuse education and treatment.

Continued family counseling.

Physical training and athletics.

Conservation and environmental education/training: Watershed protection and enhancement projects, rural and urban renewal projects.

Religious services.

Transition preparation planning (emphasis is placed on this aspect of programming throughout this phase).

Graduation.

Phase V—Community Aftercare

Location: District of Columbia Community.

Objective: Community Reintegration/Independent Living.

Duration: Approximately 1 year.

Program Elements—Track 1:

Work.

Apprenticeship program/trade school/community college programs (grants for tuition where required).

GED preparation/examination.

Continued substance abuse treatment (residential for those requiring it, aftercare follow-up, AA and NA).

Continued literacy training.

Structured aftercare (this phase of the program would be developed by interested community groups in each Ward that are pro-active in community enhancement and social programs): Structured leisure time, family support services, team meetings, church group affiliation, and community service.

Parole supervision.

JUNIOR PROGRAM LEADERS

Phase I—Screening

Location: District of Columbia.

Objectives: Screening, Referral, and Selection.

Duration: Approximately 4 weeks.

Juvenile Candidates—Screened by DC juvenile probation office/Youth Services Administration, who recommend program to the District Family Court judge. Judge then refers the juvenile to the program. Interviewed and selected by program staff.

Underprivileged volunteers—Referred by a local community agency and/or school in consultation with the family, screened and referred to the program through an armed forces recruiting office. Interviewed and selected by program staff.

Phase II—Junior Reserve Officer Training Corps Recruit Training

Location: Military Basic Training Facility.

Objective: Self-Discipline and Team Building.

Duration: Approximately 9 weeks.

Program Elements—Tracks 2 and 3:

Intensive medical, psychiatric, psychological, substance abuse, academic and vocational assessment.

Military discipline/physical training.

Academic education/intensive literacy training/English as a second language.

Substance abuse education and treatment.

Physical training and athletics.

Family counseling.

Religious services.

Phase III—Adventure Training

Location: Remote Federal Facility With Appropriate Training Facilities and Challenging Terrain.

Objectives: Self-Confidence, Team building, Skill Training.

Duration: Approximately 7 weeks.

Program Elements—Tracks 2 and 3:

Continued academic education, intensive literacy training and English as a second language.

Continued substance abuse education and training.

Continued family counseling.

Adventure training: Leadership, confidence building, endurance, and team building.

Physical training and athletics.

Self-maintenance and life skills development.

Religious services.

Community transition planning (Tracks 3 only).

Phase IV—Conservation Corps

Location: Controlled Rural or Urban Work Site (Could be the same location as Phase III).

Objectives: Civil/Military Conservation Tasks.

Duration: To be Determined.

Program Elements—Track 2, and 3 on a voluntary basis:

Continued remedial education, intensive literacy training, English as a second behavior and skills.

Continued substance abuse education and treatment.

Continued family counseling.

Physical training and athletics.

Conservation and environmental education/training: Watershed protection and enhancement projects, rural and urban renewal projects.

Religious services.

Transition preparation planning (emphasis is placed on this aspect of programming throughout this phase).

Graduation.

Phase V—Community Aftercare

Location: District of Columbia Community.

Objective: Community Reintegration/Independent Living.

Duration: Approximately 1 year.

Program Elements—Tracks 2 and 3:

A. Military service for those qualified and wishing to volunteer.

B. Community Reintegration:

High School/Community College/GED program.

Apprenticeship program/trade school.

Continued substance abuse treatment (residential for those requiring it, aftercare follow-up, AA and NA).

Community service projects.

Aftercare participation activities: Structured leisure time, family counseling, team meetings, and church/social group affiliation.

Probation Supervision (Track 2 only).

Reintegration to the community and the need for revitalization of the inner city: Regardless of how well a program can change the attitudes and behavior of participants while they are separated from the negative influences of their community, it is well documented that the environment to which programmed youth will return has significant effect on their ability to iternalize newly acquired behavior and skills. Program graduates will return to their communities and will be expected to become successful and productive citizens. However, unless there are legitimate opportunities available to them for employment, personal growth, and prosperity, the probability of failure is greater than the probability for success. Therefore, consistent with the national goals articulated for uban development, the Youth Leadership Program proposes focus of these efforts in the DC inner city. This would require that priority be placed upon creating jobs, encouraging entrepreneurship, expanding home ownership and affordable housing opportunities, and empowering the inner city poor through resident management and homesteading.

In addition, to encourage graduates of the program to remain in their communities as they become successful citizens, incentives could be developed for which interested graduates and inner-city residents would be eligible. Examples of these incentives are:

Develop enterprise zone benefits.

Support rural conservation, community development, and urban revitalization projects.

Provide continued education and career development opportunities.

Develop business opportunities: Special youth/business tax benefits, utility hookups, zoning and building code considerations.

Program size: The optimal size of each pilot program is envisioned to be 200 slots. Once these participants move on to Phase III (Track 1) or Phase IV (Tracks 2 and 3), another program cycle would begin.

Location: Phase II of the Correctional Youth Leaders Program would be conducted at a new DC Department of Corrections facility at Lorton, Phases III and IV would be conducted at national or state park facilities that have the appropriate terrain and resource to support the program. Phase II of the Junior Leaders Program would be conducted at a military recruit facility, Phase III at a military facility that has appropriate terrain and resources to support the program, and Phase IV would be conducted at a national or state park facility.

Administrative responsibility: The National Institute of Justice, Department of Justice, would provide overall program planning, design, and evaluation; assume administrative responsibility for fiscal resources, and coordinate the efforts of other agencies providing resources in the form of facilities or direct services.

The designation of potential agency involvement and administrative responsibility to implement the various phases of the program and provide the resources required in the community is envisioned as follows:

Overall Responsibility: Department of Justice.

Lead Agency: National Institute of Justice.

Planning, Design, and Administration: Dept. of Justice/NIJ.

Phase I—Sponsoring Agency: District of Columbia; Support Agency: Dept. of Defense.

Phase II—Sponsoring Agency: Dept. of Defense/DC Department of Corrections; Support Agencies: Education, HHS, Justice, DC/YSA, NIDA.

Phase III—Sponsoring Agency: Dept. of Defense/Interior; Support Agencies: Education, HHS, Justice, Labor, EPA, DC/DOC, DC/YSA, NIDA.

Phase IV—Sponsoring Agency: Interior; Support Agencies: Defense, Education, HHS, Justice, Interior, Labor, EPA, USDA, DC/DOC, DC/YSA, NIDA, HUD.

Phase V—Sponsoring Agency: Labor/Labor Unions; Support Agencies: HUD, Defense, Education, HHS, Justice, Interior, EPA, USDA, DC/Board of Parole, DC/Probation Department.

Support for D.C. Inner City Community.

Monitoring and Evaluation: Department of Justice/NIJ.

Military support required: as these programs are based on a military style of operation, the involvement of the military is considered critical to the success of the program.

Correctional Youth Leaders Program

Phase I—None.

Phase II and III—Assistance in the development of training standards, programs, lesson plans, instruction, methods of evaluation, and training support.

Assistance in the design of training facilities.

Assistance in the training of trainers.

Phase IV—None.

Phase V—None.

Junior Leaders Program

Phase I—The development of a system of referral through a DC based military recruitment office.

Phase II—The use of military recruit training facilities and the design implementation of JROTC recruit training process.

Phase III—The use of military facilities.

Assistance with implementation of the program; the use of retired military personnel

Phase IV—The intent is to seek assistance from the military to use retired military personnel to act as troop leaders and program supervisor for the National Park Service.

Phase V—None.

Implementation: As the primary research arm of the Justice Department, the National Institute of Justice has a history of basic and applied research, program development, training, field tests, and demonstration activities. The institute is currently evaluating "shock incarceration" programs in a number of jurisdictions and has recently published "Shock Incarceration: An Overview of Existing Programs". In considering a locus for development of the Civil-Military Youth Leadership Training Initiative, the Institute would play a lead role, coordinating the efforts of all involved Federal agencies, the DC Department of Corrections, labor unions, private entrepreneurs, and DC community leaders.

Intended results: A comprehensive cabinet-level domestic policy initiative that concentrates the resources of a broad range of Federal agencies into a rigorous civil-military youth leadership program designed to assist inner-city youth in resisting substance abuse and crime. The program would be thoroughly evaluated to determine effectiveness and potential for replication in other jurisdictions nationwide.

EXHIBIT A—"ABOUT FACE" CIVIL/MILITARY YOUTH LEADERSHIP PROGRAM FOR THE DISTRICT OF COLUMBIA: TARGET POPULATION, ELIGIBILITY/DISCHARGE CRITERIA, AND PROGRAM ELEMENTS

[Track 1: Correctional Youth Leaders Program]

	Program elements	Potential agency involvement
Target Population	Youth Sentenced under the Youth Rehabilitation Act (YRA)—ages 18–22	Overall Responsibility: Department of Justice.
Eligibility Criteria	Sentenced, non-violent, not escape risk, drug user or drug charge, no history of mental illness, formal program orientation, motivation, volunteers.	Lead Agency: National Institute of Justice.
Phase 1: Screening (4 weeks)—Location: District of Columbia; Objectives: Screening, Referral, and Selection.	Screened and referred to program by DC Department of Corrections staff. Interviewed and selected by program staff.	Sponsoring Agency: District of Columbia. Supporting Agency: Department of Defense.
Phase 2: Discipline Training—Location: DC Correctional Youth Leaders Facility; Objectives: Self-Discipline and Team Building.	Intensive medical, psychiatric, psychological, substance abuse, academic, and vocational assessment; Academic education/intensive literacy training/English as a second language. Substance abuse education and treatment. Physical training and athletics. Family counseling. Religious services.	Sponsoring Agency: District of Columbia. Support Agencies: Education, HHS, Justice, Defense, NIDA.
Phase 3: Confidence Training (7 weeks)—Location: Remote Non-Military Facility with appropriate training facilities and challenging terrain; Objectives: Self-Confidence, Team Building, Skill Training.	Continue Phase 2 Program elements, plus: Outward Bound Training: Leadership; Endurance; Confidence Building; and Team Building. Self-maintenance and life skills development.	Sponsoring Agency: Interior. Support Agencies: Education, HHS, Justice, DC/DOC, NIDA, Defense.

EXHIBIT A—"ABOUT FACE" CIVIL/MILITARY YOUTH LEADERSHIP PROGRAM FOR THE DISTRICT OF COLUMBIA: TARGET POPULATION, ELIGIBILITY/DISCHARGE CRITERIA, AND PROGRAM ELEMENTS—Continued

[Track 1: Correctional Youth Leaders Program]

	Program elements	Potential agency involvement
Phase 4: Conservation Corps (20 weeks)—Location: Controlled Rural or Urban Work Site; Objectives: Civil Conservation Tasks..	Continued remedial education/ESL, substance abuse education and treatment, family counseling, physical training, religious services. Conservation and environmental education/training: Watershed protection and enhancement; and Rural and urban renewal projects. Transition preparation planning. Graduation.	Sponsoring Agency: Interior. Support Agencies: Defense, Education, HHS, Justice, Interior, Labor, EPA, USDA, DC/DOC, NIDA.
Phase 5: Community Aftercare (1 year)—Location: District of Columbia; Objectives: Community Reintegration and Independent Living.	Community Reintegration: Work; Apprenticeship program/trade school/community college program; GED preparation and exam; Continued substance abuse treatment. Structured aftercare: Structured leisure time; Family support; Team meetings; Church groups; Community service; and Continued literacy training. Parole supervision.	Sponsoring Agency: Labor/Labor Unions. Support Agencies: HUD, Defense, Education, HHS, Justice, Interior, EPA, USDA, DC Board of Parole. Federal Support for DC Inner City Community: Federal Oversight Committee. Monitoring and Evaluation: National Institute of Justice.
Discharge Criteria	Positive: Program staff recommendation to DC Board of Parole. Negative: Infraction of cardinal rules (drugs, sex, violence), finding of mental disorder, finding of "no benefit" as determined by treatment team, participant request.	Not applicable.
Discharge Process	Report to the DC Board of Parole recommending parole release to community and community aftercare phase of the program with parole supervision. Discharge for other reasons would require formal review by program staff. Such review would be staged to allow participants at least three opportunities to meet expectations prior to return to custody of DC/DOC.	Not applicable.

EXHIBIT B—"ABOUT FACE" CIVIL/MILITARY YOUTH LEADERSHIP PROGRAM FOR THE DISTRICT OF COLUMBIA: TARGET POPULATION, ELIGIBILITY/DISCHARGE CRITERIA, AND PROGRAM ELEMENTS

[Tracks 2 and 3: Junior Leaders Program]

	Track 2	Track 3	Potential agency involvement
Target Population	Juveniles Pending Commitment to Custody of YSA (ages 16–18).	Underprivileged youthful volunteers (ages 15–18)	Overall Responsibility: Department of Justice.
Eligibility Criteria	Non-violent, not escape risk, drug user or drug charge, no history of mental illness, formal program orientation, motivation, volunteers.	Drug user or involved in drug sales, potential school drop-out, formal program orientation, volunteers.	Lead Agency: National Institute of Justice.
Phase 1: Screening (4 weeks)—Location: District of Columbia; Objectives: Screening, Referral, and Selection.	Screened and recommended to court by DC Juvenile Probation Office/YSA. Judge refers juvenile to program. Inerviewed and selected by program staff.	Referred by local community agency and/or school in consultation with family through an armed forces recruiting office. Interviewed and selected by program staff.	Sponsoring Agency: District of Columbia. Support Agency: Department of Defense.
Phase 2: Recruit Training (9 weeks)—Location: Military Basic Training Facility; Objectives: Self-Discipline and Team Building.	Intensive medical, psychiatric, psychological, substance abuse, academic and vocational assessment: JROTC recruit training indoctrination. Academic education/intensive literacy training/English as a second language. Substance abuse education and treatment. Physical training/athletics. Family counseling. Religious services.	Same as Track 2	Sponsoring Agency: Department of Defense. Support Agencies: Education, HHS, Justice, DC/YSA, NIDA.
Phase 3: Adventure Training (7 weeks)—Location: Remote Federal Facility with appropriate training facilities and challenging terrain; Objectives: Self-Confidence, Team Building, Skill Training.	Continue Phase 2 program elements, plus: Outward Bound training; Leadership; Confidence building; Endurance; and Team Building. Self-maintenance and life skills development.	Same as Track 2	Sponsoring Agency: Department of Defense. Support Agencies: Education, HHS, Justice, DC/YSA, NIDA.
Phase 4: Conservation Corps (Duration to be determined)—Location: Controlled Rural or Urban Work Site; Objectives: Civil-Military Conservation Tasks.	Continued remedial education/ESL, substance abuse education and treatment, family counseling, physical training, religious services Conservation and environmental education/training: Watershed protection and enhancement; and Rural and urban renewal projects. Transition preparation planning. Graduation.	Voluntary	Sponsoring Agency: Interior. Support Agencies: Defense, Education, HHS, Justice Interior, Labor, EPA, USDA, DC/YSA, NIDA.
Phase 5: Community Aftercare (1 year)—Location: District of Columbia community or military service; Objectives: Community Reintegration/Independent Living.	Military Sevice for qualified volunteers Community Reintegration Work; Apprenticeship program/trade shcool/community college: GED prep. and exam; Continued substance abuse treatment: and Continued literacy training. Structured aftercare: Structured leisure time; Family support; Team meetings: Church groups; and Community Service. Probation supervision.	Same as Track 2 except no probation supervision	Sponsoring Agency: Labor/Labor Unions. Suppport Agencies: HUD, Defense, Education, HHS, Justice, Interior, EPA, USDA, DC Probation Department. Federal Support for DC Inner City Community: Federal Oversight Committee. Monitoring and Evaluation: National Institute of Justice.
Discharge Criteria	Positive: Progam staff recommendation to court Negative: Infraction of cardinal rules (drugs, sex, violence), finding of mental disorder, finding of "no benefit"; as determined by treatment team, participant request.	Positive: Program staff determination. Negative: Same as Track 2.	Not applicable.
Discharge Process	Report to the DC Superior Court, Family Services, Junvenile Probation Division recommending probation supervision. Discharge for other reasons may result in participant's return to family court for disposition.	Return to family or other responsible community sponsor	Not applicable.

AMENDMENT No. 968

Section 5111 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking "application." and inserting in lieu thereof:

"Application; *Provided*, That not less than $3,000,000 shall be used for—

(1) providing or arranging for the provision of intervention services for female inmates, including—

(A) substance abuse and addiction treatment services, with priority given to discrete treatment units which provide detoxification if necessary, comprehensive substance abuse education, the development of individualized treatment plans, individual and group counseling, and ongoing access to self-help groups;

(B) support services (such as counseling to address family violence and sexual assault);

(C) life skills training (such as parenting and child development classes);

(D) education services (such as literacy and vocational training); and

(E) after care services; and

(2) providing or arranging for the provision of ancillary social services and such other assistance that will ensure that women can maintain contact with their children and their children will receive age appropriate substance abuse education and counseling.".

Mr. KOHL. I have worked with the leadership and they have accepted an amendment on behalf of myself and my esteemed colleague from Arizona, Senator DECONCINI, and Senators D'AMATO, KERRY, and GRAHAM.

Mr. President, my amendment would establish pilot programs at State and local prisons to provide comprehensive substance abuse treatment services for women. The need for such treatment

is critical in my State of Wisconsin, in Arizona, and in other States across the Nation. And with addiction levels for cocaine soaring as high for women as for men in this country, this need will only continue to become more pressing.

Experts working with incarcerated women at Taycheedah—the maximum security prison for women in my State—tell me that patterns of substance abuse among women differ dramatically from those of men. These women are more likely to have been the victims of family violence and sexual assault. Their drug and alcohol abuse has revolved around male partners. And their need for life skills training, including parenting and child development classes, is critical. Right now, 85 percent of the women at Taycheedah need drug and alcohol treatment services.

Mr. President, my amendment would enable the Bureau of Justice Assistance to set up model projects to meet the special substance abuse treatment needs of female inmates. Such projects would include substance abuse treatment services, support services, training and education, and community based after care. These programs would also provide the services necessary to help women in prison maintain contact with their children and to provide their children with substance abuse education and counseling.

Mr. President, by providing women in prison with the substance abuse treatment designed to meet their special needs, we can promote rehabilitation, but down recidivism, and help break the tragic cycle of addiction for these women and their children. I thank my colleague from Arizona for all his assistance in drafting the amendment. And, I thank the distinguished chairman of the Judiciary Committee, Senator BIDEN, for accepting it.

AMENDMENT NO. 969

At the appropriate place, insert the following:

SEC. . FEDERAL PRISONER DRUG TESTING ACT OF 1989.

(a) SHORT TITLE.—This section may be cited as the "Federal Prisoner Drug Testing Act of 1989".

(b) CONDITIONS ON PAROLE.—Section 4209(a) of title 18, United States Code, is amended by inserting after the first sentence the following: "In every case, the Commission shall also impose as a condition of parole that the parolee pass a drug test prior to paroled release and refrain from any unlawful use of a controlled substance and submit to at least 2 periodic drug tests (as determined by the Commission) for use of a controlled substance during the period of paroled release".

(c) This provision takes effect six months after enactment.

Mr. SIMON. Mr. President, I send to the desk an amendment to provide for mandatory drug testing for Federal prisoners as a condition of parole.

Mr. President, in our Nation's Federal prison population, over 50 percent of those incarcerated are serving sentences for drug-related offenses. This comprises the fastest growing segment of Federal prisoners. Of those incarcerated, many were using illegal drugs to or during the commission of the crime for which they were imprisoned.

Illegal drug use and drug-related activity does not necessarily cease as a result of incarceration. Surprisingly, inmates have access to drugs and other contraband smuggled in by staff and visitors. Many prisoners continue well-organized criminal endeavors while in custody.

According to the Federal Bureau of Prisons [BOP], as of August 10, 1989, over 26,000 Federal prisoners are eligible to be released on parole. Currently, there is no requirement for drug testing to determine whether a soon-to-be released inmate is using one or more illegal substances. Nor is being drug-free a condition of release. Prisoners using drugs are therefore released and returned to our communities. This is obviously unacceptable.

One could predict that a prisoner using drugs would, upon release, continue illegal use, and the criminal activity necessary to support it. A cycle of crime, arrest, prosecution, and incarceration is perpetuated. This certainly contributes to a recidivism rate that, according to the Bureau of Prisons, is as high as 43 percent for Federal prisoners.

To break this most destructive cycle, we in Congress must act to ensure that inmates using illegal drugs are not eligible for release into our communities.

In furtherance of this goal, my amendment provides that any Federal inmate eligible for parole must pass one urinalysis test before and two tests after release from a Federal correctional facility.

If an individual is found in violation of these provisions, he or she will continue serving the imposed prison sentence until a random urinalysis test is passed. Those individuals on parole will be subject to revocation of such a sentence and return to prison if testing positive for use of an illegal substance. Such a test is relatively inexpensive, only about $7 per test. The savings to our communities and our criminal justice system are potentially great.

Mr. President, I urge my colleagues to support this amendment, which can be a potent weapon in the war against illegal drugs.

AMENDMENT NO. 970

(Purpose: To exempt certain activities from provisions of the antitrust laws)

At the appropriate place insert the following:

SEC. . (a)(1) Actions specified in subsectin (b) shall be exempt from the antitrust laws of the United States.

(2) For purposes of this section—

(A) "antitrust laws" has the meaning given such term in the first section of the Clayton Act (15 U.S.C. 12), and shall also include section 5 of the Federal Trade Commission Act (15 U.S.C. 45);

(B) "person in the television industry" means a television network, any entity which produces programming for television distribution, including theatrical motion pictures, the National Cable Television Association, the Association of Independent Television Stations, Inc., the National Association of Broadcasters, the Motion Picture Association of America, and each of the networks' affiliate organizations, and shall include any individual acting on behalf of such person; and

(C) "telecast" means any program broadcast by a television broadcast station or transmitted by a cable television system.

(b) The antitrust laws shall not apply to any joint discussion, consideration, review, action, or agreement by or among persons in the television industry for the purpose of, and limited to, developing and disseminating voluntary guidelines designed to alleviate any negative impact of illegal drug use in telecast material.

(c)(1) The exemption provided in subsection (b) shall apply only to activities conducted within 36 months after the date of enactment of this section.

Mr. KOHL. Mr. President, Senator HEFLIN and I have an amendment at the desk. It would grant the television industry a limited antitrust exemption that would help it fight drug abuse. It passed the Senate overwhelmingly in May, as part of the Television Violence Act, and it has been cleared on both sides of the aisle.

First, I want to say what a pleasure it was to work with Senator HEFLIN in drafting this amendment, which we believe will help the television industry raise its powerful voice against illegal drugs. I also want to commend the distinguished gentleman from Illinois, Senator SIMON, for inspiring this approach.

For better or for worse, television is a major influence in our lives and our children's lives. More than 96 percent of American homes have at least one television set. The average youngster spends more time watching TV than in the classroom. Given the vast exposure of children to television, it's appropriate that we examine the consequences.

I applaud the television industry for its efforts in fighting the drug scourge. Many broadcasters have taken voluntary efforts to educate the public about the dangers of drugs. But I believe that television's occasional glamorization of drug use may send our children the wrong message—that you'll be more popular, or wittier, or more beautiful if you use illegal substances. Nothing, of course, could be further from the truth.

Broadcasters are justifiably reluctant to take joint action because of possible antitrust exposure. Moreover, any attempt by the Federal Government to restrict the content of televi-

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sion programing would raise serious first amendment concerns.

But while there is no easy answer, I believe that this provision would help broadcasters move toward their own solution. It would provide a narrowly drawn antitrust exemption to the television industry, which would permit the industry to discuss and develop guidelines on illegal drug use. The measure also includes a 3-year sunset provision.

Our amendment would simply place the responsibility for regulation where it ought to rest—on the shoulders of public-spirited broadcasters, cable operators, and producers. It would untie the broadcasting industry's hands so that it could help eliminate the harmful effects of illegal drug use on television.

AMENDMENT No. 971

(Purpose: To require the Secretary of Health and Human Services to conduct a study of the child and youth social service programs administered or operated within the Office of Human Development Services and the family assistance programs administered or operated within the Family Support Administration)

At the appropriate place, insert the following new section:

SEC. . STUDY OF FAMILY ASSISTANCE, CHILD WELFARE AND YOUTH SOCIAL SERVICE PROGRAMS.

(a) IN GENERAL.—The Secretary of Health and Human Services, acting through the National Academy of Sciences, shall conduct a study consisting of a comprehensive review and examination of the child welfare and youth social service programs administered or prepared within the Office of Human Development Services and the family assistance programs administered or operated within the Family Support Administration.

(b) CONTENTS OF STUDY.—The study shall include—

(1) an assessment of the current content and organization of programs and data collection activities, including the relationship of local, State, and Federal government efforts, to protect children and youth and support families;

(2) an identification of the gaps and deficiencies in the activities described in paragraph (1);

(3) a review of the available options for improving the structure and delivery of services and collection of data concerning the activities described in paragraph (1); and

(4) an examination—

(A) of the current array and alignment of programs that addresses the special needs of children with substance abusing parents, children with disabilities and chronic diseases, including HIV infection, and children without adequate housing; and

(B) of how related programs and activities, such as health care and juvenile justice programs, interact with social service and family assistance programs.

(c) REPORT.—Not later than 6 months after the completion of the study required under subsection (a), the Secretary of Health and Human Services shall prepare and submit, to the appropriate Committees of Congress, a report concerning the results of such study, including a response by the Secretary to the report and and the recommendations of the Secretary.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $1,000,000.

Mr. KOHL. I thank the leadership for accepting this amendment on behalf of myself and Senators SIMON and KENNEDY.

Mr. President, this amendment calls upon the National Academy of Sciences to assist the Department of Health and Human Services by conducting a comprehensive review of the Child Welfare and Youth and Family Assistance Programs they administer.

Over the past decade, the pressing problems facing children and families have overwhelmed the child welfare system. Parental substance abuse, the spread of HIV infection to mothers and children, poverty, and homelessness have all reached epidemic proportions. Instead of being safe havens, far too many American families have become dysfunctional to the point of being dangerous for the children growing up in them.

In an effort to protect these children and assist families, the child welfare system has been strained to the breaking point. Reported cases of child abuse and neglect soared 74 percent between 1980 and 1986. Both foster and adoptive parents are in increasingly short supply. As a result, workers' caseloads in too many cities prevent them from being able to intervene effectively—leaving countless children at risk.

Mr. President, parental substance abuse is playing an increasingly dominant and dramatic role in jeopardizing the health and safety of children and families. Here in our Nation's Capital, 90 percent of all caretakers reported for child abuse last year had abused drugs or alcohol. As the tragic case of Lisa Steinberg should remind us, 73 percent of all child abuse fatalities in New York City in 1987 were related to parental drug abuse. In Milwaukee County in my own State, reports of child abuse and neglect skyrocketed from under 3,000 in 1983 to 8,000 this year due to cocaine addiction alone. And the terrible link between child maltreatment and drug use is seen in small towns and rural areas too. A review of the child welfare system should therefore be part of the omnibus drug legislation we are enacting today.

This review will include the current array of programs addressing the special needs of children with substance abusing parents, children with chronic diseases, including HIV infection, and children without adequate housing. In undertaking this study, the National Academy of Sciences will also examine how health care, juvenile justice, and other related programs interact with child welfare and family assistance programs.

In closing, Mr. President, I thank the chairman of the Judiciary Committee for accepting this review of the child welfare and family assistance system. Such a review will give us new options for improving local, State, and Federal efforts to protect children and youth and support families.

AMENDMENT No. 972

(Purpose: To direct the United States Sentencing Commission to establish penalties that constitute a meaningful deterrence to deported aggravated felons reentering the United States)

At the appropriate place, insert the following:

SEC. . DEPORTED AGGRAVATED FELONS REENTERING THE UNITED STATES.

Pursuant to its authority under section 994(p) of title 28, United States Code, and section 21 of the Sentencing Act of 1987, the United States Sentencing Commission shall promulgate guidelines, or shall amend existing guidelines, to provide that a defendant convicted of violating section 276(b)(2) of the Immigration and Nationality Act (8 U.S.C. 1326) shall be assigned an offense level under chapter 2 of the sentencing guidelines that constitutes a meaningful deterrence to the commission of such offense.

AMENDMENT No. 973

(Purpose: To make technical amendments to the Immigration and Nationality Act regarding the treatment of aliens who have committed aggravated felonies)

At the appropriate place in the bill, insert the following:

SEC. . AMENDMENTS TO THE IMMIGRATION AND NATIONALITY ACT.

(a) IN GENERAL.—Except as otherwise specifically provided in this section, whenever in this section an amendment is expressed as an amendment to a provision, the reference shall be deemed to be made to the Immigration and Nationality Act.

(b) DEFINITION OF GOOD MORAL CHARACTER.—Section 101(f) of the Immigration and Nationality Act is amended—

(1) by striking out the period at the end of paragraph (8) and inserting in lieu thereof "; or"; and

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

"(9) one who has been convicted of an aggravated felony, as defined in subsection (a)(43).".

(c) BAR ON REENTRY OF ALIENS CONVICTED OF AGGRAVATED FELONIES.—Section 212(a)(17) (8 U.S.C. 1182(a)(17)) is amended by striking out "or within ten years" and inserting in lieu thereof "or at anytime thereafter".

(d) CUSTODY PENDING DETERMINATION OF EXCLUDABILITY.—Section 236 (8 U.S.C. 1226) is amended by adding at the end thereof the following new subsection:

"(e) Pending a determination of excludability, the Attorney General shall take into custody any alien convicted of an aggravated felony upon completion of the alien's sentence for such conviction. Notwithstanding any other provision of this section, the Attorney General shall not release such felon from custody.".

(e) SUSPENSION OF DEPORTATION PROHIBITED.—Section 244 (8 U.S.C. 1254) is amended by adding at the end thereof the following new subsection:

"(g) No alien convicted of an aggravated felony (as defined in section 101(a)(43))

shall be eligible for suspension of deportation under this section.".

(f) EFFECT OF FILING PETITION FOR REVIEW.—Section 106(a)(3) (8 U.S.C. 1105a(a)(3)) is amended—

(1) by striking the semicolon at the end of paragraph (3) and inserting in lieu thereof "; or" and

(2) by adding at the end thereof the following: "unless the alien is convicted of an aggravated felony, in which case the Service shall not stay the deportation of the alien pending determination of the petition by the court, unless the court otherwise directs;".

(g) CUSTODY PENDING DETERMINATION OF DEPORTABILITY.—

Sec. 242(a)(2) (8 U.S.C. 1252) is amended, as follows:

* * * * *

AMENDMENT NO. 974

On page 1, strike lines 5 through 8.

AMENDMENT NO. 975

(Purpose: To amend Amendment No. 938 to S. 1711)

Amendment No. 938, offered by the Senator from New Mexico [Mr. BINGAMAN] and adopted on October 3, 1989, as an amendment to S. 1711, is hereby amended as follows:

Amend section 1212 of the Higher Education Act of 1965 as follows:

(1) In subsection (a), strike "of law," and insert in lieu thereof "of law, except as provided in subsection (c),"

(2) In subsection (a), strike "and has implemented" and insert in lieu thereof "a plan with a timetable to implement"

(3) Strike sections 1212(a) (2), (3), and (4) and insert in lieu thereof the following:

"(2) a policy that restricts distribution on campus of any promotional material that encourages consumption of alcoholic beverages by persons under the state's legal drinking age;

"(3) In the case of the financing, sponsoring, or supporting of any athletic, musical, cultural or social program, event, or competition of such institution by any alcoholic beverage company or industry, the acknowledgement of such financing, sponsorship, or support in promotional material shall be limited to statements of corporate identification;

"(4) a policy that encourages such institution's newspapers and other publications to reject advertisements promoting irresponsible or illegal consumption of alcoholic beverages;"

(4) Add a new subsection (c) to read as follows:

"(c) Upon application by an institution of higher education, the Secretary shall grant a waiver of the sanctions authorized by this section to any institution of higher education which demonstrates that it is in the process of developing and implementing a plan required by subsection (a), for up to one year from the date of enactment of this section."

Mr. KOHL. Mr. President, earlier this week Senator BINGAMAN offered an amendment to the drug bill which was designed to deal with the problem of alcohol abuse on college campuses. I was not aware that the amendment would be offered and did not have an opportunity to review it until after it was adopted. When I did, I found that I agreed with the goal of the amendment; I even agreed with many of the specific steps it advocates. But I was also deeply concerned about several provisions which, in my mind, raise profound constitutional issues as well as serious practical concerns.

Mr. President, the amendment which the managers of the bill accepted would prohibit the distribution "of any promotional material for alcoholic beverages" on college campuses; it would prohibit "the financing, sponsoring, or supporting of any athletic, musical, cultural or social program, event or competition * * * by any alcoholic beverage company or industry" on a campus; and it would restrict "alcoholic beverage advertisements—in college newspapers and other publications—to price and product identification."

I know that alcohol abuse on campus is a major problem. I had the chancellor of the University of Wisconsin at Madison in my office a few weeks ago and she told me that alcohol, rather than drugs, is the major problem on her campus. I think we need to deal with this problem. But I was concerned about the language of the amendment. It is very broad and does not focus on what I see as the real problem: illegal and irresponsible use of alcohol. After all, unless we want to go back to prohibition, we don't want to prevent drinking; we want to prevent excessive or irresponsible drinking. Despite the good intentions of the amendment, I was afraid that it was too broadly drafted and might even have the effect of preventing us from focusing on the issue of excessive and irresponsible drinking. For example, the language of the amendment might prevent a beer company from placing an ad encouraging responsible drinking in a college newspaper—and beer companies run a great many ads like that as a public service.

In any event, Mr. President, I discussed my concerns with the distinguished Senator from New Mexico, Mr. BINGAMAN. He was, as he always is, most cooperative. Working together, I believe we have crafted language which preserves his goals while addressing some of my concerns. While I still have some reservations about this language, I want to commend Senator BINGAMAN for his leadership on this issue; I want to thank him for his willingness to work with me; and I want to congratulate him on his modified amendment which may make a contribution to addressing a problem that we all recognize exists.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to amendments numbered 964 through 975, en bloc.

The amendments (Nos. 964 through 975) were agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote by which the amendments were agreed to en bloc.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BIDEN. Mr. President, for the interest of the Senate, we are now down to a maximum of six Senators who have amendments. Let me list them and suggest very rapidly that maybe good judgment will overcome our colleagues and they will not insist on them.

Senator KERRY of Massachusetts is negotiating as we speak for acceptance of up to three of his amendments. I would respectfully suggest that he do it quickly or we move to third reading.

Senator D'AMATO is about to propose an amendment, which I support, but which I strongly urge him not to offer because it is subject to a constitutional point of order of raising taxes on a Senate bill.

Senator HELMS has listed a spot for five amendments, none of which has been submitted to us. I assume he did not mean it.

Senator WILSON has two amendments, one on Mexican air interdiction and one on drug education for pregnant women, which the Senator from Delaware is prepared to accept, and I hope the Senator from Utah is prepared to accept.

Senator GRAMM, of Texas, we hear, may have one more amendment on minimum mandatory sentences beyond the one he introduced. I truly hope he will withhold it. If he would, we can, in fact, if all will be cooperative, go to third reading in the next 5 minutes.

The PRESIDING OFFICER. The Chair recognizes the Senator from Utah [Mr. HATCH].

AMENDMENT NO. 976

Mr. HATCH. Mr. President, while we are waiting for people to consider the recommendation of the distinguished chairman of the Judiciary Committee, the majority floor manager, I send an amendment to the desk on behalf of Senator THURMOND that has been cleared on both sides and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. HATCH] for Mr. THURMOND, proposes an amendment numbered 976.

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

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

(The text of the amendment is printed in today's RECORD under "Amendments submitted.")

Mr. THURMOND. This amendment makes several needed minor and technical criminal law amendments. These amendments have been requested by the Department of Justice and will greatly facilitate the Department's efforts in the war of drugs. Most of these amendments are to various parts of the "Anti-Drug Abuse Act of 1988" which Congress passed last year. Whenever such an effort as massive as last year's drug bill is undertaken, technical amendments are not uncommon. This amendment, although minor and technical in nature, will enhance prosecution efforts in the war on drugs.

For these reasons, I urge my colleagues to support this important amendment.

Mr. BIDEN. Mr. President, I ask unanimous consent that an analysis of certain minor and technical amendments included as the last part of amendment No. 976 be printed in the RECORD.

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

SENATOR BIDEN'S SUPPLEMENTARY ANALYSIS OF AMENDMENT NO. 976

SUBTITLE F—MISCELLANEOUS

Minor and Technical Amendments Section 65 contains technical corrections necessary to correct errors in the Anti-Drug Abuse Act of 1988.

Section 66 resolves a minor inconsistency in the money laundering statute. That statute makes it an offense to launder the proceeds of any form of "specified unlawful activity". It is not required that the launderer know what form of unlawful activity was involved as long as he knows that it was some offense that would be a felony under "state or federal law."

The inconsistency is that while the "specified unlawful activity" could be an offense under foreign law, section 1956(c)(7)(B), the knowledge requirements relates only to "state or federal law". Thus a person who launders the proceeds of a foreign offense might not be prosecutable under the statute as currently drafted because the underlying offense would not be covered by the knowledge requirement. The amendment resolves this possible problem by expanding the knowledge requirement to include foreign offenses.

Section 67 contains two amendments to the drug trafficking penalties in 21 U.S.C. 841. The first amendment merely corrects a typographical error in section 6470(g) of the Anti-Drug Abuse Act of 1988.

The second amendment responds to an inequity discussed in several recent cases involving LSD. See, e.g., *United States v. Bishop*, 704 F. Supp. 910 (N.D. Iowa 1989). In these cases the courts determined that the weight of carriers such as sugar cubes, gelatin cubes and blotter paper used to transport and consume substances such as LSD should be counted in determining whether the weight of the "mixture or substance" was sufficient to trigger a mandatory minimum penalty.

The inequity in these decisions is apparent in the following example. A single dose of LSD weighs approximately .05 mg. The sugar cube on which the dose may be dropped for purposes of ingestion and transportation, however, weighs approximately 2 grams. Under 21 U.S.C. 841(b) a person distributing more than one gram of a "mixture or substance" containing LSD is punishable by a minimum sentence of 5 years, and a maximum sentence of 40 years. A person distributing less than a gram of LSD, however, is subject only to a maximum sentence of 20 years. Thus a person distributing a 1,000 doses of LSD in liquid form is subject to no minimum penalty, while a person handing another person a single dose on a sugar cube is subject to the mandatory five year penalty.

The amendment remedies this inequity by removing the weight of the carrier from the calculation of the weight of the mixture or substance.

Section 68 clarifies Section 841(b)(6) of title 21 which was added by section 6254 of the Anti-Drug Abuse Act of 1988. The intent of the 1988 amendment was to provide for a maximum five year penalty in cases where a drug distributor or manufacturer's activities resulted in the pollution of federal land.

Taken literally, the provision imposes this penalty on anyone who pollutes the federal land in the course of committing a violation of section 841(a), the general purpose drug trafficking statute. The penalty for a simple violation of section 841(a), however, is twenty years for most controlled substances, with higher and lower penalties provided depending on the nature and quantity of the substance, and the defendant's criminal history. Therefore, the new section may actually lower the maximum penalty from twenty years to five years for a trafficking offense that results in the polluting of federal land.

The amendment avoids this unintended result by eliminating a completed violation of section 841(a) as an element of the offense, and requiring instead only that the defendant have been using chemicals with the intent to commit a trafficking violation.

Section 69. Section 7303 of the Anti-Drug Abuse Act of 1988 amended 18 U.S.C. 3563 to make it a mandatory condition of probation, for all sentences imposed on or after January 1, 1989, that the defendant not possess any controlled substance. The same section of the 1988 Act amended 18 U.S.C. 3565 to require the automatic revocation of probation of any person found in violation of this condition, and the resentencing of such person to "one-third of the original sentence".

Because sentence for offenses committed after the effective date of the Sentencing Reform Act of 1984 (November 1, 1987) may not include suspended sentences, the phrase "one-third of the original sentence" has no meaning for such sentences. Therefore section 3565 is amended to provide only for resentencing to some term of imprisonment that might have been imposed at the time of the initial sentencing.

Section 70. The first amendment makes a minor substantive change in sentencing policy. Presently 18 U.S.C. 3553(e) provides that on the motion of the government, the court may sentence a defendant to less than the mandatory minimum sentence prescribed by statute if the defendant has assisted the government in the investigation for prosecution of another person. This provision is considered helpful to the government in that it makes it possible to obtain the cooperation of persons who would otherwise have no incentive to assist the government because of mandatory minimum sentences.

A number of criminal statutes, including some that have mandatory minimum sentences and some that do not, prohibit the court from imposing a probationary sentence. *See, e.g.*, 18 U.S.C. 3561(a)(1) (barring probation for any class A or B felony); 21 U.S.C. 845b(e) (barring probation for certain drug crimes involving children and pregnant women). These provisions affect cooperating witnesses in the same way as mandatory minimum sentences. That is, a defendant who might be induced to cooperate with the government in return for a probationary sentence has no incentive to do so if the court is barred from imposing such a sentence. The amendment would allow such a sentence in the same circumstances as a sentence below the mandatory minimum is allowed.

The second amendment is purely technical. Currrently, section 3553(e) makes reference to the sentencing guidelines "issued . . . pursuant to section 944 of title 28". Sentencing guidelines, however, may be issued pursuant to other statutory authority (e.g., section 21 of the Sentencing Act of 1987) and may be enacted directly by Congress. Therefore the reference to section 994 of title 28 is unintentionally limiting and inappropriate. Amendments removing similar references from other statutes was enacted in the Anti-Drug Abuse Act of 1988. *See* Section 7103, Public Law 100-690.

Section 71 contains a series of technical amendments renumbering sections 844a, 845, 845a and 845b of title 21. The renumbering has no substantive effect but will avoid the confusion that occurs in citing, for example, sections 845 (a) and (b), 845a(b), and 845b(a).

Section 72. The penalty provisions of sections 845, 845a, and 845b are amended to clarify an ambiguity. All three statutes currently provide for imprisonment or a fine up to twice (or three times) that authorized by section 841, with a minimum term of imprisonment of at least one year. Unfortunately, the use of the phrase "or a fine, or both" implies that a judge could sentence a defendant only to a fine, which contradicts the notion of a mandatory prison sentence. Also the phrase "imprisonment . . . up to twice that authorized" leaves it unclear whether violators of these statutes are subject only to twice the maximum penalties authorized by section 841(b), or also to twice the *minimum* penalties set forth in that statute. Doubling the maximum penalty is all that was intended.

In each statute, therefore, the phrase "is punishable by a term of imprisonment, or fine, or both up to twice that authorized by section 841(b)" is to be replaced by "is subject to twice the maximum punishment authorized by section 841(b)".

Section 73. Section 1955 of title 18 prohibits illegal gambling. Subsection (d) of that section, enacted in 1970, provides for the forfeiture of property involved in the gambling violation. Since 1970, forfeiture laws applicable to drug and money laundering violations have been enacted that go into much greater detail regarding the types of property that may be forfeited and the procedures that must be followed.

The amendment simply makes forfeiture under the gambling statute the same as forfeiture for drugs and money laundering by cross-referencing the provisions of 21 U.S.C. 853. (A similar cross reference appears in the money laundering forfeiture statute, 18 U.S.C. 982). In so doing, the amendment resolves a split in the circuits as to what types of property are forfeitable.

Section 76. Federal criminal statutes are haphazard and inconsistent in their coverage of territories and possessions. Many laws, such as 18 U.S.C. 513 and 1961, define the term "State" to include territories and possessions, while other laws do not, although frequently the congressional purpose underlying the offense strongly argues for inclusion. In some cases, where the intent of Congress seems clear, the courts have construed "state" to include territories and possessions. See, e.g., *United States* v. *Steele*, 685 F.2d 793, 804-5 (3d Cir.), cert. denied, 459 U.S. 908 (1982) (holding that the Travel Act, 18 U.S.C. 1952, which proscribes certain offenses committed in violation of the laws of the locus State or of the United States covered crimes in violation of the laws of Puerto Rico as if Puerto Rico were a State). In other cases, the courts have adopted a strict reading of "State" and declined to extend its reach to territories and possessions. See, e.g., *United States* v. *Bordallo*, 857 F.2d 519, 523-4 (9th Cir. 1988), (holding that 18 U.S.C. 666, which proscribes bribery and theft by an agent of a State or local government, did not cover bribery by a former governor of Guam, because Guam is not a "State").

Recently, the Department of the Interior surveyed title 18, United States Code, with a view toward identifying those criminal statutes which could most benefit from an amendment either clarifying or extending their applicability to territories and possessions. In some instances, the recommendations involve arcane or seldom prosecuted statutes where, on review and reflection, the effort seems not worthwhile. Section 1512 makes amendments in those instances in which it is believed that the law could materially profit from the express extension to territories and possessions, by means of the insertion of an appropriate definition of the term "State".

Section 77 corrects an error that occurred inadvertently when the definition of burglary was deleted from the Armed Career Criminal statute in 1986. The amendment reenacts the original definition which was intended to be broader than common law burglary.

Section 78 clarifies that the mandatory penalty for carrying a firearm in a crime of violence is a penalty enhancement, not a separate crime. 18 U.S.C. 924(c). This codifies the consensus among the circuit courts on this issue. It also clarifies that the mandatory 20 year penalty for second offenders applies to offenses committed after a previous sentence under 924(c) has become final. This resolves an ambiguity discussed in *United States* v. *Rawlings*, 821 F.2d 1543 (11th Cir. 1987) and conforms to the penalty for subsequent offenders under the narcotics laws, 21 U.S.C. 841(b)(1)(A). Finally, the amendment designates portions of paragraph (1) as separate paragraphs for clarity. This provision has no substantive effect.

Section 79 reflects the substance of an amendment to the federal Rules of Criminal Procedure suggested by the American Bar Association. Currently, the rules provided that the government and the defense have the same number of peremptory challenges in selecting a jury in capital and in misdemeanor cases, but for an unequal number in felony cases. No reason for this discrepancy appears. The amendment provides for 8 peremptory challenges by each side in felony cases. Further, in the case of multiple defendant cases, the rule would permit the court to give the defense additional challenges, to give the government additional challenges to maintain a rough balance, but it would not require the government to be given a total equal to the total given to the defense.

Mr. HATCH. Mr. President, since the amendment was agreed upon by both sides, I urge adoption of the amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from South Carolina.

The amendment (No. 976) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Delaware [Mr. BIDEN].

Mr. BIDEN. Mr. President, I am prepared to move to third reading.

Mr. DOLE. Will the Senator yield?

Mr. BIDEN. I will.

Mr. DOLE. Whether or not we go to third reading depends on whether or not we get unanimous consent with reference to the transportation bill. I see the distinguished chairman of the Appropriations Committee.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

AMENDMENT NO. 977

Mr. HATCH. Mr. President, I send an amendment to the desk on behalf of the Senator from California [Mr. WILSON] and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. HATCH], for Mr. WILSON, proposes an amendment numbered 977.

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

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

The amendment is as follows:

At the appropriate place in the bill, add the following:

SEC. . CRIMINAL FINES.

(a) IN GENERAL.—Pursuant to its authority under section 994(p) of title 28, United States Code, and section 21 of the Sentencing Act of 1987, the United States Sentencing Commission shall consider promulgating guidelines, for inclusion in its next submission to the Congress, to provide that an individual convicted of violating provisions of the Controlled Substances Act relating to sales or possession shall, in addition to being sentenced to any authorized term of imprisonment or assessed costs, be sentenced to pay a fine that constitutes a percentage of such individual's income, from all sources, during the twelve months prior to the commission of the offense for which the individual was convicted.

(b) AFFECT OF OTHER LAWS.—Any guidelines issued after the consideration mandated by subsection (a) or any subsequent changes thereto shall not be subjected to the limits otherwise provided by section 3571 of title 18, United States Code.

Mr. HATCH. Mr. President, this amendment has been agreed to by both sides. I recommend its approval.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from California.

The amendment (No. 977) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

The PRESIDING OFFICER. Without objection, the motion to lay on the table is agreed to.

The motion to lay on table was agreed to.

Mr. BIDEN. Mr. President, I move to lay that motion on the table.

The PRESIDING OFFICER. The motion to lay on the table had been agreed to.

Are there further amendments?

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

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

Mr. D'AMATO. Mr. President, I was going to offer an amendment which would permit Americans to make contributions to the special forfeiture fund to aid their war against drugs. I believe that, given the fact there are more than 80 million Americans who receive refunds, if given that opportunity we can raise substantial funds that will be dedicated to that specific area in our battle against drugs: For prevention, for education, for law enforcement.

This measure has received the approval of the drug czar, the IRS, and Treasury. Having said that, Mr. President, I discussed the matter with the chairman of the Finance Committee. This matter would be subject to a point of order. We have agreed that I will lay this aside and not offer it this evening and offer this amendment at the proper time when the revenue measure does come due so it will not be subject to that point of order so we will have an opportunity to vote on that.

I thank the distinguished chairman of the Finance Committee for offering me that opportunity.

The PRESIDING OFFICER. The Senator from Texas [Mr. BENTSEN].

Mr. BENTSEN. Mr. President, I am concerned about the war on drugs, as is the Senator from New York. I am most appreciative of his efforts. I will have several more Gramm-Rudman measures that will be brought before the Members of the Senate, and that, from a jurisdictional standpoint, will be the appropriate place.

Mr. D'AMATO. I thank the Senator.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 978

Mr. HATCH. Mr. President, I send an amendment to the desk and ask for its immediate consideration. It has been approved by both sides.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. HATCH], proposed an amendment numbered 978.

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

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

The amendment is as follows:

At an appropriate place in the bill, insert the following new section:

SEC. . REPORTS ON DRUG-RELATED RESEARCH AND DEVELOPMENT.

(a) Not later than December 31, 1989, the Director of National Drug Control Policy shall submit to the Congress a detailed report on the Drug Control Research and Development Committee (referred to hereinafter as "the Committee").

(b) The report required by subsection (a) shall include:

(1) a list of the members of the Committee and a description of the Committee's structure;

(2) a description of the staffing of the Committee, including the number of full-time employees assigned to the staff and the relationship between the Committee's staff and the staff of the Office of National Drug Control Policy;

(3) an estimate of the funding requirements to support the Committee, including the Committee's staff;

(4) a detailed description of the responsibilities and authorities of the Committee, including the authority of the Committee to give direction to the agencies participating on the Committee and the extent to which the Committee will have responsibility for research and development related to countering terrorism; and

(5) an interim plan and schedule for the Committee's activities, including the identification of national requirements for drug-related research and development, the establishment of national priorities for drug-related research and development, and the review and coordination of Federal research and development, data-collection, and evaluation activities.

(c) Not later than December 31, 1989, the President shall submit to the Congress a detailed plan to establish within the Department of Justice or elsewhere in the executive branch an office to provide centralized management of counterterrorism- and drug enforcement-related research, development, test and evaluation activities conducted by the Federal Government and an assessment of the desirability of implementing such a plan.

Mr. COHEN. Mr. President, this amendment requires the Director of National Drug Control Policy to submit a detailed report to Congress on the structure and organization of the President's proposed Drug Control Research and Development Committee. It also requires the President to examine whether or not we should establish, in addition to the proposed policy coordination committee, an office that would have management and budgetary responsibilities for terrorism and drug enforcement research and development projects.

As many of my colleagues may know, the President's report on the National Drug Strategy indicates that the President intends to establish an interagency committee to perform the following functions:

First, to identify national research and development priorities for the drug czar's office;

Second, to review, monitor and coordinate Federal research, data collection, and evaluation activities;

Third, to eliminate gaps and duplication in data collection;

And finally, to assist different Government agencies in acquiring and using new technologies that may prove helpful in either interdiction or treatment.

Mr. President, I believe that we clearly have a need for an interagency group to perform these functions. At the present time, there is no high-level organizational focus within our Government to identify requirements, establish priorities, provide advocacy, or ensure coordination of Federal research and development projects pertaining to illegal narcotics. This is a problem that I have been concerned with since July, when I had a meeting with Dr. Robert Kupperman of the Center for Strategic and International Studies, and two scientists from the Los Alamos national laboratories.

During the course of our meeting, the scientists from Los Alamos expressed their frustration with the lack of interest and funding available for promising research and development projects related both to drug trafficking and terrorism. They advocated the establishment of an interagency committee to provide Federal coordination on these matters, as well as a separate office to implement policy and perform management and budgetary functions. What they clearly had in mind, in addition to an interagency policy committee, was a civilian counterpart to the Defense Advanced Research Projects Agency [DARPA] for the civilian law enforcement community. Because this proposal strikes me as one that may have merit, this amendment requires the administration not only to clarify its intentions with regard to the President's proposed Drug Control Research Committee, but also to evaluate the desirability of establishing a separate organization to handle budgetary and management responsibilities associated with law enforcement R&D projects.

Some examples provided to me by the Los Alamos scientists of promising technologies waiting to be exploited include:

Plant pathogens that could inhibit the growth of poppies or render them useless as illegal narcotics.

Laser radar tracking devices that could detect organic emissions from drug processing sites or vehicles carrying illegal narcotics.

Devices to render dirt airstrips inoperable for lengthy periods of time in order to deny their use to drug dealers.

Devices that could degrade or neutralize explosives.

Devices that could disable vehicles, without causing permanent damage, in order to assist in the apprehension of drug traffickers by law enforcement personnel.

In addition to these technologies, there is the potential for medical treatments that may help addicts recover from their addiction and resume a normal role in society.

This is a very incomplete list, but one that serves to illustrate the point, namely that there are many areas where technology can make a contribution to stemming the flow of drugs into the United States and dealing with the violence and addition that the narcotics trade produces. Clearly, a mechanism to help identify requirements and provide advocacy and coordination will allow us to move forward more efficiently and effectively in the war on drugs.

The President's national drug strategy recognizes this fact, and I commend the administration for having come forward with a proposal to establish an interagency committee to perform these important functions. At the same time, I am not yet convinced that the arrangements for the proposed interagency committee are going to allow it to function effectively. I have not yet been able to determine, for example, whether this organization will have a dedicated staff, which seems to me to be essential if the committee is to perform its assigned role. I have questions regarding the size and expertise of the staff. I also have questions regarding the scope of the committee's jurisdiction. For example, there is considerable overlap between

the issues of drug trafficking and terrorism. Should this committee have a jurisdiction that pertains only to drug trafficking, or should it also serve as a focal point for considering research and development proposals that have related but wider applications? Finally, I wonder whether or not, in addition to an effective interagency committee, we should also establish an office with budgetary and management responsibility for research and development projects for the law enforcement community. As many of my colleagues probably know, there are numerous, often uncoordinated efforts presently underway, involving the Coast Guard, Customs, the Federal Bureau of Investigation, the Drug Enforcement Agency, and other organizations.

In conclusion, Mr. President, the administration has already recognized a problem and is moving forward to implement a solution. It is not yet clear, however, whether that proposed solution is going to get the job done. This amendment will help us to evaluate the President's proposed research and development committee to determine whether further steps are necessary. It will also put the administration on notice that we are concerned about this issue and intend to follow the implementation of his proposal carefully. I would hope that my colleagues will support this amendment.

Mr. HATCH. Mr. President, I urge the adoption of the amendment.

Mr. President, is the D'Amato amendment pending?

The PRESIDING OFFICER. Amendment No. 978 is the pending business.

Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 978) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GRAMM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island [Mr. CHAFEE].

AMENDMENT NO. 979

Mr. CHAFEE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE] proposes an amendment numbered 979.

At the end of the bill add:

To amend section 1915(a)(1) of the Public Health Service Act add after programs: (including those for juvenile and adult substance abusers in state and local criminal justice systems).

Mr. CHAFEE. Mr. President, today I am offering an amendment on behalf of myself, Senator BIDEN and Senator D'AMATO to provide funding for States through the alcohol, drug abuse, and mental health block grant for State prisons.

Over the past year, and particularly the past month, the Senate has avidly debated the drug problem. Yet, there is one issue that Congress has failed to address adequately—the availability of rehabilitation programs in prison.

Congress has been working to solve the prison overcrowding problem by increasing funds for prison construction. I agree that we need prison beds, and have been supportive of these efforts. Nonetheless, we must recognize that part of the prison overcrowding problem can be attributed to repeat offenders. Many are released from prison only to return again to patterns of criminal behavior—a phenomenon known as recidivism. One of the primary causes of recidivism is crime directly and indirectly caused by addiction to drugs. Thus, part of the solution lies in breaking this cycle of crime by providing comprehensive drug rehabilitation programs in State and Federal prisons.

Drug-related crimes have overwhelmed our criminal justice system. To illustrate my point, let me share some startling statistics:

In Washington, DC, in 1985, 25 out of 148 homicides were drug related. In 1988, 225 out of 372 homicides were drug related. That is a 43-percent increase.

In a 1980 study, on the average, heroin addicts committed crimes 178 days per year, primarily to support their habit.

At least 60 percent of prisoners nationwide had substance abuse problems before incarceration.

Of 2,000 arrestees tested for drug use in 12 cities, between 53 and 79 percent tested positive for illicit drugs in the 24-48 hours after their arrest.

Recidivism appears to be linked to drug abuse among many offenders. One study found that 62 percent of the approximately 100,000 inmates released in 11 States were arrested again within 3 years—41 percent returned to prison. Of those originally arrested on drug offenses, 50 percent were arrested again within 3 years of their release.

Several States have begun to implement drug rehabilitation programs in their correctional facilities. One program worth noting is the 13-year-old "Stay'n Out" program in New York which has been extremely successful in rehabilitating inmates and reducing the rate of recidivism. Independent studies have shown an 80-percent success rate—that means that 8 out of 10 inmates who complete the program are not rearrested, do not use drugs, and do not commit more crimes after being released.

This amendment will allow States to use the alcohol, drug abuse, and mental health block grant for developing programs in State prisons and juvenile facilities.

It is not our intention to replace existing funds in these programs. These funds are to be used to expand existing programs or to create new programs. I hope the conferees on this bill will concur in our intentions.

The criminal justice system currently does little to rehabilitate inmates—many just get out of jail, commit more crimes, and return to jail. Now, inmate rehabilitation by itself will not solve the prison overcrowding problem. However, programs that reduce the rate of recidivism must be an essential component of a cost-effective solution. Without drug rehabilitation programs in prisons we will continue to release hardened criminals into our communities to sell drugs to our children and rob our homes for money to buy drugs.

I thank Senator BIDEN and Senator D'AMATO for joining me in this effort to prevent transgressors from repeating crimes and overcrowding our prisons. In addition, I appreciate the efforts of Senator HATCH and BIDEN for cosponsoring this proposal.

Mr. HATCH. Mr. President, we accept this amendment on this side.

Mr. BIDEN. Mr. President, we accept it on the majority side.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 979) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHAFEE. Mr. President, I want to thank the managers on both sides.

The PRESIDING OFFICER. The President pro tempore, Senator BYRD, is recognized.

PROVIDING AUTHORIZATIONS FOR ANTIDRUG ABUSE APPROPRIATIONS

Mr. BYRD. Mr. President, this is a request that has been cleared with the leadership on both sides.

I ask unanimous consent that the Senate proceed to the immediate consideration of the following bill S. 1735, which I send to the desk. The bill contains the provisions relating to antidrug abuse funding that was passed by the Senate as a portion of H.R. 3015, the fiscal year 1990 transportation appropriations bill on September 27, spe-

cifically amendments 137 through 144 printed on pages 89-140 of H.R. 3015 as passed by the Senate; and that the bill be considered as having been read three times, passed, and the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Is there objection to the request?

Mr. DECONCINI. Mr. President, I object until I can ask a question of the chairman.

Will the chairman tell us what that is? Does that change any of the substance in the transportation bill, as amended by the drug amendment?

Mr. BYRD. Mr. President, Senators will recall that in connection with passage of the modified Byrd amendment on the fiscal year 1990 Transportation appropriation bill, H.R. 3015, an agreement was entered into by the bipartisan Drug Task Force that allowed certain legislative amendments that related to antidrug abuse programs to be included on the Transportation appropriation bill.

Those amendments, which are amendments 137 through 144, are printed on pages 89 through 140 of H.R. 3015 as passed by the Senate.

There was a commitment by the task force to support not only the drug funding levels included in H.R. 3015, but these legislative provisions as well, in conference with the House.

Mr. President, it has now become very clear that the House Appropriations Committee is not in a position to conference these legislative provisions. The Speaker and the chairman of the House authorizing committees with jurisdiction over these legislative amendments have met on several occasions over the last few days and these authorizing committees feel very strongly that they should have a right to consider these provisions in their committees, rather than allowing them to be conferenced in an appropriation bill.

Therefore, the bill at the desk includes all of the legislative provisions related to antidrug abuse that were adopted by the Senate in the Transportation appropriation bill. Upon passage by the Senate, this bill will enable these provisions to be considered by the appropriate House authorizing committees and will enable the Appropriations Committee to proceed with its conference on H.R. 3015.

Mr. DECONCINI. I thank the Senator.

The PRESIDING OFFICER. Is there further debate?

The request that the bill be considered to be read three times and passed and the motion to reconsider be laid on the table is agreed to.

The bill (S. 1735) was passed, as follows:

S. 1735

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a)(1) the Secretary of Health and Human Services, acting through the Administrator of the Alcohol, Drug Abuse and Mental Health Administration or his designee, shall use amounts made available under paragraph (4) to make a grant to an institution of the type described in paragraph (2) for the establishment of a National Resource and Information Center for Perinatal Addiction.

(2) The grant under paragraph (1) shall be awarded, after a competitive search, to a private nonprofit institution that has an extensive background and experience in performing research on maternal substance abuse and in disseminating such information to professionals, policymakers, the general public and the media, as well as experience in providing educational services to maternal substance abusers and their exposed infants.

(3) The Center established under paragraph (1) shall—

(A) coordinate and disseminate research on maternal substance abuse, treatment options for such women and infants of such women, and prevention strategies;

(B) develop and distribute training and educational information and materials concerning maternal substance abuse;

(C) act as a clearinghouse for information on treatment programs for pregnant women who are addicted to illegal substances;

(D) develop and manage a national toll free hotline to provide information and referrals;

(E) provide policy analysis and program evaluation to the Secretary of Health and Human Services; and

(F) provide any other services designed to carry out the purposes of this subsection.

(4) There are authorized to be appropriated to carry out this paragraph, $2,500,000 for fiscal year 1990, and such sums as may be necessary for fiscal year 1991.

(b) Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended by adding at the end thereof the following new section:

"SEC. 509H. GRANTS FOR SUBSTANCE ABUSE TREATMENT FOR PREGNANT AND POST-PARTUM WOMEN.

"(a) IN GENERAL.—The Secretary, acting through the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration or his designee, shall make grants to entities to provide assistance to outpatient and residential substance abuse treatment programs relating to pregnant and post-partum women and their infants, that meet the requirements of subsection (b).

"(b) REQUIREMENTS.—

"(1) DISTRIBUTION.—In making grants under subsection (a), the Administrator shall ensure that grants are reasonably distributed among projects that provide outpatient and residential treatment.

"(2) SERVICES.—An entity shall not be eligible for a grant under subsection (a) unless such entity provides the Administrator with an assurance that such entity will use assistance provided under such grant to provide, arrange for the provision of, or refer individuals to, services that shall include—

"(A) intervention services for pregnant and post-partum women, including—

"(i) substance abuse and addiction treatment services;

"(ii) support services (such as child care and transportation services);

"(iii) education and skill building services (such as parenting and job seeking skill services);

"(iv) integration and coordination of substance abuse treatment services with prenatal or post-partum health care services;

"(v) innovative methods of outreach to identify and recruit target populations for services early in the pregnancy of individuals of such populations;

"(vi) medical screening procedures of pregnant women for past and present substance use and abuse; and

"(vii) after care services;

"(B) interventions where infants are at risk, including—

"(i) direct intervention, treatment, or rehabilitation of infants, which may include other siblings, to reduce or prevent the impact of maternal substance abuse on such children; and

"(ii) supportive services for biologic or foster parents of infants affected by maternal substance abuse;

"(C) service delivery strategies that may include—

"(i) strategies for the coordination, for purposes of identification or service delivery, of family violence and homeless shelter programs, programs under part A of title IV of the Social Security Act, and section 17 of the Child Nutrition Act of 1966, crisis pregnancy centers programs, public housing programs, and prison programs, with other likely points of access for high risk women;

"(ii) strategies concerning the involvement of significant others (such as male partners of pregnant women) as direct intervention targets or strategies to aid in the outreach and service delivery processes for women;

"(iii) strategies for co-locating multiple facilities to facilitate the delivery of services; and

"(iv) innovative strategies (such as case management) to ensure the coordinated utilization of generally unrelated service systems; and

"(D) other services necessary to improve pregnancy outcomes, reduce substance abuse among women of childbearing age, and increase the stability of the family home environment.

"(c) APPLICATION.—The Administrator shall not make a grant under subsection (a) unless—

"(1) an application for the grant is submitted to the Secretary;

"(2) with respect to carrying out the purpose for which the grant is to be made, the application provides assurances of compliance satisfactory to the Secretary;

"(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Administrator determines to be necessary to carry out this section; and

"(4) the application contains an assurance that the applicant will provide funds, other than Federal funds, in an amount that is not less than 10 percent of the amount of the grant under subsection (a).

"(d) CONSTRUCTION.—Nothing in this section shall be construed to permit the Secretary to discriminate in the awarding of grants under subsection (a) against applicants that propose or provide residential or outpatient rehabilitation services under applicable requirements of State law, including applicants that provide services to substance abusing pregnant and post-partum women that receive treatment by order of a court or other appropriate public agency, so long as all such applications include measures that encourage substance abusing pregnant and post-partum women to seek prenatal care and rehabilitation.

"(f) There are authorized to be appropriated to carry out this section, $50,000,000 in

fiscal year 1990, and such sums as may be necessary in fiscal year 1991.".

SEC. 2. (a) The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101) is amended by adding after section 8 the following new subsection:

"SEC. 8A. EMERGENCY PROTECTIVE CHILD SERVICES GRANTS.

"(a) ESTABLISHMENT.—The Secretary shall establish a grant program to make grants to eligible entities to enable such entities to provide services to children whose parents are substance abusers.

"(b) ELIGIBLE ENTITIES.—Entities eligible to receive a grant under this section shall be State or local agencies that are responsible for administering protective child services or child abuse intervention services. Such agencies shall include those agencies responsible for administering foster care, child welfare, child protective services, and child abuse intervention programs.

"(c) APPLICATION.—

"(1) IN GENERAL.—To be eligible to receive a grant under this section, an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may by regulation require.

"(2) ASSURANCE OF USE.—An application submitted under paragraph (1) shall—

"(A) contain an assurance that the applicant operates in a geographic area where substance abuse has placed substantial strains on social service and law enforcement agencies and has resulted in substantial increases in the need for services that cannot be met without funds available under this section;

"(B) identify the responsible agency or agencies that will be involved in the use of funds provided under this section;

"(C) contain a description of the emergency situation with regard to children of substance abusers who need services of the type described in this section;

"(D) contain a plan for improving the delivery of such services to such children;

"(E) contain assurances that such services will be provided in a comprehensive multidisciplinary and coordinated manner; and

"(F) contain any additional information as the Secretary may reasonably require.

"(d) USE OF FUNDS.—Funds received by an entity under this section part shall be used to improve the delivery of services to children whose parents are substance abusers. Such services may include—

"(1) the hiring of additional personnel by the entity to reduce caseloads;

"(2) the provision of additional training for personnel to improve their ability to provide emergency child protective services related to substance abuse by the parents of such children;

"(3) the provision of expanded services to deal with family crises created by substance abuse;

"(4) the recruitment of additional foster care families;

"(5) the recruitment of additional adoptive families; and

"(6) the establishment or improvement of coordination between the agency administering the grant and—

"(A) child protection and welfare organizations;

"(B) hospitals and health care providers;

"(C) public health and mental health professionals;

"(D) judicial and law enforcement officers;

"(E) child advocates;

"(F) public educational institutions;

"(G) community-based organizations that serve substance abusing parents, including pregnant and post-partum females and their infants;

"(H) public housing officials;

"(I) providers of shelter to abused and homeless females and families; and

"(J) parents and representatives of parent groups.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to make grants under this section, $40,000,000 in fiscal year 1990, and such sums as may be necessary in each subsequent fiscal year.".

(b)(1) Section 402(A) of the Joint Resolution entitled "A Joint Resolution making continuing appropriations for the fiscal year 1985, and for other purposes", (approved October 12, 1984, Public Law 98-473, 98 Stat. 2198, 42 U.S.C. 5116d) is amended—

(A) by inserting after paragraph (3), the following new paragraph:

"(4) parental substance abuse places children at great risk of abuse and neglect;"; and

(B) by redesignating paragraphs (4), (5), (6), and (7) as paragraphs (5), (6), (7), and (8) respectively.

(2) Section 405(4)(A) of such Act (98 Stat. 2198, 42 U.S.C. 5116c) is amended by inserting "services to substance abusing parents, including pregnant and post-partum women," after "perinatal bonding,".

SEC. 3. Title V of such Act is amended by inserting after section 508 (42 U.S.C. 290aa-6) the following new section:

"SEC. 508B. GRANTS FOR TRAINING OF DRUG TREATMENT PROFESSIONALS.

"(a) ESTABLISHMENT.—The Secretary shall establish a grant program to make grants to eligible institutions to enable such institutions to provide training services to increase the supply of drug treatment professionals.

"(b) ELIGIBLE INSTITUTIONS.—Institutions eligible to receive a grant under this section shall include medical schools, schools of osteopathy, school of nursing, schools of public health, school of chiropractic services, schools of social work, and other appropriate educational institutions that submit an application in accordance with subsection (c).

"(c) APPLICATION.—To be eligible to receive a grant under this section, an eligible institution shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may by regulation require.

"(d) AUTHORIZATION OF APPROPRIATION.—

"(1) FISCAL YEAR 1990.—The Secretary shall use amounts appropriated under section 508 for the fiscal year ending September 30, 1990, to carry out this section in fiscal year 1990.

"(2) SUBSEQUENT FISCAL YEARS.—There are authorized to be appropriated to make grants under this section in each of the fiscal years 1991 and 1992, such sums as may be necessary.".

SEC. 4. DRUG-FREE SCHOOLS AND CAMPUSES.—(a)(1) Title XII of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) is amended by adding at the end thereof a new section 1212 to read as follows:

"DRUG AND ALCOHOL ABUSE PREVENTION

"SEC. 1212. (a) Notwithstanding any other provisions of law, no institution of higher education shall be eligible to receive funds or any other form of financial assistance under any Federal program, including participation in any federally funded or guaranteed student loan program, unless it certifies to the Secretary that it has adopted and has implemented a program to prevent the use of illicit drugs and the abuse of alcohol by students and employees that, at a minimum, includes—

"(1) the annual distribution to each student and employee of—

"(A) standards of conduct that clearly prohibit, at a minimum, the unlawful possession, use, or distribution of illicit drugs and alcohol by students and employees on its property or as part of any of its activities;

"(B) a description of the applicable legal sanctions under local, State, or Federal law for the unlawful possession or distribution of illicit drugs and alcohol;

"(C) a description of the health risks associated with the use of illicit drugs and the abuse of alcohol;

"(D) a description of any drug or alcohol counseling, treatment, or rehabilitation programs that are available to employees or students; and

"(E) a clear statement that the institution will impose sanctions on students and employees (consistent with local, State, and Federal law), and a description of those sanctions, up to and including expulsion or termination of employment and referral for prosecution, for violations of the standards of conduct required by paragraph (1)(A); and

"(2) a biennial review by the institution of its program to—

"(A) determine its effectiveness and implement changes to the program if they are needed; and

"(B) ensure that the sanctions required by paragraph (1)(E) are consistently enforced.

"(b) Each institution of higher education that provides the certification required by subsection (a) shall, upon request, make available to the Secretary and to the public a copy of each item required by subsection (a)(1) as well as the results of the biennial review required by subsection (a)(2).

"(c)(1) The Secretary shall publish regulations to implement and enforce the provisions of this section, including regulations that provide for—

"(A) the periodic review of a representative sample of programs required by subsection (a); and

"(B) sanctions, up to and including the termination of any form of financial assistance, for institutions of higher education that fail to implement their programs or to consistently enforce their sanctions.

"(2) The sanctions required by subsection (a)(1)(E) may include the completion of an appropriate rehabilitation program.".

(2) The provisions of paragraph (1) shall take effect on October 1, 1990.

(b)(1) Part D of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3171 et seq.) is amended by adding at the end thereof a new section 5145 to read as follows:

"CERTIFICATION OF DRUG AND ALCOHOL ABUSE PREVENTION PROGRAMS

"SEC. 5145. (a) Notwithstanding any other provisions of law, no local educational agency shall be eligible to receive funds or any other form of financial assistance under any Federal program unless it certifies to the State educational agency that it has adopted and has implemented a program to prevent the use of illicit drugs and alcohol by students or employees that, at a minimum, includes—

"(1) mandatory, age-appropriate, developmentally based drug and alcohol education and prevention programs (which address the legal, social, and health consequences of drug and alcohol use and which provide in-

formation about effective techniques for resisting peer pressure to use illicit drugs or alcohol) for students in all grades of the schools operated or served by the applicant, from early childhood level through grade 12;

"(2) conveying to students that the use of illicit drugs and alcohol is wrong and harmful;

"(3) standards of conduct that are applicable to students and employees in all the applicant's schools and that clearly prohibit, at a minimum, the possession, use, or distribution of illicit drugs and alcohol by students and employees on school premises or as part of any of its activities;

"(4) a clear statement that sanctions (consistent with local, State, and Federal law), up to and including expulsion or termination of employment and referral for prosecution, will be imposed on students and employees who violate the standards of conduct required by paragraph (3) and a description of those sanctions;

"(5) information about any available drug and alcohol counseling and rehabilitation programs that are available to students and employees;

"(6) a requirement that parents, students, and employees be given a copy of the standards of conduct required by paragraph (3) and the statement of sanctions required by paragraph (4);

"(7) notifying parents, students, and employees that compliance with the standards of conduct required by paragraph (3) is mandatory; and

"(8) a biennial review by the applicant of its program to—

"(I) determine its effectiveness and implement changes to the program if they are needed; and

"(II) ensure that the sanctions required by paragraph (4) are consistently enforced.

"(b) Each local educational agency that provides the certification required by subsection (a) shall, upon request, make available to the Secretary, the State educational agency, and to the public full information about the elements of its program required by subsection (a), including the results of its biennial review.

"(c) Each State educational agency shall certify to the Secretary that it has adopted and has implemented a program to prevent the use of illicit drugs and the abuse of alcohol by its students and employees that is consistent with the program required by subsection (a) of this section. The State educational agency shall, upon request, make available to the Secretary and to the public full information about the elements of its program.

"(d)(1) The Secretary shall publish regulations to implement and enforce the provisions of this section, including regulations that provide for—

"(A) the periodic review by State educational agencies of a representative sample of programs required by subsection (a); and

"(B) sanctions, up to and including the termination of any form of financial assistance, for local educational agencies that fail to implement their programs or to consistently enforce their sanctions.

"(2) The sanctions required by subsection (a)(1)(4) may include the completion of an appropriate rehabilitation program.".

(2) The Drug-Free Schools and Communities Act of 1986 is further amended in section 5126(c)(2) by—

(A) striking out subparagraphs (E), (F), and (G); and

(B) redesignating subparagraphs (H) through (M) as subparagraphs (E) through (J), respectively.

(3) The provisions of paragraphs (1) and (2) shall take effect on October 1, 1990.

(c) Notwithstanding any other provision of this section, this section shall not take effect until enactment of a law containing the following provisions:

"SECTION 1. (a) This section may be cited as the 'Transportation Employee Testing Act of 1989'.

"(b) The Congress finds that—

"(1) alcohol abuse and illegal drug use pose significant dangers to the safety and welfare of the Nation;

"(2) millions of the Nation's citizens utilize transportation by aircraft, railroads, trucks, and buses, and depend on the operators of aircraft, railroads, trucks, and buses to perform in a safe and responsible manner;

"(3) the greatest efforts must be expended to eliminate the abuse of alcohol and use of illegal drugs, whether on duty or off duty, by those individuals who are involved in the operation of aircraft, railroads, trucks, and buses;

"(4) the use of alcohol and illegal drugs has been demonstrated to affect significantly the performance of individuals, and has been proven to have been a critical factor in transportation accidents;

"(5) the testing of uniformed personnel of the Armed Forces has shown that the most effective deterrent to abuse of alcohol and use of illegal drugs is increased testing, including random testing;

"(6) adequate safeguards can be implemented to ensure that testing for abuse of alcohol or use of illegal drugs is performed in a manner which protects an individual's right of privacy, ensures that no individual is harassed by being treated differently from other individuals, and ensures that no individual's reputation or career development is unduly threatened or harmed; and

"(7) rehabilitation is a critical component of any testing program for abuse of alcohol or use of illegal drugs, and should be made available to individuals, as appropriate.

"(c)(1) Title VI of the Federal Aviation Act of 1958 (49 App. U.S.C. 1421 et seq.) is amended by adding at the end thereof the following:

" 'ALCOHOL AND CONTROLLED SUBSTANCES TESTING TESTING PROGRAM

" 'SEC. 613. (a)(1) The Administrator shall, in the interest of aviation safety, prescribe regulations within twelve months after the date of enactment of this section. Such regulations shall establish a program which requires air carriers and foreign air carriers to conduct preemployment, reasonable suspicion, random, and post-accident testing of airmen, crewmembers, airport security screening contract personnel, and other air carrier employees responsible for safety-sensitive functions (as determined by the Administrator) for use, in violation of law or Federal regulation, of alcohol or a controlled substance. The Administrator may also prescribe regulations, as the Administrator considers appropriate in the interest of safety, for the conduct of periodic recurring testing of such employees for such use in violation of law or Federal regulation.

" '(2) The Administrator shall establish a program applicable to employees of the Federal Aviation Administration whose duties include responsibility for safety-sensitive functions. Such program shall provide for preemployment, reasonable suspicion, random, and post-accident testing for use, in violation of law or Federal regulation, of alcohol or a controlled substance. The Administrator may also prescribe regulations, as the Administrator considers appropriate in the interest of safety, for the conduct of periodic recurring testing of such employees for such use in violation of law or Federal regulation.

" '(3) In prescribing regulations under the programs required by this subsection, the Administrator shall require, as the Administrator considers appropriate, the suspension or revocation of any certificate issued to such an individual, or the disqualification or dismissal of any such individual, in accordance with the provisions of this section, in any instance where a test conducted and confirmed under this section indicates that such individual has used, in violation of law or Federal regulation, alcohol or a controlled substance.

" 'PROHIBITION ON SERVICE

" '(b)(1) No person may use, in violation of law or Federal regulation, alcohol or a controlled substance after the date of enactment of this section and serve as an airman, crewmember, airport security screening contract personnel, air carrier employee responsible for safety-sensitive functions (as determined by the Administrator), or employee of the Federal Aviation Administration with responsibility for safety-sensitive functions.

" '(2) No individual who is determined to have used, in violation of law or Federal regulation, alcohol or a controlled substance after the date of enactment of this section shall serve as an airman, crewmember, airport security screening contract personnel, air carrier employee responsible for safety-sensitive functions (as determined by the Administrator), or employee of the Federal Aviation Administration with responsibility for safety-sensitive functions unless such individual has completed a program of rehabilitation described in subsection (c) of this section.

" '(3) Any such individual determined by the Administrator to have used, in violation of law or Federal regulation, alcohol or a controlled substance after the date of enactment of this section who—

" '(A) engaged in such use while on duty;

" '(B) prior to such use had undertaken or completed a rehabilitation program described in subsection (c) of this section;

" '(C) following such determination refuses to undertake such a rehabilitation program; or

" '(D) following such determination fails to complete such a rehabilitation program,

shall not be permitted to perform the duties relating to air transportation which such individual performed prior to the date of such determination.

" 'PROGRAM FOR REHABILITATION

" '(c)(1) The Administrator shall prescribe regulations setting forth requirements for rehabilitation programs which at a minimum provide for the identification and opportunity for treatment of employees referred to in subsection (a)(1) of this section in need of assistance in resolving problems with the use, in violation of law or Federal regulation, of alcohol or controlled substances. Each air carrier and foreign air carrier is encouraged to make such a program available to all of its employees in addition to those employees referred to in subsection (a)(1) of this section. The Administrator shall determine the circumstances under which such employees shall be required to participate in such a program. Nothing in this subsection shall preclude any air carrier or foreign air carrier from establishing a program under this subsection in coopera-

tion with any other air carrier or foreign air carrier.

"'(2) The Administrator shall establish and maintain a rehabilitation program which at a minimum provides for the identification and opportunity for treatment of those employees of the Federal Aviation Administration whose duties include responsibility for safety-sensitive functions who are in need of assistance in resolving problems with the use of alcohol or controlled substances.

"'PROCEDURES

"'(d) In establishing the program required under subsection (a) of this section, the Administrator shall develop requirements which shall—

"'(1) promote, to the maximum extent practicable, individual privacy in the collection of specimen samples;

"'(2) with respect to laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

"'(A) establish comprehensive standards for all aspects of laboratory controlled substances testing and laboratory procedures to be applied in carrying out this section, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimen samples collected for controlled substances testing;

"'(B) establish the minimum list of controlled substances for which individuals may be tested; and

"'(C) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and renovation of certification of laboratories to perform controlled substances testing in carrying out this section;

"'(3) require that all laboratories involved in the controlled substances testing of any individual under this section shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

"'(4) provide that all tests which indicate the use, in violation of law or Federal regulation, of alcohol or a controlled substance by any individual shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

"'(5) provide that each specimen sample be subdivided, secured, and labelled in the presence of the tested individual and that a portion thereof be retained in a secure manner to prevent the possibility of tampering, so that in the event the individuals' confirmation test results are positive the individual has an opportunity to have the retained portion assayed by a confirmation test done independently at a second certified laboratory if the individual requests the independent test within 3 days after being advised of the results of the confirmation test;

"'(6) ensure appropriate safeguards for testing to detect and quantify alcohol in breath and body fluid samples, including urine and blood, through the development of regulations as may be necessary and in consultation with the Department of Health and Human Services;

"'(7) provide for the confidentiality of test results and medical information (other than information relating to alcohol or a controlled substance) of employees, except that the provisions of this paragraph shall not preclude the use of test results for the orderly imposition of appropriate sanctions under this section; and

"'(8) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

"'EFFECT ON OTHER LAWS AND REGULATIONS

"'(e)(1) No State or local government shall adopt or have in effect any law, rule, regulation, ordinance, standard, or order that is inconsistent with the regulations promulgated under this section, except that the regulations promulgated under this section shall not be construed to preempt provisions of State criminal law which impose sanctions for reckless conduct leading to actual loss of life, injury or damage to property, whether the provisions apply specifically to employees of an air carrier or foreign air carrier, or to the general public.

"'(2) Nothing in this section shall be construed to restrict the discretion of the Administrator to continue in force, amend, or further supplement any regulations issued before the date of enactment of this section that govern the use of alcohol and controlled substances by airmen, crewmembers, airport security screening contract personnel, air carrier employees responsible for safety-sensitive functions (as determined by the Administrator), or employees of the Federal Aviation Administration with responsibility for safety-sensitive functions.

"'(3) In prescribing regulations under this section, the Administrator shall only establish requirements applicable to foreign air carriers that are consistent with the international obligations of the United States, and the Administrator shall take into consideration any applicable laws and regulations of foreign countries. The Secretary of State and the Secretary of Transportation, jointly, shall call on the member countries of the International Civil Aviation Organization to strengthen and enforce existing standards to prohibit the use, in violation of law or Federal regulation, of alcohol or a controlled substance by crew members in international civil aviation.

"'DEFINITION

"'(f) For the purposes of this section, the term "controlled substance" means any substance under section 102(6) of the Controlled Susbstances Act (21 U.S.C. 802(6)) specified by the Administrator.'.

"(2) That portion of the table of contents of the Federal Aviation Act of 1958 relating to title VI is amended by adding at the end thereof the following:

"'Sec. 613. Alcohol and controlled substances testing.

"'(a) Testing program.

"'(b) Prohibition on service.

"'(c) Program for rehabilitation.

"'(d) Procedures.

"'(e) Effect on other laws and regulations.

"'(f) Definition.'.

"(d) Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is amended by adding at the end thereof the following:

"'(r)(1) In the interest of safety, the Secretary shall, within twelve months after the date of enactment of this subsection, issue rules, regulations, standards, and orders relating to alcohol and drug use in railroad operations. Such regulations shall establish a program which—

"'(A) requires railroads to conduct preemployment, reasonable suspicion, random, and post-accident testing of all railroad employees responsible for safety-sensitive functions (as determined by the Secretary) for use, in violation of law or Federal regulation, of alcohol or a controlled substance;

"'(B) requires, as the Secretary considers approprate, disqualification for an established period of time or dismissal of any employee determined to have used or to have been impaired by alcohol while on duty; and

"'(C) requires, as the Secretary considers appropriate, disqualification for an established period of time or dismissal of any employee determined to have used a controlled substance, whether on duty or not on duty, except as permitted for medical purposes by law and any rules, regulations, standards, or orders issued under this title.

The Secretary may also issue rules, regulations, standards, and orders, as the Secretary considers appropriate in the interest of safety, requiring railroads to conduct periodic recurring testing of railroad employees responsible for such safety sensitive functions, for use of alcohol or a controlled substance in violation of law or Federal regulation. Nothing in this subsection shall be construed to restrict the discretion of the Secretary to continue in force, amend, or further supplement any rules, regulations, standards, and orders governing the use of alcohol and controlled substances in railroad operations issued before the date of enactment of this subsection.

"'(2) In carrying out the provisions of this subsection, the Secretary shall develop requirements which shall—

"'(A) promote, to the maximum extent practicable, individual privacy in the collection of specimen samples;

"'(B) with respect to laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

"'(i) establish comprehensive standards for all aspects of laboratory controlled substances testing and laboratory procedures to be applied in carrying out this subsection, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimen samples collected for controlled substances testing;

"'(ii) establish the minimum list of controlled substances for which individuals may be tested; and

"'(iii) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform controlled substances testing in carrying out this subsection;

"'(C) require that all laboratories involved in the controlled substances testing of any employee under this subsection shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

"'(D) provide that all tests which indicate the use, in violation of law or Federal regulation, of alcohol or a controlled substance by any employee shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

"'(E) provide that each specimen sample be subdivided, secured, and labelled in the presence of the tested individual and that a portion thereof be retained in a secure manner to prevent the possibility of tampering, so that in the event the individual's confirmation test results are positive the individual has an opportunity to have the retained portion assayed by a confirmation test done independently at a second certified laboratory if the individual requests the independent test within 3 days after being advised of the results of the confirmation test;

"'(F) ensure appropriate safeguards for testing to detect and quantify alcohol in breath and body fluid samples, including urine and blood, through the development of regulations as may be necessary and in consultation with the Department of Health and Human Services;

"'(G) provide for the confidentiality of test results and medical information (other than information relating to alcohol or a controlled substance) of employees, except that the provisions of this subparagraph shall not preclude the use of test results for the orderly imposition of appropriate sanctions under this subsection; and

"'(H) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

"'(3) The Secretary shall issue rules, regulations, standards, or orders setting forth requirements for rehabilitation programs which at a minimum provide for the identification and opportunity for treatment of railroad employees responsible for safety-sensitive functions (as determined by the Secretary) in need of assistance in resolving problems with the use, in violation of law or Federal regulation, of alcohol or a controlled substance. Each railroad is encouraged to make such a program available to all of its employees in addition to those employees responsible for safety sensitive functions. The Secretary shall determine the circumstances under which such employees shall be required to participate in such program. Nothing in this paragraph shall preclude a railroad from establishing a program under this paragraph in cooperation with any other railroad.

"'(4) In carrying out the provisions of this subsection, the Secretary shall only establish requirements that are consistent with the international obligations of the United States, and the Secretary shall take into consideration any applicable laws and regulations of foreign countries.

"'(5) For the purposes of this subsection, the term "controlled substance" means any substance under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) specified by the Secretary.'.

"(e)(1) The Commercial Motor Vehicle Safety Act of 1986 (49 App. U.S.C. 2701 et seq.) is amended by adding at the end the following:

"'SEC. 12020. ALCOHOL AND CONTROLLED SUBSTANCES TESTING.

"'(a) REGULATIONS.—The Secretary shall, in the interest of commercial motor vehicle safety, issue regulations within twelve months after the date of enactment of this section. Such regulations shall establish a program which requires motor carriers to conduct preemployment, reasonable suspicion, random, and post-accident testing of the operators of commercial motor vehicles for use, in violation of law or Federal regulation, of alcohol or a controlled substance. The Secretary may also issue regulations, as the Secretary considers appropriate in the interest of safety, for the conduct of periodic recurring testing of such operators for such use in violation of law or Federal regulation.

"'(b) TESTING.—

"'(1) POST-ACCIDENT TESTING.—In issuing such regulations, the Secretary shall require that post-accident testing of the operator of a commercial motor vehicle be conducted in the case of any accident involving a commercial motor vehicle in which occurs loss of human life, or, as determined by the Secretary, other serious accidents involving bodily injury or significant property damage.

"'(2) TESTING AS PART OF MEDICAL EXAMINATION.—Nothing in subsection (a) of this section shall preclude the Secretary from providing in such regulations that such testing be conducted as part of the medical examination required by subpart E of part 391 of title 49, Code of Federal Regulations, with respect to those operators of commercial motor vehicles to whom such part is applicable.

"'(c) PROGRAM FOR REHABILITATION.—The Secretary shall issue regulations setting forth requirements for rehabilitation programs which provide for the identification and opportunity for treatment of operators of commercial motor vehicles who are determined to have used, in violation of law or Federal regulation, alcohol or a controlled substance. The Secretary shall determine the circumstances under which such operators shall be required to participate in such program. Nothing in this subsection shall preclude a motor carrier from establishing a program under this subsection in cooperation with any other motor carrier.

"'(d) PROCEDURES FOR TESTING.—In establishing the program required under subsection (a) of this section, the Secretary shall develop requirements which shall—

"'(1) promote, to the maximum extent practicable, individual privacy in the collection of specimen samples;

"'(2) with respect to laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

"'(A) establish comprehensive standards for all aspects of laboratory controlled substances testing and laboratory procedures to be applied in carrying out this section, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimen samples collected for controlled substances testing;

"'(B) establish the minimum list of controlled substances for which individuals may be tested; and

"'(C) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform controlled substances testing in carrying out this section;

"'(3) require that all laboratories involved in the testing of any individual under this section shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

"'(4) provide that all tests which indicate the use, in violation of law or Federal regulation, of alcohol or a controlled substance by any individual shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

"'(5) provide that each specimen sample be subdivided, secured, and labelled in the presence of the tested individual and that a portion thereof be retained in a secure manner to prevent the possibility of tampering, so that in the event the individual's confirmation test results are positive the individual has an opportunity to have the retained portion assayed by a confirmation test done independently at a second certified laboratory if the individual requests the independent test within 3 days after being advised of the results of the confirmation test;

"'(6) ensure appropriate safeguards for testing to detect and quantify alcohol in breath and body fluid samples, including urine and blood, through the development of regulations as may be necessary and in consultation with the Department of Health and Human Services;

"'(7) provide for the confidentiality of test results and medical information (other than information relating to alcohol or a controlled substance) of employees, except that the provisions of this paragraph shall not preclude the use of test results for the orderly imposition of appropriate sanctions under this section; and

"'(8) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

"'(e) EFFECTIVE ON OTHER LAWS AND REGULATIONS.—

"'(1) STATE AND LOCAL LAW AND REGULATIONS.—No State or local government shall adopt or have in effect any law, rule, regulation, ordinance, standard, or order that is inconsistent with the regulations issued under this section, except that the regulations issued under this section shall not be construed to preempt provisions of State criminal law which impose sanctions for reckless conduct leading to actual loss of life, injury, or damage to property, whether the provisions apply specifically to commercial motor vehicle employees, or to the general public.

"'(2) OTHER REGULATIONS ISSUED BY SECRETARY.—Nothing in this section shall be construed to restrict the discretion of the Secretary to continue in force, amend, or further supplement any regulations governing the use of alcohol or controlled substances by commercial motor vehicle employees issued before the date of enactment of this section.

"'(3) INTERNATIONAL OBLIGATIONS.—In issuing regulations under this section, the Secretary shall only establish requirements that are consistent with the international obligations of the United States, and the Secretary shall take into consideration any applicable laws and regulations of foreign countries.

"'(f) APPLICATION OF PENALTIES.—

"'(1) EFFECT ON OTHER PENALTIES.—Nothing in this section shall be construed to supersede any penalty applicable to the operator of a commercial motor vehicle under this title or any other provision of law.

"'(2) DETERMINATION OF SANCTIONS.—The Secretary shall determine appropriate sanctions for commercial motor vehicle operators who are determined, as a result of tests conducted and confirmed under this section, to have used, in violation of law or Federal regulation, alcohol or a controlled substance but are not under the influence of alcohol or a controlled substance, as provided in this title.

"'(g) DEFINITION.—For the purposes of this section, the term "controlled substance" means any substance under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) specified by the Secretary.'.

"(2) The table of contents of the Commercial Motor Vehicle Safety Act of 1986 (Public Law 99-570; 100 Stat. 5223) is amended by adding at the end thereof the following:

"'Sec. 12020. Alcohol and controlled substances testing.'.

"(f)(1) The Secretary shall design within nine months after the date of enactment of this subsection, and implement within fifteen months after the date of enactment of this subsection, a pilot test program for the purpose of testing the operators of commercial motor vehicles on a random basis to determine whether an operator has used, in violation of law or Federal regulation, alcohol or a controlled substance. The pilot test program shall be administered as part of the Motor Carrier Safety Assistance Program.

"(2) The Secretary shall solicit the participation of States which are interested in participating in such program and shall select four States to participate in the program.

"(3) The Secretary shall ensure that the States selected pursuant to this section are representative of varying geographical and population characteristics of the Nation and that the selection takes into consideration the historical geographical incidence of commercial motor vehicle accidents involving loss of human life.

"(4) The pilot program authorized by this section shall continue for a period of one year. The Secretary shall consider alternative methodologies for implementing a system of random testing of operators of commercial motor vehicles.

"(5) Not later than thirty months after the date of enactment of this section, the Secretary shall prepare and submit to the Congress a comprehensive report setting forth the results of the pilot program conducted under this subsection. Such report shall include any recommendations of the Secretary concerning the desirability and implementation of a system for the random testing of operators of commercial motor vehicles.

"(6) For purposes of carrying out this subsection, there shall be available to the Secretary $5,000,000 from funds made available to carry out section 404 of the Surface Transportation Assistance Act of 1982 (49 App. U.S.C. 2304) for fiscal year 1990.

"(7) For purposes of this subsection, the term 'commercial motor vehicle' shall have the meaning given to such term in section 12019(6) of the Commercial Motor Vehicle Safety Act of 1986 (49 App. U.S.C. 2716(6)).".

SEC. 5. No local educational agency shall use any of the funds which are released by this section unless funds are made available for each fiscal year to the chief executive officer of a State which may be used with existing power for random drug testing programs for students voluntarily participating in extracurricular activities and using existing power such testing is done only in schools which voluntarily choose to participate in such a program.

SEC. 6. AMENDMENT RELATING TO THE SPECIAL FORFEITURE FUND.—(a) ASSETS FORFEITURE FUND AMENDMENT.—Section 524(c)(9) of title 28, United States Code, is amended to read as follows:

"(9) There are authorized to be appropriated such sums as necessary for the purposes described in subparagraphs (A)(ii), (B), (C), (F), and (G) of paragraph (1). For each of fiscal years 1990, 1991, 1992, and 1993, the Attorney General shall transfer not to exceed $150,000,000 in unobligated amounts available in the Fund to the Special Forfeiture Fund: Provided, That such amounts will be transferred on a quarterly basis: Provided further, That an amount not to exceed $15,000,000 or, if determined by the Attorney General to be necessary to meet asset specific expenses, an amount equal to one-tenth of the previous year's obligations, may be retained in the Fund and remain available for appropriation.".

(b) SPECIAL FORFEITURE FUND AMENDMENT.—Section 6073(b) of the Anti-Drug Abuse Act of 1988 (Public Law 100-690) is amended to read as follows:

"(b) DEPOSITS.—In each of fiscal years 1990, 1991, 1992, and 1993, there shall be transferred to and deposited in the Fund, from the Department of Justice Assets Forfeiture Fund pursuant to 28 U.S.C. 524(c)(9), not to exceed $150,000,000: Provided, That amounts specified in the second proviso of said section may be retained in the Assets Forfeiture Fund and remain available for appropriation.".

SEC. 7. (a) Section 511(e)(3) of the Controlled Substances Act (21 U.S.C. 881(e)(3)) is amended by—

(1) striking subparagraph (B);

(2) striking the dash and "(A)"; and

(3) striking "; and" and inserting a period.

(b) Section 6077 of the Anti-Drug Abuse Act of 1988 is amended by striking subsection (c).

(c) The amendment made by subsection (a) shall be effective with respect to fiscal years beginning with fiscal year 1990: Provided, That, none of the funds made available under this Act for the Office of National Drug Control Policy from the special forfeiture fund may be used by the Director of National Drug Control Policy after February 1, 1990, if the Director has not by that date designated high-intensity drug trafficking areas pursuant to section 1005(c) of the Anti-Drug Abuse Act of 1988 (Public Law 100-690).

SEC. 8. (a) Title XIX of the Public Health Service Act is amended by inserting after section 1916A (42 U.S.C. 300x-4a) the following new section:

"SEC. 1916B. STATEWIDE DRUG TREATMENT PLAN.

"(a) NATURE OF PLAN.—To receive the drug abuse portion of its allotment for a fiscal year under section 1912A, a State shall develop, implement and submit, as part of the application required by section 1916(a), an approved statewide Drug Treatment Plan, prepared according to regulations promulgated by the Secretary, that shall contain—

"(1) a single, designated State agency for formulating and implementing the Statewide Drug Treatment Plan;

"(2) a description of the mechanism that shall be used to assess the needs for drug treatment in localities throughout the State including the presentation of relevant data;

"(3) a description of a statewide plan that shall be implemented to expand treatment capacity and overcome obstacles that restrict the expansion of treatment capacity (such as zoning ordinances), or an explanation of why such a plan is unnecessary;

"(4) a description of performance-based criteria that shall be used to assist in the allocating of funds to drug treatment facilities receiving assistance under this subpart;

"(5) a description of the drug-free patient and workplace programs, that must include some form of drug testing, to be utilized in drug treatment facilities and programs;

"(6) a description of the mechanism that shall be used to make funding allocations under this subpart;

"(7) a description of the actions that shall be taken to improve the referral of drug users to treatment facilities that offer the most appropriate treatment modality;

"(8) a description of the program of training that shall be implemented for employees of treatment facilities receiving Federal funds, designed to permit such employees to stay abreast of the latest and most effective treatment techniques;

"(9) a description of the plan that shall be implemented to coordinate drug treatment facilities with other social, health, correctional and vocational services in order to assist or properly refer those patients in need of such additional services; and

"(10) a description of the plan that will be implemented to expand and improve efforts to contact and treat expectant women who use drugs and to provide appropriate follow-up care to their affected newborns.

"(b) SUBMISSION OF PLAN.—The plan required by subsection (a) shall be submitted to the Secretary annually for review and approval. The Secretary shall have the authority to review and approve or disapprove such State plans, and to propose changes to such plans.

"(c) SUBMISSION OF PROGRESS REPORTS.—Each State shall submit reports, in such form, and containing such information as the Secretary may, from time to time, require, and shall comply with such additional provisions as the Secretary may from time to time find necessary to verify the accuracy of such reports and not overly burdensome on the State.

"(d) WAIVER OF PLAN REQUIREMENT.—At the discretion of the Secretary, the Secretary may waive any or all of the requirements of this section on the written request of a State, except that such waiver shall not be granted unless the State implements an alternative treatment plan that fulfills the objectives of this section.

"(e) DEFINITION.—As used in this section, the term 'drug abuse portion' means the amount of a State's allotment under section 1912A that is required by this subpart, or by any other provision of law, to be used for programs or activities relating to drug abuse.".

(b)(1) The Secretary of Health and Human Services shall promulgate regulations necessary to carry out section 1916B of the Public Health Service Act (as added by subsection (a)) not later than 6 months following the date of enactment of this section.

(2)(A) Sections 1916B (a)(4) and (a)(5) of such Act (as added by subsection (a)) shall become effective on October 1, of the second fiscal year beginning after the date that final regulations under paragraph (1) are published in the Federal Register.

(B) The remaining provision of such section 1916B shall become effective beginning on October 1, of the first fiscal year beginning after the date final regulations under paragraph (1) are published in the Federal Register.

SEC. 9. WAIVER AUTHORITY FOR INTERNATIONAL PROGRAMS.—Funds appropriated to carry out the Foreign Assistance Act of 1961, as amended, or the Arms Export Control Act may be made available for any narcotics-related activities in Colombia, Bolivia, and Peru to carry out any provisions of such Acts notwithstanding the provisions of—

(1) section 620(q) or section 660 of the Foreign Assistance Act; or

(2) section 518 of the Foreign Operations, Export Financing, and Related Appropriations Act, 1989, or any other provision that similarly restricts the furnishing of assist-

ance to countries in default on payment to the United States of principal or interest on any loan.

SEC. 10. Of amounts made available under this Act, $462,584,000 shall be used for the block grant program under part B of title XIX of the Public Health Service Act (42 U.S.C. 300x et seq.) to make grants to carry out substance abuse programs, except that such amount shall not be used to calculate amounts to be used for programs and activities relating to substance abuse as required by section 1916(c)(7)(B) of such Act.

SEC. 11. Section 101 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended—

(1) in paragraph (2), by inserting "and those infants who are victims of parental substance abuse" before the semicolon;

(2) in paragraph (3), by inserting "and those infants who are victims of parental substance abuse" before ", to reside";

(3) in paragraph (4), by inserting "and those infants who are victims of parental substance abuse" before the semicolon;

(4) in paragraph (5), by inserting "and those infants who are victims of parental substance abuse" before the semicolon;

(5) in paragraph (6), by inserting "and those infants who are victims of parental substance abuse" before the semicolon; and

(6) in paragraph (7), by inserting "and those infants who are victims of parental substance abuse" before the period.

SEC. 12. Section 1912A of the Public Health Service Act (42 U.S.C. 300x-1a) is amended—

(1) in subsection (a)(4)(B)(i)—

(A) by striking out "0.4" in subclause (I), and inserting in lieu thereof "0.2"; and

(B) by striking out "indicated by the most recent data collected by the Bureau of the Census" in subclause (II), and inserting in lieu thereof "determined by multiplying the percentage of the State's population that resides in urbanized areas of the State (as indicated by the most recent decennial census compiled by the Bureau of the Census) by the most recent estimate of the total population of the State";

(2) in subsection (a)(4)(B)(ii)(I), by striking out "0.2" and inserting in lieu thereof "0.266";

(3) in subsection (a)(4)(B)(iii)(I), by striking out "0.2" and inserting in lieu thereof "0.266";

(4) in subsection (a)(4)(B)(iv)(I), by striking out "0.2" and inserting in lieu thereof "0.267";

(5) in subsection (b), to read as follows:

"(b)(1) In fiscal year 1989, each State shall receive a minimum allotment under this subpart of the lesser of—

"(A) $8,000,000; and

"(B) an amount equal to 105 percent of the sum of—

"(i) the amount the State received under section 1913 for fiscal year 1988 (as such section was in effect for such fiscal year); and

"(ii) the amount the State received under part C for fiscal year 1988.

"(2) In subsequent fiscal years, each State shall receive a minimum allotment under this subpart that is equal to the amount that such State received in fiscal year 1989 under paragraph (1) for the minimum amount that such State was entitled to under such paragraph plus an amount equal to such minimum multiplied by the percentage increase in the amount appropriated under section 1911(a) in such subsequent fiscal year above the amount appropriated for the immediately preceding fiscal year."; and

(6) in subsection (f), to read as follows:

"(f) For purposes of subsection (e), the applicable amount for each fiscal year is $330,000,000.".

SEC. 13. (a) Section 5111(a) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3171 et seq.) is amended by striking "$350,000,000" and inserting "$375,000,000".

(b) Section 5122 of the Drug-Free Schools and Communities Act of 1986 is amended—

(1) by redesignating subsections (a) and (b) as subsections (b) and (c), respectively;

(2) by inserting the following new subsection (a) after the section designation:

"(a) EMERGENCY GRANTS TO SCHOOLS IN URBAN AND RURAL AREAS.—

"(1) IN GENERAL.—From the amount available to carry out this section pursuant to section 5121(a), 33.3 percent of such amount shall be used by the chief executive officer in consultation with the State educational agency or the chief State school officer of a State, to make contracts with, and emergency grants to, local educational agencies serving urban and rural communities with severe drug problems.

"(2) REQUIREMENTS.—

"(A) INITIAL GRANTS.—In awarding grants under this subsection the chief executive shall first award grants to local educational agencies serving the largest city in the State to develop and implement comprehensive approaches to eliminating the serious drug problem that affects schools and students within the boundries of the local educational agency. Such grant shall be of sufficient size, scope, and quality to be of value and effective.

"(B) LOCAL AGENCIES.—After satisfying the requirements of subparagraph (A), the chief executive officer of a State receiving a grant under this section shall make grants to urban and rural local educational agencies with severe drug problems as determined by the incidence of drug abuse in relation to the size of the school age population. Such grants shall be of sufficient size, scope, and quality to be of value and effective. Such grants to the local educational agency shall be used for the development and implementation of comprehensive approaches to eliminating the serious drug problems that affects schools and students within the boundries of the local educational agency.

"(3) WAIVER.—The Secretary may waive the provisions of this subsection for States in which there is no concentration of drug problems."; and

(3) in subsection (b) (as amended in paragraph (1)) by striking out "IN GENERAL.—Not" and inserting in lieu thereof "REMAINDER.—From the remainder available to carry out this section, not".

Mr. BYRD. I thank the leadership on both sides.

IMPLEMENTATION OF THE PRESIDENT'S 1989 NATIONAL DRUG CONTROL STRATEGY

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Chair recognizes the Senator from Utah.

AMENDMENTS NUMBERED 980 AND 981

Mr. HATCH. Mr. President, I send two amendments to the desk on behalf of Senator WILSON and ask for their immediate consideration en bloc.

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

The clerk will report.

The bill clerk read as follows:

The Senator from Utah [Mr. HATCH], for Mr. WILSON, proposes amendments numbered 980 and 981.

Mr. HATCH. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

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

AMENDMENT NO. 980

(Purpose: To express the sense of the Senate regarding education to prevent the use of drugs and beverage alcohol during pregnancy)

At the appropriate place, insert the following:

SEC. . (a)(1) DRUG EDUCATION TO PREVENT THE USE OF DRUGS AND BEVERAGE ALCOHOL DURING PREGNANCY.

(A) FINDINGS.—The Senate finds that—

(i) the use of drugs or the excessive use of beverage alcohol during pregnancy poses risks and serious injury or impairment to mother and child;

(ii) 375,000 infants are born to mothers who engage in substance abuse during pregnancy and that number appears to grow exponentially each year;

(iii) the initial cost of providing care to infants born exposed to maternal substance abuse during pregnancy is over $13,000,000,000 annually;

(iv) the human cost in suffering and loss to society in terms of wasted human potential of both the abusing mother and especially the abused and innocent child is both incalculable and avoidable;

(v) drug and beverage alcohol abuse during pregnancy produces severe and lasting or even irreversible physical, mental, and emotional damage to the child, including low birthweight, prematurity, congenital deformities, risk of child abuse and death;

(vi) it is essential to reduce the incidence of substance abuse by pregnant women and the birth of infants addicted or otherwise injured or impaired by such abuse, both for the sake of the mother and especially in order to reduce the avoidable cruel suffering of and damage to infants so afflicted, and to reduce the unaffordable costs in tax dollars that will be required as the necessary alternative to successful preventive measures;

(vii) preventive drug abuse resistance education, including instruction by medical staff and experts in the field of maternal substance abuse during pregnancy, is needed to reduce the incidence of infants born exposed to maternal drug abuse during pregnancy;

(viii) preventive drug abuse resistance education is especially needed to reduce the exploding incidence of cocaine use which has resulted in unprecedented infant mortality rates in many cities across the United States;

(ix) preventive drug abuse resistance education programs Drug Abuse Resistance Education and Substance Abuse and Narcotics Education, have proven successful in reversing the destructive use of drugs during pregnancy.

(2) SENSE OF THE SENATE.—It is the sense of the Senate that preventive drug abuse resistance education programs which seek to reduce the incidence of maternal substance abuse during pregnancy are essential to our efforts to win the war on drugs.

(b) Part B of the Drug Free Schools and Communities Act of 1986 is amended as follows:

"SEC. 5122(a)(6) is amended by striking the period and inserting the following: "and education regarding the risks of drug and beverage alcohol abuse during pregnancy."

AMENDMENT NO. 981

(Purpose: To provide for a study of infants born drug-exposed due to maternal substance abuse during pregnancy)

At the appropriate place, insert the following new section:

SEC. . (a) STUDY BY THE NATIONAL ACADEMY OF SCIENCES AND THE NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT.

(a) SCOPE OF UNDERTAKING.—The Secretary of Health and Human Services, shall arrange to have a study conducted to—

(1) provide an analysis of the historical development of the problem of infants born drug-exposed due to maternal substance abuse during pregnancy;

(2) determine the number of infants born drug-exposed due to maternal substance abuse during pregnancy annually;

(3) determine the impact of maternal substance abuse during pregnancy on infant mortality;

(4) assess other costs, including but not limited to, the medical, educational, developmental, social, and fiscal costs associated with the care of infants born drug-exposed due to maternal substance abuse during pregnancy;

(5) quantify the costs identified in paragraph (4) to Federal, state, and local government;

(6) assess the costs associated with providing inpatient residential drug treatment to drug abusing pregnant and postpartum women and their infants, including but not limited to, prenatal and postnatal medical services, drug abuse treatment and education services, crisis counseling services, support group services, parent training services, and child developmental services, such as the Winnie Mandela House in Oakland, California;

(7) project the number of infants expected to be born exposed to maternal substance abuse during pregnancy through the year 1995; and

(8) project the costs, as defined under paragraph (4), of providing care for infants, as described in paragraph (7).

(b) ARRANGEMENTS.—

(1) REQUEST.—The Secretary of Health and Human Services shall request the National Academy of Sciences and the National Institute of Child Health and Human Development to conduct the study required by subsection (a) under an arrangement whereby the actual expenses incurred by such Academy and Institute in conducting such study shall be paid by the Secretary.

(2) UNWILLINGNESS TO ENTER INTO.—If either the National Academy of Sciences or the National Institute of Child Health and Human Development, but not both, decline to participate in the conduct of the study under an arrangement under paragraph (1), the Secretary shall enter into an arrangement similar to that required under such paragraph solely with the Academy or Institute that is willing to conduct such study.

(3) NONPROFIT PRIVATE GROUPS.—If both the National Academy of Sciences or the National Institute of Child Health and Human Development decline to participate in the conduct of the study under an arrangement under paragraph (1), the Secretary shall enter into an arrangement similar to that required under such paragraph with other nonprofit private groups or associations under which such groups or associations shall conduct such study and prepare and submit the report required under subsection (c);

(4) CONSULTATION.—The entity that conducts the study under subsection (a) shall consult with the Director of the National Institutes of Health.

(c) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary of Health and Human Services shall prepare and submit to Congress, a report concerning the results of the study conducted under subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $2,000,000.

Mr. HATCH. Mr. President, both amendments have been approved by both sides, and I urge their adoption.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to amendments numbered 980 and 981, en bloc.

The amendments (Nos. 980 and 981) were agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendments were agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH. Mr. President, it is my understanding that we have only one other amendment to which we will agree on both sides, and that is the amendment by the distinguished Senator from Massachusetts [Mr. KERRY]. We have a number of other amendments that others have threatened to bring to the floor. We will be able to keep them off the bill if this is the last amendment.

Mr. BIDEN. Will the Senator yield?

Mr. HATCH. Yes.

Mr. BIDEN. I have a slight correction. There are two that have been agreed to, both being physically typed. One I see made it to the floor, and the other is 30 seconds behind. We have agreed to them on both sides. One is the Wilson amendment and one is the Kerry amendment. As long as either agrees to not speak at all on either amendment, we will agree to them.

AMENDMENTS NOS. 982 AND 983

Mr. HATCH. Mr. President, I send two amendments to the desk, en bloc, in behalf of Senators WILSON and KOHL, and ask for their immediate consideration. These were inadvertently left out of the last package.

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc.

Mr. HATCH. May I have the amendments read?

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Utah [Mr. HATCH], for Mr. WILSON, proposes an amendment numbered 982, and for Mr. KOHL, (for himself, Mr. KENNEDY and Mr. SIMON) proposes an amendment numbered 983.

Mr. HATCH. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

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

AMENDMENT NO. 982

SEC. . UNITED STATES-MEXICO JOINT AGREEMENT ON THE INTERDICTION OF AIRBORNE NARCOTICS SMUGGLERS.

(a) FINDINGS.—The Congress finds that—

(1) the governments of the United States and Mexico, pursuant to Sec. 4407 of P.L. 100-690, have a Letter of Agreement committing Mexico to reduce drug production, drug consumption, and drug trafficking within its own territory," and "increase cooperation with United States drug enforcement officials;"

(2) between 30 and 33 percent of all marijuana, heroin, and cocaine entering the United States moves through or originates in Mexico;

(3) the Drug Enforcement Administration reports that nearly 60 percent of its illegal cocaine seizures in the Southwest Border area of the United States are air-related;

(4) the Drug Enforcement Administration knows of at least 11 major landing strip locations in Mexico which serve as launching points for airborne cocaine smugglers to fly to the United States and the U.S. Customs Service estimates that such illicit traffickers have approximately 2,000 clandestine runways at their disposal on the American side of the border;

(5) Section 2013 of P.L. 99-570 empowers Congress to evaluate the required annual reports of the President on whether narcotics-producing nations have "cooperated fully with the United States to prevent the cultivation, sale, and traffic of illegal drugs.

(b) POLICY.—The Senate declares that—

(1) the President of the United States should initiate discussions with the Government of Mexico to develop and implement a bilateral agreement to monitor, pursue, and capture airborne smugglers of illicit narcotics. Such an agreement should include provisions for reciprocal overflight and hot pursuit authority as well as arrangements for the joint crewing of United States and Mexican drug enforcement aircraft.

(2) the President should report on the status of negotiations concerning this agreement in the annual International Narcotics Control Strategy Report on Mexico.

(3) if the President certifies in this report that the United States and Mexico have made significant progress toward the conclusion of the agreement, to include provisions for reciprocal overflight and hot pursuit authority as well as arrangements for the joint crewing of United States and Mexican drug enforcement aircraft, described in subsection (1), the Senate would consider such a declaration as a credible sign of the Government of Mexico's desire to "cooperate fully" with the United States on illegal drug interdiction programs pursuant to section 2013 of P.L. 99-570.

Mr. WILSON. Mr. President, I rise to introduce an amendment for the purpose of trying to defuse what has become an agonizing annual struggle among the administration, Congress, and the Government of Mexico.

I refer to the certification process for narcotic-producing nations mandated by the Anti-Drug Abuse Acts of

1986 and 1988. As a result of the prerogative of Congress to pass resolutions decertifying the yearly Presidential reports on whether a foreign government has fully cooperated with the United States, to curb the flow of drugs entering the United States, the Senate has endured two bruising battles with regard to the interdiction record of the Mexican Government.

During these debates, I was once on the losing side and once on the winning side. In 1987, the Senate refused to adopt a resolution of decertification on Mexico, while in 1988 we approved one by nearly a two-thirds margin. But I have witnessed few debates in this body that have left so much misunderstanding and bitterness on both sides concerning the role of Congress in the process of judging another country's efforts to fight the international drug cartels.

Perhaps the central question that gave rise to all of the anger and accusations was the somewhat ambiguous definition of the term full cooperation as it appears in the law. Many of my colleagues legitimately asked what full cooperation meant and how a distant legislative chamber could measure it and then evaluate its merits or shortcomings. The Mexican Government argued that while Congress ignored its achievements in confronting the drug menace, it seized on minor and unavoidable flaws in performance or imposed unclear conditions impossible to fulfill.

The Anti-Drug Abuse Act of 1986, Mr. President, began to remedy some of the shortfalls in the certification process that we learned from our prior debates on the matter. To give more definition to the term of full cooperation, it required the United States Government to negotiate a letter of agreement with Mexico that would outline specific bilateral steps to curb the production and traffic of illicit narcotics.

As negotiated and signed on February 23, 1988, however, this agreement simply restates both nation's commitment to undertaking joint drug interdiction programs. It does not, Mr. President, spell out any new initiatives and it was cobbled together as a pro forma compliance with the law.

My resolution attempts to move the Congress and the administration away from such pro forma rhetoric that has caused so much consternation on this floor since 1987 and toward a specific benchmark or milestone of cooperation on which both nations can work as we approach the next certification period in March 1990.

The smuggling of narcotics by air, Mr. President, clearly presents the most difficult trafficking problem between the United States and Mexico. More than 60 percent of the cocaine that seeps into our land from locations south of the border come by clandestine aircraft. The American Southwest is dotted with some 2,000 makeshift landing strips on which the airborne trafficker can drop his supply. But without wings and propellors, the South American drug cartels would shrivel—losing their speed and evasiveness in the skies, they would have to rely on mules, riverboats, cars, and millions of willing feet. Indeed, the success of the United States-Bahamas task force in combatting the seaborne traffic of drugs has only forced the kingpins to rely even more on the clouds and the air.

This resolution, Mr. President, declares that the President should initiate discussions with the Government of Mexico to conclude a bilateral agreement to monitor, pursue, and capture airborne smugglers of illicit narcotics. It further states that if the administration certifies that both sides have made significant progress on the conclusion of such an agreement, including hot pursuit, joint crewing, and overflight arrangements, the Senate would consider this development as a credible sign of the Mexican Government's desire to cooperate fully with the United States in illegal drug interdiction programs.

Since the Congress created the certification process, Mr. President, we have an obligation to identify the results that we anticipate from it. By targeting one of the largest fundamental problems in the United States-Mexican narcotics control program, this resolution certifies our own commitment to helping devise an international drug interdiction strategy instead of annually bemoaning its absense.

AMENDMENT NO. 983

(Purpose: To require the Secretary of Health and Human Services to conduct a study of the child and youth social service programs administered or operated within the Office of Human Development Services and the family assistance programs administered or operated within the Family Support Administration.)

At the appropriate place, insert the following new section:

SEC. . STUDY OF FAMILY ASSISTANCE, CHILD WELFARE AND YOUTH SOCIAL SERVICE PROGRAMS.

(a) IN GENERAL.—The Secretary of Health and Human Services, acting through the National Academy of Sciences, shall conduct a study consisting of a comprehensive review and examination of the child welfare and youth social service programs administered or operated within the Office of Human Development Services and the family assistance programs administered or operated within the Family Support Administration.

(b) CONTENTS OF STUDY.—The study shall include—

(1) an assessment of the current content and organization of programs and data collection activities, including the relationship of local, State, and Federal government efforts, to protect children and youth and support families;

(2) an identification of the gaps and deficiencies in the activities described in paragraph (1);

(3) a review of the available options for improving the structure and delivery of services and collection of data concerning the activities described in paragraph (1); and

(4) an examination—

(A) of the current array and alignment of programs that addresses the special needs of children with substance abusing parents, children with disabilities and chronic diseases, including HIV infection, and children without adequate housing; and

(B) of how related programs and activities, such as health care and juvenile justice programs, interact with social service and family assistance programs.

(c) REPORT.—Not later than 6 months after the completion of the study required under subsection (a), the Secretary of Health and Human Services shall prepare and submit, to the appropriate Committees of Congress, a report concerning the results of such study, including a response by the Secretary to the report and the recommendations of the Secretary.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $1,000,000.

Mr. HATCH. Mr. President, I urge adoption of the amendments.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to amendments 982 and 983.

The amendments (Nos. 982 and 983) were agreed to.

Mr. BIDEN. I move to reconsider the vote by which the amendments were agreed to.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 984

(Purpose: To improve the ability of States and localities impacted by narcotics related crime to monitor, track, and prosecute major narcotics offenders, money launderers, and youth gangs involved in narcotics activity by improving intelligence regarding narcotics trafficking and money laundering operations)

Mr. KERRY. Mr. President, on behalf of myself and others, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Massachusetts [Mr. KERRY], for himself, Mr. LEVIN, Mr. D'AMATO, Mr. SANFORD, Mr. HARKIN, and Mr. MURKOWSKI, proposes an amendment numbered 984.

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

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

The amendment is as follows:

At the appropriate place in the bill, add the following new sections:

SEC. . Section 501b of the Omnibus Crime Control and Safe Streets Act of 1968 (42 USC 3711 et seq) as amended by the

Anti-Drug Abuse Act of 1988 is amended by adding paragraphs 21 and 22 as follows:

"21. Developing better interstate and intrastate narcotics intelligence networks and systems, including the acquisition of appropriate electronics and computer technologies for the purpose of detecting and monitoring narcotics trafficking and money laundering activities;

"22. Organizing, educating and training special drug intelligence units to combat narcotics trafficking and money laundering enterprises.".

At an appropriate place add the following new subsection:

"States shall give priority to allocations under paragraphs (21) and (22) that reflect the most complex and serious drug intelligence problems confronting units of local government, with particular emphasis on urban populations.".

Mr. KERRY. Mr. President, on behalf of myself, Senator LEVIN, Senator D'AMATO, Senator SANFORD, Senator HARKIN, and Senator MURKOWSKI, I send to the desk an amendment designed to help States and localities fight the war against drugs by providing them with assistance for drug intelligence.

In the original version of this bill, which I will move in the future, we would have authorized $120 million in new funds to help States and localities impacted by narcotics-related crime to improve their drug intelligence operations, including direct formal grants to cities of over 100,000 in population.

We were not able tonight to achieve an agreement with the administration that would have been necessary to secure both passage and the assurance of funding for that legislation. Accordingly, I am instead tonight moving a compromise, which should provide some help to localities as they seek to improve their ability to fight drugs, but not nearly that which is urgently needed.

It is clear to me that today we have a serious gap in drug law enforcement: Specifically, law enforcement at the street level cannot compete with the drug dealers themselves in getting adequate intelligence as to what is going on, on the street.

Today the crime problem in the United States is the drug problem. In those cities where cocaine usage has gone up the most, violent crime has gone up the most, too. The result is that local law enforcement are swamped. They are making more arrests—putting more people in prison—but the price of cocaine continues to go down as supplies increase.

It is clear we must improve the quality of our arrests and prosecution. We can do that best by focusing our resources on improved narcotics intelligence, aimed at making the best cases against the biggest drug and money laundering enterprises—and the youth gangs they are using as some of their principal distribution networks.

The appropriate way to do that best would be by providing cities over 100,000 with direct grants, and by providing the States with additional funds to create drug intelligence and information networks for smaller urban, suburban and rural areas, an approach developed in the original amendment I had intended to offer, the Drug Intelligence Assistance Act of 1989.

In its final form, following negotiations with representatives of the Justice Department, the amendment that I am instead proposing tonight focuses on this problem by adding additional purposes to the current authorized purposes of Federal justice assistance funds. Specifically, it directs that the States may use justice assistance grants to develop better narcotics intelligence networks and systems, and to organize and train special drug intelligence units to combat narcotics trafficking and money laundering criminal enterprises.

The current pool available for these purposes, along with the other purposes authorized by justice assistance will be about $450 million, which I hope will begin to make a significant difference to our States and localities as they try to combat the narcotics menace.

This amendment also directs, however, that in making allocations for drug intelligence, that the States give priority to the "most complex and serious drug intelligence problems confronting units of local government, with particular emphasis on urban populations." That means that the cities, which have been having the hardest time keeping up with the new burdens imposed on them by drug related crimes, should receive the most assistance for drug intelligence under these provisions.

This amendment is the first step in what I intend to be a series of steps designed to leverage a discrete amount of Federal support into significant improvements in the ability of States and localities to locate, track, arrest, and prosecute major narcotics enterprises. Too often today localities do not possess the technical means to combat the enormous enterprises that now control the drug trade.

Over the summer, I chaired a series of field hearings in Massachusetts as head of the Subcommittee on Terrorism and Narcotics of the Foreign Relations Committee, to ask local law enforcement officials what they most needed to fight a drug war. The answer was clear: They don't have adequate resources in place for drug intelligence, and to get it, they need Federal assistance.

And I would like to quote just a few of the comments I received at that time:

From Kim Jajuga, Essex County Drug Task Force, in Massachusetts:

The people in Lawrence and Lynn do not see the international drug trafficker. They do not see Fabio Ochoa in downtown Lawrence. But they cannot live in Lawrence and Lynn in some of these streets. They cannot go outside their houses. They are fearful for their lives.

Mr. Jajuga told me then that there was something he hated to bring up, because it was so basic:

We do not have currently a statewide criminal intelligence network similar to the NADDIS system that is run by the DEA where myself or any one of the other local police chiefs or detectives sitting at this table can access that computer for criminal intelligence. In 1989, Senator, we still have to rely on the old word of mouth and the telephone, and only on personal contact will we get the information necessary.

What kind of equipment do the law enforcement officers on the street have to fight major drug enterprises? According to Mr. Jajuga:

We do not have any sophisticated equipment. There are no pools of sophisticated equipment that are readily available to us.

Lynn has a growing heroin problem—

Mr. Jajuga testified—

Lynn's problem is directly related to New York. Yet there are no formal communications, no formal centralized computer system, no formal anything other than just that one-on-one contact that I have with the New York City Police or the New York City Drug Task Force. It is ludicrous in 1989 that we are still working on this type of system.

Ludicrous, yes. And today, the Federal Government isn't doing anything about it.

When I was a State prosecutor in the mid-1970's, the Federal Government was spending $875 million in 1975 dollars in State and local law enforcement assistance. Last year, that figure was only $150 million total, and even now at $350 million, we have no program for helping the States and cities with drug intelligence.

To quote Plymouth County District Attorney Ron Pina,

Most of the information dealing with crimes and drugs come from the local offices. * * * And that information gets into an office, and then does not get out appropriately to DEA or to the State police * * *. There is no central location.

District Attorney Pina said that if there were a central drug intelligence data base for the sharing of information, it would have a significant impact in his ability to determine the size and location of major narcotics organizations and thereby increase the likelihood of an effective prosecution to shut them down.

There has to be a system by which we share this information and it has got to be on an organized basis, not on a hit-and-miss, case-by-case basis.

And this amendment would make it possible for States and localities to begin the creation of precisely such an organized network.

As Kevin Burke, district attorney, Lawrence, MA, testified before me:

If there is a message that we would like to have you bring back to Washington regarding this new strategy that seems to be emerging, it is that we on the battlefields want a real war on drugs. There has never been one conducted in the 11 years that I have been district attorney. If rhetoric and words are ammunition, then there has been a considerable amount of ammunition fired in the direction of drug dealers, but unfortunately, we found out that the drug dealers are simply not reading the press releases.

We are talking about an investment of billions of dollars that has to be committed on a long-term basis.

All we are doing on the streets is fighting a holding action.

In the words of James O'Neil, attorney general of the State of Rhode Island:

We operate within a criminal justice system that is essentially bankrupt; we operate on shoe-string budgets. We have clear thinkers, but we do not have the resources that allow you to gain the leadership that is necessary.

Attorney General O'Neil testified that drug assistance such as contained in this amendment is the "most glaring need we in the State and local level have."

In the words of Massachusetts Attorney General Jim Shannon:

Priority must be given to those who are out on the frontlines of this war. That means before we fund any studies or plans or Ph.D.'s to tell us we have a problem, let us instead bolster our troops. That means more investigators * * * it means better surveillance equipment.

It's the same story around the rest of the United States, and our cities have the biggest problems of all. We all have heard about what has been happening in Washington, DC, because we're all here, at least during the week.

But the trouble spreads across our land, Mr. President. Major cities across the country experienced significant increases in homicides last year, violent crime is up, serious crime is up, and all the while, Federal assistance has remained at a fraction of the level we provided in the 1970's.

As the U.S. Conference of Mayors and police chiefs found this year, when they developed and adopted a comprehensive national antidrug strategy:

A direct Federal-city relationship must be instituted in the Federal antidrug grant programs to make sure that the funds will be used quickly and effectively in the areas where they are needed most.

In the months to come, I intend to return to this body to request direct aid to cities for law enforcement assistance, as would have been provided under the original version of this legislation. I believe that it is in the interests of the Nation that the Federal Government do its share to help States and cities fight drugs, and that it can best do so by providing not just grants to the States, but to the cities directly.

I urge adoption of the amendment.

Mr. SANFORD. Mr. President, I rise in support of the amendment of my colleague from Massachusetts and commend him for his efforts. I am proud to be an original cosponsor of this legislation when it was introduced as a free-standing bill.

As we all know, the drug epidemic ultimately manifests itself in the form of crimes in our cities and towns. Accordingly, most of the burden of dealing with it falls upon our local law enforcement agencies and officers—sheriffs, the police, and prosecutors.

In a recent trip to North Carolina, I met with several law enforcement officials in our rural areas. I learned that the scourge of drugs has reached even our small towns and farming communities. Crack factories are sprouting up in isolated areas.

Our police are doing the best they can to fight this overwhelming problem, but their resources are limited and the problem is huge. They need our help—and we owe it to them.

This amendment would provide just that help. It would provide badly needed funds to our State and local governments to improve their intelligence gathering capabilities, thus resulting in more arrests, prosecutions, and convictions. Furthermore, this assistance would be made available to cities, where street violence is soaring, and to rural areas to combat their own special problems.

The drug war must be fought on all levels, and this amendment helps achieve that goal.

I urge its adoption.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to amendment No. 984.

The amendment (No. 984) was agreed to.

Mr. BIDEN. I move to reconsider the vote by which the amendment was agreed to.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BIDEN. Mr. President, I ask unanimous consent to include a statement explaining my amendment on civil enforcement of the crack house statute at the appropriate place in the RECORD.

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

SUBTITLE D—CIVIL ENFORCEMENT

Use of civil statutes to close crack houses. Section 416 of the Controlled Substances Act (21 U.S.C. 856) makes it a crime to operate a place for the purpose of manufacturing, distributing or using a controlled substances. This covers places such as "shooting galleries" and "crack houses." Presently this provision is enforceable only as a criminal offense which carries a maximum term of 20 years or a fine of up to $500,000.

Section of the bill amends this provision to provide for civil enforcement. Under the amendment, the Attorney General could shut down a crack house by seeking a civil injunction or eviction and could seek a civil penalty of up to $100,000. The maximum civil penalty is set substantially lower than the maximum criminal fine to make clear that this is a civil regulatory action, not a substitute for charging and proving a criminal offense.

Mr. HATCH. Mr. President, I would like to enter into a short colloquy with my friend Senator BOND.

Yesterday he offered an amendment to S. 1711 amendment (No. 918), in which I joined, to transform the bill's State and local testing requirement into a demonstration project within the Federal criminal justice system. I would like to clear up a possible misunderstanding regarding the scientific and technical standards to be incorporated into that program.

Mr. BOND. Certainly.

Mr. HATCH. The amendment states that the program "shall be based in part on scientific and technical standards determined by the Secretary of Health and Human Services to ensure reliability and accuracy of drug test results." Do I understand correctly that the Secretary of Health and Human Services is to render scientific and technical advice to the Attorney General in designing the program, but that this does not mean that the Secretary of Health and Human Services has approval over the program elements?

Mr. BOND. Yes, that is correct. While the Attorney General will want to draw upon the expertise of the Department of Health and Human Services in purely technical matters, he is not expected, for example, necessarily to follow existing DHHS guidelines for other Federal programs. Indeed, he is peculiarly aware of the special circumstances of the Federal criminal justice system, and we expect him to adapt the program to reflect those realities.

Mr. HATCH. That is my understanding also, and I thank the Senator for that clarification before we proceed to final action on the bill.

LOSING THE EDUCATION AND TREATMENT BATTLE IN THE DRUG WAR

Mr. SANFORD. Mr. President, while I applaud his efforts, the drug war that President Bush outlined in his address to the Nation on September 5, is not a total war and it does not mobilize our resources adequately to win that war. If we are going to declare war on drugs, I am in favor of an all out war. I am in favor of waging a war on both the supply and the demand sides of the drug abuse problem that is thriving in America.

The administration's proposal fails by assuming that by emphasizing law enforcement and increasing prison

space, as if this would eradicate the problem of drugs. However the drug abuse problem in America is all encompassing and needs to be addressed fully on all fronts: decreasing supply through interdiction and law enforcement, as well as decreasing demand through prevention, education, and treatment.

Make no mistake about it. I favor increased strict enforcement of drug laws and increased eradication and interdiction programs. I favor helping Colombia fight their terrorist drug lords. I favor enforcement and heavy sentences for drug dealers, pushers, and users. I favor seizing drug dealers' profits and property. I favor punishing even the most casual drug user.

But none of that will win the war if we are not willing to decrease the demand for drugs through education and rehabilitation, and dispelling the reasons many Americans turn to drugs.

Every time a youth turns to drugs either from ignorance or despair or poverty, we pay the price. We pay increased taxes for jails and the confinement of more and more inmates. We pay increased medical bills because the violence of the drug trade has jammed our hospitals and emergency rooms with wounded drug dealers, gangsters, bystanders, overdosed users, and crack addicted infants. And soon, we will be paying the prices of a generation lost to the emotional, physical, and social tyranny of drugs.

If one tries to find a place for cure and treatment, the lack of sufficient facilities becomes obvious. Even though it makes economic and moral sense, we are doing very little to discourage users and almost nothing to rehabilitate and cure them.

Mr. President, on Monday, September 25, I visited with high school students in Fayetteville, NC. I spoke to them about the hazards of drug abuse and listened to their fears and reactions to the drug abuse problems they witness among their peers. When I asked them if they knew where they could take a friend for drug treatment, only three students raised their hands. I was amazed that out of the entire high school, only three knew of facilities that were available to help with drug treatment and rehabilitation.

This experience has impressed upon me the extreme need for us to focus a significant part of our efforts in this drug war on education, treatment, and rehabilitation. For this reason I supported the compromise drug package that was put together by Members on both sides of the aisle. This package added to the strength of the Bush proposal by fully funding the President's anticrime and antidrug budget requests. But it went further to add $800 million for prevention, education, and treatment. We can watch to determine whether this will be adequate.

The bill before us today, S. 1711, embodies the Bush-Bennett drug plan by requiring States and local governments to implement drug testing programs before they can receive any Federal funding. Mr. President, I believe the adminstration's focus must be adjusted. The drug plan must help our States implement drug rehabilitation and treatment, not make it more difficult for the States to receive drug assistance. This drug-testing mandate will increase the financial burden upon the States, and once the drug tests are performed the plan offers little assistance to help those individuals who have tested positively. I believe it is imperative for us to turn our efforts away from mandating States to perform drug-testing, and turn to increasing our efforts in assisting States in their implementation of drug rehabilitation and treatment programs. Testing can come after we have enough rehabilitation facilities, if at all.

I urge a continuation of efforts to further respond to the growing needs for prevention, education, and treatment programs. If we expect to win this war against drugs we must focus our resources not only on continuing the drug problem through interdiction, eradication, and law enforcement efforts. We must go to the beginning of the drug problem and provide resources for those programs which will help reduce the demand for drugs among the American people and rebuild their self-esteem and their desire to achieve.

Still, we have a long way to go. I would like to see every American, but especially minors and pregnant mothers have available and receive treatment on demand. Moreover, I would like to place emphasis on drug education programs so that every student, from rural North Carolina to Los Angeles, CA, knows where to seek treatment and help for themselves and their friends.

Until we devote enough resources to education and treatment in the drug war, we may be fighting a losing battle. We will be fighting a war with shotguns filled with rock salt. We may sting the drug lords and sellers, but only temporarily. If we do not stop the users, producers and manufacturers will continue to have an arena where they can peddle their harmful goods.

Mr. HEFLIN. Mr. President I rise today in support of President Bush's drug control strategy. I also support the democratic initiative which was made a part of this strategy. The passage of this legislation represents the final part of the first step in what we hope will be a coordinated effort to pursue the fight against illegal drugs. We started this process last year with the passage of the Anti-Drug Abuse Act of 1988 which created the Office of National Drug Control Policy. The provisions contained in that legislation as well as the funding provided in the President's drug control strategy should give drug agencies the necessary tools to make some significant gains in the war on drugs.

No one expects an easy victory in this fight. It will be a long drawn-out battle. We must not lose our will to win. All Americans must become involved and be willing to make sacrifices and do their part if we are to be successful.

This summer I held drug hearings in my State. Almost every witness who testified at these hearings was of the opinion that education is the key to success in this fight. I, too, believe that education is the answer. I did not think that the President's strategy as originally proposed did enough in the area of education and treatment. The Byrd/Democratic initiative does much to correct that deficiency. I think that any well conceived drug strategy must seek a balance between enforcement and education/treatment.

As the funds from this drug legislation are expended we in the Congress must be alert to those programs which are found to be successful. We must provide adequate funding for them and deny funding for those which do not work. In this time of deficit spending we must ensure that we are getting the most for our money even in the war on drugs.

This legislation represents a total package of $9.4 billion. The American people will consider it well spent if we are able to show some progress in our fight to remove the scourge of illegal drugs from our midst.

Mr. GRASSLEY. Mr. President, the drug epidemic in America has left no corner of our Nation untouched, including America's heartland.

President Bush and Drug Control Policy Director William Bennett have formulated a national drug control strategy as a first step toward mobilizing the Nation to respond to this very pressing problem.

The strategy provides a balanced plan of attack by all levels of Government, by the private sector, and by individual Americans against the common energy of drugs.

It may be true that there is nothing radically new in the strategy. It is modest in that it calls for a little more of everything.

But it is radical in its tone, candor, and moral seriousness.

The strategy invokes our society's dependence upon individuals to act within traditional bounds of civility and responsibility—a code of conduct based on traditional values of family, home, and community.

Our society, based on these traditional values, has a right to expect us to conduct ourselves as individuals who are a part of a larger body. It has

a right to expect individuals to respect its traditions. But it also has a right to expect us to be ultimately responsible for the consequences of our own actions.

The use of drugs represents the ultimate act of individual selfishness that rejects any responsibility for oneself, for one's actions, or for one's place in the larger society.

The use of drugs is a part of a culture that places blame for any negative conditions upon the whole society. Drugs represent a "do-your-own-thing" mentality that grew out of the 1960's, which saw our culture suffer from a massive and collective nervous breakdown.

The ultimate goal of the strategy is to reduce the number of Americans who choose to use drugs. This can only be accomplished if individuals who use drugs—whoever they are—are made accountable and responsible for the consequences of their actions.

The roots of our drug crisis are not in the jungles of Bolivia, Colombia, or Peru. They are in the streets of Washington, DC, Des Moines, IA, and other cities. And the drug problem must be solved at the door-step of the over 14 million American drug users—both casual and hardened addict—by curbing their appetite for drugs.

If there are no customers for drugs, there will be no demand. If there is no demand, the supply will rot and wither naturally.

Those who are involved with drugs—either as sellers or buyers—are at war with our society.

The drug problem is not a foreign policy problem—although interdiction and erradication in source countries is an important key to end the use of drugs in the United States; it is not a public health emergency; it is not an addiction crisis; nor can the drug problem be blamed on the chemical or biological effects of drugs.

These just mask the real culprit—we have met the problem and it is us.

Consequently, the drug epidemic is really a cultural—not a political—problem.

Do we coddle the user? Do we provide excuses for him or her? Do we give them clean needles? Do we subsidize their habit? Do we assist him or her on the best mechanics of drug-taking? No.

This is the same thinking that gives us calls for legalization. And like legalization, it is surrender of a different form, but surrender nonetheless.

Families—the most cost-effective social program ever invented, and actually, the first department of health, education, and welfare—along with churches, schools, and police, must all be involved.

The Government is relatively powerless against cultural problems. But it can delegitimize a particular societal want through the force of law. The Government has done so with some success with alcohol and tobacco.

The strategy is a strong affirmation through its effort to stigmatize the use of drugs, that we are going to attempt to do the same with cocaine.

The strategy embodies several other principles.

First, ever mindful of the responsibility to reduce the still-present Federal budget deficit, the war against drugs requires a reordering of our Nation's spending priorities—by all governmental entities.

There are those who believe that the answer to our drug problem is the expenditure of increased Federal funds. This solution will only achieve increasing the already insatiable appetite of the Congress to spend money.

We all know that spending money is the crack-cocaine habit of the Congress. We must remember that increased Federal spending will not win the war on drugs any more than increased Federal welfare spending won the war on poverty in the 1960's.

And we all need to remember that this is not solely a Federal problem.

Second, the criminal justice system must be reinvigorated to restore order and civility to neighborhoods that are now controlled by drug traffickers and their associated gangsters and thugs.

Some claim that the strategy places too much emphasis on law enforcement as the solution to the demand for drugs. Some may even say that the strategy lacks compassion.

These folks contend that in order to eliminate the demand for drugs, the Government—meaning the Federal Government—must institute programs that will employ the unemployed, feed the hungry, and shelter the homeless. In other words, we need to get at the root causes of our drug problem.

We can spend more funds for programs that make us feel good if we like. But an uzi-toting, drug pushing gang member won't be persuaded by compassion. That person already thinks he's got all the answers anyway.

While a great deal of law enforcement is aimed at the supply of drugs in the country through a coordinated program of domestic and foreign interdiction and erradication, vigorous law enforcement also has an effect on demand.

Most individuals who don't use drugs or who have stopped using drugs, do so either because their internal moral compass tells them it is wrong, or because its use is against society's written law.

Law enforcement is used not only to apprehend those who break the law, but also to deter individuals from breaking the law in the first place.

Why else do we enforce any law—from preventing speeding to preventing drug use? We enforce laws not only to apprehend wrongdoers; we enforce laws to deter wrongdoers.

Therefore, the stricter law enforcement tools contained in the strategy will reduce demand for drugs, as well as the supply of drugs.

The strategy supports putting more police in the streets; more presecutors and judges in the courtroom building, more prisons—both State and Federal; and stiffer jail terms for hardened addicts and establishing shock incarceration or boot camps for some who can be brought into the mainstream before they become habitual criminals.

We cannot excuse criminal activity as a product of drug taking. Drug use is not a crutch to be used to excuse all sorts of antisocial behavior. Drug users must be held accountable for all of their actions—even their illegal activity.

We cannot give up on users—but when they break society's rules, users should suffer the consequences.

Swift, sure, and certain punishment for those who do not respect the rights of others must never go out of style in our arsenal of weapons against any criminal element—but especially against drug sellers and buyers.

Third, our local communities must be mobilized to create an atmosphere in which drug use will not be tolerated.

The strategy does not place the burden of the fight against drugs onto the States—even though 96 percent of all drug cases are prosecuted in State courts.

The strategy does—however—place expectations on the States, including increases in State funding for State programs, to perform their fair share of the burden of the fight against drugs.

The strategy encourages the States to pass legislation to:

Establish mandatory minimum sentences for serious drug crimes such as drug trafficking, possession of large amounts of drugs, selling drugs to children, and using children to sell drugs; establish alternative sentencing statutes for first-time nonviolent drug offenders; establish asset forfeiture laws to seize real and personal property derived from illegal drug transactions involving both casual users and drug traffickers; establish schoolyard laws to create drug-free zones around locations frequented by minors and which penalize with stiff minimum and mandatory sentences anyone caught distributing drugs to minors in these zones; establish tough user accountability laws such as suspension of drivers' licenses for a period of years; suspension of State benefits—such as loans, grants, and contracts—for a period of years; and criminalization of offers, attempts, and solicitations to sell or buy drugs; establish drug-free

workplace statutes, for not only State employees and contractors, but also those professions that are licensed by State licensing agencies.

Only with a comprehensive, coordinated plan of action. Federal, State, local, individual—do we have a chance at winning this war.

Fourth, where appropriate, testing should be instituted of prison inmates at various points of their incarceration and of individuals in certain occupations that affect the public health and safety.

Finally, we need to improve on the quality and accountability of education, treatment, and rehabilitation programs.

Mr. President, S. 1711 is the Senate's first legislative response to the drug control strategy and I support it.

There are many of its provisions that I strongly support. They go a long way to implementing the goals of the strategy.

There are, however, some provisions of the bill I may not wholeheartedly agree with. But, as the strategy will change annually to meet new challenges and priorities—because we trust its goals are met—we will have an opportunity to make necessary modifications.

I look forward as we have further opportunities to revisit this very important issue.

Mr. DURENBERGER. Mr. President, today I rise to praise not only the managers of the bill, the Senators from Delaware and Utah, and the chairman of the Senate Labor and Human Resources Committee, Senator KENNEDY, but to praise President George Bush. It was President Bush's leadership that led to this day. It is his strategy that we are implementing. He has pulled the Nation together to fight the common enemy of drugs.

Last week, on the transportation appropriations bill we appropriated an additional $3.2 billion to fight drug abuse. This is on top of the $7.1 billion in the President's budget. Of this amount, nearly $2 billion will go toward education and prevention. And over $5 billion will go toward law enforcement, including $1 billion for prison construction. The additional expenditures will come from an across-the-board cut .43 percent cut of expenditures. Although the cut includes defense spending, it does not affect entitlements like Social Security.

Mr. President, the problem of drug abuse cannot be solved by the Government alone. We will not overcome this scourge until the society as a whole changes its attitude toward drugs. We know education and prevention programs have begun to make a difference on individual attitudes toward the dangers of drugs and have led to a decline in the number of casual users of drugs in this country. That is why I applaud the leaders of the Senate Committee on Labor and Human Resources, the Senators from Massachusetts and Utah. They have developed a package of amendments that is not only bipartisan, but addresses real education and treatment needs for those who abuse drugs.

Included in the leadership package are several amendments of mine. One amendment requires the House of Representatives and Senate establish Employee Assistance Plans [EAP]. EAP's provide those who are having personal problems, especially drug abuse, a program of treatment, rehabilitation, and after care. My amendment will make EAP's available to all congressional members, officers, staff, and family members. It also builds upon the amendment I offered to the 1986 drug bill that required EAP's be made available to all Federal employees. Ideally, these will become a model for private industry throughout the country.

Also included in the leadership package is my proposal to allow the Secretary of Health and Human Services make grants to increase the supply of drug treatment professionals. As we continue to learn about what works and what does not in preventing drug abuse, comprehensive community prevention has proven to be a shining light at the end of the tunnel. Yet no where in the current 28 programs that deal with the war on drugs is there money available to train professionals in community prevention services. My amendment will change this. For the first time, Federal funds can be used to train community prevention professionals.

In addition, I worked with the leaders in drafting an amendment to require treatment facilities to provide a program of posttreatment or "after care" to address the long-term needs of substance abusers. This is a very important aspect of recovery. Statistics show that we are making progress on the easy cases, but are failing when dealing with the hard cases of chronic and hardcore substance abusers. This begins with early targeting and intervention and continues with a solid program of posttreatment or after care. The amendment that the managers and I worked out will help States develop these long-term treatment and support programs.

I also commend the committee leaders and the managers of the bill for recognizing the importance of preventing the use of so-called gateway drugs. The use of gateway drugs like alcohol and tobacco often lead to more dangerous drug use. Of the high school seniors using cocaine, 60 percent began drinking beer, and 56 percent began smoking cigarettes before the age of 13. There is a clear linkage between the use of gateway drugs at an early age and the later use of illicit drugs. If we are to stop our children from using illegal drugs we need to start early and educate children about the dangers of not only illegal drugs, but also the dangers and future implications of legal, gateway drugs as well.

Finally, Mr. President, I am pleased to see that the managers understand that State and local communities have differing needs. The Committee on Labor and Human Resources recently heard testimony about the critical need for adolescent treatment beds in Mississippi. In the whole State of Mississippi there are only 26 adolescent treatment beds. By contrast, Minnesota does not have a shortage of treatment facilities. In fact, in Minnesota you can find 26 adolescent treatment beds in just one of many treatment facilities in the State. Thus, Minnesota does not need adolescent treatment funding like many other States and that is to her credit. Instead what Minnesota needs is money to address the long-term needs of the hard-to-serve chronic substance abusers. The point here, Mr. President, is that different States have different needs in their battle against drugs.

To conclude, the bill we are passing today is the culmination of the President's leadership and the Congress' willingness to follow his lead into a battle we must win. And this bill equips all facets with the essential resources to do so. We will build more prisons, have more judges and better equipped police to catch, sentence, and hold criminals. We will have more treatment facilities to handle those who wish to surrender themselves to a better, more productive drug-free life. And, we will increase the measures already taking place to inoculate the future generation from the attraction and addiction of drugs. These are important steps, that I think are in the right direction to win the battle that has cost all of us so much.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further 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 and was read the third time.

Mr. BIDEN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MITCHELL. Mr. President, Senators who are interested in the catastrophic bill should be aware that following this vote, which will be the last rollcall vote this evening, the distinguished Republican leader and I will be here and will be seeking to obtain unanimous consent to an agreement governing the disposition of the catastrophic bill tomorrow. We have dis-

cussed it with, I believe, all of the individual Senators who have amendments. Senators should be aware of that. It is my expectation that we will go on to the catastrophic bill as soon as the Republican Senators complete their caucus in the morning, and that means at about 10:30. I will discuss that further with the distinguished Republican leader.

So if anyone wants to participate with respect to the catastrophic bill, we are going to seek the agreement this evening. We will be on that at 10:30 tomorrow. I hope to get an agreement to limit the number of amendments and the time so we can dispose of that in an orderly fashion tomorrow. We will be on that bill at or about 10:30 tomorrow morning.

I thank my colleagues. I very much thank the managers for their diligence in handling this bill.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 100, nays 0, as follows:

[Rollcall Vote No. 232 Leg.]

YEAS—100

Adams	Garn	McConnell
Armstrong	Glenn	Metzenbaum
Baucus	Gore	Mikulski
Bentsen	Gorton	Mitchell
Biden	Graham	Moynihan
Bingaman	Gramm	Murkowski
Bond	Grassley	Nickles
Boren	Harkin	Nunn
Boschwitz	Hatch	Packwood
Bradley	Hatfield	Pell
Breaux	Heflin	Pressler
Bryan	Heinz	Pryor
Bumpers	Helms	Reid
Burdick	Hollings	Riegle
Burns	Humphrey	Robb
Byrd	Inouye	Rockefeller
Chafee	Jeffords	Roth
Coats	Johnston	Rudman
Cochran	Kassebaum	Sanford
Cohen	Kasten	Sarbanes
Conrad	Kennedy	Sasser
Cranston	Kerrey	Shelby
D'Amato	Kerry	Simon
Danforth	Kohl	Simpson
Daschle	Lautenberg	Specter
DeConcini	Leahy	Stevens
Dixon	Levin	Symms
Dodd	Lieberman	Thurmond
Dole	Lott	Wallop
Domenici	Lugar	Warner
Durenberger	Mack	Wilson
Exon	Matsunaga	Wirth
Ford	McCain	
Fowler	McClure	

NAYS—0

So the bill (S. 1711), as amended, was passed.

S. 1711

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

TITLE I—RURAL DRUG ENFORCEMENT ACT

SEC. 101. SHORT TITLE.

This title may be cited as the "Rural Drug Enforcement Act".

SEC. 102. LEADERSHIP ON RURAL DRUG POLICY.

(a) DESIGNATION OF OFFICIAL.—The Director of National Drug Control Policy (hereafter in this title referred to as the "Director") shall designate an official in the Office of National Drug Control Policy to act as the Rural Drug Policy Coordinator.

(b) DUTIES OF OFFICIAL.—The Rural Drug Policy Coordinator shall—

(1) examine the special needs of rural areas in drug interdiction;

(2) recommend to the Director policy options for the enhancement of drug interdiction in rural areas;

(3) coordinate the drug interdiction efforts of Federal agencies (including the Drug Enforcement Administration, Bureau of Land Management, the Bureau of Indian Affairs, and the National Forest Service) in rural areas; and

(4) make available to law enforcement agencies in rural areas materials pertinent to drug interdiction in rural areas.

SEC. 103. RURAL DRUG ENFORCEMENT ASSISTANCE.

(a) Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding a new section 509 as follows:

"RURAL DRUG ENFORCEMENT ASSISTANCE

"SEC. 509. (a) There is authorized to be appropriated $20,000,000 for fiscal year 1990 and such sums as may be necessary for each of the fiscal years 1991 and 1992.

"(b) Of the total amount appropriated for this section in any fiscal year:

"(1) 50 per centum shall be allocated to and shared equally among rural States as described in subsection (c); and

"(2) 50 per centum shall be allocated to the remaining States for use in non-metropolitan areas within those States, as follows:

"(A) $100,000 to each nonrural State; and

"(B) of the total funds remaining after the allocation in clause (A), there shall be allocated to each State an amount which bears the same ratio to the amount of remaining funds described as the population of such State bears to the population of all States.

"(c) For the purpose of subsections (b) and (c), the term 'rural State' means a State that has a population density of fifty-two or fewer persons per square mile or a State in which the largest county has fewer than one hundred and fifty thousand people.".

(b) Section 503(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)) is amended by—

(1) at the end of paragraph (10) strike the "." and insert in lieu thereof "; and";

(2) inserting a new paragraph (11) as follows:

"(11) A separate and detailed request for a grant under section 509 of this subpart, including how the funds provided by a grant under section 506 shall be coordinated with funds provided by a grant under section 509.".

SEC. 104. FEDERAL DRUG ENFORCEMENT ASSISTANCE.

(a) In order to provide adequate Federal drug enforcement assistance to each of the several States, and to encourage Federal, State and local drug enforcement cooperation, the Attorney General shall attempt to assign not less than ten Drug Enforcement Administration special agents to each of the several States.

(b) In order to provide adequate Federal drug enforcement assistance to rural States for any rural State that is currently assigned less than ten Drug Enforcement Administration special agents, the Attorney General shall attempt to assign not less than four additional Drug Enforcement Administration special agents to each rural State as defined in section 103 of this Act.

SEC. 105. TRAINING FOR RURAL LAW ENFORCEMENT OFFICERS.

(a) IN GENERAL.—The Secretary of the Treasury, acting through the Federal Law Enforcement Training Center, shall develop a drug training program for law enforcement officers in rural areas.

(b) TRAINING.—By not later than September 30, 1991, the Secretary of the Treasury shall double the number of law enforcement officers from rural jurisdictions in each of the several States that receive drug enforcement training.

(c) AUTHORIZATION.—There is authorized to be appropriated $1,000,000 for fiscal year 1990 and such sums as may be necessary for each of the fiscal years 1991 and 1992 to carry out the purposes of this title.

SEC. 106. BASE ALLOCATION FOR DRUG ENFORCEMENT GRANTS.

(a) AUTHORIZATION.—Paragraph (5) of section 1001(a) of part J of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended to read as follows:

"(5) There are authorized to be appropriated $600,000,000 for fiscal year 1990 and such sums as may be necessary for each of the fiscal years 1991 and 1992 to carry out the programs under parts D and E of this title.".

(b) BASE ALLOCATION.—Section 506(a) of part D of title I of the Omnibus Crime Control and Safe Streets Act (42 U.S.C. 3756(a)) is amended to read as follows:

"(a) Of the total amount appropriated for this part in any fiscal year, the amount remaining after setting aside the amount to be reserved to carry out section 511 of this title shall be set aside for section 502 and allocated to States as follows:

"(1) 0.40 per centum shall be allocated to each of the participating States; and

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

(c) MATCHING REQUIREMENTS.—Section 504(a) of part D of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3754(a)) is amended to read as follows:

"(a) A grant made under this subpart may not be expended for more than 75 per centum of the cost of identified uses for which such grant is received to carry out any purpose specified in section 502, except that in the case of funds distributed to an Indian tribe which performs law enforcement functions (as determined by the Secretary of the Interior) for any such program or project, the amount of such grant shall be equal to 100 per centum of such cost. The non-Federal portion of the expenditures for such uses shall be paid in cash.".

SEC. 107. SHORT TITLE.

(a) This section may be cited as the "Department of Justice Community Substance Abuse Prevention Act of 1989".

(b)(1) COMMUNITY PARTNERSHIPS.—Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end thereof the following:

"Subpart 4—Community Coalitions on Substance Abuse

"GRANTS TO COMBAT SUBSTANCE ABUSE

"SEC. 531. (a) DEFINITION.—As used in this section, the term 'eligible coalition' means an association, consisting of at least seven organizations, agencies, and individuals that are concerned about preventing substance abuse, that shall include—

"(1) public and private organizations and agencies that represent law enforcement, schools, health and social service agencies, and community-based organizations; and

"(2) representatives of three of the following groups: the clergy, academia, business, parents, youth, the media, civic and fraternal groups, or other nongovernmental interested parties.

"(b) GRANT PROGRAM.—The Attorney General, acting through the Director of the Bureau of Justice Assistance, shall make grants to eligible coalitions in order to—

"(1) plan and implement comprehensive long-term strategies for substance abuse prevention;

"(2) develop a detailed assessment of existing substance abuse prevention programs and activities to determine community resources and to identify major gaps and barriers in such programs and activities;

"(3) identify and solicit funding sources to enable such programs and activities to become self-sustaining;

"(4) develop a consensus regarding the priorities of a community concerning substance abuse;

"(5) develop a plan to implement such priorities; and

"(6) coordinate substance abuse services and activities, including prevention activities in the schools or communities and substance abuse treatment programs.

"(c) COMMUNITY PARTICIPATION.—In developing and implementing a substance abuse prevention program, a coalition receiving funds under subsection (b) shall—

"(1) emphasize and encourage substantial voluntary participation in the community, especially among individuals involved with youth such as teachers, coaches, parents, and clergy; and

"(2) emphasize and encourage the involvement of businesses, civic groups, and other community organizations and members.

"(d) APPLICATION.—An eligible coalition shall submit an application to the Attorney General in order to receive a grant under this section. Such application shall—

"(1) describe and, to the extent possible, document the nature and extent of the substance abuse problem, emphasizing who is at risk and specifying which groups of individuals should be targeted for prevention and intervention;

"(2) describe the activities needing financial assistance;

"(3) identify participating agencies, organizations, and individuals;

"(4) identify the agency, organization, or individual that has responsibility for leading the coalition, and provide assurances that such agency, organization or individual has previous substance abuse prevention experience;

"(5) describe a mechanism to evaluate the success of the coalition in developing and carrying out the substance abuse prevention plan referred to in subsection (b)(5) and to report on such plan to the Attorney General on an annual basis; and

"(6) contain such additional information and assurances as the Attorney General may prescribe.

"(e) PRIORITY.—In awarding grants under this section, the Attorney General shall give priority to a community that—

"(1) provides evidence of significant substance abuse;

"(2) proposes a comprehensive and multifaceted approach to eliminating substance abuse;

"(3) encourages the involvement of businesses and community leaders in substance abuse prevention activities;

"(4) demonstrates a commitment and a high priority for preventing substance abuse; and

"(5) demonstrates support from the community and State and local agencies for efforts to eliminate substance abuse.

"(f) REVIEW.—Each coalition receiving money pursuant to the provisions of this section shall submit an annual report to the Attorney General evaluating the effectiveness of the plan described in subsection (b)(5) and containing such additional information as the Attorney General may prescribe. The Attorney General, in conjunction with the Director of the Bureau of Justice Assistance, shall submit an annual review to the Committees on the Judiciary of the United States Senate and United States House of Representatives. Such review shall—

"(1) evaluate the grant program established in this section to determine its effectiveness;

"(2) implement necessary changes to the program that can be done by the Attorney General; and

"(3) recommend any statutory changes that are necessary.

"(g) AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated to carry out the provisions of this section, $15,000,000 for fiscal year 1990, $20,000,000 for fiscal year 1991, and $25,000,000 for fiscal year 1992.".

(2) The table of sections of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end thereof the following:

"SUBPART 4—COMMUNITY COALITION ON SUBSTANCE ABUSE

"Sec. 531. Grants to combat substance abuse.".

TITLE II—JUSTICE ASSISTANCE AND DRUG TESTING

SEC. 201. AMENDMENT RELATING TO JUSTICE ASSISTANCE AND DRUG TESTING.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end of part E (42 U.S.C. 3750-3766b) the following:

"DRUG TESTING DEMONSTRATION PROGRAM

"SEC. 523. (a) DEMONSTRATION PROGRAM.—The Attorney General shall establish a Federal drug testing demonstration program under this section, which shall be based in part on scientific and technical standards determined by the Secretary of Health and Human Services to ensure reliability and accuracy of drug test results. In addition to specifying acceptable methods and procedures for carrying out drug testing, the program may include guidelines or specifications concerning—

"(1) the classes of persons to be targeted for testing;

"(2) the drugs to be tested for;

"(3) the frequency and duration of testing; and

"(4) the effect of test results in decisions concerning the sentence, the conditions to be imposed on release before or after conviction, and the granting, continuation, or termination of such release.

"(b) There is authorized to be appropriated $5,000,000 in fiscal years 1990, 1991, and 1992 to carry out the section.

"(c) STATE IMPACT STUDY.—Of funds appropriated to the National Institute of Justice for fiscal year 1990, not to exceed $400,000 shall be made available to the National Criminal Justice Association to carry out a study of the fiscal and other impacts in States of implementing drug testing programs for targeted classes of arrestees, individuals in jails, prisons, and other correctional facilities, and persons on conditional or supervised release before or after conviction, including probationers, parolees, and persons released on bail. Six months following enactment of this section, the association shall report on its preliminary study findings. The final report on the study shall be completed one year after enactment of this section.

"(d) In issuing regulations pursuant to subsection (b) of this Act, the Attorney General shall also take into account any limitations on the ability of a State to meet the requirements of this Act due to the schedule of its regular legislative sessions and its procedural time requirements for adopting legislation and regulations.".

(b) AMENDMENT TO TABLE OF CONTENTS.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by inserting at the end of the item relating to part E the following:

"Sec. 523. Drug testing program.".

TITLE III—MISCELLANEOUS

PART 1—MANDATORY DETENTION BY SERIOUS OFFENDERS

SEC. 301. SHORT TITLE.

This part may be cited as the "Mandatory Detention for Offenders Convicted of Serious Crimes Act".

SEC. 302. MANDATORY DETENTION.

(a) PENDING SENTENCE.—Subsection (a) of section 3143 of title 18, United States Code, is amended by—

(1) striking "The judicial officer" and inserting:

"(1) Except as provided in paragraph (2), the judicial officer"; and

(2) inserting at the end thereof the following:

"(2) The judicial officer shall order that a person who has been found guilty of an offense in a case described in subparagraph (A), (B), or (C) of subsection (f)(1) of section 3142 and is awaiting imposition or execution of sentence be detained unless—

"(A)(i) the judicial officer finds there is a substantial likelihood that a motion for acquittal or new trial will be granted; or

"(ii) an attorney for the Government has recommended that no sentence of imprisonment be imposed on the person; and

"(B) the judicial officer finds by clear and convincing evidence that the person is not likely to flee or pose a danger to any other person or the community.".

(b) PENDING APPEAL.—Subsection (b) of section 3143 of title 18, United States Code, is amended by—

(1) striking "The judicial officer" and inserting:

"(1) Except as provided in paragraph (2), the judicial officer";

(2) redesignating subparagraphs (A), (B), (C), and (D) of paragraph (2) as clauses (i), (ii), (iii), and (iv), respectively;

(3) redesignating paragraphs (1) and (2) as subparagraphs (A) and (B); and

(4) adding at the end thereof the following:

"(2) The judicial officer shall order that a person who has been found guilty of an offense in a case described in subparagraph (A), (B), or (C) of subsection (f)(1) of section 3142 and sentenced to a term of imprisonment, and who has filed an appeal or a petition for a writ of certiorari, be detained.".

(c) EXCEPTIONAL CASES.—Subsection (c) of section 3145 of title 18, United States Code, is amended by adding at the end the following: "Upon an appeal of the Government, a person who has been detained by the judicial officer pursuant to section 3143 (a)(2) or (b)(2), and who meets the conditions of release set forth in section 3143 (a)(1) or (b)(1), may be ordered released, under appropriate conditions, by a court of appeals or a judge thereof, if it is clearly shown that there are exceptional reasons why such person's detention would not be appropriate.".

SEC. 303. TECHNICAL AMENDMENTS.

(a) CORRECTION OF MISSPELLED WORD.—Subsection (a)(1) of section 3143 of title 18, United States Code, is amended by striking "waiting" and inserting "awaiting".

(b) CORRECTION OF REFERENCE TO REPEALED PROVISION.—Subsections (e) and (f) of section 3142 of title 18, United States Code, are each amended by striking "section 1 of the Act of September 15, 1980 (21 U.S.C. 955a)" and inserting "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)".

PART 2—TECHNICAL AMENDMENTS

SEC. 311. MINIMUM PENALTY RELATING TO SHORT-BARRELED SHOTGUNS AND OTHER FIREARMS.

Section 924(c) of title 18, United States Code, is amended by inserting "and if the firearm is a short-barreled rifle, short-barreled shotgun, or a destructive device, to imprisonment for ten years," after "sentenced to imprisonment for five years,".

TITLE IV—PUBLIC CORRUPTION

SEC. 401. SHORT TITLE.

This title may be cited as the "Anti-Corruption Act of 1989".

SEC. 402. OFFENSE.

Chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 225. Public corruption

"(a) Whoever, in a circumstance described in subsection (d), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of the honest services of an official or employee of such State, political subdivision, or Indian tribal government shall be fined under this title, or imprisoned for not more than ten years, or both.

"(b) Whoever, in a circumstance described in subsection (d), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of a fair and impartially conducted election process in any primary, run-off, special, or general election—

"(1) through the procurement, casting, or tabulation of ballots that are materially false, fictitious, or fraudulent or that are invalid, under the laws of the State in which the election is held;

"(2) through paying or offering to pay any person for voting;

"(3) through the procurement or submission of voter registrations that contain false material information, or omit material information; or

"(4) through the filing of any report required to be filed under State law regarding an election campaign that contains false material information or omits material information,

shall be fined under this title or imprisoned for not more than ten years, or both.

"(c) Whoever, being a public official or an official or employee of a State, political subdivision of a State, or Indian tribal government in a circumstance described in subsection (d), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of the right to have the affairs of the State, political subdivision, or Indian tribal government conducted on the basis of complete, true, and accurate material information, shall be fined under this title or imprisoned for not more than ten years, or both.

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

"(1) for the purpose of executing or concealing such scheme or artifice or attempting to do so, the person so doing—

"(A) places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or takes or receives therefrom, any such matter or thing, or knowingly causes to be delivered by mail according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing;

"(B) transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce any writings, signs, signals, pictures, or sounds;

"(C) transports or causes to be transported any person or thing, or induces any person to travel in or to be transported in, interstate or foreign commerce; or

"(D) uses or causes the use of any facility of interstate or foreign commerce;

"(2) the scheme or artifice affects or constitutes an attempt to affect in any manner or degree, or would if executed or concealed so affect, interstate or foreign commerce; or

"(3) as applied to an offense under subsection (b), an objective of the scheme or artifice is to secure the election of an official who, if elected, would have some authority over the administration of funds derived from an Act of Congress totaling $10,000 or more during the twelve-month period immediately preceding or following the election or date of the offense.

"(e) Whoever deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of the United States of the honest services of a public official or person who has been selected to be a public official shall be fined under this title or imprisoned for not more than ten years, or both.

"(f) Whoever being an official, or public official, or person who has been selected to be a public official, directly or indirectly, discharges, demotes, suspends, threatens, harasses, or, in any manner, discriminates against any employee or official of the United States or any State or political subdivision of such State, or endeavors to do so, in order to carry out or to conceal any scheme or artifice described in this section, shall be fined under this title or subject to imprisonment of up to five years or both.

"(g)(1) Any employee or official of the United States or any State or political subdivision of such State who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against because of lawful acts done by the employee as a result of a violation of subsection (e) or because of actions by the employee on behalf of himself or others in furtherance of a prosecution under this section (including investigation for, initiation of, testimony for, or assistance in such a prosecution) may in a civil action, obtain all relief necessary to make such individual whole. Such relief shall include reinstatement with the same seniority status such individual would have had but for the discrimination, three times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including reasonable litigation costs and reasonable attorney's fees.

"(2) An individual is not eligible for such relief if that individual participated in the violation of this section with respect to which such relief would be awarded.

"(3) A civil action or proceeding authorized by this subsection shall be stayed by a court upon the certification of an attorney for the Government, stating that such action or proceeding may adversely affect the interests of the Government in an ongoing criminal investigation or proceeding. The attorney for the Government shall promptly notify the court when the stay may be lifted without such adverse effects.

"(h) For purposes of this section—

"(1) the term 'State' means a State of the United States, the District of Columbia, Puerto Rico, and any other commonwealth, territory, or possession of the United States;

"(2) the terms 'public official' and 'person who has been selected to be a public official' have the meaning set forth in section 201 of this title; the terms 'public official', and 'person who has been selected to be a public official' shall also include any person acting or pretending to act under color of official authority;

"(3) the term 'official' includes—

"(A) any person employed by, exercising any authority derived from, or holding any position in an Indian tribal government or the government of a State or any subdivision of the executive, legislative, judicial, or other branch of government thereof, including a department, independent establishment, commission, administration, authority, board, and bureau, and a corporation or other legal entity established and subject to control by a government or governments for the execution of a governmental or intergovernmental program;

"(B) any person acting or pretending to act under color of official authority; and

"(C) includes any person who has been nominated, appointed or selected to be an official or who has been officially informed that he or she will be so nominated, appointed or selected;

"(4) the term 'under color of official authority' includes any person who represents what he or she controls, is an agent of, or otherwise acts on behalf of an official, public official, and person who has been selected to be a public official; and

"(5) the term 'uses any facility of interstate or foreign commerce' includes the intrastate use of any facility that may also be used in interstate or foreign commerce.".

SEC. 403. TECHNICAL AND CONFORMING AMENDMENTS.

(a) TABLE OF SECTIONS.—The table of sections for chapter 11 of title 18, United

States Code, is amended by adding at the end thereof the following item:

"225. Public Corruption.".

(b) RICO.—Section 1961(1) of title 18, United States Code, is amended by inserting "section 225 (relating to public corruption)," after "section 224 (relating to sports bribery),".

(c) INTERRUPTION OF COMMUNICATIONS.—Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 225 (relating to public corruption)," after "section 224 (bribery in sporting contests),".

SEC. 404. INTERSTATE COMMERCE.

(a) IN GENERAL.—Section 1343 of title 18, United States Code, is amended by—

(1) striking "transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds" and inserting "uses or causes to be used any facility of interstate or foreign commerce"; and

(2) inserting "or attempting to do so" after "for the purpose of executing such scheme or artifice".

(b) CONFORMING AMENDMENTS.—(1) The heading of section 1343 of title 18, United States Code, is amended by striking "Fraud by wire, radio, or television" and inserting "Fraud by use of facility of interstate commerce".

(2) The chapter analysis for chapter 63 of title 18, United States Code, is amended by striking the analysis for section 1343 and inserting the following:

"1343. Fraud by use of facility of interstate commerce.".

SEC. 405. NARCOTICS-RELATED PUBLIC CORRUPTION.

(a) IN GENERAL.—Chapter 11 of title 18, United States Code, is amended by inserting after section 219 the following new section:

"§ 220. Narcotics and public corruption

"(a) Any public official who, directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person in return for—

"(1) being influenced in the performance or nonperformance of any official act; or

"(2) being influenced to commit or to aid in committing, or to collude in, or to allow or make opportunity for the commission of any offense against the United States or any State;

shall be guilty of a class B felony.

"(b) Any person who, directly or indirectly, corruptly gives, offers, or promises anything of value to any public official, or offers or promises any public official to give anything of value to any other person, with intent—

"(1) to influence any official act;

"(2) to influence such public official to commit or aid in committing, or to collude in, or to allow or make opportunity for the commission of any offense against the United States or any State; or

"(3) to influence such public official to do or to omit to do any act in violation of such official's lawful duty;

shall be guilty of a class B felony.

"(c) There shall be Federal jurisdiction over an offense described in this section if such offense involves, is part of, or is intended to further or to conceal the illegal possession, importation, manufacture, transportation, or distribution of any controlled substance or controlled substance analogue.

"(d) For the purpose of this section—

"(1) the term 'public official' means—

"(A) an officer or employee or person acting for or on behalf of the United States, or any department, agency, or branch of Government thereof in any official function, under or by authority of any such department, agency, or branch of Government;

"(B) a juror;

"(C) an officer or employee or person acting for or on behalf of the government of any State, territory, or possession of the United States (including the District of Columbia), or any political subdivision thereof, in any official function, under or by the authority of any such State, territory, possession, or political subdivision; or

"(D) any person who has been nominated or appointed to be a public official as defined in subparagraph (A), (B), or (C), or has been officially informed that he or she will be so nominated or appointed;

"(2) the term 'official act' means any decision, action, or conduct regarding any question, matter, proceeding, cause, suit, investigation, or prosecution which may at any time be pending, or which may be brought before any public official, in such official's official capacity, or in such official's place of trust or profit; and

"(3) the terms 'controlled substance' and 'controlled substance analogue' have the meaning set forth in section 102 of the Controlled Substances Act.".

(b) CONFORMING AMENDMENTS.—(1) Section 1961(1) of title 18, United States Code, is amended by inserting "section 220 (relating to narcotics and public corruption)," after "Section 201 (relating to bribery),"; and

(2) Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 220 (relating to narcotics and public corruption)," after "section 201 (bribery of public officials and witnesses),".

(c) SECTION ANALYSIS.—The section analysis at the beginning of chapter 11, title 18, United States Code, is amended by inserting the following:

"220. Narcotics and public corruption.".

TITLE V—FEDERAL DEBT COLLECTION PROCEDURES ACT OF 1989

SEC. 501. This title may be cited as the "Federal Debt Collection Procedures Act of 1989".

Subtitle A—Debt Collection Procedures

SEC. 511. Title 28 of the United States Code is amended by inserting immediately after chapter 175 the following:

"CHAPTER 176—FEDERAL DEBT COLLECTION PROCEDURE

"Subchapter

"A. Definitions and General Provisions 3001
"B. Prejudgment Remedies 3101
"C. Judgments; Liens 3201
"D. Postjudgment Remedies 3301
"E. Exempt Property 3401
"F. Fraudulent Transfers 3501
"G. Partition 3601
"H. Foreclosure of Security Interests 3701

"SUBCHAPTER A—DEFINITIONS AND GENERAL PROVISIONS

"Sec.

"3001. Definitions.
"3002. Rules of construction.
"3003. Nationwide enforcement.
"3004. Priority of claims of the United States.
"3005. Claims of United States not barred by State statute of limitations.
"3006. Right of set-off or recoupment.
"3007. Discovery.
"3008. Affidavit requirements.
"3009. Perishable property.
"3010. Immunity.
"3011. Proceedings before United States magistrates.
"3012. United States marshals' authority to designate keeper.
"3013. Co-owned property.
"3014. Assessment of charges on a claim.
"3015. Funding.
"3016. Investigative authority.
"3017. Subrogation.
"3018. Effective Date.

"SUBCHAPTER A—DEFINITIONS AND GENERAL PROVISIONS

"§ 3001. Definitions

"As used in this chapter—

"(a) 'claim' means amounts owing on account of direct loans or loans insured or guaranteed by the United States and all other amounts due the United States from or on account of fees, duties, leases, rents, services, sales of real or personal property, overpayments, fines, assessments, penalties, restitution, damages, interest, taxes, bail bond forfeitures, reimbursements and recovery of costs incurred and other sources of indebtedness. This definition includes amounts due the United States for the benefit of an Indian tribe or individual Indian.

"(b) 'Counsel for the United States' shall include for the purposes of this chapter, a United States attorney, an assistant United States attorney designated to act on behalf of the United States attorney, an attorney with the United States Department of Justice or other Federal agency having litigation authority and any private attorney authorized by contract to conduct litigation for collection of debts on behalf of the United States.

"(c) 'Court' means any court created by the Congress of the United States exclusive of the United States Tax Court.

"(d) 'Debt' means liability to the United States on a claim.

"(e) 'Debtor' means a person who is liable to the United States on a claim.

"(f) 'Debt collection personnel' means personnel employed by any agency of the Federal Government whose primary duties are the collection of the debts owed to the United States.

"(g) 'Disposable earnings' means that part of the earnings remaining after all deductions required by law have been withheld and 'nonexempt disposable earnings' means 25 per centum of disposable earnings.

"(h) 'Earnings' means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus or otherwise, and includes periodic payments pursuant to a pension or retirement program.

"(i) 'Garnishee' means a person other than the debtor who has, or is thought to have, possession, custody or control of any property of the debtor, including obligations owed to the debtor whether such obligations are past due or have yet to become due, against whom a garnishment has been issued by the clerk of the court.

"(j) 'Judgment' means a judgment, order or decree entered in favor of the United States in any court whether arising from a civil or criminal proceeding regarding a claim.

"(k) 'Judgment creditor' means the United States in situations in which the United States has judgments in its favor, whenever referred to in this chapter.

"(l) 'Judgment debtor' means a person against whom the United States holds a judgment on a debt.

"(m) 'Person' includes a natural person, including individual Indians, a corporation, a partnership, an unincorporated association, a trust or an estate or other entity, public or private, including local governments and Indian tribes.

"(n) 'Prejudgment remedy' means the remedies of attachment, garnishment, replevin, receivership, sequestration, injunction or a combination of any of the foregoing that are sought prior to judgment.

"(o) 'Property' includes any present or future interest in real, personal (including, but not limited to, earnings, goods and choses in action), or mixed property, whether legal or equitable, tangible or intangible, vested or contingent, and wherever located and however held, whether held as a tenancy in common, joint tenancy, tenancy by the entirety, community property, in partnership, or in trust (including spendthrift and pension trusts), and excludes any property held in trust by the United States for the benefit of any Indian tribe or individual Indian or any Indian lands subject to restrictions against alienation imposed by the United States.

"(p) 'Service' under the provisions of this chapter shall be in accordance with the Federal Rules of Civil Procedure.

"(q) 'State' includes the several states, the District of Columbia, the Commonwealths of Puerto Rico and the Northern Marianas and any of the territories and possessions of the United States.

"(r) 'United States' includes an officer or agency thereof, a Federal corporation, Federal instrumentality, department, commission, board or other Federal entity.

"(s) 'United States marshal' means the United States marshal, his designee or contractor.

"§ 3002. Rules of construction

"In this title—

"(a) 'includes' and 'including' are not limiting;

"(b) 'or' is not exclusive;

"(c) the singular includes the plural;

"(d) the provisions are general and intended as a unified coverage of the subject matter;

"(e) if any provision or amendment made by this chapter or application thereof to any person is held invalid, the provisions of every other part and their application shall not be affected thereby;

"(f) the cases arising under the provisions herein shall not affect cases arising under admiralty jurisdiction;

"(g) the provisions of this chapter do not and should not be construed to curtail or limit any rights the United States has to collect taxes under any other provision of Federal law;

"(h) the provisions of this chapter do not, and should not be construed to, curtail or limit any rights the United States has under any other provision of Federal law to collect any fine, penalty, assessment, restitution, or forfeiture arising in a criminal case; and

"(i) the provisions of this chapter do not, and should not be construed to, curtail or limit the rights the United States has under any other provision of Federal law to appoint receivers.

"§ 3003. Nationwide enforcement

"Notwithstanding any other provision of law, any writ, order, judgment, or other process, including a summons and complaint, filed under this chapter may be served in any State and may be enforced by the court issuing the writ, order, or process, regardless of where the person is served with the writ, order, or process.

"§ 3004. Priority of claims of the United States

"The priorities established by the various provisions of this chapter shall be superseded by the provisions of section 3713 of title 31, United States Code, when the debtor or, if deceased, his estate is insolvent as determined under that section and the priority of the United States shall be in accordance therewith.

"§ 3005. Claims of the United States not barred by State statute of limitations

"The United States shall not be barred by the statute of limitations of any State in the enforcement of any of its claims.

"§ 3006. Right of set-off or recoupment

"Except as specifically provided for in this chapter, nothing in this chapter shall be construed to affect the common law or statutory rights to set-off or recoupment.

"§ 3007. Discovery

"(a) The United States may have discovery from any person including the debtor regarding the financial condition of the debtor in any case in which the United States seeks to enforce a claim. Such discovery may be before judgment or after judgment is entered in the case and in the manner in which discovery is provided for in the Federal Rules of Civil Procedure.

"(b) After judgment, the United States may also subpoena the judgment debtor or a third party to appear before the court at a location consistent with the Federal Rules of Civil Procedure with all records, books and other documents and to answer under oath questions regarding the debtor's financial condition and ability to satisfy the judgment.

"(c) The court shall impose appropriate sanctions as provided by the Federal Rules of Civil Procedure or the court's contempt power, including arrest of the offending person or debtor, for failure to comply with these discovery procedures.

"§ 3008. Affidavit requirements

"Any affidavit required of the United States by this chapter may be made upon information and belief, where reliable and reasonably necessary, establishing with particularity, to the court's satisfaction, facts supporting the claim of the United States.

"§ 3009. Perishable property

"At any time during any proceedings, other than those under section 3103(a), the court may determine on its own initiative or upon motion of any party, that any seized or detained property, or any portion thereof, is likely to perish, waste, or be destroyed, or otherwise depreciate in value during the pendency of the proceedings. The court shall order the sale of the property or portion thereof and require the proceeds to be deposited with the clerk of the court. For purposes of liability on the part of the United States, the price paid at any such sale shall be conclusively presumed to be the fair market value.

"§ 3010. Immunity

"Counsel for the United States, but excluding any private attorneys authorized by contract to conduct litigation for collection of debts on behalf of the United States, and non-attorney debt collection personnel shall have absolute immunity in their individual and official capacities from any liability arising from errors, omissions or negligence in performance of their official debt collection duties.

"§ 3011. Proceedings before United States magistrates

"A district court of the United States may assign its duties in proceedings under this chapter to a United States magistrate to the extent not inconsistent with the Constitution and laws of the United States. A district court may adopt appropriate rules to carry out any such assignment.

"§ 3012. United States marshals' authority to designate keeper

"Whenever the United States marshal is authorized to seize property pursuant to the provisions of this chapter, the United States marshal shall be authorized to designate another person or Federal agency to hold for safekeeping such property seized.

"§ 3013. Co-owned property

"The remedies available to the United States under this chapter shall be enforced against property which is co-owned by a debtor and others to the extent allowed by the law of the State where the property is located.

"For the purposes of this section, 'property' does not include the rights or interest of an individual other than the debtor in a retirement system for Federal military or civilian personnel established by the United States or any agency thereof. A 'retirement system for Federal military or civilian personnel' means a pension or annuity system for Federal military or civilian personnel of more than one agency, or for some or all of such personnel of a single agency, established by statute or regulation pursuant to statutory authority.

"§ 3014. Assessment of charges on a claim

"The United States may assess on a claim a charge of 10 per centum of the amount of the claim to cover the cost of processing and handling the litigation and judicial enforcement of the claim.

"§ 3015. Funding

"It is hereby authorized that such sums be appropriated as may be necessary to carry out the provisions of this chapter. Appropriations authorized under this section shall remain available for obligations necessary to implement this chapter for one year.

"§ 3016. Investigative authority

"When the United States has reason to believe that an activity in violation of legal standards threatens to deprive it of a claim, the appropriate United States Attorney may commence a proceeding against named or unknown parties for the purpose of determining whether a claim for relief should be asserted under applicable law, and all discovery proceedings available under the Federal Rules of Civil Procedures shall be available in such proceeding.

"§ 3017. Subrogation

"When the United States asserts a claim against a debtor for sums alleged to be due the United States, the United States may name as an additional defendant then or by way of amendment of its complaint, any party reasonably believed to owe sums to the debtor arising out of the transaction or occurrence giving rise to the obligation to the United States, including but not limited to obligations on account of requirements to provide goods or services pursuant to a loan or loan guarantee extended pursuant to Federal law. If such party pays or is found liable, any amounts paid to the United

States shall be credited to the account of the debtor.

"§ 3018. Effective date

"This Act and the amendments made by this Act shall take effect one hundred and eighty days after the date of enactment and shall apply to all claims and debts owed to the United States and judgments in favor of the United States.

"SUBCHAPTER B—PREJUDGMENT REMEDIES

"Sec.
"3101. Prejudgment remedies with prior notice.
"3102. Prejudgment remedies without prior notice.
"3103. Attachment.
"3104. Garnishment.
"3105. Injunctions.
"3106. Sequestration.
"3107. Replevin.
"3108. Receivership.

"SUBCHAPTER B—PREJUDGMENT REMEDIES

"§ 3101. Prejudgment remedies with prior notice

"(a) APPLICATION.—(1) The United States may in conjunction with the complaint or at any time after the filing of a civil action, make application, under oath, to the court to issue any prejudgment remedy allowed by law.

"(2) Such application shall be filed with the court and shall set forth the factual and legal basis for each prejudgment remedy sought.

"(3) Such application shall state that the party against whom any prejudgment remedy is sought shall be afforded an opportunity for a hearing.

"(b) GROUNDS.—Any prejudgment remedy may be issued in favor of the United States by any court of the United States on application before judgment when—

"(1) the application sets forth with particularity, that all statutory requirements for the issuance of such prejudgment remedy sought under this chapter have been complied with by the United States; and

"(2) the court finds that the United States has shown the probable success of its claim.

"(c) NOTICE; FORM OF NOTICE.—Upon the filing of an application, the clerk of the court shall issue a notice directed to any person against whom any prejudgment remedy would operate, substantially in the following form—

"NOTICE

"You are hereby notified that your [property] may be taken away from you by the United States, which says that you owe the United States a debt of $[amount]. The United States wants to take your property so that it can be sure you will pay if the court decides that you owe this money.

"If you do not want to have your property taken away, you may ask for a hearing before this court. You may ask for the hearing anytime within 20 days from the date that this notice was mailed as indicated below. The hearing, if you so demand, will take place within five working days after you notify the court, or as soon thereafter as is practicable. You may ask for the hearing by checking the box at the bottom of this notice and filing it with the court at the following address: [address of court]. You must also send a copy to counsel for the United States at [address], so that the United States knows that you want the hearing.

"At the hearing, the court will decide whether the claim against you is probably valid and whether other legal requirements have been met. In addition, there are certain exemptions under Federal law which you may be entitled to claim with respect to the property.

"If you do not check the box requesting a date for a hearing and take this notice to the court within twenty days, the court will automatically assume you do not want a hearing and you will lose your right to a hearing before the United States may take your property with the court's permission.

"If you have any questions concerning your rights or this procedure, you should consult an attorney.

"DATE OF MAILING: _____

"(d) SERVICE OF NOTICE AND APPLICATION.—(1) A copy of the notice and a copy of the application for issuance of any prejudgment remedy shall be served by counsel for the United States by first class mail on each party against whom any remedy is sought. If such service is not possible, then service may be made under rule 4 of the Federal Rules of Civil Procedure, as appropriate.

"(2) Proof of service by mail may be made by affidavit or certification of mailing and shall set forth the actual date of mailing.

"(e) TIME TO REQUEST HEARING DATE; FORM OF REQUEST.—(1) Each person served with a copy of the notice set forth above and the application for any prejudgment remedy may request a date be set for the hearing on such application by filing with the clerk of the court within twenty days after service of the notice a written request for hearing date. The request for hearing shall be made by using the form provided or in some other writing. A copy of the request for hearing date shall be mailed by the person requesting the hearing to counsel for the United States.

"(2) The clerk of the court shall apprise counsel for the United States and the person requesting the hearing of the date of hearing.

"(f) WAIVER OF HEARING.—(1) If no request for hearing date is filed within the required time, counsel for the United States shall file an affidavit of default setting forth that service was made, that no request for hearing date was filed and that the party against whom any prejudgment remedy is sought has apparently waived any hearing. Counsel for the United States shall also file a proposed form of the written order requested. Upon filing of such affidavit, the clerk shall enter the order of waiver of record and any party so defaulted loses his right to a hearing prior to the issuance of the prejudgment remedy sought.

"(2) Upon entry of the order of waiver, the clerk shall immediately deliver the court file to the judge to whom the matter is assigned.

"(g) JUDICIAL REVIEW APPLICATION; ISSUANCE OF PREJUDGMENT REMEDIES WITH NOTICE.—(1) The court shall, within five days after hearing or the entry of the order of waiver, or as soon thereafter as is practical, review and examine all pleadings, evidence, affidavits and documents filed in the action to determine the following:

"(A) that evidence of service has been filed together with the original of the application and copy of notice;

"(B) where an order of waiver has been entered, that the affidavit of default has been filed and the order entered by the clerk;

"(C) that the claim or claims of the United States are based on facts established by the evidence or stated in the affidavit are sufficient to show that such claim or claims are probably valid; and

"(D) that any statutory requirement of this chapter for the issuance of any prejudgment remedy has been shown.

"(2) Upon the court's determination that the requirements of subsection (g)(1) have been met, the court shall issue all process sufficient to put into effect the prejudgment remedy sought.

"§ 3102. Prejudgment remedies without prior notice

"(a) GROUNDS.—Any prejudgment remedy may be issued by any court without prior notice to the person against whom it will operate when the United States has a reasonable cause to believe that—

"(1) the person against whom the prejudgment remedy is sought is about to leave the jurisdiction of the United States with the intent to hinder, delay, or defraud the United States and has refused to secure that debt, or is a fugitive from justice;

"(2) such person has secreted or is about to secrete property;

"(3) such person has or is about to assign, dispose, remove, or secrete property, wholly or in part, or that such person is about to assign or dispose of property with the effect of hindering, delaying, or defrauding creditors;

"(4) the United States is the owner, lessor or otherwise is lawfully entitled to the immediate possession of the property claimed and is seeking a prejudgment remedy in the nature of replevin, receivership or sequestration;

"(5) a prejudgment remedy is required to obtain jurisdiction within the United States;

"(6) a constructive or resulting trust should be impressed on the property in favor of the United States if such person is likely to put the property beyond the reach of the United States;

"(7) the person against whom the prejudgment remedy is sought is converting, is about to convert or has converted his property of whatever kind, or some part thereof, into money, securities, or evidence of debt in a manner prejudicial to creditors;

"(8) the person against whom the prejudgment remedy is sought has evaded service of process by concealing himself or has temporarily withdrawn from the jurisdiction of the United States; or

"(9) the debt is due for property obtained illegally or by fraud.

"(b) APPLICATION; AFFIDAVIT; BOND; ISSUANCE OF WRIT.—(1) Contemporaneously with or at any time after the filing of a civil action, the United States shall file an application supported by an affidavit made upon information and belief, where reliable and reasonably necessary, establishing with particularity to the court's satisfaction facts supporting the probable validity of the claim and the right of the United States to recover what is demanded in the application. The application shall state the amount of the debt owed the United States, including principal, interest, and costs, if any, and one or more of the grounds set forth in section 3102(a) and the specific requirements of the specific remedy sought.

"(2) No bond is required of the United States.

"(3) Upon the court's determination that the requirements of subsection (b)(1) have been met, the court shall issue all process sufficient to put into effect the prejudgment remedy sought.

"(c) NOTICE AND HEARING; WAIVER OF HEARING.—(1) Upon filing of an application as

provided in this section, the clerk shall issue notice in substantially the following form to the counsel for the United States for service upon the party against whom any prejudgment remedy is sought in accordance with subsection (3) of this section—

"NOTICE

"You are hereby notified that your [property] is being taken away from you by the United States, who says that you owe it a debt of $[amount]. The United States is taking your property because it says

[Insert one or more of the specific grounds set forth in section 3102(a).]

"In addition, you are hereby notified that there are certain exemptions under Federal law which you may be entitled to claim with respect to your property.

"If you disagree and think you do not owe the United States, or that you have not done what is stated above, then you can ask this court to hear your side of the story and give your property back to you. If you want such a hearing, it will be given to you within five working days if you so demand after you notify the court that you want one. To do so, check the box at the bottom of this notice or prepare your request in writing and mail it or take it to the clerk of the court at the following address: [address]. You must also send a copy to counsel for the United States at [address], so that the United States will know you want a hearing.

"If you do not request a hearing within thirty days from [date of issue] your property may be disposed of without further notice.

"You should consult a lawyer if you have any questions about your rights about this procedure.

"(2) When a prejudgment remedy is issued under this section, the person against whom it is sought may immediately move to quash such order and the court shall on the request of the debtor hear such motion within five days from the date the request was filed. The issues at such hearing shall be limited to—

"(A) the probable validity of the claim or claims of the United States and any defenses and claims of exemptions of the party against whom such prejudgment remedy will operate; and

"(B) the existence of any statutory requirement for the issuance of any prejudgment remedy sought, plus the existence of any ground set forth in section 3102(a) of this chapter.

"(3) Counsel for the United States shall, at the time of the seizure, attachment or garnishment, or within three days thereafter, exercise reasonable diligence to serve the person against whom a prejudgment remedy is sought with an application, order and prescribed notice of the seizure, impoundment or such other act ordered by the court and of said person's right to an immediate hearing contesting the same.

"(4) If no request for a hearing is filed with the clerk within thirty days after the notice of seizure is issued by the clerk, the United States may dispose of the property as provided for in this subchapter.

"§ 3103. Attachment

"(a) PROPERTY SUBJECT TO ATTACHMENT.—(1) All property of the debtor or garnishee, except earnings and property exempt under the provisions of this chapter, may be attached pursuant to a writ of attachment in any action in which a debt or damages are recoverable and may be held as security to satisfy such judgment and costs as the United States may recover.

"(2) The amount to be secured by an attachment shall be determined as follows—

"(A) the amount of the debt owed to the United States by the defendant; and

"(B) the estimated amount of interest and costs likely to be taxed by the court.

"(3) In any action or suit for an amount which is liquidated or ascertainable by calculation, no attachment shall be made for a larger sum than the amount of the debt and such additional amount as is reasonably necessary to provide for interest thereon and costs likely to be taxed in the action.

"(b) AVAILABILITY OF ATTACHMENT.—The United States after complying with the provisions of section 3101 or 3102 may, in the following cases, have the property of the defendant attached as security for satisfaction of any judgment which may be recovered by the United States—

"(1) in an action upon a contract, express or implied, for payment of money which is not fully secured by real or personal property, or, if originally so secured, the value of such security may, without any act of the United States or the person to whom the security was given, be substantially diminished below the amount of the debt;

"(2) when an action is pending for damages in tort and the defendant is about to dispose of or remove his property beyond the jurisdiction of the United States;

"(3) in an action for damages or upon contract, express or implied, against a defendant not residing within the jurisdiction of the United States; or

"(4) in an action to recover fines, penalties, or taxes.

"(c) ISSUANCE OF WRIT; CONTENTS.—(1) A writ of attachment shall be issued by the court directing the United States marshal of the district where the property is located to attach so much of the defendant's property as will be sufficient or is available to satisfy the debt of the United States.

"(2) Several writs of attachment may, at the option of the United States, be issued at the same time, or in succession, and sent to different districts until sufficient property is attached to satisfy the debt.

"(3) The writ of attachment shall contain—

"(A) the date of the issuance of the writ;

"(B) the court title and the docket number and name of the cause of action;

"(C) the name and last known address of the defendant;

"(D) the amount to be secured by the attachment; and

"(E) a reasonable description of the property to the extent available.

"(d) LEVY OF ATTACHMENT.—(1) The United States marshal receiving the writ shall proceed without delay to levy upon the property of the defendant found within his district, unless otherwise directed by counsel for the United States. The marshal shall not sell property unless ordered by the court.

"(2) In performing the levy, the United States marshal may enter onto the lands and into the residence or other buildings owned, occupied or controlled by the defendant. In cases where the writ is issued pursuant to section 3101, the marshal shall not enter into a residence or other building except upon specific order of the court.

"(3) When real property is levied upon, the United States marshal shall file a copy of the notice of levy in the same manner as provided for judgments in section 3202. The United States marshal shall also serve a copy of the writ and notice of levy upon the defendant in the same manner that a summons is served in a civil action and make his return thereof. If the United States marshal is unable to serve the writ upon the defendant, he shall post the writ and notice of levy in a conspicuous place upon the property and so make his return thereof.

"(4) Levy upon personal property is made by taking possession of it. Levy on personal property not easily taken into possession or which cannot be taken into possession without great inconvenience or expense, may be made by affixing a copy of the writ and notice of levy on it or in a conspicuous place in the vicinity of it describing in the notice of levy the property by quantity and with sufficient detail to identify the property levied upon. A copy of the writ and notice of levy shall also be served upon the defendant in the same manner that a summons is served in a civil action. Upon completion of the levy of personal property, the United States marshal shall so make his return thereof.

"(e) RETURN OF WRIT; DUTIES OF MARSHAL; FURTHER RETURN.—(1) A United States marshal executing a writ of attachment shall return the writ with his action endorsed thereon or attached thereto and signed by him, to the court from which it was issued within thirty days after the date of the levy.

"(2) The return shall describe the property attached with sufficient certainty to identify it, state the location where it was attached, when it was attached and the disposition made of the property. If no property was attached, the return shall so state.

"(3) When personal property has been replevied as authorized by section 3103(j), the United States marshal shall deliver the replevin bond to the clerk of the court to be filed in the action.

"(4) When the property levied on is claimed, replevied or sold after the return, the United States marshal shall immediately make a further return to the clerk of the court showing the disposition of the property.

"(f) LEVY OF ATTACHMENT AS LIEN ON PROPERTY; SATISFACTION OF LIEN.—(1) A levy on property under a writ of attachment creates a lien on the property in favor of the United States.

"(2) The levy of the writ of attachment upon any property of defendant subject thereto is a lien from the date of the levy on the real property and on such personal property as remains in the custody of the attaching United States marshal and on the proceeds of such personal property as is sold.

"(3) The lien in favor of the United States marshal shall be ranked ahead of any other security interests perfected after the time of levy and filing of a copy of the notice of levy pursuant to subsection (d)(3) of this section.

"(4) The lien shall arise from the time of levy and continue until a judgment in the case is obtained or denied, or the action is otherwise dismissed. The death of the defendant whose property is attached does not terminate the attachment lien. Upon issuance of a judgment in the action and registration under this chapter, the judgment lien so created relates back to the time of levy.

"(5) Upon entry of judgment for the United States, the court shall order the proceeds of the personal property, if any has been sold, to be applied to the satisfaction of the judgment, and also order the sale of any remaining personal property and the

sale of any real property levied on to satisfy the judgment.

"(g) ATTACHMENT OF PERISHABLE PROPERTY; SALE; PROCEDURE.—(1) When personal property that has been attached is not replevied, the court may order it to be sold when it appears that the property is in danger of serious and immediate waste or decay, or that keeping it until trial will result in such expense or deterioration in value as substantially will lessen the amount likely to be realized therefrom.

"(2) In ascertaining whether the property is in danger of serious and immediate waste or decay or that keeping of the property until trial will result in such expense or deterioration in value as will substantially lessen the amount likely to be realized therefrom, the court may require or dispense with notice to the parties and may act upon such information provided by affidavit, certificate of the United States marshal or other proof, as appears sufficient to protect the interest of the parties.

"(h) DISPOSITION OF PROCEEDS OF SALE OF PERISHABLE PROPERTY; REPORT OF SALE.—Within five days after sale, the proceeds of the sale as provided in subsection 3103(g) after deduction of the United States marshal's expenses therefrom shall be paid by the United States marshal making the sale to the clerk of the court. The proceeds shall be accompanied by a statement in writing and signed by the United States marshal, to be filed in the action, stating the time and place of sale, the name of the purchaser and the amount received with an itemized account of expenses.

"(i) PRESERVATION OF PERSONAL PROPERTY UNDER ATTACHMENT.—If personal property in custody of the United States marshal under a writ of attachment is not replevied, claimed or sold, the court may make such order for its preservation or use as appears to be to the interest of the parties.

"(j) REPLEVIN OF ATTACHED PROPERTY BY DEFENDANT; BOND.—At any time before judgment, if the property has not previously been sold, defendant may replevy the property or any part thereof by giving a bond approved by counsel for the United States or the court and payable to the United States in double the amount of the debt.

"(k) JUDGMENT WHERE PERSONAL PROPERTY REPLEVIED.—When personal property under attachment has been replevied, the judgment which may be entered shall be against defendant and also against the sureties on his replevin bond for the amount of the judgment, interest and costs.

"(l) RESTORATION OF PROPERTY OR EXONERATION OF BOND; LEVY ON EXEMPT PROPERTY.—(1) If the attachment is vacated or if the judgment is for defendant, the court shall order the property or proceeds thereof restored to defendant or exonerate the replevin bond. The court may determine under what circumstances the defendant is entitled to receive the proceeds rather than the attached property.

"(2) When any property claimed to be exempt is levied upon, defendant may, at any time after such levy, apply to the court for vacation of such levy. If it appears to the court that the property so levied upon is exempt, the court shall order the levy vacated and the property returned to defendant.

"(m) REDUCTION OR DISCHARGE OF ATTACHMENT.—(1) If an excessive or unreasonable attachment is made, the defendant or person whose property has been attached may submit a written motion to the court which issued the writ for a reduction of the amount of the attachment or its discharge. Notice of such motion shall be served upon the United States in accordance with the Federal Rules of Civil Procedure. The defendant may move for reduction or dissolution of attachment as appropriate.

"(2) The court shall order a part of the property to be released, if upon hearing the court finds that the amount of the attachment is excessive or unreasonable or where the attachment is for a sum larger than the liquidated or ascertainable amount of the debt plus an amount necessary to include interest and costs likely to be taxed.

"(3) The court shall dissolve the attachment if the amount of the debt is unliquidated and unascertainable by calculation.

"§ 3104. Garnishment

"(a) All prejudgment garnishments shall meet the requirements of sections 3101 and 3102.

"(b) All prejudgment garnishments as authorized by the court hereunder shall be issued and answered in the same manner and to the same extent as set forth in section 3306 with the following exceptions—

"(1) The writ shall specify the date that the order authorizing prejudgment garnishment was entered.

"(2) The writ shall specify the amount claimed by the United States.

"§ 3105. Injunctions

"Whether or not there are other remedies available to the United States under this chapter, nothing in this chapter shall be construed to preclude or otherwise limit the United States or any other party from obtaining injunctive relief under the Federal Rules of Civil Procedure in actions for debts owed the United States.

"§ 3106. Sequestration

"(a) APPLICATION FOR WRIT OF SEQUESTRATION AND ORDER.—If the United States claims in its complaint the right to title or possession of property or seeks to enforce a lien or security interest in such property, the United States may file an affidavit showing—

"(1) a description of the property sufficient to identify it;

"(2) the approximate value of the property;

"(3) the location of the real property, or in the case of personal property, the last known and likely locations of the property; or

"(4) the availability of sequestration.

"(b) AVAILABILITY OF SEQUESTRATION.—The United States after complying with, or in addition to, the provisions of sections 3101 or 3102 may have property sequestered—

"(1) upon a showing that there exists an immediate danger that the debtor or garnishee of such property will ill treat, waste, destroy or convert to his own use the property, which includes, but is not limited to, crops, timber, rents, perishable goods, livestock or the revenues therefrom; or

"(2) upon a showing that title to or possession of such property has been secured by the debtor or other defendant or the party in possession by surreptitious means, trick, scheme, fraud, force, violence, claim of adverse possession or such other claims or any means adverse to the claim in title or possession, or both, of the United States.

"(c) ISSUANCE OF WRIT.—A writ of sequestration shall be issued by the court directing the debtor or other defendant or party in possession to sequester the property and deliver it to the United States.

"(d) Unless inconsistent, the provisions governing section 3103 (g) through (l) shall be applicable to this section.

"(e) These writs shall be served in accordance with the Federal Rules of Civil Procedure.

"§ 3107. Replevin

"(a) APPLICATION FOR WRIT.—If the United States claims in its complaint the right to possession of specific personal property, the United States may, at any time after complying with the provisions of section 3101 or 3102, file an affidavit showing—

"(1) that the United States is the owner of the property claimed, or is lawfully entitled to its immediate possession;

"(2) a description of the property;

"(3) that the property is wrongfully detained by the defendant; or

"(4) the approximate value of the property.

"(b) SEIZURE.—If the court determines the United States has met the above requirements, it shall order that the United States marshal take possession of the specified property and deliver it to the United States.

"(c) REDELIVERY OF POSSESSION TO DEFENDANT.—The defendant may obtain redelivery of the property or any part thereof by giving bond as set forth in section 3103(j).

"§ 3108. Receivership

"(a) APPOINTMENT OF A RECEIVER.—The United States may apply for the appointment of a receiver for property in which it has an interest and which is or is to be the subject of an action in court. The application may be filed at any time prior to judgment or during the pendency of an appeal if there is a danger that the property will be removed from the jurisdiction of the court, lost, materially injured or damaged, mismanaged or the United States has otherwise established grounds for such relief under section 3101(a) or 3102(a). However when the security agreement so provides, a receiver shall be appointed without notice or without regard to adequacy of security. An application made by the United States when it is not already a party to the action constitutes an appearance in the action and the United States shall be joined as a party.

"(b) POWERS OF RECEIVER; EMPLOYMENT OF COUNSEL.—The court appointing a receiver may authorize him to take possession of real and personal property and sue for, collect and sell obligations upon such conditions and for such purposes as the court shall direct and to administer, collect, improve, lease, repair or sell such real and personal property, as the court shall direct. A receiver appointed to manage residential or commercial property shall have demonstrable expertise in the management of these types of property. Unless expressly authorized by order of the court, a receiver shall have no power to employ attorneys, accountants, appraisers, auctioneers or other professional persons. Upon motion of the receiver or a party, powers granted to a receiver may be expanded or limited. A receiver appointed under the terms of a security agreement shall be entitled to recover the rents and profits of the property covered by the security agreement as additional security and to pay them over to the United States in payment of any amount due arising from a default by the debtor.

"(c) UNITED STATES AS SECURED PARTY.—In the event of any default or defaults in paying the principal, interest, taxes, water, rents, or premiums of insurance required by the security instrument or in the event of a nonfinanced default or defaults, the United States in any action to foreclose the security interest shall be entitled, without notice and without regard to adequacy of any secu-

rity for the debt, to the appointment of a receiver of the rents and profits of the premises covered by the security interest, and the rents and profits of the premises are assigned to the United States as further security for the payment of the debts.

"(d) DURATION OF RECEIVERSHIP.—In an action to foreclose a security interest, the receivership shall terminate when the purchaser at the foreclosure sale takes lawful possession of the property unless the court directs otherwise. In all other actions, the receivership shall not continue past the entry of judgment unless the court orders it continued under section 3302(b) or unless the court otherwise directs its continuation.

"(e) ACCOUNTS; REQUIREMENT TO REPORT.—A receiver shall keep written accounts itemizing receipts and expenditures, describing the property and naming the depository of receivership funds and his accounts shall be open to inspection by any person having an apparent interest in the property. The receiver shall file reports at regular intervals as directed by the court and shall serve the United States with a copy thereof.

"(f) REMOVAL.—Upon motion of any party or upon its own initiative, the court which appointed the receiver may remove him at any time with or without cause.

"(g) PRIORITY.—If more than one court appoints a receiver, the receiver first qualifying under law shall be entitled to take possession, control or custody of the property.

"(h) COMMISSIONS OF RECEIVERS.—

"(1) GENERALLY.—A receiver is entitled to such commissions not exceeding 5 per centum of the sums received and disbursed by him as the court allows unless the court otherwise directs.

"(2) ALLOWANCE WHERE FUNDS DEPLETED.—If, at the termination of a receivership, there are no funds in the hands of a receiver, the court may fix the compensation of the receiver in accordance with the services rendered and may direct the party who moved for the appointment of the receiver to pay such compensation in addition to the necessary expenditures incurred by the receiver which remained unpaid.

"(3) PROCEDURE.—At the termination of a receivership, the receiver shall file a final accounting of the receipts and disbursements and apply for compensation setting forth the amount sought and the services rendered by him.

"SUBCHAPTER C—JUDGMENTS; LIENS

"Sec.
"3201. Judgment by confession.
"3202. Judgment lien.
"3203. Sale of property subject to judgment lien.
"3204. Interest on judgments.

"SUBCHAPTER C—JUDGMENTS; LIENS

"§ 3201. Judgment by confession

"(a) GENERAL PROVISION.—On application, a court may enter a judgment by confession in favor of the United States without the filing of a civil action for money due and owing.

"(b) VENUE.—The confession of judgment shall be filed in the district in which one or more of the defendants reside, can be found, are doing business at the time of the application, or in cases proceeding by in rem or quasi in rem jurisdiction where the property sought to be adjudicated is located.

"(c) STATEMENT BY DEFENDANT; CONTENTS.—Before a judgment by confession shall be entered, a sworn statement in writing shall be made and signed by the defendant after default and subsequent notice by the United States and filed with the court along with the application, stating—

"(1) the amount for which judgment may be entered and authorizing the entry of judgment;

"(2) the facts out of which the debt arose and that the amount confessed is justly due; and

"(3) that the person signing the statement understands that a judgment by confession allows the entry of judgment without further proceedings and authorizes enforced collection of the judgment.

"(d) ENTRY OF JUDGMENT.—The confession of judgment may be filed with the clerk of the court. The clerk shall enter a judgment for the amount confessed.

"(e) CONFESSION BY JOINT DEBTORS.—One or more joint debtors may confess a judgment for a joint debt due. Where all the joint debtors do not join in the confession, the judgment shall be entered and enforced against only those who confessed it. A confessed judgment against some of the joint debtors is not a bar to an action against the other joint debtors.

"(f) ENFORCEMENT OF JUDGMENT BY CONFESSION.—Judgments by confession shall be enforced in the same manner as other judgments.

"§ 3202. Judgment lien

"(a) CREATION OF LIEN GENERALLY.—A judgment shall be a lien upon all real property of a judgment debtor upon filing a certified copy of the abstract of the judgment in the manner in which a notice of tax lien would be filed under section 6323(f) (1) and (2) of the Internal Revenue Code of 1986.

"(b) IN CRIMINAL CASES.—A judgment obtained by the United States in a criminal case shall create a lien as provided in sections 3565 and 3613 of the Internal Revenue Code of 1986.

"(c) IN TAX CASES.—A judgment obtained by the United States in a tax case shall create a lien coextensive with any lien created prior to judgment under section 6321 of the Internal Revenue Code of 1986; if no lien was so created prior to the judgment, then the procedure in subsection (a) shall be followed.

"(d) AMOUNT OF LIEN.—A lien created hereunder is for the amount necessary to satisfy the judgment, including costs and interest.

"(e) PRIORITY OF LIEN.—A lien created hereunder shall have priority over any other lien or encumbrance which is perfected later in time. However, liens created under sections 3565 and 3613 of the Internal Revenue Code of 1986, regarding criminal judgments or under section 6321 of the Internal Revenue Code of 1986, regarding tax judgments shall have priority as otherwise provided by law.

"(f) DURATION OF LIEN; RENEWAL.—(1) A lien created hereunder is effective, unless satisfied, for a period of twenty years.

"(2) The lien may be renewed for one additional period of twenty years upon filing a notice of renewal in the same manner as the judgment was filed and shall relate back to the date the judgment was filed. The notice of renewal must be filed before the expiration of the first twenty-year period to prevent the expiration of the lien.

"(3) The duration and renewal of a lien created under sections 3565 and 3613 of title 18, United States Code, regarding criminal judgments, or a lien created under section 6321 of the Internal Revenue Code of 1986, regarding tax judgments shall be as otherwise provided by law.

"(g) RELEASE OF JUDGMENT LIEN.—A judgment lien shall be released upon the filing of a satisfaction of judgment or release of lien in the same manner as the judgment was filed to obtain the lien.

"(h) EFFECT OF LIEN UPON ELIGIBILITY FOR FEDERAL GRANTS, LOANS OR PROGRAMS.—Any person who has a judgment lien against his property for any debt to the United States shall not be eligible to receive any grant or loan which is made, insured, guaranteed or financed directly or indirectly by the United States or to receive funds directly from the Federal Government in any program, except funds to which such person is entitled as beneficiary, until the judgment is paid in full or otherwise satisfied. The agency responsible for such grants and loans may promulgate regulations to allow for waiver of this restriction on eligibility for such grants and loans.

"§ 3203. Sale of property subject to judgment lien

"Upon application to the court, the court may order the United States to sell pursuant to the provisions of sections 2001 and 2002 of title 28, United States Code, any real property subject to its judgment lien. This provision shall not preclude the United States from using an execution sale to sell real property subject to a judgment lien.

"§ 3204. Interest on judgments

"(a) Judgments for money, other than criminal or tax judgments, shall bear interest at the greater of—

"(1) the rate in an express contract or negotiable instrument, if the action was brought for the recovery of an amount due on the contract or negotiable instrument; or

"(2) the rate established by statute or regulation applicable to the debt owed;

"(3) the judgment interest rate established in accordance with this section.

"(b) The judgment interest rate, where applicable, shall be calculated from the date of the entry of the judgment, at a rate equal to 150 per centum of the coupon issue yield equivalent (as determined by the Secretary of the Treasury) of the average accepted auction price for the last auction of fifty-two-week United States Treasury bills settled immediately prior to the date of the judgment. The Director of the Administrative Office of the United States Courts shall distribute notice of that rate and any changes in it to all Federal courts.

"(c) Interest on judgments shall accrue daily from the date of entry of the judgment at the rate determined herein and shall be compounded annually to the date of payment.

"(d) Interest on tax judgments obtained under the Internal Revenue Code shall be allowed under section 6621 of such Code.

"(e) Interest on criminal judgments shall be allowed as provided in title 18, United States Code.

"(f) Nothing in this section shall preclude the assessment of prejudgment interest that is otherwise allowable by law.

"SUBCHAPTER D—POSTJUDGMENT REMEDIES

"Sec.
"3301. Enforcement of judgments.
"3302. Orders in aid of execution.
"3303. Restraining notice.
"3304. Execution.
"3305. Installment payment order.
"3306. Garnishment.
"3307. Modification of protective order; supervision of enforcement.
"3308. Power of court to punish for contempt.

"3309. Arrest of judgment debtor.
"3310. Discharge.

"SUBCHAPTER D—POSTJUDGMENT REMEDIES

"§ 3301. Enforcement of judgments

"(a) A judgment may be enforced by any of the remedies set forth in this subchapter, and the court may issue other writs pursuant to section 1651 of title 28, United States Code, as necessary to supplement these remedies, subject to the provision of rule 81(b) of the Federal Rules of Civil Procedure.

"(b) The property of a judgment debtor which is subject to sale to satisfy the judgment may be sold by judicial sale, pursuant to sections 2001, 2002, and 2004 of title 28, United States Code, or by execution sale pursuant to section 3304(g) of this subchapter.

"§ 3302. Orders in aid of execution

"Where the judgment debtor has an ownership interest of any kind in property which is not exempt and cannot readily be attached or levied on by ordinary legal process, the United States is entitled to aid from the court by injunction or other appropriate order to reach the property to satisfy the judgment whether the property is located in the same district or other districts.

"(a) ORDER.—The court may order the property, together with all documents or records related to the property, that is in or subject to the possession or control of the judgment debtor or another person, to be turned over to the United States for execution or otherwise applied toward the satisfaction of the judgment. Where the judgment debtor or other person refuses to turn over the property, the court may enforce the order by proceedings for contempt or other appropriate order provided the judgment debtor or other person, as appropriate, is served with a copy of the order or has actual notice of the order.

"(b) RECEIVER.—The court may appoint a receiver of property where appropriate in accordance with section 3108 of this chapter.

"(c) SAME OR INDEPENDENT SUIT.—These proceedings may be brought by the United States in the same suit in which the judgment is rendered or in a new and independent suit.

"(d) COSTS.—Upon request, in a proceeding under this section, the United States shall recover from the judgment debtor 10 per centum of the reasonable costs. This provision shall apply to the extent that recovery of costs by the United States is not provided for under other applicable provisions of Federal law.

"§ 3303. Restraining notice

"(a) ISSUANCE; ON WHOM SERVED; FORM; SERVICE.—A restraining notice may be issued by the clerk of the court or counsel for the United States as officer of the court. It may be served upon any person, except the employer of a judgment debtor where the property sought to be restrained consists of earnings due or to become due to the judgment debtor. It shall be served personally in the same manner as a summons. It shall specify all of the parties to the action, the social security number of the judgment debtor, if known, the date the judgment was entered, the court in which it was entered, the amount of the judgment and the amount when due thereon, and the names of all parties against whom the judgment was entered. It shall set forth the requirements of subsection (b) below and shall state that disobedience is punishable as a contempt of court.

"(b) EFFECT OF RESTRAINT; PROHIBITION OF TRANSFER; DURATION.—(1) A judgment debtor who is served with a restraining notice shall not sell, assign, transfer or hypothecate any property, except as may be reasonably necessary for the maintenance or support of the debtor or a dependent of the debtor and if the debtor is engaged in business, as may be reasonably necessary for the payment of expenditures for the continuation, preservation, and operation of such business.

"(2) A person other than the judgment debtor who is served with restraining notice shall not—

"(A) repay any obligation to the judgment debtor;

"(B) return any property to the judgment debtor; or

"(C) sell, assign, transfer or hypothecate any property—

"(i) specifically described in the restraining notice;

"(ii) that the other person knows to be owned by the judgment debtor; or

"(iii) in which the other person could have reason to believe by the exercise of due diligence that the judgment debtor has an ownership interest.

"(3) The restraining notice shall remain in effect for one year from the date the notice is served, or until the judgment is satisfied or the restraining notice is vacated by order of the court, whichever occurs first.

"(c) DISCLOSURE.—The person upon whom a restraining notice is served, other than the judgment debtor, shall disclose to the counsel for the United States, in writing under oath within ten days after receipt of the restraining notice, the type or nature and value of such property of the judgment debtor as may be in his possession or custody. Upon such person receiving or acquiring property of the judgment debtor after receipt of a restraining notice, that person shall disclose to counsel for the United States, in writing under oath within seven days of receipt of the property, the type or nature and value of such property of the judgment debtor as may be in his possession or custody.

"(d) DISCOVERY.—Any discovery request under the Federal Rules of Civil Procedure which accompanies this restraining notice and which seeks the disclosure of the type, nature and value of property of the judgment debtor must be responded to within ten days of service of the notice and discovery request or within ten days after property of the judgment debtor comes into the possession of the person served. Upon request, a reasonable extension may be granted.

"(e) SUBSEQUENT NOTICE.—Leave of court is required to serve more than one restraining notice upon the same person, other than the judgment debtor, with respect to the same judgment.

"(f) NOTICE TO JUDGMENT DEBTOR.—A copy of the restraining notice shall be mailed by first class mail by counsel for the United States to the judgment debtor within four days after the time of service of the restraining notice on a person other than the judgment debtor.

"§ 3304. Execution

"(a) PROPERTY SUBJECT TO EXECUTION.—All property which the judgment debtor possesses and in which the judgment debtor has an interest shall be subject to levy pursuant to a writ of execution; coowned property shall be subject to execution to the same extent as it is under the law of the State in which it is located. The judgment debtor must identify any property claimed to be exempt under the provisions of subchapter E.

"(b) EXECUTION LIEN.—A lien shall be created in favor of the United States on all property levied upon under a writ of execution and shall date from the time of the levy. This lien shall have priority over all subsequent liens and shall be for the amount due on the judgment. If the United States has a judgment lien, the execution lien shall relate back to the judgment lien date.

"(c) FORM OF WRIT OF EXECUTION.—

"(1) GENERAL REQUIREMENTS.—An execution writ shall specify the date that the judgment was entered, the court in which it was entered, the amount of the judgment if for money, the amount of the costs, and the sum actually due when the writ is issued, the amount of interest due, the rate of postjudgment interest, and the name of the party against whom the judgment was entered. The writ shall direct the United States marshal to satisfy the judgment out of all property, real and personal, of the judgment debtor not otherwise exempt pursuant to this chapter. An execution writ shall direct that only the property in which a named judgment debtor, who is not deceased, has an interest be levied upon or sold thereunder, and shall state the last known address of that judgment debtor.

"(2) EXCEPTION.—There shall be no requirement that personal property be levied upon and sold prior to levy and sale of real property of the judgment debtor.

"(3) EXECUTION FOR DELIVERY OF CERTAIN PROPERTY.—An execution issued upon a judgment for the delivery to the United States of the possession of personal property, or for the delivery of the possession of real property, shall particularly describe the property, and shall require the marshal to deliver the possession of the property to the United States.

"(4) EXECUTION FOR POSSESSION OR VALUE OF PERSONAL PROPERTY.—If the judgment is for the recovery of personal property or its value, the writ shall command the marshal, in case a delivery thereof cannot be had, to levy and collect the value thereof for which the judgment was recovered, to be specified therein, out of any property of the party against whom judgment was rendered, liable to execution.

"(d) ISSUANCE.—(1) The clerk of any court where a judgment is docketed, entered or registered, upon written application of counsel for the United States, shall, and without other or further order of a judge of that court, forthwith issue writs of execution. The writs shall be addressed to "Any United States Marshal," and may be served and executed in any judicial district of the United States, but shall be returnable to the issuing court. The writ shall be signed by the clerk of the court issuing the writ.

"(2) Multiple writs may issue simultaneously, and successive writs may issue before the return date of a writ previously issued.

"(e) RECORDS OF UNITED STATES MARSHAL.—(1) The United States marshal receiving the execution shall endorse thereon the exact hour and day when he received it. If he receives more than one on the same day against the same person, he shall number them as received.

"(2) The United States marshal shall make a memorandum in writing of the date of every levy and specify the property upon which the levy has been made on the process or in an attached schedule. The memo-

randum or schedule shall also set forth the marshal's costs, expenses and fees.

"(f) LEVY OF EXECUTION.—(1) The United States marshal receiving the writ shall proceed without delay to levy upon the property of the debtor found within his district, unless otherwise directed by counsel for the United States.

"(2) In performing the levy, the United States marshal may enter onto the lands and into the residence or other buildings owned, occupied or controlled by the debtor.

"(3) When real property is levied upon, the United States marshal shall file a copy of the notice of levy in the same manner as provided for judgments in section 3202. The United States marshal shall also serve a copy of the writ and notice of levy upon the debtor in the same manner that a summons is served in a civil action and so make his return thereof. If the United States marshal is unable to serve the writ upon the debtor, he shall post the writ and notice of levy in a conspicuous place upon the property and so make his return thereof.

"(4) Levy upon personal property is made by taking possession of it. Levy on personal property not easily taken into possession or which cannot be taken into possession without great inconvenience or expense, may be made by affixing a copy of the writ and motion of levy on it or in a conspicuous place in the vicinity of it describing in the notice of levy the property by quantity and with sufficient detail to identify the property levied upon. A copy of the writ and notice of levy shall also be served upon the debtor in the same manner that a summons is served in a civil action. Upon completion of the levy of personal property, the United States marshal shall so make his return thereof.

"(5)(A) Real property subject to a security interest or conveyed in trust as security for any debt or contract may be levied upon and sold on execution against the interest of the judgment debtor, subject to such mortgage, and the terms and conditions thereof.

"(B) Personal property pledged, assigned or security for any debt or contract, may be levied upon and sold on complying with the conditions of the pledge, assignment or security interest.

"(g) EXECUTION SALE PROCEDURES.—

"(1) SALE OF REAL PROPERTY.—

"(A) Real property, or any interest therein, shall be sold for cash at public auction at the courthouse of the county, parish or city in which the greater part of the property is located or upon the premises or some parcel thereof.

"(B) The time and place of sale of real property, or any interest therein, under execution shall be advertised by the United States marshal, by publication of notice, once a week for at least three weeks prior to the sale, in at least one newspaper of general circulation in the county or parish where the property is located. The first of these publications shall appear not less than twenty-five days immediately preceding the day of sale. The notice shall contain a statement of the authority by which the sale is to be made, the time of levy, and the time and place of sale; it shall also contain a brief description of the property to be sold, sufficient to identify the property, such as a street address of the urban property, and the survey identification and location for rural property, but it shall not be necessary for it to contain field notes.

"(C) The United States marshal shall give written notice of public sale by personal delivery, or certified or registered mail, to persons and parties known to him to claim an interest in property under execution, including lienholders, coowners and tenants, at least twenty-five days prior to the day of sale, to the last known address of such persons or parties.

"(2) SALE OF CITY LOTS.—If the real property consists of several lots, tracts, or parcels in a city or town, each lot, tract, or parcel must be offered for sale separately, unless not susceptible to separate sale because of the character of improvements.

"(3) SALE OF RURAL PROPERTY.—If the real property is not located in a city or town, the debtor may divide the property into lots of not less than fifty acres or in such greater or lesser amounts as ordered by the court, furnish a survey of such prepared by a registered surveyor, and designate the order in which those lots shall be sold. When a sufficient number of lots are sold to satisfy the amount of the execution and costs of sale, the marshal shall stop the sale.

"(4) SALE OF PERSONAL PROPERTY.—

"(A) Personal property levied on shall be offered for sale on the premises where it is located at the time of levy, or at the courthouse of the county, parish or city wherein it is located, or at some other place if, owing to the nature of the property, it is more convenient to exhibit it to purchasers at such place. Personal property susceptible of being exhibited shall not be sold unless it is present and subject to the view of those attending the sale, except shares of stock in corporations, and in cases, when by reason of the type or nature of the property, it is impractical to exhibit it, or where the debtor has merely an interest without the right to the exclusive possession, in which case the interest of the debtor may be sold and transferred without the presence of the property.

"(B) Notice of the time and place of the sales of personal property shall be given by posting notice thereof for ten days successively immediately prior to the day of sale at the courthouse of any county, parish, or city, and at the place where the sale is to be made, and by mailing a copy by registered or certified mail to the judgment debtor at his last known address, or by personal delivery.

"(5) POSTPONEMENT OF SALE.—The United States marshal may postpone an execution sale from time to time continuing the posting of notice and/or publication of the notice until the date to which the sale is postponed, and appending, at the foot of such notice of each successive postponement the following:

"The above sale is postponed until the _____ day of _____, 19____, at _____ o'clock ____ .M., _____, United States Marshal for the District of _____, by _____, Deputy, dated _____.

"(6) BIDDING REQUIREMENTS; LIABILITY OF BIDDER; RESALE.—

"(A) The United States marshal may require of any bidder at any sale a cash deposit of as much as 20 per centum of the sale price before the bid is received.

"(B) The cash deposit of any successful bidder at an execution sale shall be forfeited to the United States if he fails to comply with the terms of the sale; in addition, he shall be liable to the United States for all losses incurred by the United States at a subsequent sale of the same property. The liability for losses shall be limited to the difference between the amount of the deposit which was forfeited and the amount accepted by the United States as the highest bid by the defaulting bidder at the defaulted sale plus the costs of the defaulted sale. This liability shall be reduced by the amount the United States realizes from the subsequent sale, if any.

"(7) RESALE OF PROPERTY.—When the terms of the sale are not complied with by the bidder, the United States marshal shall proceed to sell the property again on the same day, if there is sufficient time; but if not, he shall readvertise and sell the property.

"(8) TRANSFER OF TITLE AFTER SALE.—

"(A) When the sale has been made and its terms complied with, the United States marshal shall execute and deliver any and all documents necessary to transfer ownership to the purchaser, without warranty, all the rights, titles, interest, and claims that the judgment debtor had in the property sold to the purchaser.

"(B) If the purchaser dies before execution and delivery of the documents needed to transfer ownership, the United States marshal shall execute and deliver them to the estate of the purchaser, and it shall have the same effect as if accomplished during the lifetime of the purchaser.

"(9) PURCHASER CONSIDERED INNOCENT PURCHASER WITHOUT NOTICE.—The purchaser of property sold under execution is considered to be an innocent purchaser without notice if the purchaser would have been considered an innocent purchaser without notice had the sale been made voluntarily and in person by the defendant.

"(10) NO RIGHT OF REDEMPTION.—The judgment debtor shall not be entitled to redeem the property after the execution sale.

"(11) DISTRIBUTION OF SALE PROCEEDS.—

"(A) The United States marshal shall first deliver to the judgment debtor, or his agent or attorney, such amounts to which he is entitled from the sale of partially exempt property as set forth in subchapter E of this chapter.

"(B) The United States marshal shall retain from the proceeds of a sale of property an amount equal to the reasonable expenses incurred in making the levy and keeping and maintaining the property.

"(C) The United States marshal shall deliver the balance of the money collected on execution to the counsel for the United States at the earliest opportunity.

"(D) If more money is received from the sale of the property than is sufficient to satisfy the executions held by the United States marshal, he shall pay forthwith the surplus to the judgment debtor or his agent or attorney.

"(h) REPLEVY.—(1) Any personal property taken in execution may be returned to the defendant by the United States marshal upon the delivery by the defendant to him of a bond or upon satisfaction of the judgment and any costs incurred in connection with scheduling the sale prior to the execution sale, payable to the United States, with two or more good and sufficient sureties, to be approved by the United States marshal, conditioned upon the delivery of the property to the United States marshal at the time and place named in the bond, to be sold according to law, or for the payment to the United States marshal of a fair value thereof, which shall be stated in the bond.

"(2) Where property has been replevied, as provided above, the judgment debtor may sell or dispose of the property paying the United States marshal the stipulated value thereof.

"(3) In the case of the nondelivery of the property according to the terms of the delivery bond, and nonpayment of the value thereof, the United States marshal shall forthwith endorse the bond 'Forfeited' and return it to the clerk of the court from which the execution issued; whereupon, if the judgment remains unsatisfied in whole or in part, the clerk shall issue execution against the principal judgment debtor and the sureties on the bond for the amount due, not exceeding the stipulated value of the property, upon which execution no delivery bond shall be taken, which instruction shall be endorsed by the clerk on the execution.

"(i) DEATH OF JUDGMENT DEBTOR.—The death of the judgment debtor after a writ of execution is issued stays the execution proceedings, but any lien acquired by levy of the writ must be recognized and enforced by the court having jurisdiction over the estate of the deceased. The execution lien may be enforced against the executor, administrator, or personal representative of the estate of the deceased; or if there be none, against the heirs or devisees of the property of the deceased receiving same, but only to the extent of the value of the property coming to them.

"(j) WHEN EXECUTION NOT SATISFIED.—When the property levied upon does not sell for enough to satisfy the execution, the United States marshal shall proceed on the same writ of execution as to other property of the judgment debtor.

"(k) RETURN ON EXECUTION.—(1) The United States marshal shall make a written return on each writ of execution to the court from which the writ was issued and deliver a copy to counsel for the United States who requested the writ. It shall be returnable ninety days from the date of issuance unless counsel for the United States has specified an earlier date. The return shall be filed by the clerk of the court from which the writ was issued.

"(2) The United States marshal shall state concisely what was done in pursuance of the requirements of the writ.

"(3) The return shall be made forthwith if satisfied by the collection of the money, or if ordered by counsel for the United States, which order shall be noted on the return.

"§ 3305. Installment payment order

"Where it is shown that the judgment debtor is receiving or will receive money from any source or is attempting to impede the United States by rendering services without adequate compensation, upon motion of the United States and notice to the judgment debtor, the court may, if appropriate, order that the judgment debtor make specified installment payments to the United States. Notice of the motion shall be served on the judgment debtor in the same manner as a summons or by registered or certified mail, return receipt requested. In fixing the amount of the payments, the court shall take into consideration the reasonable requirements of the judgment debtor, any payments required to be made by the judgment debtor or deducted from the money he would otherwise receive in satisfaction of other judgments, the amount due on the judgment, and the amount being or to be received, or, if the judgment debtor is attempting to impede the United States by rendering services without adequate compensation, the reasonable value of the services rendered.

"Upon motion of the United States, and upon a showing that the debtor's financial circumstances have changed or that assets not previously disclosed by the debtor have been discovered, the court may increase the amount of payments or alter their frequency or require full payment.

"§ 3306. Garnishment

"(a) GENERAL.—A court may issue writs of garnishment, either prejudgment or postjudgment against the property of a debtor which is in the possession, custody or control of a third person in order to satisfy a judgment against the debtor; coowned property shall be subject to garnishment to the same extent as it is under the law of the States in which it is located. The United States may request and a court shall issue simultaneous separate writs of garnishment to several garnishees. All writs of garnishment issued pursuant to these provisions shall be continuing and shall terminate only as provided herein.

"(b) WRIT.—

"(1) GENERAL REQUIREMENTS.—The United States shall include in its application for a writ of garnishment, the following:

"(A) any matters required by section 3104 when seeking prejudgment garnishment;

"(B) the debtor's name, social security number, if known, and the debtor's last known address;

"(C) the nature and amount of the debt alleged to be owed and that demand on the debtor for payment of the debt has been made, but the debtor has not paid the amount due. A money judgment must be alleged for postjudgment garnishment; and

"(D) that the garnishee is believed to be indebted to the debtor or have possession of property of the debtor.

"(2) PROPER GARNISHEE FOR PARTICULAR PROPERTY.—

"(A) Where property consists of a right to or share in the stock of an association or corporation, or interests or profits therein, for which a certificate of stock or other negotiable instrument is not outstanding, the corporation, or the president or treasurer of the association, shall be the garnishee.

"(B) Where property consists of a right to or interest in a decedent's estate or any other property or fund held or controlled by a personal representative or fiduciary, the personal representative or fiduciary shall be the garnishee.

"(C) Where property consists of an interest in a partnership, any partner other than the debtor, shall be the garnishee on behalf of the partnership.

"(D) Where property or a debt is evidenced by a negotiable instrument for the payment of money, a negotiable document of title or a certificate of stock of an association or corporation, the instrument, document or certificate shall be treated as property capable of delivery and the person holding it shall be the garnishee; except that in the case of a security which is transferable in the manner set forth in State law, the firm or corporation which carries on its books an account in the name of the debtor in which is reflected such security, shall be the garnishee: *Provided, however,* That if such security has been pledged, the pledgee shall be the garnishee.

"(c) ISSUANCE OF WRIT.—

"(1) CLERK'S REVIEW.—The clerk or the court shall review the application for postjudgment writs of garnishment and if it meets the requirements set forth herein, shall issue an appropriate writ. The clerk shall issue prejudgment writs of garnishment as authorized by the court.

"(2) FORM OF WRIT.—

"(A) GENERAL PROVISIONS.—The writ shall state—

"(i) The nature and amount of the debt. If interest is accruing, the rate of accrual thereafter shall be stated. If a judgment is involved, the amount of any costs included in the judgment should be stated.

"(ii) The name and address of the garnishee.

"(iii) The name and address of counsel for the United States.

"(iv) The last known mailing address of the debtor.

"(v) That the garnishee shall answer the writ within ten days of service of the writ.

"(B) EARNINGS GARNISHMENT.—The United States may apply for garnishment of the nonexempt disposable earnings of a natural person. The writ for the garnishment of earnings shall direct the garnishee to withhold and retain the nonexempt earnings for which the garnishee is indebted to the debtor at the time of receipt of the writ and may thereafter become indebted to the debtor pending further order of the court.

"(C) GARNISHMENT OF OTHER PROPERTY.—As to all non-earnings property of a debtor who is a natural person and all property of other debtors in the possession, custody and control of the garnishee at the time the writ is received by the garnishee and anytime thereafter, the writ shall direct the garnishee to retain possession, custody and control of and not to transfer or return the property pending further order of the court.

"(D) SERVICE OF WRIT.—The United States may serve the garnishee with a copy of the writ by first class mail or by delivery by the United States marshal as provided by rule 4 of the Federal Rules of Civil Procedure. The United States shall, at the same time, serve the debtor with a copy of the writ by first class mail to the debtor's last known address; counsel for the United States shall certify to the court that this service was made. The writ of garnishment shall be accompanied by instructions explaining the requirement that the garnishee submit a written answer to the writ of garnishment and instructions to the debtor for objecting to the answer of the garnishee and for obtaining a hearing on the objections.

"(E) ANSWER OF THE GARNISHEE.—In its written answer to the writ of garnishment, the garnishee shall state under oath whether it is indebted to the debtor or has custody, control or possession of the debtor's property; a description of the indebtedness or property; whether the indebtedness or property is subject to any prior garnishments or levies and a description of any such claim; and whether the indebtedness or property is subject to any exemptions from garnishment. In addition, if the writ of garnishment is against the earnings of the debtor, the garnishee shall state whether the debtor was employed at the time the writ was received, and, if so, how much was owed at the time; and whether the garnishee anticipates owing earnings to the debtor in the future, and, if so, the amount and whether the pay period will be weekly or another specified period. In all cases, the garnishee shall file the original answer with the court issuing the writ and serve a copy on the debtor and counsel for the United States. Any garnishee, including a corporation, may file an answer without the representation of an attorney.

"(F) OBJECTIONS TO ANSWER.—Within twenty days after receipt of the answer, the debtor and the United States may file a written objection to the answer and request a hearing on the objection. The party objecting must state the grounds for the objection and bears the burden of proving

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them. A copy of the objection and request for hearing shall be served on the garnishee and the other party. The court shall set a hearing within ten days after the date the request was received by the court, or as soon thereafter as is practicable, and give notice of the date to all parties.

"(G) GARNISHEE'S FAILURE TO ANSWER OR PAY.—If a garnishee fails to answer or pay within the time specified, the United States may petition the court for an order requiring the garnishee to appear before the court to answer the writ or pay by the appearance date. If the garnishee fails to appear or does appear and fails to show good cause why he failed to comply with the garnishment writ, the court shall enter judgment against the garnishee for the full amount of the past debt owed by the debtor. The court shall award reasonable attorney's fees to the United States and against the garnishee if the writ has not been answered within the time specified therein and a petition requiring the garnishee to appear was filed as provided in this section. Failure to answer or pay within the time specified in the writ may also be punished as a contempt of the court.

"(H) DISPOSITION ORDER.—After the garnishee files its answer and if no hearing is required, the court shall promptly enter an order directing the garnishee as to the disposition of the debtor's property. If a hearing is required, the order shall be entered within five days of the hearing, or as soon thereafter as is practicable.

"(I) PRIORITIES.—Court orders and garnishments for the support of a person shall have priority over a writ of garnishment issued pursuant to these provisions. As to any other garnishment or levy, a garnishment issued pursuant to these provisions shall have priority over those which are later in time and shall be satisfied in the order in which the writs are served upon the garnishee.

"(J) ACCOUNTING.—The debtor or garnishee may request an accounting on a garnishment within ten days after the garnishment terminates. The United States shall give a written accounting to the debtor and garnishee of all earnings and property it receives under a writ of garnishment within twenty days after it receives the request of the debtor or garnishee. Within ten days after the accounting is received, the debtor or garnishee may file a written objection to the accounting and a request for hearing. The party objecting must state grounds for the objection. The court shall set a hearing on the objection within ten days after the court receives the request for a hearing, or as soon thereafter as is practicable.

"(K) DISCHARGE OF GARNISHEE'S OBLIGATION.—A garnishee shall be discharged as set forth in section 3311 of this subchapter.

"(L) TERMINATION OF GARNISHMENT.—A garnishment proceeding hereunder can be terminated by—

"(i) the court quashing the writ of garnishment;

"(ii) exhaustion of earnings or property in the possession, custody or control of the garnishee, unless the garnishee reinstates or reemploys the debtor within ninety days of dismissal or resignation; or

"(iii) satisfaction of the debtor's obligation to the United States.

"§ 3307. Modification or protective order; supervision of enforcement

"Within the provisions of this chapter, the court may at any time on its own initiative or the motion of any interested person, and upon such notice as it may require, make an order denying, limiting, conditioning, regulating, extending or modifying the use of any enforcement procedure.

"§ 3308. Power of court to punish for contempt

"A court shall have power to punish a civil or criminal contempt committed with respect to an enforcement procedure or order under this chapter.

"§ 3309. Arrest of judgment debtor

"Upon motion of the judgment creditor without notice, where it is shown by affidavit or otherwise that the judgment debtor is about to depart from the jurisdiction of the United States, or keeps himself concealed therein with intent to hinder, delay or defraud the judgment creditor, and that there is reason to believe that the judgment debtor has in his possession or custody nonexempt property in which he has an interest, the court may issue a warrant directed to the United States marshal to arrest the judgment debtor forthwith and bring him before the court. The United States marshal shall serve upon the judgment debtor a copy of the warrant and supporting documents at the time of arrest. When the judgment debtor is brought before the court, the court may order that he give a bond or undertaking in a sum to be fixed by the court, that he will appear before the court for examination and that he will obey the terms of a restraining notice contained in the order.

"§ 3310. Discharge

"A person who pursuant to an execution or order pays or delivers to the United States, a United States marshal or receiver, money or other personal property in which a judgment debtor has or will have an interest, or so pays a debt he owes the judgment debtor, is discharged from his obligation to the judgment debtor to the extent of the payment or delivery.

"SUBCHAPTER E—EXEMPT PROPERTY

"Sec.

"3401. Exempt property.

"3402. Limitation on exempt property.

"SUBCHAPTER E—EXEMPT PROPERTY

"§ 3401. Exempt property

"Except as provided under section 3402, the following property of natural persons shall be exempted from the enforcement procedures under the provisions of this chapter as to debts owed the United States—

"(a) the debtor's aggregate interest, not to exceed $7,500 in value in real property or personal property that the debtor or a dependent of the debtor uses as a residence, in a cooperative that owns property that the debtor uses as a residence, or in a burial plot for the debtor or a dependent of the debtor;

"(b) the debtor's interest, not to exceed $1,200 in value, in one motor vehicle;

"(c) the debtor's interest, not to exceed $200 in value in any particular item or $4,000 in aggregate value, in household furnishings, household goods, wearing apparel, appliances, books, animals, crops, or musical instruments, that are held primarily for the personal, family or household use of the debtor or a dependent of the debtor;

"(d) the debtor's aggregate interest, not to exceed $500 in value, in jewelry held primarily for the personal, family or household use of the debtor or a dependent of the debtor;

"(e) the debtor's aggregate interest in any property, not to exceed in value $400 plus up to $3,750 of any unused amount of the exemption provided under subsection (a) of this subsection;

"(f) any unmatured life insurance contract owned by the debtor, other than a credit life insurance contract;

"(g) the debtor's aggregate interest, not to exceed in value $4,000 less any amount of property of the estate transferred in the manner specified in section 542(d) of title 11, in any accrued dividend or interest under, or loan value of, any unmatured life insurance contract owned by the debtor under which the insured is the debtor or an individual of whom the debtor is a dependent;

"(h) the debtor's aggregate interest, not to exceed $750 in value in any implements, professional books or tools of the trade of the debtor or the trade of a dependent of the debtor;

"(i) professionally prescribed health aids for the debtor or a dependent of the debtor;

"(j) the debtor's right to receive—

"(1) a social security benefit, unemployment compensation, or a local public assistance benefit;

"(2) a veterans' benefit;

"(3) a disability, illness including Medicaid and Medicare, or unemployment benefit, and Aid to Families With Dependent Children benefits;

"(4) alimony, child and spousal support or separate maintenance paid or received, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

"(5) a payment under a stock bonus, pension, profit-sharing, annuity, or similar plan or contract on account of illness, disability, death, age, or length of service, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor, unless—

"(A) such plan or contract was established by or under the auspices of an insider that employed the debtor at the time the debtor's rights under such plan or contract arose;

"(B) such payment is on account of age or length of service; and

"(C) such plan or contract does not qualify under section 401(a), 403(a), 403(b), 408, or 409 of the Internal Revenue Code of 1986 (26 U.S.C. 401(a), 403(a), 403(b), 408, or 409).

"(k) the debtor's right to receive, or property that is traceable to—

"(1) an award under a crime victim's reparation law;

"(2) a payment on account of the wrongful death of an individual of whom the debtor was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

"(3) a payment under a life insurance contract that insured the life of an individual of whom the debtor was a dependent on the date of such individual's death, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

"(4) a payment, not to exceed $7,500, on account of personal bodily injury, not including pain and suffering or compensation for actual pecuniary loss, of the debtor or an individual of whom the debtor is a dependent; or

"(5) a payment in compensation of loss of future earnings of the debtor or an individual of whom the debtor is or was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor.

"§ 3402. Limitations on exempt property

"(a) Property upon which a judgment debtor has voluntarily granted a lien, shall

not be exempt to the extent of the balance due on the debt secured thereby.

"(b) If, within ninety days prior to judgment or thereafter, the debtor has transferred non-exempt property and as a result acquires, improves or increases in value exempt property, his interest shall not be exempt to the extent of the increased value.

"(c) The United States may require the judgment debtor to file a statement with regard to each claimed exemption; the original shall be filed with the court in which the enforcement proceeding is pending, and a copy served upon counsel for the United States. The statement shall be under oath and shall describe each item of property for which exemption is claimed, the value and the basis for such valuation, and the nature of the judgment debtor's ownership interest.

"(d) The United States, by application to the court where an enforcement proceeding is pending, may request a hearing on the applicability of any exemption claimed by the judgment debtor. The court shall determine whether the judgment debtor is entitled to the exemption claimed and the value of the property with respect to which the exemption is claimed; unless the court finds that it is reasonably evident that the exemption applies, the judgment debtor shall bear the burden of going forward with evidence and of persuasion.

"(e) Assertion of an exemption shall not prevent seizure and sale of the property to which such exemption applies. However, where an exemption has been validly and properly asserted, the sale proceeds for that item of property must be applied first to satisfy the dollar value of the exemption and then to the balance of the judgment. Any excess remaining after payment of judgment shall be paid to the judgment debtor.

"SUBCHAPTER F—FRAUDULENT TRANSFERS

"Sec.
"3501. Definitions.
"3502. Insolvency.
"3503. Value.
"3504. Transfer fraudulent as to the United States on present and future claims.
"3505. Transfer fraudulent as to the United States on a present claim.
"3506. When transfer is made or obligation is incurred.
"3507. Remedies of the United States.
"3508. Defenses, liability and protection of transferee.
"3509. Supplementary provision.

"SUBCHAPTER F—FRAUDULENT TRANSFERS

"§ 3501. Definitions

"As used in this subchapter—

"(a) 'Affiliate' means—

"(1) a person who directly or indirectly owns, controls, or holds with power to vote, 20 per centum or more of the outstanding voting securities of the debtor other than a person who holds the securities—

"(A) as a fiduciary or agent without sole discretionary power to vote the securities; or

"(B) solely to secure a debt, if the person has not exercised the power to vote;

"(2) a corporation 20 per centum or more of whose voting securities are directly or indirectly owned, controlled, or held with power to vote, by the debtor or a person who directly or indirectly owns, controls, or holds, with power to vote, 20 per centum or more of the outstanding voting securities of the debtor, other than the person who holds the securities—

"(A) as a fiduciary or agent without sole power to vote the securities;

"(B) solely to secure a debt, if the person has not in fact exercised the power to vote;

"(C) a person whose business is operated by the debtor under a lease or other agreement, or a person substantially all of whose assets are controlled by the debtor; or

"(D) a person who operates the debtor's business under a lease or other agreement or controls substantially all of the debtor's assets.

"(b) 'Asset' means property of a debtor, but does not include—

"(1) property to the extent it is encumbered by a valid lien; or

"(2) property to the extent it is exempt under subchapter E of this chapter.

"(c) 'Insider' includes—

"(1) if the debtor is an individual—

"(A) a relative of the debtor or of a general partner of the debtor;

"(B) a partnership in which the debtor is a general partner;

"(C) a general partner in a partnership described in subsection (c)(1)(B); or

"(D) a corporation of which the debtor is a director, officer, or person in control.

"(2) if the debtor is a corporation—

"(A) a director of the debtor;

"(B) an officer of the debtor;

"(C) a person in control of the debtor;

"(D) a partnership in which the debtor is a general partner;

"(E) a general partner in a partnership described in subsection (c)(2)(D); or

"(F) a relative of a general partner, director, officer, or person in control of the debtor.

"(3) if the debtor is a partnership—

"(A) a general partner in the debtor;

"(B) a relative of a general partner in, a general partner of, or a person in control of the debtor;

"(C) another partnership in which the debtor is a general partner;

"(D) a general partner in a partnership described in subsection (c)(3)(C); or

"(E) a person in control of the debtor.

"(4) an affiliate, or an insider of an affiliate as if the affiliate were the debtor; and

"(5) a managing agent of the debtor.

"(d) 'Lien' means a charge against or an interest in property to secure payment of a debt or performance of an obligation, and includes a security interest created by agreement, a judicial lien obtained by legal or equitable process or proceeding, a common law lien, or a statutory lien.

"(e) 'Relative' means an individual related by consanguinity within the third degree as determined by the common law, a spouse, or an individual related to a spouse within the third degree as so determined, and includes an individual in an adoptive relationship within the third degree.

"(f) 'Transfer' means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with an asset or an interest in an asset, and includes payment of money, release, lease, and creation of a lien or other encumbrance.

"(g) 'Valid lien' means a lien that is effective against the holder of a judicial lien subsequently obtained by legal or equitable process or proceedings.

"§ 3502. Insolvency

"(a) A debtor is insolvent if the sum of the debtor's debts is greater than all of the debtor's assets at a fair valuation.

"(b) A debtor who is generally not paying his debts as they become due is presumed to be insolvent.

"(c) A partnership is insolvent under subsection (a) if the sum of the partnership's debts is greater than the aggregate, at a fair valuation, of all of the partnership's assets and the sum of the excess of the value of each general partner's nonpartnership assets over the partner's nonpartnership debts.

"(d) Assets under this section do not include property that has been transferred, concealed, or removed with intent to hinder, delay, or defraud creditors or that has been transferred in a manner making the transfer voidable under this subchapter.

"(e) Debts under this section do not include an obligation to the extent it is secured by a valid lien on property of the debtor not included as an asset.

"§ 3503. Value

"(a) Value is given for a transfer or an obligation if, in exchange for the transfer or obligation, property is transferred or an antecedent debt is secured or satisfied, but value does not include an unperformed promise made otherwise than in the ordinary course of the promisor's business to furnish support to the debtor or another person.

"(b) For the purposes of sections 3504(a)(2) and 3507, a person gives a reasonably equivalent value if the person acquires an interest of the debtor in an asset pursuant to a regularly conducted, noncollusive foreclosure sale or execution of a power of sale for the acquisition or disposition of the interest of the debtor upon default under a mortgage, deed of trust, or security agreement.

"(c) A transfer is made for present value if the exchange between the debtor and the transferee is intended by them to be contemporaneous and is in fact substantially contemporaneous.

"§ 3504. Transfer fraudulent as to the United States on present and future claims

"(a) A transfer made or obligation incurred by a debtor is fraudulent as to the United States, whether its claim arose before or after the transfer was made or the obligation was incurred, if the debtor made the transfer or incurred the obligation—

"(1) with actual intent to hinder, delay, or defraud the United States or any other creditor of the debtor; or

"(2) without receiving a reasonably equivalent value in exchange for the transfer or obligation, and the debtor—

"(A) was engaged or was about to engage in a business or a transaction for which the remaining assets of the debtor were unreasonably small in relation to the business or transaction; or

"(B) intended to incur, or believed or reasonably should have believed that he would incur, debts beyond his ability to pay as they became due.

"(b) In determining actual intent under subsection (a)(1), consideration may be given, among other factors, to whether—

"(1) the transfer or obligation was to an insider;

"(2) the debtor retained possession or control of the property transferred after the transfer;

"(3) the transfer or obligation was disclosed or concealed;

"(4) before the transfer was made or obligation was incurred, the debtor had been sued or threatened with suit;

"(5) the transfer was of substantially all of the debtor's assets;

"(6) the debtor absconded;

"(7) the debtor removed or concealed assets;

"(8) the value of the consideration received by the debtor was reasonably equivalent to the value of the asset transferred or the amount of the obligation incurred;

"(9) the debtor was insolvent or became insolvent shortly after the transfer was made or the obligation was incurred;

"(10) the transfer occurred shortly before or shortly after a substantial debt was incurred; and

"(11) the debtor transferred the essential assets of the business to a lienor who transferred the assets to an insider of the debtor.

"§ 3505. Transfer fraudulent as to the United States on a present claim

"(a) A transfer made or obligation incurred by a debtor is fraudulent as to the United States on its claims which arose before the transfer was made or the obligation was incurred if the debtor made the transfer or incurred the obligation without receiving a reasonably equivalent value in exchange for the transfer or obligation and the debtor was insolvent at the time or the debtor became insolvent as a result of the transfer or obligation.

"(b) A transfer made by a debtor is fraudulent as to the United States on its claim which arose before the transfer was made if the transfer was made to an insider for an antecedent debt, the debtor was insolvent at the time, and the insider had reasonable cause to believe that the debtor was insolvent.

"§ 3506. When transfer is made or obligation is incurred

"For the purposes of this subchapter—

"(a) A transfer is made—

"(1) with respect to an asset that is real property, other than a fixture, but including the interest of a seller or purchaser under a contract for the sale of the asset, when the transfer is so far perfected that a good-faith purchaser of the asset from the debtor against whom applicable law permits the transfer to be perfected cannot acquire an interest in the asset that is superior to the interest of the transferee; and

"(2) with respect to an asset that is not real property or that is a fixture, when the transfer is so far perfected that the United States on a simple contract cannot acquire a judicial lien otherwise than under this subchapter that is superior to the interest of the transferee.

"(b) If applicable law permits the transfer to be perfected as approved in subsection (a) and the transfer is not so perfected before the commencement of an action for relief under this subchapter, the transfer is deemed made immediately before the commencement of the action.

"(c) If applicable law does not permit the transfer to be perfected as provided in subsection (a), the transfer is made when it becomes effective between the debtor and the transferee.

"(d) A transfer is not made until the debtor has acquired rights in the asset transferred.

"(e) An obligation is incurred—

"(1) if oral, when it becomes effective between the parties; or

"(2) if evidenced by a writing, when the writing was executed by the obligor is delivered to or for the benefit of the obligee.

"§ 3507. Remedies of the United States

"(a) In an action for relief against a transfer or obligation under this subchapter, the United States, subject to the limitations in section 3508, may obtain, subject to applicable principles of equity and in accordance with the Federal Rules of Civil Procedure—

"(1) avoidance of the transfer or obligation to the extent necessary to satisfy the claim of the United States;

"(2) an attachment or other remedy against the asset transferred or other property of the transferee in accordance with the procedure described by this chapter.

"(b) If the United States has obtained a judgment on a claim against the debtor, if the court so orders, it may levy execution on the asset transferred or its proceeds.

"§ 3508. Defenses, liability and protection of transferee

"(a) A transfer or obligation is not voidable under section 3504(a) against a person who took in good faith and for a reasonably equivalent value or against any subsequent transferee or obligee.

"(b) Except as otherwise provided in this section, to the extent a transfer is voidable in an action by the United States under section 3507(a)(1), it may recover judgment for the value of the asset transferred, as adjusted under subsection (c), or the amount necessary to satisfy its claim, whichever is less. The judgment may be entered against—

"(1) the first transferee of the asset or the person for whose benefit the transfer was made; or

"(2) any subsequent transferee other than a good faith transferee who took for value or from any subsequent transferee.

"(c) If the judgment under subsection (b) is based upon the value of the asset transferred, the judgment must be for an amount equal to the value of the asset at the time of the transfer, subject to adjustment as the equities may require.

"(d) Notwithstanding voidability of a transfer or an obligation under this subchapter, a good-faith transferee or obligee is entitled, to the extent of the value given the debtor for the transfer or obligation, to—

"(1) a lien on or a right to retain any interest in the asset transferred;

"(2) enforcement of any obligation incurred; or

"(3) a reduction in the amount of the liability on the judgment.

"(e) A transfer is not voidable under section 3504(a)(2) or section 3505 if the transfer results from—

"(1) termination of a lease upon default by the debtor when the termination is pursuant to the lease and applicable law; or

"(2) enforcement of a security interest in compliance with article 9 of the Uniform Commercial Code or its equivalent in effect in the jurisdiction where the property is located.

"(f) A transfer is not voidable under section 3505(b)—

"(1) to the extent the insider gave new value to or for the benefit of the debtor after the transfer was made unless the new value was secured by a valid lien;

"(2) if made in the ordinary course of business or financial affairs of the debtor and the insider, or

"(3) if made pursuant to a good-faith effort to rehabilitate the debtor and the transfer secured present value given for that purpose, as well as an antecedent debt of the debtor.

"§ 3509. Supplementary provision

"Unless displaced by the provisions of this subchapter, the principles of law and equity, including the law merchant and the law relating to principal and agent, fraud, misrepresentation, duress, coercion, mistake, insolvency, or other validating or invalidating cause, supplement its provisions.

"SUBCHAPTER G—PARTITION

"Sec.
"3601. Action by United States for partition.
"3602. Service of process in partition action.
"3603. Trial; commissioners; decree of partition.
"3604. Partition by sale.
"3605. Costs.

"SUBCHAPTER G—PARTITION

"§ 3601. Action by United States for partition

"(a) The United States, as co-owner or claimant of real or personal property, or an interest therein, may compel a partition of the property among the co-owners and tenants.

"(b) The district court shall have original jurisdiction of any civil action brought by the United States for the partition of property. The action for partition shall be filed in the judicial district in which the property, or a part thereof, is located. An action in a State court in which the United States is a defendant and in which the United States seeks partition may be removed to the district court.

"(c) The United States shall file a complaint stating—

"(1) the name and residence, if known, of each co-owner or claimant to such property;

"(2) the share of interest, if known, of each coowner or claimant in such property;

"(3) a description of the property sought to be partitioned; and

"(4) the estimated value of the property for which partition is sought.

"§ 3602. Service of process in partition action

"(a) Personal service of summonses and complaints and other process shall be made in accordance with rules 4 (c) and (d) of the Federal Rules of Civil Procedure upon a defendant who resides within the United States or its territories or insular possessions and whose residence is known.

"(b) Upon the filing of a certificate by counsel for the United States stating that it is believed that a defendant cannot be personally served, because after diligent inquiry within the State in which the complaint is filed his place of residence cannot be ascertained by the United States or, if ascertained, that it is beyond the territorial limits of personal service as provided in rules 4 (c) and (d) of the Federal Rules of Civil Procedure, service of Notice of Summons and Complaint shall be made on that defendant by publication in a newspaper published in the county where the property is located, or if there is no such newspaper, then in a newspaper having a general circulation in the State where the property is located, once a week for three successive weeks. Prior to the last publication, a copy of the notice shall also be mailed to a defendant who cannot be personally served as provided in this rule but whose place of residence is then known. Unknown owners may be served by publication in like manner by a notice addressed to 'Unknown Others'. Service by publication is complete upon the date of the last publication. Proof of publication and mailing shall be made by certificate of counsel for the United States, to which shall be attached a printed copy of the published notice with the name and dates of the newspaper marked thereon.

"§ 3603. Trial; commissioner; decree of partition

"(a) All questions of law or equity affecting the title of the property which may arise, and the determination of the share or interest of each of the co-owners or claimants shall be tried by the court without a jury.

"(b) The court shall determine whether the property, or any part thereof, is susceptible of partition. If the court determines that the whole, or any part of the property is susceptible of partition, then the court shall enter a decree directing the partition of the property which is held to be susceptible of partition, describing it and specifying the share or interest to which each party is entitled. The court shall then appoint three or more competent and disinterested persons as commissioners to make the partition in accordance with the court's decree, the majority of the commissioners may act.

"(c) The court may appoint a surveyor to assist the commissioners in making a partition of real estate. The commissioners may cause the real estate to be surveyed and partitioned into several tracts or parcels.

"(d) The court may appoint an appraiser or appraisers to value the property and file an appraisal report with the court and the commissioners, as the court directs.

"(e) The commissioners shall divide the property into as many shares as there are persons entitled thereto, as determined by the court, having due regard in the division of the property to the situation, quantity, and advantage of each share, so that the shares may be equal in value, as nearly as may be, in the proportion to the respective shares or interests of the parties entitled thereto.

"(f) The commissioners shall report in writing to the court; and the report shall be determined by a majority of the commissioners and the contents shall be governed by the provisions of rules 53(e) (1) and (2) of the Federal Rules of Civil Procedure. The report shall also contain the following—

"(1) The several tracts, units, or parcels into which the property was divided (describing each particularly);

"(2) the number of shares and the estimated value of each share;

"(3) the allotment of each share; and

"(4) field notes and maps as to each estate, as may be necessary.

"The findings and reports of the commissioners shall have the effect, and be dealt with by the court in accordance with the practice prescribed in rule 53(e)(2).

"(g) The decree of the court confirming the report of commissioners in a partition of property gives a recipient of an interest in the property a title equivalent to a conveyance of the interest by warranty deed as in the case of real property or by bill of sale as to personal property, from the other parties in the action.

"(h) All conditions, restrictive covenants, and encumbrances against the property that applied to the property prior to the partition shall remain against the property as partitioned unless those restrictions, covenants and encumbrances have been included and are subject to the partition action.

"§ 3604. Partition by sale

"Should the court determine that a fair and equitable division of the property, or any part thereof, cannot be made, the court shall order a sale of that part which is incapable of partition, which sale shall be for cash, or upon such other terms as the court may direct, and shall be made as provided by title 28, United States Code, chapter 127, or through a receiver, as the court so orders. The proceeds of such sale shall be paid into the court and partitioned among the persons and parties entitled thereto according to their respective interests.

"§ 3605. Costs

"Costs shall be taxed against each party to whom a share has been allotted in proportion to the value of such share.

"SUBCHAPTER H—FORECLOSURE OF SECURITY INTERESTS

"Sec.
"3701. United States foreclosures governed by Federal law.
"3702. Deficiency rights on federally guaranteed or insured loans.

"SUBCHAPTER H—FORECLOSURE OF SECURITY INTERESTS

"§ 3701. United States foreclosures governed by Federal law

"Unless the documents specifically adopt State law, any action by the United States to foreclose security interests in real property shall be governed by the Federal statutes and applicable regulations, provisions set forth in the transaction documents and by Federal common law where there is no governing statute, applicable regulation or provision, and not by the State law where the real property is located. This shall include, but not be limited to, questions regarding redemption rights and deficiency judgments.

"§ 3702. Deficiency rights on federally guaranteed or insured loans

"Unless the documents specifically adopt State law, the right of the United States to collect a deficiency following the foreclosure of a loan guaranteed or insured by the United States or any agency thereof shall be governed by Federal statutes, applicable regulations, and the provisions set forth in the transaction documents. The rights of the United States under this section shall apply notwithstanding the provisions of any State law and without regard to the method used by the loan holder to foreclose the loan.".

Subtitle B—Amendments to Other Provisions of Law

SEC. 521. Section 505 of title 11, United States Code, is amended by adding at the end thereof the following subsection:

"(d) Payments of taxes under this title to a governmental unit may be applied by the governmental unit in a manner that preserves alternative sources of collection, if any.".

SEC. 522. Section 523(a) of title 11, United States Code, is amended as follows:

(a) by deleting the word "or" at the end of section 523(a)(9); and

(b) by deleting "." at the end of section 523(a)(10) and adding "; and" in lieu thereof; and

(c) by adding the following subsections at the end of section 523(a):

"(11) to the extent that such debt arises from a violation by the debtor of a civil or criminal law enforceable by an action by a governmental unit to recover restitution, damages, civil penalties, attorney fees, costs, or any other relief, or to the extent that such debt arises from an agreed judgment or other agreement by the debtor to pay money or transfer property in settlement of such an action by a governmental unit; or

"(12) to the extent such debt arises from a criminal appearance bond.".

SEC. 523. Section 523(a) of title 11, United States Code, is amended to read as follows:

(a) subsection (8) is amended to read as follows:

"(8) for an educational benefit overpayment or loan made, insured or guaranteed by a governmental unit, or made under any program funded in whole or in part by a governmental unit or nonprofit institution, or for an obligation to repay funds received as an educational benefit, scholarship or stipend, unless—".

(b) subsection (8)(A) is amended to read as follows:

"(A) such loan, benefit, scholarship or stipend overpayment or loan first became due seven years (exclusive of any applicable suspension of the repayment period) before the date of the filing of the petition; or".

SEC. 524. (a) Section 1129(a)(9)(C) of title 11, United States Code, is amended to read as follows:

"(C) with respect to a claim of a kind specified in section 507(a)(7) of this title, the holder of such claim will receive on account of such claim deferred cash payments, over a period not exceeding six years after the date of assessment of such claim or six years after confirmation for such claims that have not been assessed, of a value as of the effective date of the plan, equal to the allowed amount of such claim.".

(b) Section 1129 of title 11, United States Code, is amended by adding at the end thereof the following:

"(e) For purposes of determining the value of deferred cash payments under a plan with respect to a secured or unsecured tax claim, the appropriate interest rate shall be the statutory rate applicable to unpaid taxes owing to the governmental unit holding the claim.".

SEC. 525. Section 1328(a)(2) of title 11, United States Code, is amended by striking out "section 523(a)(5)" and inserting in lieu thereof "paragraphs (5) and (11) of section 523(a)".

SEC. 526. Section 3142(c)(1)(B)(xi) of title 18, United States Code, is amended to read as follows:

"(xi) execute an agreement to forfeit upon failing to appear as required, property of a sufficient unencumbered value, including money, as is reasonably necessary to assure the appearance of the person as required, and shall provide the court with proof of ownership and the value of the property along with information regarding existing encumbrances as the judicial office may require.".

SEC. 527. Section 3142(c)(1)(B)(xii) of title 18, United States Code, is amended to read as follows:

"(xii) execute a bail bond with solvent sureties; who will execute an agreement to forfeit in such amount as is reasonably necessary to assure appearance of the person as required and shall provide the court with information regarding the value of the assets and liabilities of the surety if other than an approved surety and the nature and extent of encumbrances against the surety's property; such surety shall have a net worth which shall have sufficient unencumbered value to pay the amount of the bail bond.".

SEC. 528. Section 3142(g)(4) of title 18, United States Code, is amended by—

(a) striking out "(c)(2)(k)" and inserting in lieu thererof "(c)(1)(B)(xi)"; and

(b) striking out "(c)(2)(L)" and inserting in lieu thereof "(c)(1)(B)(xii)".

SEC. 529. (a) Section 3552(d) of title 18, United States Code, is amended by adding at the end thereof the following:

"The court shall provide a copy of the presentence report to the attorney for the Government to use in collecting an assessment, criminal fine, forfeiture or restitution imposed.".

(b) The amendment made by subsection (a) shall take effect as if enacted on the

date of the taking effect of section 3552(d) of title 18, United States Code.

SEC. 530. Section 3565(a) of title 18, United States Code, is amended—

(1) in paragraph (1), by striking out "by execution against the property of the defendant"; and

(2) in paragraph (1) by striking out "civil cases." and inserting in lieu thereof "accordance with chapter 176 of title 28. The United States may elect at its discretion to use any remedy available under this chapter or chapter 176 of title 28 or any combination of such remedies in the same case."; and

(3) in paragraph (4), by deleting the word "Salaries" and inserting in lieu thereof the following:

"Notwithstanding any contrary provision in chapter 176 of title 28, United States Code, salaries."; and

(4) in paragraph (5), the second sentence should be deleted.

SEC. 531. Section 3579(f)(4) of title 18, United States Code, is amended by—

(a) striking out the "." at the end thereof; and

(b) adding at the end thereof the following: "only if they are in fear of contact with the defendant.".

SEC. 532. (a) Section 3613 of title 18, United States Code, is amended—

(1) in subsection (d), as added by section 212(a) of the Comprehensive Crime Control Act of 1984, by striking out the second sentence; and

(2) in subsection (e), as added by section 212(a) of the Comprehensive Crime Control Act of 1984 by—

(A) striking out "by execution against the property of the person fined";

(B) striking out "civil cases," and inserting in lieu thereof "accordance with chapter 176 of title 28,"; and

(C) adding at the end thereof "The United States may elect at its discretion to use any remedy available under this chapter or chapter 176 of title 28 or any combination of such remedies in the same case.".

(b) The amendments made by this section shall take effect as if enacted on the date of the taking effect of such section 3613.

SEC. 533. Section 3663(f)(4) of title 18, United States Code, is amended by inserting before the period at the end thereof the following: "only if they are in fear of contact with the defendant.".

SEC. 534. Section 524 of title 28, United States Code, is amended by adding at the end thereof the following:

"(d)(1) There shall be established in the United States Treasury a special fund to be known as the Department of Justice Debt Collection Fund (hereinafter in this subsection referred to as 'fund') which shall be available to the Attorney General without fiscal year limitation in such amounts as may be specified in appropriation Acts for the purposes set forth herein.

"(2) There shall be deposited in the fund 5 per centum of all net amounts realized from the debts collected by the divisions of the Department of Justice and all United States attorney's offices. Deposits to the fund shall begin the day after the date of enactment, from all amounts collected on and after that date.

"(3) The fund may be used for the following purposes of the Department of Justice:

"(A) the training of personnel of the Department of Justice in debt collection;

"(B) services pertinent to debt collection, such as title searches, debtor skiptracing, asset searches, credit reports and other investigations related to locating debtors and their property; and

"(C) expenses of costs of sales of property not covered by the sale proceeds, such as auctioneers' fees and expenses, maintenance and protection of property and businesses, advertising and title search and surveying costs;

"(4) Amounts in the fund which are not currently needed for the purpose of this section shall be kept on deposit or invested in obligations of, or guaranteed by the United States.

"(5) For fiscal years 1990, 1991, 1992, and 1993 there are authorized to be appropriated such sums as may be necessary for the purposes described in subsection (3). At the end of each fiscal year, any amount in the fund in excess of the amount appropriated, shall be deposited in the general fund of the Treasury of the United States, except that an amount not to exceed $5,000,000 may be carried forward and be available in the next fiscal year.

"(6) For the purposes of these subsections, amounts from debt collection efforts of the Department of Justice shall include amounts realized from actions brought by or judgments enforced by Department of Justice personnel, including those in all United States attorneys' offices, whether civil or criminal, and whether involving tax or nontax debts owed to the United States, except as deposit of such amounts into other special funds is required by law.".

SEC. 535. Section 550 of title 28, United States Code, is amended by striking out "assistants and messengers" and inserting in lieu thereof "assistants, messengers, and private process servers".

SEC. 536. Section 1961(c)(1) of title 28, United States Code, is amended to read as follows:

"(c)(1) The provisions of this section do not apply to judgments entered in favor of the United States.".

SEC. 537. Section 1962 of title 28, United States Code, is amended by adding the following after the first sentence thereof: "The provisions of this section do not apply to judgments entered in favor of the United States.".

SEC. 538. Section 1963 of title 28, United States Code, is amended by adding the following after the first sentence thereof: "Such a judgment entered in favor of the United States may be registered as specified any time after judgment is entered.".

SEC. 539. (a) Chapter 129 of title 28, United States Code, is amended by adding at the end thereof the following section:

"§ 2044. Payment of fine with bond money

"Upon motion of the United States attorney, the court shall order any money belonging to and deposited by the defendant with the court for the purposes of a criminal appearance bail bond (trial or appeal) to be held and paid over to the United States attorney to be applied to the payment of any assessment, fine, restitution or penalty imposed upon the defendants. The court shall not release any money deposited for bond purposes after a plea or a verdict of the defendant's guilt has been entered and before sentencing, except upon a showing that an assessment, fine, restitution or penalty cannot be imposed for the offense the defendant committed or that the defendant would suffer an undue hardship. This does not apply to any third party sureties.".

(b) The table of sections for chapter 129 of title 28, United States Code, is amended by adding at the end thereof the following new item:

"2044. Payment of fine with bond money.".

SEC. 540. Section 2410(c) of title 28, United States Code, is amended by adding at the end thereof the following: "In any case where the United States is a bidder at the judicial sale, it may credit the amount determined to be due it against the amount it bids at such sales.".

SEC. 541. Section 2413 of title 28, United States Code, and the item relating to section 2413 in the table of sections for chapter 161, are repealed.

TITLE VI—TREATMENT, PREVENTION AND EDUCATION

SEC. 601. GRANTS FOR TRAINING OF DRUG TREATMENT PROFESSIONALS.

Title V of the Public Health Service Act is amended by inserting after section 508 (42 U.S.C. 290aa-6) the following new section:

"SEC. 508B. GRANTS FOR TRAINING OF DRUG TREATMENT PROFESSIONALS.

"(a) ESTABLISHMENT.—The Secretary shall establish a grant program to make grants to eligible institutions to enable such institutions to provide training services to increase the supply of drug treatment professionals, including professionals trained to work with adolescents, and professionals trained to work with community prevention activities.

"(b) ELIGIBLE INSTITUTIONS.—Institutions eligible to receive a grant under this section shall include medical schools, schools of osteopathy, schools of nursing, schools of public health, schools of chiropractic services, schools of social work, and other appropriate educational institutions that submit an application in accordance with subsection (c).

"(c) APPLICATION.—To be eligible to receive a grant under this section, an eligible institution shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may by regulation require.

"(d) AUTHORIZATION OF APPROPRIATIONS.—

"(1) FISCAL YEAR 1990.—The Secretary shall use amounts appropriated under section 508 for the fiscal year ending September 30, 1990, to carry out this section in fiscal year 1990.

"(2) SUBSEQUENT FISCAL YEARS.—There are authorized to be appropriated to make grants under this section in each of the fiscal years 1991 and 1992, such sums as may be necessary.".

SEC. 602. NATIONAL RESOURCE AND INFORMATION CENTER.

Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended by adding at the end thereof the following new section:

"SEC. 509H. NATIONAL RESOURCE AND INFORMATION CENTER.

"(a) ESTABLISHMENT.—The Secretary, acting through the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, shall use amounts made available under subsection (d) to make a grant to an institution of the type described in subsection (b) for the establishment of a National Resource and Information Center for Perinatal Addiction.

"(b) TYPE OF INSTITUTION.—The grant under subsection (a) shall be awarded, after a competitive search, to a private nonprofit institution that has an extensive background and experience in performing research on maternal substance abuse and in disseminating such information to professionals, policymakers, the general public and the media, as well as experience in pro-

viding educational services to maternal substance abusers and their exposed infants.

"(c) DUTIES.—The Center established under subsection (a) shall—

"(1) coordinate and disseminate research on maternal substance abuse, treatment options for such women and infants of such women, and prevention strategies;

"(2) develop and distribute training and educational information and materials concerning maternal substance abuse;

"(3) act as a clearinghouse for information on treatment programs for pregnant women who are addicted to illegal substances;

"(4) develop and manage a national toll free hotline to provide information and referrals;

"(5) provide policy analysis and program evaluation to the Secretary of Health and Human Services; and

"(6) provide any other services designed to carry out the purposes of this subsection.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this paragraph, $2,500,000 for fiscal year 1990, and such sums as may be necessary for fiscal year 1991.".

SEC. 603. GRANTS FOR SUBSTANCE ABUSE TREATMENT FOR PREGNANT AND POST-PARTUM WOMEN.

Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) (as amended by section 602) is further amended by adding at the end thereof the following new section:

"SEC. 509I. GRANTS FOR SUBSTANCE ABUSE TREATMENT FOR PREGNANT AND POST-PARTUM WOMEN.

"(a) IN GENERAL.—The Secretary, acting through the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, shall subject to amounts available in appropriation Acts, make grants to entities to provide assistance to outpatient and residential substance abuse treatment programs relating to pregnant and post-partum women and their infants, that meet the requirements of subsection (b).

"(b) REQUIREMENTS.—

"(1) DISTRIBUTION.—In making grants under subsection (a), the Administrator shall ensure that grants are reasonably distributed among projects that provide outpatient and residential treatment.

"(2) SERVICES.—An entity shall not be eligible for a grant under subsection (a) unless such entity provides the Administrator with an assurance that such entity will use assistance provided under such grant to provide, arrange for the provision of, or refer individuals to, services that shall include—

"(A) intervention services for pregnant and post-partum women, including—

"(i) substance abuse and addiction treatment services;

"(ii) support services (such as child care and transportation services);

"(iii) education and skill building services (such as parenting and job seeking skill services);

"(iv) integration and coordination of substance abuse treatment services with prenatal or post-partum health care services;

"(v) innovative methods of outreach to identify and recruit target populations for services early in the pregnancy of individuals of such populations;

"(vi) medical screening procedures of pregnant women for past and present substance use and abuse; and

"(vii) after care services;

"(B) interventions where infants are at risk, including—

"(i) direct intervention, treatment, or rehabilitation of infants, which may include other siblings, to reduce or prevent the impact of maternal substance abuse on such children; and

"(ii) supportive services for biologic or foster parents of infants affected by maternal substance abuse;

"(C) service delivery strategies that may include—

"(i) strategies for the coordination, for purposes of identification or service delivery, of family violence and homeless shelter programs, programs under part A of title IV of the Social Security Act, and section 17 of the Child Nutrition Act of 1966, crisis pregnancy centers programs, public housing programs, and prison programs, with other likely points of access for high risk women;

"(ii) strategies concerning the involvement of significant others (such as male partners of pregnant women) as direct intervention targets or strategies to aid in the outreach and service delivery processes for women;

"(iii) strategies for co-locating multiple facilities to facilitate the delivery of services; and

"(iv) innovative strategies (such as case management) to ensure the coordinated utilization of generally unrelated service systems;

"(D) other services necessary to improve pregnancy outcomes, reduce substance abuse among women of childbearing age, and increase the stability of the family home environment.

"(c) APPLICATION.—The Administrator shall not make a grant under subsection (a) unless—

"(1) an application for the grant is submitted to the Secretary;

"(2) with respect to carrying out the purpose for which the grant is to be made, the application provides assurances of compliance satisfactory to the Secretary;

"(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Administrator determines to be necessary to carry out this section; and

"(4) the application contains an assurance that the applicant will provide funds, other than Federal funds, in an amount that is not less than 10 per centum of the amount of the grant under subsection (a).

"(d) CONSTRUCTION.—Nothing in this section shall be construed to permit the Secretary to discriminate in the awarding of grants under subsection (a) against applicants that propose or provide residential or outpatient rehabilitation services under applicable requirements of State law, including applicants that provide services to substance abusing pregnant and post-partum women that receive treatment by order of a court or other appropriate public agency, so long as all such applications include measures that encourage substance abusing pregnant and post-partum women to seek prenatal care and rehabilitation.

"(e) There are authorized to be appropriated to carry out this section, $50,000,000 in fiscal year 1990, and such sums as may be necessary in fiscal year 1991.".

SEC. 604. EMERGENCY PROTECTIVE CHILD SERVICES GRANTS.

(a) ESTABLISHMENT.—The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101) is amended by adding after section 8 the following new section:

"SEC. 8A. EMERGENCY PROTECTIVE CHILD SERVICES GRANTS.

"(a) ESTABLISHMENT.—Subject to the availability of appropriations, the Secretary shall establish a grant program to make grants to eligible entities to enable such entities to provide services to children whose parents are substance abusers.

"(b) ELIGIBLE ENTITIES.—Entities eligible to receive a grant under this section shall be State or local agencies that are responsible for administering protective child services or child abuse intervention services. Such agencies shall include those agencies responsible for administering foster care, child welfare, child protective services, and child abuse intervention programs.

"(c) APPLICATION.—

"(1) IN GENERAL.—To be eligible to receive a grant under this section, an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may by regulation require.

"(2) ASSURANCE OF USE.—An application submitted under paragraph (1) shall—

"(A) contain an assurance that the applicant operates in a geographic area where substance abuse has placed substantial strains on social service and law enforcement agencies and has resulted in substantial increases in the need for services that cannot be met without funds available under this section;

"(B) identify the responsible agency or agencies that will be involved in the use of funds provided under this section;

"(C) contain a description of the emergency situation with regard to children of substance abusers who need services of the type described in this section;

"(D) contain a plan for improving the delivery of such services to such children;

"(E) contain assurances that such services will be provided in a comprehensive multidisciplinary and coordinated manner; and

"(F) contain any additional information as the Secretary may reasonably require.

"(d) USE OF FUNDS.—Funds received by an entity under this section shall be used to improve the delivery of services to children whose parents are substance abusers. Such services may include—

"(1) the hiring of additional personnel by the entity to reduce caseloads;

"(2) the provision of additional training for personnel to improve their ability to provide emergency child protective services related to substance abuse by the parents of such children;

"(3) the provision of expanded services to deal with family crises created by substance abuse;

"(4) the recruitment of additional foster care families;

"(5) the recruitment of additional adoptive families; and

"(6) the establishment or improvement of coordination between the agency administering the grant and—

"(A) child protection and welfare organizations;

"(B) hospitals and health care providers;

"(C) public health and mental health professionals;

"(D) judicial and law enforcement officers;

"(E) child advocates;

"(F) public educational institutions;

"(G) community-based organizations that serve substance abusing parents, including pregnant and post-partum females and their infants;

"(H) public housing officials;

"(I) providers of shelter to abused and homeless females and families; and

"(J) parents and representatives of parent groups.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to

make grants under this section, $40,000,000 in fiscal year 1990, and such sums as may be necessary in each subsequent fiscal year.".

(b) CHILD ABUSE GRANTS.—

(1) FINDINGS.—Section 402(A) of the Joint Resolution entitled "A Joint Resolution making continuing appropriations for the fiscal year 1985, and for other purposes", (approved October 12, 1984, Public Law 98-473, 98 Stat. 2198, 42 U.S.C. 5116d) is amended—

(A) by inserting after paragraph (3), the following new paragraph:

"(4) parental substance abuse places children at great risk of abuse and neglect;"; and

(B) by redesignating paragraphs (4), (5), (6), and (7) as paragraphs (5), (6), (7), and (8) respectively.

(2) STATE ELIGIBILITY.—Section 405(4)(A) of such Act (98 Stat. 2198, 42 U.S.C. 5116c) is amended by inserting "services to substance abusing parents, including pregnant and post-partum women," after "perinatal bonding,".

SEC. 605. PRIMARY PEDIATRIC CARE FOR DISADVANTAGED CHILDREN PROGRAM.

Subpart V of part D of title III of the Public Health Service Act (42 U.S.C. 256 et seq.) is amended—

(1) by adding after the subpart heading the following:

"CHAPTER 1—GRANT PROGRAM";

(2) in section 340(q), to read as follows:

"(q) FUNDING.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out chapters 1 and 2, $61,200,000 for fiscal year 1989, $73,600,000 for fiscal year 1990, and $76,200,000 for fiscal year 1991.

"(2) USE OF FUNDS.—Of amounts made available under paragraph (1) in excess of $63,600,000 in fiscal year 1990 and $66,200,000 in fiscal year 1991, the Secretary shall use up to $10,000,000 in each of such fiscal years to carry out chapter 2.

"(3) Amounts received by a grantee pursuant to subsection (a) remaining unobligated at the end of the fiscal year in which the amounts were made received shall remain available to the grantee during the succeeding fiscal year for the purpose described in such subsection."; and

(3) by adding at the end thereof the following new chapter:

"CHAPTER 2—PRIMARY PEDIATRIC CARE FOR DISADVANTAGED CHILDREN PROGRAM

"SEC. 340A. PRIMARY PEDIATRIC CARE FOR DISADVANTAGED CHILDREN PROGRAM.

"(a) DEFINITION.—As used in this section, the term 'acute and primary pediatric care' means general outpatient services such as immunizations, general physical examinations, treatment of otitis media and simple pneumonias, assessment of growth and development, and referrals.

"(b) AUTHORITY.—The Director may make grants and enter into contracts with public and nonprofit organizations, agencies, and institutions, and with individuals to pay part or all of the costs of establishing programs (such as the New York Children's Health Project) designed to provide high quality acute and primary pediatric care to economically disadvantaged children and adolescents for the purposes described in subsection (c), or operating such programs, or both.

"(c) ELIGIBLE ACTIVITIES.—A recipient shall use funds available under this section to—

"(1) provide child health stations or, where appropriate, mobile medical units, staffed by physicians, nurse practitioners, and other health care providers to conduct health assessments, acute care, physical exams, and simple lab tests.

"(2) establish an extensive follow-up system to ensure maximum consultative and referral visits for comprehensive health needs;

"(3) provide adolescent health services that are coordinated by an adolescent health physician and that relate to specific programs for—

"(A) prenatal care for teenage pregnancies;

"(B) the identification of potential chemical substance abuse;

"(C) an intensive substance abuse prevention program; and

"(D) other adolescent health problems;

"(4) provide psychological services directly or through references, including screening, evaluation, and treatment by a psychologist under the direction of a developmental pediatrician;

"(5) establish a child abuse identification and management referral program;

"(6) establish a health service program for children in foster care;

"(7) establish a program to provide medical services and community referrals to runaway and homeless youth;

"(8) establish a program to provide services to children with special medical needs, such as a physical handicap or chronic illness; or

"(9) establish programs for other underserved children.".

SEC. 606. RURAL SUBSTANCE ABUSE TREATMENT AND EDUCATION GRANTS.

Section 508 of the Public Health Service Act (42 U.S.C. 290aa-6) is amended—

(1) in subsection (b)(10)—

(A) by striking out "and" at the end of subparagraph (A); and

(B) by adding at the end thereof the following new subparagraph:

"(C) establish a program to provide grants to hospitals, community health centers, and chemical dependency treatment centers that serve non-metropolitan areas to assist such entities in developing and implementing projects that provide, or expand the availability of, chemical dependency treatment or education services; and"; and

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

"(e)(1) In carrying out subsection (b)(1)(C) the Director shall provide grants in accordance with this subsection.

"(2) To receive a grant under subsection (b)(1)(C), a hospital, community health center, or treatment facility shall—

"(A) serve a non-metropolitan area or have a substance abuse treatment or education program that is designed to serve a non-metropolitan area;

"(B) by operating, or have a plan to operate, an approved substance abuse treatment program or an approved community education program;

"(C) agree to coordinate substance abuse treatment activities within the State and local agencies responsible for substance abuse treatment; and

"(D) prepare and submit an application in accordance with paragraph (3).

"(3)(A) To be eligible to receive a grant under subsection (b)(10)(C), an entity shall submit an application to the Director at such time, in such manner, and containing such information, including an assurance that assistance received under this section shall be used in accordance with paragraph (4), as the Director shall require.

"(B) State agencies that are responsible for substance abuse treatment may submit coordinated grant applications on behalf of entities that are eligible for grants under paragraph (2).

"(4) An entity that receives a grant under subsection (b)(10)(C) shall use such grant to assist or establish projects that serve nonmetropolitan areas in which the need for substance abuse treatment services is greater than the capacity of available treatment facilities at the time of such grant.

"(5)(A) To receive a grant under subsection (b)(10)(C), a project shall serve nonmetropolitan areas in which the need for substance abuse treatment facilities is greater than the capacity of such existing treatment facilities.

"(B) In awarding grants under subsection (b)(10)(C), the Director shall give special consideration to—

"(i) projects sponsored by rural hospitals that are qualified to receive rural health care transition grants as provided for in section 4005(e) of the Omnibus Budget Reconciliation Act of 1987;

"(ii) projects serving nonmetropolitan areas that establish links and coordinate activities between hospitals, community health centers, community mental health centers, and substance abuse treatment centers; and

"(iii) projects that are designed to serve areas that have no available existing treatment facilities.

"(6) The term of each grant shall not exceed 3 years.

"(7) To the extent feasible, the Director shall provide grants to fund at least one project in each State.".

SEC. 607. DRUG ABUSE TREATMENT IMPROVEMENT.

Part A of title V of the Public Health Service Act (42 U.S.C. 290dd et seq.) (as amended by sections 602 and 603) is further amended by adding at the end thereof the following new section:

"SEC. 509J. DRUG ABUSE TREATMENT IMPROVEMENT.

"(a) ESTABLISHMENT.—The Secretary, acting through the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, shall, subject to the availability of appropriations establish and implement a Substance Abuse Treatment Improvement Program that shall make grants to, and enter into contracts or cooperative agreements with, State and local drug abuse entities, and public and private nonprofit agencies to—

"(1) increase the total number of drug abuse treatment slots available for individuals in the United States;

"(2) improving drug abuse treatment efficacy;

"(3) provide emergency treatment expansion for geographic areas with high incidences of drug abuse among particularly vulnerable populations, including racial and ethnic minorities, adolescents in urban and rural areas, pregnant and post partum drug addicts and their infants, intravenous drug abusers, and residents of public housing projects; and

"(4) increasing public acceptability of treatment facilities within local communities.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $50,000,000 in fiscal year 1990, of which $10,000,000 shall be made available for treatment crisis grants, and such sums as may be necessary in fiscal year 1991.".

SEC. 608. RURAL DRUG EDUCATION.

Section 5122 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3192) is amended by adding at the end thereof the following new subsection:

"(d) Not less than 5 per centum of the funds made available for each fiscal year under section 5121(a) to the chief executive officer of a State shall be used for substance abuse education programs serving individuals who reside in non-metropolitan areas. The Secretary may grant a waiver of this subsection for good cause.".

SEC. 609. CLEARINGHOUSE PROGRAM.

Section 509 of the Public Health Service Act (42 U.S.C. 290aa-7) is amended—

(1) in paragraph (3), by striking out "and" at the end thereof;

(2) in paragraph (4), by striking out the period; and

(3) by adding at the end thereof the following new paragraphs—

"(5) to gather information pertaining to rural drug abuse treatment and education projects funded by the Alcohol, Drug Abuse, and Mental Health Administration, as well as other such projects operating throughout the United States; and

"(6) to disseminate such information to rural hospitals, community health centers, community mental health centers, treatment facilities, community organizations, and other interested individuals.".

SEC. 610. EMPLOYEE ASSISTANCE PROGRAMS.

Section 2101 of the Anti-Drug Abuse Act of 1988 (20 U.S.C. 566) is amended—

(1) in subsection (d), by striking out "$5,000,000" and all that follows through the period and inserting in lieu thereof "$5,300,000 for each of the fiscal years 1990 and 1991 of which $300,000 shall be made available to carry out subsection (d).";

(2) by inserting after subsection (c), the following new subsection:

"(d) CONGRESSIONAL EMPLOYEE ASSISTANCE PLANS.—The Clerk of the House of Representatives and the Sergeant at Arms of the Senate shall each develop and implement an Employee Assistance Program under this section for Congressional members, officers, staff, and families of such individuals. Prior to submitting an application under subsection (b), the Clerk and the Sergeant at Arms shall obtain approval of its plan from the House of Representatives and the Senate.";

and

(3) by redesignating subsection (d) as subsection (e).

SEC. 611. STUDY BY THE NATIONAL ACADEMY OF SCIENCES AND THE NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES.

(a) SCOPE OF UNDERTAKING.—The Secretary of Health and Human Services, shall arrange to have a study conducted to—

(1) assess drug treatment and prevention programs in effect on the date of enactment of this Act;

(2) identify those drug treatment and prevention programs that are effective;

(3) determine whether the programs referred to in paragraph (2) can and should be expanded or extended to other areas;

(4) determine whether Federal assistance for treatment and prevention programs in effect on the date of enactment of this Act should be discontinued; and

(5) recommend an overall Federal medical and public health effort to treat individuals who are addicted to illegal drugs and to further prevent the use of such drugs.

(b) ARRANGEMENTS.—

(1) REQUEST.—The Secretary of Health and Human Services shall request the National Academy of Sciences and the National Institute of General Medical Science to conduct the study required by subsection (a) under an arrangement whereby the actual expenses incurred by such Academy and Institute in conducting such study shall be paid by the Secretary.

(2) UNWILLINGNESS TO ENTER INTO.—If either the National Academy of Sciences or the National Institute of General Medical Sciences, but not both, decline to participate in the conduct of the study under an arrangement under paragraph (1), the Secretary shall enter into an arrangement similar to that required under such paragraph solely with the Academy or Institute that is willing to conduct such study.

(3) NONPROFIT PRIVATE GROUPS.—If both the National Academy of Sciences and the National Institute of General Medical Sciences decline to participate in the conduct of the study under an arrangement under paragraph (1), the Secretary shall enter into an arrangement similar to that required under such paragraph with other appropriate nonprofit private groups or associations under which such groups or associations shall conduct such study and prepare and submit the report required under subsection (c).

(4) CONSULTATION.—The entity that conducts the study under subsection (a) shall consult with the Director of the National Institutes of Health.

(c) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary of Health and Human Services shall prepare and submit, to the Committees on Energy and Commerce and Judiciary of the House of Representatives and the Committees on Labor and Human Resources and Judiciary of the Senate, a report concerning the results of the study conducted under subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $2,000,000.

SEC. 612. COMPREHENSIVE DRUG PREVENTION PROGRAMS.

Section 508 of the Public Health Service Act (42 U.S.C. 290aa-6) is amended—

(1) in subsection (b)(8), by inserting before the semicolon the following: ", including a program that shall establish a comprehensive approach to drug prevention"; and

(2) in subsection (c)—

(A) by inserting "(1)" after the subsection designation; and

(B) by adding at the end thereof the following new paragraph:

"(2) To be eligible to receive assistance under subsection (b)(8), as a program taking a comprehensive approach to drug prevention, an institution shall establish or expand a drug prevention program that is comprehensive in nature, and that includes—

"(A) an anti-drug policy;

"(B) peer to peer drug abuse programs;

"(C) the provision of complete and accurate information concerning drugs;

"(D) the involvement of the family and community; and

"(E) the participation of the institution in a communication system established by the county that such institution operates in for the purpose of sharing drug prevention and education information with local agencies.

SEC. 613. DRUG-FREE WORKPLACE REQUIREMENTS.

(a) FEDERAL CONTRACTORS.—Section 5152(a)(1)(B) of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701(a)(1)(B)) is amended—

(1) in clause (iii), by striking out "and" at the end thereof;

(2) in clause (iv), by adding "and" after the semicolon; and

(3) by adding at the end thereof the following new clause:

"(v) the dangers of drug abuse among children, including the information parents need to know to identify the early signs of drug use by children;".

(b) FEDERAL GRANT RECIPIENTS.—Section 5153(a)(1)(B) of such Act (41 U.S.C. 702(a)(1)(B)) is amended—

(1) in clause (iii), by striking out "and" at the end thereof;

(2) in clause (iv), by adding "and" after the semicolon; and

(3) by adding at the end thereof the following new clause:

"(v) the dangers of drug abuse among children, including the information parents need to know to identify the early signs of drug use by children;".

TITLE VII—FORFEITURE

SEC. 701. USES OF JUSTICE FORFEITURE FUND.

(a) PURCHASE OF FIREARMS.—Section 524(c)(1) of title 28, United States Code, is amended—

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

(2) by redesignating subparagraph (H) as subparagraph (I);

(3) by inserting a new subparagraph (H) as follows:

"(H) for any fiscal year, not to exceed $10,000,000 for the purchase of firearms, ammunition, protective body armor, and other personal safety equipment for investigative and enforcement personnel of the Drug Enforcement Administration, Federal Bureau of Investigation, United States Marshals Service, and the Immigration and Naturalization Service who devote a substantial amount of their time to drug law enforcement activities; and";

(4) in subparagraph (A)(ii) by—

(A) inserting a comma after "forfeitable assets";

(B) inserting "or listed chemicals (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802))" after "storage, protection, and destruction of controlled substances".

(5) in subparagraph (B) by inserting before the semicolon ", or the money laundering offenses set forth in sections 1956 and 1957 of title 18 and sections 5313(a) and 5324 of title 31"; and

(6) in subparagraph (C) by inserting before the semicolon "or the money laundering provisions in sections 981 and 982 of title 18".

(b) DEFINITIONS AND PROCEDURES.—Subsection 524(c) of title 28, United States Code, is amended by adding at the end the following new paragraphs:

"(11) For the purposes of this subsection, the term 'firearm' means any rifle, handheld pistol or revolver, or other weapon that is authorized by the Attorney General, or his designee, to be carried by personnel of the Drug Enforcement Administration, Federal Bureau of Investigation, United States Marshals Service, and the Immigration and Naturalization Service.

"(12) Following the completion of procedures for the forfeiture of property pursuant to any law enforced or administered by the Department, the Attorney General is authorized, at his or her discretion, to warrant clear title to any subsequent purchaser or transferee of such property.".

(c) CONFORMING AMENDMENT.—Section 524(c)(9) of title 28, United States Code, is

amended by striking "and (G)" and inserting "(G) and (H)".

SEC. 702. RESTORING EQUITABLE SHARING.

(a) Section 511(e)(3) of the Controlled Substances Act (21 U.S.C. 881(e)(3)) is amended by—

(1) striking the semicolon and "and" after the semicolon in subparagraph (A) and inserting a period;

(2) striking the dash and "(A)"; and

(3) striking subparagraph (B).

(b) EFFECTIVE DATE.—Section 6077 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690; 102 Stat. 4324-25), is amended by striking subsection (c).

SEC. 703. DISPOSITION OF FORFEITED PROPERTY AND STATE LAW.

(a) Section 511(e)(3) of the Controlled Substances Act (21 U.S.C. 881(e)(3)) is amended by—

(1) striking subparagraph (B);

(2) striking the dash and "(A)"; and

(3) striking "; and" and inserting a period.

(b) Section 6077 of the Anti-Drug Abuse Act of 1988 is amended by striking subsection (c).

(c) The amendment made by subsection (a) shall be effective with respect to fiscal years beginning with fiscal year 1990.

SEC. 704. INCREASING EFFECTIVENESS OF ADMINISTRATIVE FORFEITURES.

(a) AMENDMENTS TO THE TARIFF ACT OF 1930.—Subsection (a) of section 607 of the Tariff Act of 1930 (19 U.S.C. 1607(a)) is amended—

(1) in paragraph (1) by striking "$100,000" and inserting "$500,000";

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

(3) by inserting "or" after the semicolon at the end of paragraph (3); and

(4) by adding after paragraph (3) the following:

"(4) such seized merchandise is monetary instruments;".

(b) CONFORMING AMENDMENT.—The section heading for section 607 of the Tariff Act of 1930 (19 U.S.C. 1607) is amended to read as follows:

"SEC. 1607. SEIZURE; VALUE $500,000 OR LESS, PROHIBITED ARTICLES, TRANSPORTING CONVEYANCES.".

SEC. 705. FORFEITURE OF INSTRUMENTALITIES OF A FOREIGN DRUG OFFENSE.

Section 981(a)(1)(B) of title 18, United States Code, is amended—

(1) by inserting after "proceeds obtained directly or indirectly from" the words "or which represents the instrumentalities of"; and

(2) by adding at the end thereof the following: "No conveyance shall be forfeited under this paragraph to the extent of an interest of an owner by reason of any act or omission established by that owner to have been committed or omitted without the knowledge, consent, or willful blindness of the owner.".

SEC. 706. CLOSING OF LOOPHOLE TO DEFEAT CRIMINAL FORFEITURE THROUGH BANKRUPTCY.

(a) TITLE 18.—Section 1963(a) of title 18, United States Code, is amended by inserting after "shall forfeit to the United States irrespective of any provision of State law" the following: ", or of any bankruptcy proceeding instituted after or in contemplation of a prosecution under this chapter".

(b) THE CONTROLLED SUBSTANCES ACT.—Section 413(a) of the Controlled Substances Act (21 U.S.C. 853(a)) is amended by inserting after "shall forfeit to the United States, irrespective of any provision of State law" the following: ", or of any bankruptcy proceeding instituted after or in contemplation of a prosecution of such violation".

SEC. 707. NONABATEMENT OF CRIMINAL FORFEITURE WHEN DEFENDANT DIES PENDING APPEAL.

(a) TITLE 18.—Section 1963 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(n) An order of forfeiture under this section shall not abate by reason of the death thereafter of any or all of the defendants or petitioners or potential petitioners.".

(b) THE CONTROLLED SUBSTANCES ACT.—Section 413 of the Controlled Substances Act (21 U.S.C. 853) is amended by adding at the end thereof the following new subsection:

"Nonabatement of Forfeiture Order

"(q) An order of forfeiture under this section shall not abate by reason of the death thereafter of any or all of the defendants or petitioners or potential petitioners.".

SEC. 708. FORFEITURE OF PERSONAL PROPERTY USED TO FACILITATE A DRUG OFFENSE.

Section 511(a) of the Controlled Substances Act (21 U.S.C. 881(a)) is amended by adding at the end thereof the following new paragraph:

"(10) Any weapon, computer, or electronic communications device used or intended to be used to facilitate the transportation, sale, receipt, possession, or concealment of property described in paragraph (1) or (2) and any proceeds traceable to such property.".

SEC. 709. FORFEITURE OF PROCEEDS TRACEABLE TO CONVEYANCES USED TO FACILITATE DRUG VIOLATIONS.

Section 511(a)(4) of the Controlled Substances Act (21 U.S.C. 881(a)(4)) is amended—

(1) by inserting "and any proceeds traceable to such conveyances" after "property described in paragraph (1) or (2),";

(2) in subparagraph (A), by inserting ", and no proceeds traceable to such conveyance," before "shall be forfeited"; and

(3) in subparagraphs (B) and (C), by inserting "and no proceeds traceable to such conveyance" before "shall be forfeited".

SEC. 710. CONFORMING AMENDMENT OF PROVISION RELATING TO THE EQUITABLE TRANSFER TO A PARTICIPATING FOREIGN NATION OF FORFEITED PROPERTY OR PROCEEDS.

Section 981(i) of title 18, United States Code, is amended—

(1) by striking "In the case of property subject to forfeiture under subsection (a)(1)(B), the following additional provisions shall, to the extent provided by treaty, apply:";

(2) in paragraph (1), by striking the first two sentences and inserting the following: "Whenever property is civilly or criminally forfeited under this chapter, the Attorney General may transfer the forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country which participated directly or indirectly in the seizure or forfeiture of the property, if such a transfer (i) has been agreed to by the Secretary of State, (ii) is authorized in an international agreement between the United States and the foreign country, and (iii) is made to a country that, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961."; and

(3) in paragraph (1), by striking the last sentence.

SEC. 711. CLARIFICATION OF ATTORNEY GENERAL'S FORFEITURE SALE AUTHORITY.

Section 511(e)(1)(B) of the Controlled Substances Act (21 U.S.C. 881(e)(1)(B)) and section 2254(f)(2) of title 18, United States Code, are each amended by inserting ", by public sale or any other commercially feasible means," after "sell".

SEC. 712. CLARIFICATION OF CIVIL FORFEITURE SEIZURE WARRANT AUTHORITY.

Section 981(b)(2) of title 18, United States Code, is amended by striking "has obtained a warrant for such seizure pursuant to the Federal Rules of Criminal Procedure" and inserting "has obtained a warrant for such seizure in the same manner as provided for a search warrant under the Federal Rules of Criminal Procedure".

SEC. 713. FORFEITURE AND DESTRUCTION OF DANGEROUS, TOXIC, AND HAZARDOUS MATERIALS.

Section 511(f) of the Controlled Substances Act (21 U.S.C. 881(f)) is amended by inserting "; all dangerous, toxic, or hazardous raw materials or products subject to forfeiture under subsection (a)(2) of this section; and any equipment or container subject to forfeiture under subsection (a) (2) or (3) which cannot be separated safely from such raw materials or products" after "this title" wherever it appears.

SEC. 714. ELIMINATION OF RESTRICTION ON DISPOSAL OF JUDICIALLY FORFEITED PROPERTY BY THE TREASURY DEPARTMENT AND THE POSTAL SERVICE.

Section 981(e) of title 18, United States Code, is amended by striking "The authority granted to the Secretary of the Treasury and the Postal Service pursuant to this subsection shall apply only to property that has been administratively forfeited.".

TITLE VIII—CIVIL ENFORCEMENT AND CONSTITUTIONAL GOVERNMENT IN PANAMA

Subtitle A—Civil Enforcement

SEC. 801. EVICTION FROM PLACES MAINTAINED FOR MANUFACTURING, DISTRIBUTING USING CONTROLLED SUBSTANCES.

Section 416 of the Controlled Substances Act (21 U.S.C. 856) is amended by adding at the end the following:

"(c) The Attorney General may bring a civil action against any person who violates the provisions of this section. The action may be brought in any district court of the United States or the United States courts of any territory in which the violation is taking place. The court in which such action is brought shall determine the existence of a violation by a preponderance of the evidence, and shall have the power to assess a civil penalty of up to $100,000 and to grant such other relief including injunctions and evictions as may be appropriate. Such remedies shall be in addition to any other remedy available under statutory or common law.".

SEC. 802. USE OF CIVIL INJUNCTIVE REMEDIES, FORFEITURE SANCTIONS, AND OTHER REMEDIES AGAINST DRUG OFFENDERS.

The Attorney General shall—

(1) aggressively pursue the use of criminal penalties authorized by section 1963 of title 18, United States Code, civil remedies authorized by section 1964 of title 18, United States Code, and other equitable remedies against drug offenders, including injunctions, stay-away orders, and forfeiture sanctions; and

(2) submit a report to Congress annually on the manner and extent to which such

remedies are being used and the effect of such use in curtailing drug trafficking. The amendments made by this section shall take effect one day after enactment.

Subtitle B—Constitutional Government in Panama

SEC. 811. POLICY TOWARD EFFORTS TO RESTORE CONSTITUTIONAL GOVERNMENT IN PANAMA.

(a) FINDINGS.—The Congress finds that General Manuel Noriega—

(1) runs one of the most pervasive police states in the Western Hemisphere;

(2) has usurped the power of the legitimate government in Panama;

(3) has undermined the economy of Panama;

(4) has been indicted in the United States for international drug trafficking and money laundering;

(5) is opposed by the overwhelming majority of the Panamanian people;

(6) has lost support of all democratic governments in the Western Hemisphere; and

(7) has, as evidenced by the attempted coup of October 3, 1989, lost significant support within the Panama Defense Forces.

(b) POLICY.—(1) It is the sense of the Congress that the President in his capacity as Chief Executive and Commander-in-Chief has authority under the Constitution and consistent with relevant laws of the United States and treaty commitments of the United States, including the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal and the Inter-American Treaty of Reciprocal Assistance (also known as the "Rio Treaty"), to protect United States citizens and property, to protect and defend the Panama Canal, and to enforce the laws of the United States.

(2) The Congress hereby supports—

(A) the efforts of the President of the United States to restore constitutional government to Panama and to remove General Manuel Noriega from his illegal control of the Republic of Panama;

(B) the President's utilization of the full range of appropriate diplomatic, economic, and the military options in the Republic of Panama; and

(C) the President's authority to exercise, to the fullest extent, the rights and obligations of the United States to protect the Panama Canal and American citizens in Panama pursuant to the Panama Canal treaties which entered into force in 1978.

(3) It is further the sense of the Congress that the President should inform the Congress of the steps he has taken to provide timely assistance for the establishment of a coordinating office for the Panamanian democratic opposition.

TITLE IX—FEDERAL LAW ENFORCEMENT AGENCIES

SEC. 901. ADDITIONAL AUTHORIZATIONS.

There are authorized to be appropriated for the fiscal year ending September 30, 1990, the following sums (which shall be in addition to any other appropriations):

(1) For the Federal Bureau of Investigation: $57,000,000 for the hiring of additional agents and support personnel to be dedicated to the investigation of drug trafficking organizations;

(2) For the Drug Enforcement Administration: $47,500,000 which shall include—

(A) not to exceed $10,000,000 for enforcing provisions of Federal law regarding precursor and essential chemicals; and

(B) not to exceed $37,500,000 for assigning not fewer than 250 agents to rural areas where State and local law enforcement agencies have identified the distribution of "crack" cocaine and/or the manufacture and distribution of methamphetamine to be a serious law enforcement problem that exceeds the resources of local law enforcement, and involves trafficking across State or national boundaries;

(3) For the United States Courts: $9,000,000 for additional probation officers, judges, magistrates and other personnel including not to exceed $2,000,000 for training, document production, and other expenses related to the implementation of the Federal sentencing guidelines;

(4) For the United States Attorneys: $24,000,000 for additional prosecutors and staff to implement a program of prosecuting in Federal court drug offenses arising out of arrests and investigations conducted by State and local law enforcement agencies;

(5) For Defender Services: $8,000,000 for the defense of persons prosecuted in Federal court for drug offenses arising out of arrests and investigations conducted by State and local law enforcement agencies; and

(6) For the United States Marshals: $9,000,000.

TITLE X—JUVENILE JUSTICE ANTI-DRUG GRANT PROGRAM

SEC. 1001. GRANT PROGRAM.

The Juvenile Justice and Delinquency Prevention Act of 1974 is amended in part B by—

(1) inserting after the heading for such part the following:

"Subpart J—General Grant Programs";

and

(2) adding at the end thereof a new subpart III, as follows:

"Subpart III—Juvenile Drug Trafficking and Prevention Grants

"FORMULA GRANTS

"SEC. 231. (a) The Administrator is authorized to make grants to States and units of general local government or combinations thereof to assist them in planning, establishing, operating, coordinating, and evaluating projects directly or through grants and contracts with public and private agencies for the development of more effective programs to reduce the use and sale of illegal drugs by juveniles, including education, prevention, treatment and enforcement programs.

"(b) The grants made under this section can be used for any of the following specific purposes:

"(1) To reduce the participation of juveniles in drug related crimes (including drug trafficking and drug use), particularly in and around elementary and secondary schools;

"(2) To develop within the juvenile justice system, including the juvenile corrections system, new and innovative means to address the problems of juveniles convicted of serious criminal, drug-related and gang-related offenses;

"(3) To reduce juvenile involvement in organized crime, drug and gang-related activity, particularly activities that involve the distribution of drugs by or to juveniles;

"(4) To reduce juvenile drug and gang-related activity in public housing projects;

"(5) To provide technical assistance and training to personnel and agencies responsible for the adjudicatory and corrections components of the juvenile justice system to identify drug-dependent juvenile offenders and to provide appropriate counseling and treatment to such offenders;

"(6) To promote the involvement of juveniles in lawful activities, including in-school education and prevention programs and after-school programs;

"(7) To facilitate Federal and State cooperation with local school officials to develop education, prevention and treatment programs for juveniles who are likely to participate in the drug trafficking, drug use or gang-related activities;

"(8) To prevent juvenile drug and gang involvement in public housing projects through programs establishing youth sports and other activities, including girls club, boys club, scout troops, and little league;

"(9) To provide pre- and post-trial drug abuse treatment to juveniles in the juvenile justice system; with the highest possible priority to providing drug abuse treatment to drug-dependent pregnant juveniles and drug-dependent juvenile mothers; and

"(10) To provide drug abuse education and prevention involving police and juvenile justice personnel in demand reduction programs.

"(c) Of the funds made available to each State under this section (Formula Grants) 50 per centum of the funds made available to each State in any fiscal year shall be used for juvenile drug supply reduction programs and 50 per centum shall be used for juvenile drug demand reduction programs.

"SPECIAL EMPHASIS DRUG DEMAND REDUCTION AND ENFORCEMENT GRANTS

"SEC. 232. (a) The purpose of this section is to provide additional Federal assistance and support to identify promising new juvenile drug demand reduction and enforcement programs, to replicate and demonstrate these programs to serve as national, regional or local models that could be used, in whole or in part, by other public and private juvenile justice programs, and to provide technical assistance and training to public or private organizations to implement similar programs. In making grants under this section, the Administrator shall give priority to programs aimed at juvenile involvement in organized gang- and drug-related activities, including supply and demand reduction programs.

"(b) The Administrator is authorized to make grants to, or enter into contracts with, public or private agencies, institutions, or organizations or individuals to carry out any purpose authorized in section 231. The Administrator shall have final authority over all funds awarded under this subchapter.

"(c) Of the total amount appropriated for this subchapter, 20 per centum shall be reserved and set aside for this section in a special discretionary fund for use by the Administrator to carry out the purposes specified in section 231. Grants made under this section may be made for amounts up to 100 per centum of the costs of the programs or projects.

"AUTHORIZATION

"SEC. 233. There is authorized to be appropriated $100,000,000 in fiscal year 1990 and such sums as may be necessary in each of the fiscal years 1991 and 1992 to carry out the purposes of this subpart.

"ALLOCATION OF FUND

"SEC. 234. Of the total amounts appropriated under this subpart in any fiscal year to carry out the purposes of section 231 (Formula Grants) the amount remaining after setting aside the amounts required to be reserved to carry out section 232 (Discretionary Grants) shall be allocated as follows:

"(1) $400,000 shall be allocated to each of the participating States;

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

"APPLICATION

"SEC. 235. (a) Each State applying for grants under section 231 (Formula Grants) and each public or private entity applying for grants under section 232 (Discretionary Grants) shall submit an application to the Administrator in such form and containing such information as the Administrator shall prescribe.

"(b) To the extent practical, the Administrator shall prescribe regulations governing applications for this subpart that are substantially similar to the applications required under part I (general juvenile justice formula grant) and part C (special emphasis prevention and treatment grants), including the procedures relating to competition.

"(c) In addition to the requirements prescribed in subsection (b), each State application submitted under section 231 shall include a detailed description of how the funds made available shall be coordinated with Federal assistance provided in parts B and C of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 and by the Bureau of Justice Assistance under the Drug Control and System Improvement Grant program.

"REVIEW AND APPROVAL OF APPLICATIONS

"SEC. 236. The procedures and time limits imposed on the Federal and State Governments under sections 505 and 508 respectively, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 relating to the review of applications and distribution of Federal funds shall apply to the review of applications and distribution of funds under this subpart.".

SEC. 1002. CONFORMING AMENDMENTS.

(a) Section 291 of title II of the Juvenile Justice Delinquency Prevention Act of 1974 (42 U.S.C. 5671) is amended—

(1) in subsection (a)—

(A) in paragraph (1) by striking "(other than part D)";

(B) and by striking paragraph (2) in its entirety; and

(2) in subsection (b) by striking "(other than part D)".

(b) Part D of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 is hereby repealed.

(c) Part E of title II of such Act is redesignated as part D.

TITLE XI—82ND AIRBORNE DIVISION

SEC. 1101. CHARTER.

The 82nd Airborne Division Association, Incorporated a nonprofit corporation organized under the laws of the State of Illinois, is recognized as such and is granted a Federal charter.

SEC. 1102. POWERS.

The 82nd Airborne Division Association, Incorporated (hereinafter in this title referred to as the "corporation") shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State or States in which it is incorporated and subject to the laws of such State or States.

SEC. 1103. OBJECTS AND PURPOSES OF CORPORATION.

The objects and purposes of the corporation are those provided in its articles of incorporation and shall include—

(1) perpetuating the memory of members of the 82nd Airborne Division who fought and died for our Nation,

(2) furthering the common bond between retired and active members of the 82nd Airborne Division,

(3) providing educational assistance in the form of college scholarships and grants to the qualified children of current and former members,

(4) promoting civic and patriotic activities, and

(5) promoting the indispensable role of airborne defense in our national security.

SEC. 1104. SERVICE OF PROCESS.

With respect to service of process, the corporation shall comply with the laws of the State or States in which it is incorporated and the State or States in which it carries on its activities in furtherance of its corporate purposes.

SEC. 1105. MEMBERSHIP.

(a) Subject to subsection (b), eligibility for membership in the corporation and the rights and privileges of members of the corporation shall be as provided in the constitution and bylaws of the corporation.

(b) Terms of membership and requirements for holding office within the corporation shall not discriminate on the basis of race, color, national origin, sex, religion, or handicapped status.

SEC. 1106. BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES.

The composition of the board of directors of the corporation and the responsibilities of such board shall be as provided in the articles of incorporation of the corporation and shall be in conformity with the laws of the State or States in which it is incorporated.

SEC. 1107. OFFICERS OF CORPORATION.

The positions of officers of the corporation and the election of members to such positions shall be as provided in the articles of incorporation of the corporation and shall be in conformity with the laws of the State or States in which it is incorporated.

SEC. 1108. RESTRICTIONS.

(a) No part of the income or assets of the corporation may inure to the benefit of any member, officer, or director of the corporation or be distributed to any such individual during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers of the corporation or reimbursement for actual and necessary expenses in amounts approved by the board of directors.

(b) The corporation may not make any loan to any officer, director, or employee of the corporation.

(c) The corporation and any officer and director of the corporation, acting as such officer or director, shall not contribute to, support or otherwise participate in any political activity or in any manner attempt to influence legislation.

(d) The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

(e) The corporation shall not claim congressional approval or Federal Government authority for any of its activities.

SEC. 1109. LIABILITY.

The corporation shall be liable for the acts of its officers and agents whenever such officers and agents have acted within the scope of their authority.

SEC. 1110. BOOKS AND RECORDS; INSPECTION.

The corporation shall keep correct and complete books and records of account and minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors. The corporation shall keep, at its principal office, a record of the names and addresses of all members having the right to vote in any proceeding of the corporation. All books and records of such corporation may be inspected by any member having the right to vote in any corporation proceeding, or by any agent or attorney of such member, for any proper purpose at any reasonable time. Nothing in this section shall be construed to contravene any applicable State law.

SEC. 1111. AUDIT OF FINANCIAL TRANSACTIONS.

The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end thereof the following:

"(74) 82nd Airborne Division Association, Incorporated.".

SEC. 1112. ANNUAL REPORT.

The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time as the report of the audit of the corporation required by section 2 of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101). The report shall not be printed as a public document.

SEC. 1113. RESERVATION OF RIGHT TO AMEND, ALTER, OR REPEAL CHARTER.

The right to amend, alter, or repeal this title is expressly reserved to the Congress.

SEC. 1114. DEFINITION OF STATE.

For purposes of this title, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States.

SEC. 1115. TAX-EXEMPT STATUS.

The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1986.

SEC. 1116. TERMINATION.

If the corporation fails to comply with any of the restrictions or provisions of this title, the charter granted by this title shall expire.

TITLE XII—CONTROLLED SUBSTANCES AND MONEY LAUNDERING AMENDMENTS

SEC. 1201. CLARIFICATION OF NARCOTIC OR OTHER DANGEROUS DRUGS UNDER THE RICO STATUTE.

Section 1961(1) of title 18, United States Code, is amended by striking out "narcotic or other dangerous drugs" each place those words appear and inserting in lieu thereof "a controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)".

SEC. 1202. CORRECTION OF ERRONEOUS PREDICATE OFFENSE REFERENCE UNDER 18 U.S.C. 1956.

Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking out "section 310 of the Controlled Substances Act (21 U.S.C. 830) (relating to precursor and essential chemicals)" and inserting in lieu thereof "a felony violation of the Chemical Diversion and Trafficking Act of 1988 (relating to precursor and essential chemicals)".

SEC. 1203. MARITIME DRUG LAW ENFORCEMENT AMENDMENTS.

Sections 3142 (e) and (f) of title 18, United States Code, and sections 994(h) (1) and (2) of title 28, United States Code, are each amended by striking out "section 1 of the Act of September 15, 1980 (21 U.S.C. 955a)" and inserting in lieu thereof "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)".

SEC. 1204. CONFORMING AMENDMENTS TO RECIDIVIST PENALTY PROVISIONS OF THE CONTROLLED SUBSTANCES ACT AND THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.

(a) Sections 401(b)(1) (B), (C), and (D) of the Controlled Substances Act (21 U.S.C. 841(b)(1) (B), (C), and (D)) and sections 1010(b) (1), (2), and (3) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b) (1), (2), and (3)) are each amended in the sentence or sentences beginning "If any person commits" by striking out "one or more prior convictions" through "have become final" and inserting in lieu thereof "a prior conviction for a felony drug offense has become final".

(b) Section 1012(b) of the Controlled Substances Import and Export Act (21 U.S.C. 962(b)) is amended by striking out "one or more prior convictions of him for a felony under any provision of this subchapter or subchapter I of this chapter or other law of a State, the United States, or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant drugs, have become final" and inserting in lieu thereof "one or more prior convictions of such person for a felony drug offense have become final".

(c) Section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) is amended by striking out the sentence beginning "For purposes of this subparagraph, the term 'felony drug offense' means".

SEC. 1205. ADDITION OF CONFORMING PREDICATE MONEY LAUNDERING REFERENCES TO "INSIDER" EXEMPTION FROM THE RIGHT TO FINANCIAL PRIVACY ACT.

Section 1113(l)(2) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413(l)(2)) is amended by inserting "or of section 1956 or 1957 of title 18, United States Code" after "any provision of subchapter II of chapter 53 of title 31, United States Code".

SEC. 1206. CLARIFICATION OF DEFINITION OF "MONETARY INSTRUMENTS".

Section 1956(c)(5) of title 18, United States Code, is amended to read as follows:

"(5) the term 'monetary instruments' means (i) coin or currency of the United States or of any other country, travelers' checks, personal checks, bank checks, and money orders, or (ii) investment securities or negotiable instruments, in bearer form or otherwise in such form that title thereto passes upon delivery;".

SEC. 1207. CLARIFICATION OF MANDATORY MINIMUM PENALTY FOR SERIOUS CRACK POSSESSION.

Section 404(a) of the Controlled Substances Act (21 U.S.C. 844(a)) is amended in the third sentence by striking out "shall be fined under title 18, United States Code, or imprisoned not less than 5 years and not more than 20 years, or both," and inserting in lieu thereof "shall be imprisoned not less than 5 years and not more than 20 years, and fined a minimum of $1,000,".

SEC. 1208. CONFORMING AMENDMENT ADDING CERTAIN CONTROLLED SUBSTANCES OFFENSES AS REQUIRING FINGERPRINTING AND RECORDS FOR RECIDIVIST JUVENILES.

Sections 5038 (d) and (f) of title 18, United States Code, are amended by striking out "or an offense described in section 841, 952(a), 955, or 959, of title 21," and inserting in lieu thereof "or an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841) or section 1002(a), 1003, 1005, 1009, or 1010(b) (1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 955, 959, or 960(b) (1), (2), or (3)),".

SEC. 1209. CORRECTION OF AN ERROR RELATING TO THE QUANTITY OF METHAMPHETAMINE NECESSARY TO TRIGGER A MANDATORY MINIMUM PENALTY.

Section 401(b)(1)(A)(viii) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)(viii)) is amended by striking out "or 100 grams or more of a mixture or substance containing a detectable amount of methamphetamine" and inserting in lieu thereof "or 1 kilogram or more of a mixture or substance containing a detectable amount of methamphetamine".

SEC. 1210. CONFORMING AMENDMENT TO CONSPIRACY AND ATTEMPT PENALTY UNDER THE MARITIME DRUG LAW ENFORCEMENT ACT.

Section 3(j) of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903(j)) is amended by striking out "is punishable by imprisonment or fine, or both, which may not exceed the maximum punishment" and inserting in lieu thereof "shall be subject to the same penalties as those".

SEC. 1211. CONFORMING AMENDMENTS TO CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT RELATING TO METHAMPHETAMINE.

(a) Section 1010(b)(1) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)) is amended by—

(1) striking out "or" at the end of subparagraph (F);

(2) inserting "or" at the end of subparagraph (G); and

(3) adding a new subparagraph (H), as follows:

"(H) 100 grams or more of methamphetamine, its salts, isomers, and salts of its isomers or 1 kilogram or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers.".

(b) Section 1010(b)(2) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(2)) is amended by—

(1) striking out "or" at the end of subparagraph (F);

(2) inserting "or" at the end of subparagraph (G); and

(3) adding a new subparagraph (H), as follows:

"(H) 10 grams or more of methamphetamine, its salts, isomers, and salts of its isomers or 100 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers.".

TITLE XIII—PENALTIES AND SENTENCING AMENDMENTS

SEC. 1301. MODIFICATION OF APPROVAL REQUIREMENTS FOR GOVERNMENT SENTENCE APPEALS.

Section 3742(b) of title 18, United States Code, is amended by striking out "The Government, with the personal approval of the Attorney General or the Solicitor General, may file a notice of appeal in the district court for review of" and inserting in lieu thereof "The Government, with the approval of the Attorney General or the Solicitor General, may appeal".

SEC. 1302. PENALTY FOR CERTAIN ACCESSORY AFTER THE FACT OFFENSES.

Section 3 of title 18, United States Code, is amended by striking out "ten years" and inserting in lieu thereof "twenty years".

SEC. 1303. DELETION OF REQUIREMENT FOR SOLICITOR GENERAL APPROVAL OF APPEAL TO A DISTRICT COURT FROM A SENTENCE IMPOSED BY A MAGISTRATE.

Section 3742(g) of title 18, United States Code, is amended by inserting "(except for the requirement of approval by the Attorney General or the Solicitor General in the case of a Government appeal)" after "and this section shall apply".

SEC. 1304. ELIMINATION OF REDUNDANT PENALTY IN 18 U.S.C. 1864.

Section 1864(c) of title 18, United States Code, is amended by striking out "(b) (3), (4), or (5)" and inserting in lieu thereof "(b)(5)".

TITLE XIV—MISCELLANEOUS AMENDMENTS

SEC. 1401. RESTORATION OF INADVERTENTLY DELETED DIAL-A-PORN REMEDIES.

Section 223(b) of the Communications Act of 1934 (47 U.S.C. 223(b)) is amended by adding at the end thereof the following paragraphs:

"(3) In addition to the penalties under paragraph (1), whoever, in the District of Columbia or in interstate or foreign communication, violates paragraph (1) shall be subject to a fine of not more than $50,000 for each violation. For purposes of this paragraph, each day of violation shall constitute a separate violation.

"(4)(A) In addition to the penalties under paragraph (1), whoever, in the District of Columbia or in interstate or foreign communication, violates paragraph (1) shall be subject to a civil fine of not more than $50,000 for each violation. For purposes of this paragraph, each day of violation shall constitute a separate violation.

"(B) A fine under this paragraph may be assessed either—

"(i) by a court, pursuant to a civil action by the Commission or any attorney employed by the Commission who is designated by the Commission for such purposes, or

"(ii) by the Commission after appropriate administrative proceedings.

"(5) The Attorney General may bring a suit in the appropriate district court of the United States to enjoin any act or practice which violates paragraph (1).".

SEC. 1402. DELETION OF ERRONEOUS REFERENCE FOR JUVENILE PROCEEDINGS.

Section 5032 of title 18, United States Code, is amended in the first paragraph by striking out "or section 922(p) of this title,".

SEC. 1403. CORRECTION OF MISSPELLED WORDS, TYPOGRAPHICAL ERRORS, AND MISDESIGNATIONS.

(1) Section 102(32)(A) of the Controlled Substances Act (21 U.S.C. 802(32)(A)) is amended by striking out "stimulent" each place that word appears and inserting in lieu thereof "stimulant";

(2) Section 1010(b)(2) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(2)) is amended by striking out "supervised" each place that word appears and inserting in lieu thereof "supervised";

(3) Sections 401(b)(1)(A)(ii)(IV) and 401(b)(1)(B)(ii)(IV) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)(ii)(IV) and 841(b)(1)(B)(ii)(IV) are amended by

striking out "any of the substance" and inserting in lieu thereof "any of the substances";

(4) Section 151 of title 18, United States Code, is amended by striking out "mean" and inserting in lieu thereof "means";

(5) Section 665(c) of title 18, United States Code, is amended by striking out "Any person whoever" and inserting in lieu thereof "Any person who";

(6) Section 794(d)(4) of title 18, United States Code, is amended by striking out "all amount" and inserting in lieu thereof "all amounts";

(7) The second section 798 of title 18, United States Code, entitled "Temporary extension of section 794" is designated as section 800 of such title, and the table of sections for chapter 37 of such title is amended accordingly;

(8) Section 3125(d) of title 18, United States Code, is amended by striking out "A provider for a wire or electronic service," and inserting in lieu thereof "A provider of a wire or electronic service,";

(9) Section 4285 of title 18, United States Code, is amended by striking out "exced" and inserting in lieu thereof "exceed";

(10) Sections 405(b), 405A(b), and 405B(c) of the Controlled Substances Act (21 U.S.C. 845(b), 845a(b), and 845(c)) are amended by striking out "have become final" and inserting in lieu thereof "has become final";

(11) Section 510(b)(3) of the Controlled Substances Act (21 U.S.C. 880(b)(3)) is amended by striking out "paragraph (5)" and inserting in lieu thereof "paragraph (4)";

(12) Section 12 of title 18, United States Code, is amended by striking out "every officer and employee of that Service, whether he has taken the oath of office" and inserting in lieu thereof "every officer and employee of that Service, whether or not such officer or employee has taken the oath of office";

(13) Section 1546(a) of title 18, United States Code is amended by striking out "Shall be fined not more than in accordance with this title" and inserting in lieu thereof "Shall be fined in accordance with this title";

(14) Section 3563(b)(3) of title 18, United States Code, is amended by striking out "section 3663 and 3664" and inserting in lieu thereof "sections 3663 and 3664";

(15) Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking out "paraphenalia" and inserting in lieu thereof "paraphernalia";

(16) Section 219(c) of title 18, United States Code, is amended by striking out "branch of Governments" and inserting in lieu thereof "branch of Government";

(17) Section 513(c)(3) of title 18, United States Code, is amended by striking out "15 U.S.C. 1693(c)" and inserting in lieu thereof "15 U.S.C. 1693n(c)";

(18) Section 665 of title 18, United States Code, is amended in the section heading by striking out both colons and inserting in lieu thereof semicolons;

(19) Section 844(d) of title 18, United States Code, is amended by striking out "this subsection,," and inserting in lieu thereof "this subsection,";

(20) Section 1466(b) of title 18, United States Code, is amended—

(A) by striking out "this subsection" and inserting in lieu thereof "this section"; and

(B) by striking out "subsection (b)" and inserting in lieu thereof "this subsection";

(21) Section 1963(a) of title 18, United States Code, is amended by striking out "both.," and inserting in lieu thereof "both,";

(22) Section 2254(e) of title 18, United States Code, is amended by inserting the following subsection heading: "Non-applicability to visual depictions.—";

(23) Section 3583(e) of title 18, United States Code, is amended—

(A) in paragraph (2) by striking out "or" after the semicolon;

(B) in paragraph (3) by striking out the period and inserting in lieu thereof "; or"; and

(C) by redesignating paragraph "(5)" as paragraph "(4)";

(24) Section 3077(4) of title 18, United States Code, is amended by striking out the semicolon at the end and inserting in lieu thereof a period;

(25) Section 3166(b)(8) of title 18, United States Code, is amended by striking out "extention" and inserting in lieu thereof "extension"; and

(26) Section 4352(c) of title 18, United States Code, is amended by striking out "Each recipient of assistance under this shall" and inserting in lieu thereof "Each recipient of assistance under this title shall".

SEC. 1404. CORRECTION OF ERRONEOUS CROSS-REFERENCE.

Section 2703(d) of title 18, United States Code, is amended by striking out "section 3126(2)(A) of this title" and inserting in lieu thereof "section 3127(2)(A) of this title".

SEC. 1405. CONFORMING AMENDMENT TO THE ELECTRONIC COMMUNICATIONS PRIVACY ACT.

Section 2705(a)(1)(B) of title 18, United States Code, is amended by inserting "or trial" after "grant jury".

SEC. 1406. REDESIGNATION OF PARAGRAPHS IN WIRETAP LAW.

Section 2516(1) of title 18, United States Code, is amended—

(1) by redesignating the first paragraph (m) which reads "any conspiracy to commit any of the foregoing offenses." as paragraph (o);

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

(3) by striking out the period at the end of paragraph (n) and inserting in lieu thereof "; and".

SEC. 1407. TABLE OF SECTIONS AMENDMENT FOR THE INTERSTATE AGREEMENT ON DETAINERS.

The table of sections for the Interstate Agreement on Detainers Act (84 Stat. 1397) is amended by adding at the end thereof the following: "9. Special Provisions when United States is a Receiving State.".

SEC. 1408. APPLICATION OF VARIOUS OFFENSES TO PROSSESSIONS AND TERRITORIES.

(1) Section 232 of title 18, United States Code, is amended by adding a new subsection, as follows:

"(8) The term 'State' includes a State of the United States, and any commonwealth, territory, or possession of the United States.".

(2) Section 245 of title 18, United States Code, is amended by adding a new subsection, as follows:

"(d) For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(3) Section 402 of title 18, United States Code, is amended by adding a new undesignated paragraph, as follows:

"For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(4) Section 666(d) of title 18, United States Code, is amended—

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

(B) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(C) by adding a new paragraph, as follows:

"(4) the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(5) Sections 1028(d)(5) and 1030(e)(3) of title 18, United States Code, are each amended by inserting "commonwealth," before "possession or territory of the United States".

(6) Section 1029(f) of title 18, United States Code, is amended by adding at the end the following: "For purposes of this subsection, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(7) Section 1084(e) of title 18, United States Code, is amended by inserting "commonwealth," before "territory or possession of the United States".

(8) Section 1114 of title 18, United States Code, is amended by inserting "or any other commonwealth, territory, or possession" after "the Virgin Islands".

(9) Section 1952(b) of title 18, United States Code, is amended—

(A) by inserting "(i)" after "As used in this section"; and

(B) by inserting "and (ii) the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States" before the period.

(10) Section 1956(c) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(8) the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(11) Section 1958(b) of title 18, United States Code, is amended—

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

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

(C) by adding a new paragraph (3), as follows:

"(3) 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(12) Section 2313 of title 18, United States Code, is amended—

(A) by inserting "(a)" before "Whoever"; and

(B) by adding a new subsection, as follows:

"(b) For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(13) Section 2315 of title 18, United States Code, is amended by adding at the end the following undesignated paragraph:

"For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(14) Section 5032 of title 18, United States Code, is amended—

(A) in the second undesignated paragraph, by adding at the end the following: "For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States."; and

(B) in the third undesignated paragraph, by striking out "to the authorities of a State or the District of Columbia" and inserting in lieu thereof "to the authorities of a State".

SEC. 1409. REPEAL OF ANTIQUATED OFFENSE AND DELETION OF TABLE REFERENCES TO REPEALED OFFENSES.

(1) Section 45 of title 18, United States Code, is repealed.

(2) The table of sections for chapter 3 of title 18, United States Code, is amended by striking out the items relating to sections 43, 44, and 45.

SEC. 1410. REPEAL OF OTHER OUTMODED OFFENSES AND RELATED PROVISIONS.

Section 969 of title 18, United States Code, is repealed and the table of sections for chapter 45 of title 18, United States Code, is amended by striking out the items relating to sections 968 and 969.

Sections 2198 and 3286 of title 18, United States Code, are repealed and the respective tables of sections in chapter 107 and 213 are amended by striking out the items relating to sections 2198 and 3286.

SEC. 1411. DELETION OF REDUNDANT PROVISION AND CORRECTION OF CITATIONS IN WIRETAP LAW.

Section 2516(1) of title 18, United States Code, is amended—

(a) in paragraph (c), by striking out "the section in chapter 65 relating to destruction of an energy facility,"; and

(b) in paragraph (j), by striking out "any violation of section 1679a(c)(2) (relating to destruction of a natural gas pipeline) or subsection (i) or (n) of section 1472 (relating to aircraft piracy) of title 49, of the United States Code" and inserting in lieu thereof "any violation of section 11(c)(2) of the Natural Gas Pipeline Safety Act of 1968 (relating to destruction of a natural gas pipeline) (49 U.S.C. App. 1679a(o)(2)) or sections 902 (i) or (n) of the Federal Aviation Act of 1958 (relating to aircraft piracy) (49 U.S.C. App. 1472(i) or (n))".

SEC. 1412. FRAUD THROUGH USE OF A FACILITY OF COMMERCE.

(a) Section 1343 of title 18, United States Code, is amended by striking out "transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds" and inserting in lieu thereof "uses or causes to be used any facility of interstate or foreign commerce or attempts to do so".

(b) The heading of section 1343 of title 18, United States Code, is amended to read: "Fraud by use of facility of interstate commerce".

(c) The table of sections for chapter 63 of title 18, United States Code, is amended by striking out the item relating to section 1343 and inserting in lieu thereof: "1343. Fraud by use of facility of interstate commerce.".

SEC. 1413. CONFORMING JURISDICTIONAL AMENDMENT FOR SECTION 2314 TO COVER FRAUDULENT SCHEMES INVOLVING FOREIGN AS WELL AS INTERSTATE TRAVEL.

The second paragraph of section 2314 of title 18, United States Code, is amended by inserting "or foreign" after "interstate".

SEC. 1414. CLARIFICATION OF ONE YEAR PERIOD.

Section 666(d) of title 18, United States Code, is amended—

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

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(3) by adding a new paragraph, as follows:

"(4) the term 'in any one year period' means a continuous period that commences no earlier than twelve months before the commission of the offense or that ends no later than twelve months after the commission of the offense. Such period may include time both before and after the commission of the offense.".

SEC. 1415. REPEAL OF PROVISIONS JUDICIALLY DETERMINED TO BE INVALID.

(a) Section 1730 of title 18, United States Code, is amended by striking out ", if the portrayal does not tend to discredit that service".

(b) Section 1714 of title 18, United States Code, is repealed and the section analysis for such section in chapter 83 of title 18 is likewise repealed.

(c) Section 1718 of title 18, United States Code, is repealed and the section analysis for such section in chapter 83 of title 18 is likewise repealed.

SEC. 1416. DELETION OF REQUIREMENT OF PERSONAL APPROVAL OF ATTORNEY GENERAL FOR PROSECUTIONS UNDER THE ATOMIC ENERGY ACT.

Section 221(c) of the Atomic Energy Act of 1954 (42 U.S.C. 2271(c)) is amended by striking out "That no action shall be brought under section 222, 223, 224, 225, or 226 except by the express direction of the Attorney General: *And provided further,*".

SEC. 1417. TECHNICAL CORRECTION TO PROVISION FOR COMPUTING MARSHAL'S COMMISSION.

Section 1921(c)(1) of title 28, United States Code, is amended in the second sentence by striking out "If the property is to be disposed of by marshal's sale" and inserting in lieu thereof "if the property is not disposed of by marshal's sale".

SEC. 1418. CORRECTION OF CROSS-REFERENCE.

Section 4247(h) of title 18, United States Code, is amended by striking out "subsection (e) of section 4241, 4243, 4244, 4245, or 4246," and inserting in lieu thereof "subsection (e) of section 4241, 4244, 4245, or 4246, or subsection (f) of section 4243,".

SEC. 1419. SEXUAL ABUSE AMENDMENTS RELATING TO MINORS.

(a) INCLUSION OF THIRTEEN- AND FOURTEEN-YEAR-OLDS.—Section 2241(c) of title 18, United States Code, is amended to read as follows:

"(c) WITH CHILDREN.—Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly engages in a sexual act with another person who—

"(1) has not attained the age of twelve years; or

"(2) has attained the age of twelve years but has not attained the age of fourteen years, and is at least four years younger than the person so engaging;

or attempts to do so, shall be fined under this title, imprisoned for any term of years or life, or both.".

(b) CONFORMING AMENDMENT FOR STATE OF MIND PROOF REQUIREMENT.—Section 2241(d) of title 18, United States Code, is amended by striking out "knew" and all that follows and inserting in lieu thereof "knew—

"(1) the age of the other person engaging in the sexual act; or

"(2) that the requisite age difference existed between the persons so engaging.".

(c) CONFORMING AMENDMENT TO SECTION 2243.—Paragraph (1) of section 2243(a) of title 18, United States Code, is amended by striking out "12" and inserting "14" in lieu thereof.

(d) DEFINITIONS OF SEXUAL ACT AND SEXUAL CONTACT REGARDING PERSONS UNDER SIXTEEN YEARS OF AGE.—Paragraph (2) of section 2245 of title 18, United States Code, is amended—

(1) in subparagraph (B) by striking out "or" after the semicolon;

(2) in subparagraph (C) by striking out "; and" and inserting "; or" in lieu thereof; and

(3) by inserting a new subparagraph (D) as follows:

"(D) the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;".

(e) CONFORMING AMENDMENT TO DEFINITION OF SEXUAL CONTACT.—Paragraph (3) of section 2245 of title 18, United States Code, is amended by inserting ", but does not include the conduct described in paragraph (2)(D)" after "of any person" the second place it appears.

(f) DESIGNATION OF SECTION.—Section 2245 of title 18, United States Code, is redesignated section 2246.

(g) PENALTIES FOR SUBSEQUENT OFFENSES.—Chapter 109A of title 18, United States Code, is amended by inserting the following new section after section 2244:

"§ 2245. Penalties for subsequent offenses

"Any person who violates a provision of this chapter after a prior conviction under a provision of this chapter or the law of a State (as defined in section 513 of this title) for conduct proscribed by this chapter has become final is punishable by a term of imprisonment up to twice that otherwise authorized.".

(h) TABLE OF SECTIONS.—The table of sections for chapter 109A of title 18, United States Code, is amended by—

(1) striking out "2245" and inserting "2246" in lieu thereof; and

(2) inserting the following after the item relating to section 2244:

"2245. Penalties for subsequent offenses.".

SEC. 1420. CORRECTION OF MISPLACED PHRASE IN 18 U.S.C. 3289.

Section 3289 of title 18, United States Code, is amended by striking out "or, in the event of an appeal, within sixty days of the date the dismissal of the indictment or information becomes final," and inserting that same stricken language after "within six months of the expiration of the statute of limitations,".

SEC. 1421. REDESIGNATION OF SECTION.

The second section 3117 of title 18, United States Code, enacted by section 6477(b) of the Anti-Drug Abuse Act of 1988, is redesignated as section 3118 and the section analysis for such section is redesignated accordingly.

TITLE XV—MISCELLANEOUS

SEC. 1501. TECHNICAL AMENDMENTS.

(a) ELIMINATION OF DUPLICATE SECTION NUMBER.—(1) Section 3117 of title 18, United States Code, as enacted by Public Law 100-690, is redesignated as section 3118.

(2) The section analysis for chapter 205 of title 18, United States Code, is amended by striking "3117. Implied consent for certain tests" and inserting "3118. Implied consent for certain tests".

(b) INSERTION OF MISSING WORD.—Section 1716A of title 18, United States Code, is amended by inserting "fined" after "shall be".

(c) CORRECTION OF CROSS-REFERENCE.—Section 1958 of title 18, United States Code, is amended by—

(1) striking "1952B" and inserting "1959";

(2) inserting "or who conspires to do so" before "shall be fined" the first place it appears; and

(3) striking "not more than $10,000", "not more than $20,000", and "not more than $50,000", and inserting in each instance "under this title".

(d) ELIMINATION OF LANGUAGE MISTAKENLY INCLUDED.—Section 3125(a)(2) is amended by—

(1) striking the quotation marks;

(2) inserting a comma after "installation and use"; and

(3) beginning the indentation of the text following such comma at the margin.

(e) CORRECTION OF CROSS-REFERENCE.—Section 1791(b) of title 18, United States Code, is amended by striking "(c)" and inserting "(d)" each place it appears.

(f) ELIMINATION OF DUPLICATIVE PENALTY.—Section 1864 of title 18, United States Code, is amended—

(1) by striking subsection (c); and

(2) by redesignating subsection (d) as (c).

SEC. 1502. MONEY LAUNDERING AMENDMENTS.

Section 1956(c)(1) is amended by striking "State or Federal" and inserting "State, Federal, or foreign".

SEC. 1503. PENALTY PROVISIONS RELATING TO DRUG QUANTITIES.

Section 401(b) of the Controlled Substances Act (21 U.S.C. 841) is amended in paragraph (1)(A)(vii) by striking "100 grams" the second time it appears and inserting "1 kilogram".

SEC. 1504. CLARIFICATION RELATING TO POLLUTING FEDERAL LANDS.

Section 401(b)(6) of the Controlled Substances Act (21 U.S.C. 841(b)(6)) is amended by striking "who violates subsection (a), or attempts to do so, and knowingly or intentionally uses a poison, chemical, or other hazardous substance on Federal land," and inserting "who knowingly uses a poison, chemical, or other hazardous substance on Federal land with the intent to commit an act in violation of subsection (a),".

SEC. 1505. REVOCATION OF PROBATION FOR POSSESSION OF CONTROLLED SUBSTANCE.

Section 3565(a) of title 18, United States Code, is amended—

(1) by striking "to not less than one-third of the original sentence" and inserting "to a term of imprisonment that was available under subchapter A at the time of the initial sentencing"; and

(2) by striking "of modifying" and inserting "or modifying".

SEC. 1506. EXCEPTION TO BAR ON PROBATION FOR COOPERATING WITNESSES.

Section 3553(e) of title 18, United States Code, is amended by—

(1) inserting "a" before "minimum sentence", and inserting after "minimum sentence" the following: ", or to impose a term of probation notwithstanding any statutory bar to such sentence,"; and

(2) striking the last sentence and inserting: "Such sentence shall be imposed in accordance with the sentencing guidelines and with the policy statements issued by the Sentencing Commission".

SEC. 1507. REDESIGNATION OF CONFUSING SECTIONS IN THE CONTROLLED SUBSTANCES ACT.

(a) SECTION 405—NEW SECTION 418.—(1) Section 405 of the Controlled Substances Act is redesignated as section 418.

(2) Section 418 of such Act (as redesignated by paragraph (1)) is amended—

(A) in subsection (a), by striking "section 405A" and inserting "section 419"; and

(B) in subsection (b) by striking "section 405A" and inserting "section 419".

(b) SECTION 405A—NEW SECTION 419.—Section 405A of the Controlled Substances Act is redesignated as section 419.

(c) SECTION 405B—NEW SECTION 420.—Section 405B of the Controlled Substances Act is redesignated as section 420.

(d) TRANSFER OF SECTION 5301 OF THE ANTI-DRUG ABUSE ACT OF 1988—NEW SECTION 421.—(1) Section 5301 of the Anti-Drug Abuse Act of 1988 is—

(A) transferred to the Controlled Substances Act; and

(B) redesignated as section 421 of the Controlled Substances Act.

(2) Section 421(a)(1) of the Controlled Substances Act, as amended by paragraph (1) of this subsection, is amended by striking "(as such terms are defined for purposes of the Controlled Substances Act)".

(e) CONFORMING AMENDMENTS TO OTHER SECTIONS.—(1) Section 401(b) of the Controlled Substances Act is amended by striking "section 405, 405A, or 405B" and inserting "section 418, 419, or 420".

(2) Section 401(c) of the Controlled Substances Act is amended by striking "section 405, 405A, or 405B" and inserting "section 418, 419, or 420".

(f) AMENDMENT TO TABLE OF CONTENTS.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended in part D of title II by striking the items for sections 405, 405A and 405B and inserting at the end thereof the following:

"418. Distribution to persons under age twenty-one.

"419. Distribution or manufacturing in or near schools and colleges.

"420. Employment of persons under 18 years of age.

"421. Denial of Federal benefits to drug traffickers and possessors.".

(g) TRANSFER OF SECTION 6486 OF THE ANTI-DRUG ABUSE ACT OF 1988—NEW SECTION 405.—(1) Section 6486 of the Anti-Drug Abuse Act of 1988 is—

(A) transferred to the Controlled Substances Act; and

(B) redesignated as section 405 of the Controlled Substances Act.

(2) Section 405 of the Controlled Substances Act, as amended by paragraph (1) of this subsection, is amended—

(A) in subsection (a), by—

(i) striking "of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A))"; and

(ii) striking "of that Act (21 U.S.C. 841(b)(1)(A))";

(B) in subsection (c), by striking "as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)";

(C) in subsection (j)(4), by striking "as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)".

(3) The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (as amended by subsection (c) of this section) is amended in part D of title II by inserting after the item for section 404 the following:

"405. Civil penalty for possession of small amounts of certain controlled substances.".

(h) PART E OF THE CONTROLLED SUBSTANCES ACT.—

(1) SECTION 511A—NEW SECTION 518.—Section 511A of the Controlled Substances Act is redesignated as section 518.

(2) TRANSFER OF SECTION 1764 OF THE FOOD SECURITY ACT OF 1985.—Section 1764 of the Food Security Act of 1985 is—

(A) transferred to the Controlled Substances Act; and

(B) redesignated as section 519 of the Controlled Substances Act.

(3) AMENDMENT TO TABLE OF CONTENTS.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended in part E of title II by striking the items for section 511A and inserting at the end thereof the following:

"518. Expedited procedures for seized conveyances.

"519. Production control of controlled substances.".

SEC. 1508. CLARIFICATION OF ENHANCED PENALTIES UNDER CONTROLLED SUBSTANCES ACT.

(a) SECTION 418 (OLD SECTION 405).—Section 418 of the Controlled Substances Act (as redesignated by section 1507 of this Act) is amended—

(1) in subsection (a), by striking "punishable by (1) a term of imprisonment, or a fine, or both, up to twice that authorized by section 401(b)" and inserting "subject to (1) twice the maximum punishment authorized by section 401(b)"; and

(2) in subsection (b), by striking "punishable by (1) a term of imprisonment, or a fine, or both, up to three times that authorized by section 401(b)" and inserting "subject to (1) three times the maximum punishment authorized by section 401(b)".

(b) SECTION 419 (OLD SECTION 405A).—Section 419 of the Controlled Substances Act (as redesignated by section 1507 of this Act) is amended—

(1) in subsection (a), by striking "punishable (1) by a term of imprisonment, or a fine, or both, up to twice that authorized by section 401(b)" and inserting "subject to (1) twice the maximum punishment authorized by section 401(b)"; and

(2) in subsection (b)(1), by striking subparagraph (B) and inserting "(B) three times the maximum punishment authorized by section 401(b) for a first offense".

(c) SECTION 420 (OLD SECTION 405B).—Section 420 of the Controlled Substances Act (as redesignated by section 1507 of this Act) is amended—

(1) in subsection (b), by striking "is punishable by a term of imprisonment up to twice that authorized, or up to twice the fine authorized, or both," and inserting "is subject to twice the maximum punishment otherwise authorized"; and

(2) in subsection (c), by striking "is punishable by a term of imprisonment up to three times that authorized, or up to three times the fine authorized, or both," and inserting "is subject to three times the maximum punishment otherwise authorized".

SEC. 1509. FORFEITABILITY OF REAL PROPERTY UNDER GAMBLING STATUTE.

(a) IN GENERAL.—Section 1955(d) of title 18, United States Code, is amended to read as follows:

"(d) Any person convicted of a violation of this section shall forfeit to the United States, irrespective of any provision of State law, or of any bankruptcy proceeding insti-

tuted after or in contemplation of a prosecution under this section—

"(1) any property constituting or derived from any proceeds the person obtained, directly or indirectly, as a result of such violation; and

"(2) any of the person's property used or intended to be used, in any manner or part, to commit or to facilitate the commission of such violation.

The provisions of section 413 of the Controlled Substances Act (21 U.S.C. 853) shall apply to property subject to forfeiture under this section, to any seizure or disposition thereof, and to any administrative or judicial proceeding in relation thereto, if not inconsistent with this section.".

(b) TECHNICAL AMENDMENT.—Section 1955(a) of title 18 is amended by striking out "shall be fined not more than $20,000 or" and inserting "shall be fined under this title,".

SEC. 1510. APPLICATION OF VARIOUS OFFENSES TO POSSESSIONS AND TERRITORIES.

(1) Section 232 of title 18, United States Code, is amended by adding a new paragraph, as follows:

"(8) The term 'State' includes a State of the United States, and any commonwealth, territory, or possession of the United States.".

(2) Section 245 of title 18, United States Code, is amended by adding a new subsection, as follows:

"(d) For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(3) Section 402 of title 18, United States Code, is amended by adding a new undesignated paragraph, as follows:

"For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(4) Section 666(d) of title 18, United States Code, is amended—

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

(B) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(C) by adding a new paragraph, as follows:

"(4) the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(5) Sections 1028(d)(5) and 1030(e)(3) of title 18, United States Code, are each amended by inserting "commonwealth," before "possession or territory of the United States".

(6) Section 1029(f) of title 18, United States Code, is amended by adding at the end the following: "For purposes of this subsection, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(7) Section 1084(e) of title 18, United States Code, is amended by inserting "commonwealth," before "territory or possession of the United States".

(8) Section 1114 of title 18, United States Code, is amended by inserting "or any other commonwealth, territory, or possession" after "the Virgin Islands".

(9) Section 1952(b) of title 18, United States Code, is amended—

(A) by inserting "(i)" after "As used in this section"; and

(B) by inserting "and (ii) the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States" before the period.

(10) Section 1956(c) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(8) the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(11) Section 1958(b) of title 18, United States Code, is amended—

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

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

(C) by adding a new paragraph (3), as follows:

"(3) 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(12) Section 2313 of title 18, United States Code, is amended—

(A) by inserting "(a)" before "Whoever"; and

(B) by adding a new subsection, as follows:

"(b) For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(13) Section 2315 of title 18, United States Code, is amended by adding at the end the following undesignated paragraph:

"For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(14) Section 5032 of title 18, United States Code, is amended—

(A) in the second undesignated paragraph, by adding at the end the following: "For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States."; and

(B) in the third undesignated paragraph, by striking out "to the authorities of a State or the District of Columbia" and inserting in lieu thereof "to the authorities of a State".

SEC. 1511. CLARIFICATION OF "BURGLARY" UNDER THE ARMED CAREER CRIMINAL STATUTE.

Section 924(e)(2) of title 18, United States Code, is amended by adding a new subparagraph, as follows:

"(D) the term 'burglary' means any crime punishable by a term of imprisonment exceeding one year and consisting of entering or remaining surreptitiously within a building that is the property of another with intent to engage in conduct constituting a Federal or State offense.".

SEC. 1512. CLARIFICATION OF PENALTY ENHANCEMENT.

Section 924(c) of title 18, United States Code, is amended—

(1) by redesignating paragraphs (2) and (3) as (4) and (5), respectively;

(2) in the second sentence of paragraph (1), by striking "In the case of his second or subsequent conviction under this subsection" and inserting "(2) When a person is sentenced under this subsection for an offense that was committed after a prior sentence under this subsection has become final"; and

(3) in the third sentence of paragraph (1), by inserting "(3)" before "Notwithstanding" and by striking "convicted of a violation of" and inserting "sentenced pursuant to".

SEC. 1513. PEREMPTORY CHALLENGES.

Rule 24(b) of the Federal Rules of Criminal Procedure is amended to read as follows:

"(b) PEREMPTORY CHALLENGES.—If the offense charged is punishable by death, each side is entitled to 20 peremptory challenges. If the offense charged is punishable by imprisonment for more than one year, each side is entitled to 8 peremptory challenges. If the offense charged is punishable by imprisonment for not more than one year or by fine or both, each side is entitled to 3 peremptory challenges. If there is more than one defendant, the court may allow both sides additional peremptory challenges: *Provided*, That the Government shall not have more challenges than the total allocated to all defendants. The court may permit multiple defendants to exercise peremptory challenges separately or jointly.".

TITLE XVI—GENERAL PROVISIONS

SEC. 1601. YOUTH GANGS.

(a) The Office of the National Drug Control Policy is directed to develop a coordinated policy in conjunction with State and local governments to counteract youth gang involvement in the distribution, sale, and use of illegal drugs.

(b) The coordinated policy to be developed, as referenced above, include, though not be limited to, programs or means to prevent young people from joining a gang and methods to reform, rehabilitate, educate, or train gang members and turn them away from illegal gang activities.

(c) This policy be implemented as soon as practical but no later than February 1, 1991.

SEC. 1602. EXCLUSION FROM THE LEASE AND GRIEVANCE PROCEDURE FOR ANY EVICTION OR TERMINATION OF TENANCY FOR CRIMINAL ACTIVITY.

Section 6(k) of the United States Housing Act of 1937 is amended by striking the last sentence and inserting the following: "An agency may exclude from its procedure any grievance concerning an eviction or termination of tenancy for criminal activity, including drug-related criminal activity, in accordance with subsection (l)(5). An agency may exclude from its procedure any other grievance concerning an eviction or termination of tenancy in any jurisdiction which requires that, prior to eviction, a tenant be given a hearing in court which the Secretary determines provides the basic elements of due process.".

SEC. 1603. NOTIFICATION BY PUBLIC HOUSING AGENCY TO THE UNITED STATES POSTAL SERVICE THAT TENANTS HAVE BEEN EVICTED FROM PUBLIC HOUSING FOR DRUG-RELATED CRIMINAL ACTIVITIES.

Section 6 of the United States Housing Act of 1937 is amended by adding at the end the following new subsection:

"(n) Where a public housing agency evicted any member of the household from a dwelling unit for engaging in criminal activity the public housing agency shall notify the local post office serving that dwelling unit that the household member is no longer residing in the dwelling unit.".

SEC. 1604. STUDY OF ANTI-DRUG ASSISTANCE TO THE ANDEAN REGION.

(a) FINDINGS.—The Congress finds that—

(1) the operations of international narcotics trafficking organizations pose a direct threat to the national security of the United States and Latin America;

(2) international narcotics trafficking operations have grown so large and powerful that they threaten the democratic governments of the Andean region;

(3) recent events in Colombia make clear the need for addressing the threat of international narcotics trafficking in Peru and Bolivia before situations there further deteriorate;

(4) for any antinarcotics strategy to work in the Andean region an integrated program of economic development, interdiction, and eradication must be developed;

(5) United States Government anti-narcotics policies toward the Andean region have not in the past been coordinated with our country's trade and economic policies as exemplified by recent negotiations over the international coffee agreement;

(6) any successful strategy for combating the influence of international narcotics trafficking in the Andean region must address the economic situation in that region;

(7) many of the farmers who produce coca leaf in the Andean region do so as the sole means of economic livelihood for themselves and their families;

(8) many of these farmers would stop growing coca if provided with alternative means to earn a livelihood;

(9) the economic assistance component of an Andean strategy must reduce the political pressures generated by a successful interdiction and eradication program, offset its negative economic impact on the countries foreign exchange earnings, create jobs for people who lose their livelihood, and in the long run, deal with the region's fundamental structural and development problems;

(10) individual country resources are not adequate to manage the immediate and short-run economic and social issues, much less solve the narcotics problem, neither will indigenous resources grow fast enough to sustain present levels of development, unless the economies grow briskly and the political systems are stabilized and reinforced; and

(11) national, regional, and United States resources, combined, are also insufficient and the overall effort must be internationalized to include Japan, Canada, and Western Europe.

(b) REPORT TO CONGRESS.—Not later than sixty days after the conclusion of the international conference, known as the International Conference on Combating Illegal Drug Production, Trafficking, and Use in the Western Hemisphere, required by section 4104 of title IV of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), or one hundred and eighty days after the date of enactment of this Act, whichever comes first, the President shall report to Congress on—

(1) the outcome of the International Conference;

(2) his strategy for increasing economic development to the Andean region, to be used in conjunction with a program of interdiction and eradication;

(3) his program for coordinating trade and economic policies of our Government with our Nation's overall antinarcotics strategy for the Andean region;

(4) his strategy for internationalizing the economic development assistance to the Andean region in order to include assistance from Japan, Canada, and Western Europe;

(5) the cost over the next five years for a program of economic assistance that would provide an alternative to coca production in the Andean region;

(6) the cost over the next five years of the eradication and interdiction components of the Andean strategy;

(7) the feasibility and cost of purchasing the entire coca crop in the Andean region; and

(8) any recommendations for the modification of United States debt strategy to take into account the unique and exceptional burden imposed on the Andean economics by terrorism and drug trafficking.

(c) BUDGET REQUEST.—The President shall submit to the Congress, with the submission of the budget required by section 1006 of Public Law 100-690, such supplemental budget requests for fiscal years 1990 and 1991 covering the United States share of the cost of additional economic assistance as is necessary to carry out his Andean antinarcotics strategy.

SEC. 1605. SUBSTANCE ABUSE TREATMENT SERVICES UNDER MEDICAID.

(a) PURPOSE OF TITLE XIX.—Section 1901 of the Social Security Act is amended by striking "and" before the number "(2)", and inserting after "self-care," the following: "and (3) at State option, substance abuse treatment services so that treatment on request may be provided to all individuals eligible for assistance under this title (A) who desire to rid themselves of substance abuse problems, and (B) whose income and resources are insufficient to meet the cost of such treatment,".

(b) SUBSTANCE ABUSE TREATMENT SERVICES.—Title XIX of the Social Security Act is amended by adding at the end thereof the following new section:

"SUBSTANCE ABUSE TREATMENT SERVICES

"SEC. 1927. (a) At the option of the State, the State plan for medical assistance described in section 1902(a) may include as medical assistance, substance abuse treatment services and related case management services (described in subsection (b)) under the plan to all individuals eligible for assistance under this title who desire to rid themselves of their substance abuse problems.

"(b) DEFINITIONS.—(1) The term 'substance abuse treatment services' includes—

"(A) inpatient substance abuse treatment services, including counseling, which are provided in a hospital (or distinct part thereof) or other entity if such entity is legally authorized to provide such treatment under State law;

"(B) outpatient substance abuse treatment services, including counseling, which are provided by a hospital (or distinct part thereof) or other entity if such entity is legally authorized to provide such treatment under State law; and

"(C) substance abuse treatment services, including counseling, which are provided in a residential substance abuse treatment center or other entity if such entity is legally authorized to provide such treatment under State law.

"(2) The term 'case management services' means, for purposes of this section, services which will assist individuals eligible under the plan in gaining access to needed medical, social, educational, and other services.".

(c) The amendments made by this section shall take effect on October 1, 1990.

SEC. 1606. LATCHKEY CHILDREN.

SECTION 5125.—Section 5125 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3195) is amended by inserting at the end thereof the following new subsection:

"(c)(1) Funds received under section 5124(a) may be used to implement programs for latchkey children involving school and community activities before and after school, on weekends, and during summer months, which may include—

"(A) athletic activities;

"(B) community service activities;

"(C) activities involving arts, crafts, and other programs to stimulate creativity among latchkey children; and

"(D) educational instruction in subjects otherwise not available during the normal school day such as foreign languages or programs designed to improve a student's ability to resist involvement with substance abuse.

"(2) For purposes of this section, the term 'latchkey children' means elementary and secondary school age children who are unsupervised by an adult for more than eleven hours per week before school or after school, or on a regular basis on weekends or during the summer when school is not in session.".

SEC. 1607. USE OF THE MAILS TO SEND CONTROLLED SUBSTANCES.

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Section 1716 of title 18, United States Code, is amended—

(A) in subsection (a) by inserting "all controlled substances (as that term is defined in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6))) except when authorized under the Controlled Substances Act" immediately following "reptiles,"; and

(B) in the first undesignated paragraph following subsection (i) by striking the period at the end thereof and inserting ", or if the nonmailable matter was a controlled substance (as that term is defined in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6))), shall be fined not more than $60,000 or imprisoned not more than ten years, or both, or in the case of a second or subsequent violation in which the nonmailable matter was a controlled substance, shall be fined not more than $90,000 or imprisoned not more than fifteen years, or both.".

(b) AMENDMENT OF CONTROLLED SUBSTANCES ACT.—Section 403(c) of the Controlled Substances Act (21 U.S.C. 843(c)) is amended—

(1) by striking "$30,000, or both" and inserting "$30,000, or both, or if the communication facility used was the mail, a term of imprisonment of not more than ten years, a fine of not more than $60,000, or both"; and

(2) by striking "$60,000, or both" and inserting "$60,000, or both, or if the communication facility used was the mail, a term of imprisonment of not more than fifteen years, a fine of not more than $90,000, or both".

(c) INCREASED COOPERATION WITH FEDERAL, STATE, AND LOCAL AUTHORITIES.—The United States Postal Service shall assist to the fullest extent possible Federal, State, and local authorities in the implementation of this Act and any other Act dealing with controlled substances.

SEC. 1608. ADAMHA IV DRUG ABUSE WAIVER.

(a) INTRAVENOUS DRUG USERS.—Section 1916(c)(7) of the Public Health Services Act (42 U.S.C. 300x-4(a)(7)) is amended by adding at the end thereof the following new sentence: "The Secretary shall waive the provisions of the preceding sentence for any State which has submitted application for such a waiver to the Secretary prior to September 30, 1989.".

(b) EFFECTIVE DATE.—Subsection (a) shall be effective for fiscal year 1989 and subsequent fiscal years.

SEC. 1609. SINGLE USE SYRINGES AND NEEDLES.

Within one year of enactment, the Secretary of Health and Human Services shall report to Congress on the cost, feasibility, and effectiveness in reducing intravenous drug abuse and the spread of diseases such as AIDS which would result from eliminating syringes and needles which are capable of being used more than once and replacing them with syringes and needles which are only capable of being used a single time.

SEC. 1610. ALTERNATIVE SCHOOLS FOR YOUTHS WITH DRUG PROBLEMS.

(a) Section 5122 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3192) is amended as follows:

(1) Subsection (a) is amended—

(A) by striking "and" at the end of paragraph (6);

(B) by redesignating paragraph (7) as paragraph (8); and

(C) by adding after paragraph (6) the following new paragraph:

"(7) model alternative schools for youths with drug problems that address the special needs of such students through education, treatment, and counseling.".

(b) Section 5125 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3195) is amended as follows:

(1) Subsection (a) is amended—

(A) by striking "and" at the end of paragraph (13);

(B) by redesignating paragraph (14) as paragraph (15); and

(C) by adding after paragraph (13) the following new paragraph:

"(14) model alternative schools for youths with drug problems that address the special needs of such students through education, treatment, and counseling.".

SEC. 1611. HIGHER EDUCATION ACT OF 1965.

(a) THE HIGHER EDUCATION ACT OF 1965.—Section 1212 of the Higher Education Act of 1965 as added by the Department of Transportation and Related Agencies Appropriations Act, 1990, is further amended—

(1) in subsection (a) by—

(A) striking "of law," and inserting "of law, and except as provided in subsection (d),";

(B) striking "and has implemented" and inserting "a plan with a timetable to implement";

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

(D) striking "impose sanctions" and inserting "impose sanctions developed by the institution" in paragraph (1)(E);

(E) inserting at the end of paragraph (1) the following new subparagraph (F):

"(F) a description of the institution's drug and alcohol abuse prevention and intervention program, including alternative support, education and re-entry programs for students who are expelled as a result of violating standards required by paragraph (1)(A).'; and

(F) by striking "ensure that" and inserting "a description of how" in paragraph (2)(B);

(2) by inserting at the end thereof the following new subsection (d):

"(d) Upon application by an institution of higher education, the Secretary shall grant a waiver of the sanctions authorized by this section to any institution of higher education which demonstrates that it is in the process of developing and implementing a plan required by subsection (a). Such waiver shall be for a period not to exceed one year from the date of enactment of this section.".

(b) SECTION 5145.—Section 5145 of the Drug-Free Schools and Communities Act of 1986 as added by the Department of Transportation and Related Agencies Appropriations Act, 1990, is further amended—

(1) in subsection (a)—

(A) striking "of law," and inserting "of law, and except as provided in subsection (e),";

(B) striking "and has implemented" and inserting in lieu thereof "a plan with a timetable to implement";

(C) striking the semicolon at the end of paragraph (1), and inserting a comma and "and complies with the provisions of section 5126(a)(2)(H);";

(D) striking "statement that sanctions" and inserting "statement that sanctions, developed by the local educational agency," in paragraph (4);

(E) renumbering paragraphs (6), (7), and (8), as paragraphs (7), (8), and (9), respectively;

(F) inserting after paragraph (5) the following new paragraph (6):

"(6) a description of the local educational agency's drug and alcohol abuse prevention and intervention program, including alternative support, education and re-entry programs for students who are expelled as a result of violating standards required by paragraph (3);";

(G) striking the semicolon at the end of paragraph (7) (as renumbered in paragraph (1)(E)) and inserting ", and the information required in paragraphs (5) and (6)";

(H) striking "ensure that" and inserting in lieu thereof "a description of how" in paragraph (9)(II) (as renumbered in paragraph (1)(E)); and

(2) in subsection (c) by striking "and has implemented" and inserting in lieu thereof "a plan with a timetable to implement";

(3) in subsection (d) by striking "5126(c)" and inserting "5126(a)" in paragraph (2); and

(4) inserting at the end thereof the following new subsection (e):

"(e) Upon application by a State educational agency, the Secretary shall grant a waiver of the sanctions authorized by this section to each State educational agency which demonstrates that it is in the process of developing and implementing a plan required by subsection (a). Such waiver shall be for a period not to exceed one year from the date of enactment of this section.".

(c) SECTION 5125.—Section 5125 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3195) is amended by inserting at the end thereof the following new subsection:

"(d) Any local or intermediate education agency or consortia that cannot make the assurances described in section 5126(a)(2)(H) shall use any amounts made available under section 5124(a), that is in excess of the amount made available under such section in fiscal year 1989, for purposes described in section 5126(a)(2)(H).

(d) SECTION 5126.—Section 5126(a)(2) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3196(a)(2)) is amended by inserting after subparagraph (G) the following new subparagraph:

"(H) contain assurances that the local or intermediate educational agency or consortia under section 5124(a) is currently providing, or will provide, in accordance with section 5125(c), antidrug education and prevention services targeted at students in grades 4 through 9 (and lower grades in areas of high drug use), that shall—

"(i) include prevention of the use of gateway drugs, such as alcohol, tobacco, and marijuana; and

"(ii) to the maximum extent possible—

"(I) include, or coordinate with, community based programs;

"(II) include resistance skills training, social support for prevention, and changing social norms to include nondrug use;

"(III) include, for middle school grades, teaching refusal or resistance skills through peer counseling and other techniques, and life and social skills training;

"(IV) include, for elementary school grades, social developmental programs that include resistance skills and social skills training;

"(V) identify, provide or refer high risk youth as defined in section 5122(b)(2) to available counseling and appropriate social services; and

"(VI) include programs which involve parents, other community members, government officials, and the media.".

(e) SECTION 5127.—Section 5127(a)(1) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3197(a)) is amended—

(1) in subparagraph (F), by striking out "and";

(2) in subparagraph (G), by striking out the period and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new subparagraph:

"(H) a description of how Federal and non-Federal funds were used for drug prevention and education activities within the State.".

(f) SECTION 5111.—Section 5111(a) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3171 et seq.) is amended by striking "$350,000,000" and inserting "$577,000,000".

(g) SECTION 5122.—Section 5122 of the Drug-Free Schools and Communities Act of 1986 is amended—

(1) by redesignating subsections (a) and (b) as subsections (b) and (c), respectively;

(2) by inserting the following new subsection (a) after the section designation:

"(a) EMERGENCY GRANTS TO SCHOOLS IN URBAN AND RURAL AREAS.—(1) From the amount available to carry out this section pursuant to section 5121(a), 33.3 percent of such amount shall be used by the chief executive officer in consultation with the State educational agency or the chief State school officer of a State, to make contracts with, and emergency grants to, local educational agencies serving urban and rural communities with severe drug problems.

"(2)(A) In awarding grants under this subsection the chief executive shall first award grants to local educational agencies serving the largest city in the State to develop and implement comprehensive approaches to eliminating the serious drug problem that affects schools and students within the boundaries of the local educational agency. Such grants shall be of sufficient size, scope, and quality to be of value and effective.

"(B) After satisfying the requirements of subparagraph (A) the chief executive officer of a State receiving a grant pursuant to the provisions of this section shall make grants to urban and rural local educational agencies with severe drug problems as determined by the incidence of drug abuse in relation to the size of the school age population. Such grants shall be of sufficient size, scope, and quality to be of value and effective. Such grants to the local educational agency shall be used for the development and implementation of comprehensive approaches to eliminating the serious drug problem that affects schools and students

within the boundaries of the local educational agency.

"(3) The Secretary may waive the provisions of this subsection for States in which there is no concentration of drug problems."; and

(3) in subsection (b) (as amended in paragraph (1)) by striking "IN GENERAL.—Not" and inserting "REMAINDER.—From the remainder available to carry out this section, not".

SEC. 1612. ADMINISTRATIVE EXPENSES.

Section 511(e)(1) of the Controlled Substances Act (21 U.S.C. 881(e)(1)) is amended by adding at the end thereof the following: "In determining the equitable share of proceeds for a State or local law enforcement agency from a drug-related asset seizure under subparagraph (A), the Attorney General shall not retain more than 10 per centum of the total proceeds to cover the costs of administrative expenses.".

SEC. 1613. CUSTOMS FORFEITURE FUND.

Section 613A, subsection (a)(3)(F), of the Tariff Act of 1930 (19 U.S.C. 1613b) is amended to read as follows: "payment of overtime, salaries, travel, fuel, training, equipment, and other similar costs of State and local law enforcement officers that are incurred in assisting the United States Customs Service in law enforcement activities.".

SEC. 1614. DRUG-FREE SCHOOLS AND CAMPUSES.

(a) Title XII of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) is amended by adding at the end thereof the following:

"ALCOHOL ABUSE PREVENTION

"SEC. 1212. (a) Notwithstanding any other provision of law, except as provided in subsection (c), no institution of higher education shall be eligible to receive any Federal funds or any other form of financial assistance under any Federal program, including participation in any federally funded or guaranteed student loan program, unless it certifies to the Secretary that, after study and participation by students, student groups, and employees, it has adopted a plan with a timetable to implement a program to prevent the use of illicit drugs and the abuse of alcohol by students and employees of such institutions, a component of which shall include—

"(1) a prohibition on the distribution of free alcoholic beverages for promotional purposes on the campus of such institution;

"(2) a policy that restricts distribution on campus of any promotional material that encourages consumption of alcoholic beverages by persons under the State's legal drinking age;

"(3) in the case of the financing, sponsoring, or supporting of any athletic, musical, cultural or social program, event, or competition of such institution by any alcoholic beverage company or industry, the acknowledgement of such financing, sponsorship, or support in promotional material shall be limited to statements of corporate identification;

"(4) a policy that encourages such institution's newspapers and other publications to reject advertisements promoting irresponsible or illegal consumption of alcoholic beverages; and

"(5) a description of any alcohol counseling, treatment, or rehabilitation program available to students and employees through the institution and the local community.

"(b) The Secretary shall publish regulations to implement and enforce the provisions of this section, including regulations that provide for—

"(1) the periodic review of a representative sample of programs required by subsection (a); and

"(2) sanctions, up to and including the termination of any form of financial assistance, for institutions of higher education that fail to implement their programs or to consistently enforce their sanctions.

"(c) Upon application by an institution of higher education, the Secretary shall grant a waiver of the sanctions authorized by this section to any institution of higher education which demonstrates that it is in the process of developing and implementing a plan required by subsection (a), for up to one year from the date of enactment of this section.".

(b) The provisions of this section shall take effect on October 1, 1990.

SEC. 1615. DEPARTMENT OF DEFENSE CONSULTATION WITH STATE AND LOCAL LAW ENFORCEMENT OFFICIALS.

(a) CONSULTATION REQUIRED.—Part I of subtitle A of title 10, United States Code, is amended by inserting after section 380 the following new section:

"§ 381. Consultation with civilian law enforcement officials

"The Secretary of Defense shall consult with Operation Alliance officials to the extent practicable prior to and during any drug enforcement operation by armed forces personnel or other Department of Defense personnel which might affect the law enforcement activities or jurisdiction of such officials.".

(b) TECHNICAL AMENDMENT.—The table of sections at the beginning of the chapter relating to military support for civilian law enforcement agencies in such part is amended by inserting after the item relating to section 380 the following new item:

"381. Consultation with civilian law enforcement officials.".

SEC. 1616. ISSUANCE OF DRUG WAR BONDS.

(a) IN GENERAL.—Subchapter I of chapter 31 of title 31, United States Code, is amended by adding at the end thereof the following new section:

"§ 3114. Drug war bonds

"(a) The Secretary of the Treasury shall—

"(1) issue drug war bonds of the United States Government: *Provided, however,* That the amount of the issue in any fiscal year shall not exceed that amount appropriated in that fiscal year for the purposes contained in subsection (e)(4) of this section, and

"(2) buy, redeem, and make refunds of such bonds under section 3111 of this title.

"(b)(1) Drug war bonds may be issued under this section on an interest-bearing basis, on a discount basis, or on an interest-bearing and discount basis.

"(2) The Secretary of the Treasury may—

"(A) fix the investment yield for drug war bonds issued under this section, and

"(B) change the investment yield on any outstanding drug war bond, except that the yield on a bond for the period held may not be decreased below the minimum yield for the period guaranteed on the date on which the bond is issued.

"(3) Drug war bonds issued under this section shall mature not more than twenty years after the date of issue.

"(4)(A) Except as otherwise provided in this paragraph, the Secretary of the Treasury shall prescribe the denominations in which drug war bonds are issued under this section.

"(B)(i) In prescribing under subparagraph (A) the denominations in which drug war bonds are issued under this section, the Secretary of the Treasury shall ensure that a small denomination, of not greater than a $25 maturity value, be available for issuance in order to enable children and small investors to purchase drug war bonds.

"(ii) In order to compensate for the additional administrative costs of issuing drug war bonds under this section in a small denomination that does not exceed a $25 maturity value, the Secretary of the Treasury is authorized to fix an investment yield for such small-denomination drug war bonds that is lower than the investment yield on other denominations of drug war bonds.

"(5) The Secretary of the Treasury shall issue stamps, or may provide other means, that evidence payment towards the purchase of a drug war bond issued under this section in order to encourage and facilitate the accumulation of funds for the purchase of drug war bonds.

"(c) Except as otherwise provided in this section, the Secretary of the Treasury may prescribe, with respect to drug war bonds issued under this section—

"(1) the form and amount of an issue,

"(2) the way in which the bonds will be issued,

"(3) the conditions (including restrictions on transfer) to which the bonds will be subject,

"(4) conditions governing redemption of the bonds,

"(5) the sales price of the bonds, and

"(6) a way to evidence payments for, or on account of, the bonds.

"(d) The Secretary of the Treasury may authorize any financial institution which meets the requirements of section 3105(d) to make payments to redeem drug war bonds issued under this section.

"(e)(1) There is hereby established within the Treasury of the United States a trust fund to be known as the Anti-Drug Abuse Trust Fund (hereinafter in this subsection referred to as the 'Trust Fund'), consisting of such amounts as may be transferred to the Trust Fund under paragraph (2).

"(2)(A) The Secretary of the Treasury shall transfer to the Trust Fund out of the general fund of the Treasury of the United States amounts determined by the Secretary of the Treasury to be equivalent to the amounts received into such general fund that are attributable to the proceeds from drug war bonds issued under this section.

"(B) The amounts which are required to be transferred under subparagraph (A) shall be transferred at least monthly from the general fund of the Treasury of the United States to the Trust Fund on the basis of estimates made by the Secretary of the Treasury of the amounts referred to in subparagraph (A) that are received into the Treasury. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of, or less than, the amounts required to be transferred.

"(3) The Secretary of the Treasury shall be the trustee of the Trust Fund and shall submit an annual report to the Congress on—

"(A) the financial condition and the results of the operations of the Trust Fund during the fiscal year preceding the fiscal year in which such report is submitted, and

"(B) the expected condition and operations of the Trust Fund during the fiscal year in which such report is submitted and during each of the five fiscal years succeeding such fiscal year.

The report shall be printed as a House document of the session of the Congress to which the report is made.

"(4) Funds in the Trust Fund shall only be available, as provided in appropriation Acts, for expenditures that are authorized—

"(A) by the provisions of,

"(B) by amendments made to, or

"(C) by amendments made by,

the Anti-Drug Abuse Act of 1988.

"(f) The Secretary of the Treasury shall provide notice to the public through appropriate media that the purchase of drug war bonds will assist in implementing anti-drug abuse provisions of law.".

(b) CONFORMING AMENDMENTS.—

(1) The table of sections for subchapter I of chapter 31 of title 31, United States Code, is amended by adding at the end thereof the following new item:

"3114. Issuance of drug war bonds.".

(2) Section 3108 of title 31, United States Code, is amended by striking out "and 3105-3107" and inserting in lieu thereof ", 3105-3107, and 3114".

SEC. 1617. STATE RUN BOOT CAMP.

The Bureau of Justice Assistance shall provide funds for demonstration grants to the States to establish shock incarceration programs as alternatives to imprisonment for first-time offenders who have committed nonviolent offenses and nonviolent drug offenses, 90 per centum of which funds shall be reserved and set aside in a special discretionary fund for use by the Director to make grants, and the remainder of which funds to make grants to provide compulsory drug treatment, as required, and literacy education, vocational education, and job training programs by the State or jointly by the State and private entities which shall be made available to nonviolent offenders selected for confinement in boot camp programs: *Provided*, That no grants shall be expended for more than 70 per centum of the cost of the project for which such grant is made and no Federal funds made available to the State shall be used to supplant State or local funds that would otherwise be used to carry out such project.

SEC. 1618. KINDERGARTEN THROUGH SIXTH GRADE GRANTS TO EDUCATIONAL AGENCIES TO RESIST USE OF CONTROLLED SUBSTANCES.

(a) IN GENERAL.—The Secretary of Education is authorized to award grants to local educational agencies in consortium with entities which have experience in assisting school districts to provide instruction to students grades kindergarten through six to recognize and resist pressures that influence such students to use controlled substances, as defined in schedules I and II of section 202 of the Controlled Substances Act (21 U.S.C. 812), the possession or distribution of which is unlawful under such Act, or beverage alcohol, such as Project Drug Abuse Resistance Education, that meet the requirements of subsection (b).

(b) REQUIREMENTS.—A local education agency in consortium with an entity shall not be eligible for a grant under subsection (a) unless such local education agency in consortium with an entity will use assistance provided under such grant to provide or arrange for the provision of services that shall include—

(1) drug abuse resistance education instruction for students grades kindergarten through six to recognize and resist pressures to experiment that influence such children to use controlled substances, as defined under subsection (a), or beverage alcohol, including instruction in the following areas—

(A) drug use and misuse;

(B) resistance techniques;

(C) assertive response styles;

(D) managing stress without taking drugs;

(E) decisionmaking and risk taking;

(F) media influences on drug use;

(G) positive alternatives to drug abuse behavior;

(H) interpersonal and communication skills;

(I) self-esteem building activities; and

(J) resistance to gang pressure;

(2) classroom instruction by law enforcement officials;

(3) the use of positive student leaders to influence younger students not to use drugs; and

(4) an emphasis on activity-oriented techniques designed to encourage student-generated responses to problem-solving situations.

(c) APPLICATION.—The Secretary shall not make a grant under subsection (a) unless—

(1) an application for the grant is submitted to the Secretary;

(2) with respect to carrying out the purpose for which the grant is to be made, the application provides assurances of compliance satisfactory to the Secretary;

(3) the application otherwise is in such form, agreements, assurances, and information as the Secretary determines to be necessary to carry out this section; and

(4) the application contains an assurance that the applicant will provide funds either in cash or in kind that are not less than 10 per centum of the amount of the grant under subsection (a).

(d) SUPPLEMENTAL FUNDS.—Amounts received under subsection (a) by the entity shall be used only to supplement, not to supplant, the amount of Federal, State, and local funds expended for the support of projects of the type described in subsection (b).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $10,000,000 in fiscal year 1990, and such sums as may be necessary for each of the 3 succeeding fiscal years.

SEC. 1619. ELECTRONIC SCANNING OF CERTAIN UNITED STATES CURRENCY NOTES.

(a) ELECTRONIC SCANNING TASK FORCE.—(1) Not more than thirty days after the date of enactment of this section, the Secretary of the Treasury (hereafter in this section referred to as the "Secretary") shall appoint an Electronic Scanning Task Force (hereafter in this section referred to as the "Task Force") to—

(A) study methods of printing on United States currency notes issued under section 51115 of title 31, United States Code, in denominations of $10 or more a serial number on each such United States currency note that may be read by electronic scanning;

(B) make an assessment of the cost of implementing such electronic scanning of such United States currency notes; and

(C) make recommendations about the amount of time needed to implement such electronic scanning.

(2) In appointing members to the Task Force described in subsection (a), the Secretary shall appoint such number of members as the Secretary determines to be appropriate. The Secretary, shall, at a minimum appoint to the Task Force—

(A) the Assistant Secretary for Enforcement in the Department of the Treasury (who shall serve as a nonvoting, ex officio member); and

(B) at least one recognized expert from each of the following fields relating to electronic scanning technology:

(i) coding,

(ii) symbology,

(iii) scanning systems,

(iv) computer data compilation, and

(v) printing technology.

(3) Except as provided in paragraph (2)(A), no individual who is a full-time employee of the Federal Government may serve as a member of the Task Force.

(4) The provisions of the Federal Advisory Committee Act shall not apply with respect to the Task Force.

(5) Members of the Task Force shall, while attending meetings and conferences of the Task Force or otherwise engaging in the business of the Task Force (including travel time), 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.

(6) While away from their homes or regular places of business on the business of the Task Force, 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.

(7) Upon the issuance of the report by the Secretary under subsection (b), the Task Force shall cease to exist.

(b) REPORT TO THE CONGRESS.—Not later than one hundred and eighty days after the date of enactment of this section, the Secretary shall issue a report to the appropriate committees of the Congress that summarizes the findings and recommendations of the Task Force under subsection (a)(1), and includes any additional recommendations by the Secretary.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

SEC. 1620. STUDY ON THE RELATIONSHIP BETWEEN THE CONSUMPTION OF LEGAL AND ILLEGAL DRUGS.

(a) IN GENERAL.—For assistance in designing prevention programs to reduce the likelihood of drug abuse, the Secretary of Health and Human Services shall conduct a study concerning the relationship between an individual's receptivity to use or consume legal drugs and the consumption or abuse by the individual of illegal drugs.

(b) CONTENTS.—The study conducted under subsection (a) shall contain information concerning—

(1) the effect of advertising and marketing campaigns that promote the use of legal drugs on the public;

(2) the correlation of legal drug abuse with illegal drug abuse; and

(3) other matters that the Secretary of Health and Human Services determines appropriate.

(c) DATA AND RESEARCH.—In conducting the study under subsection (a), the Secretary of Health and Human Services shall consider data collected and current research concerning drug abuse and gateway drugs.

(d) REPORT.—Not later than two years after the date of enactment of this Act, the Secretary of Health and Human Services shall prepare and submit, to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate,

a report containing the results of the study conducted under subsection (a).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $1,000,000.

SEC. 1621. HEMISPHERE CONFERENCE ON DRUG TRAFFICKING AND DRUG ABUSE.

(a) FINDINGS.—The Congress finds that—

(1) Public Law 100-690, the Anti-Drug Abuse Act of 1988, included specific provisions (sections 4101, 4103, 4104, 4105, and 4106) relating to multilateral narcotics control efforts;

(2) the need for international cooperation in order to fight organized and violent drug traffickers, to exchange drug interdiction intelligence, and to share drug treatment research, has been recognized by countries that produce, consume, or serve as transshipment points for illegal narcotics; and

(3) the United States must assume a leadership role in the multinational movement to combat drugs.

(b) Therefore, the Secretary of State is required to submit to the Congress of the United States a report on the status of the efforts the Department of State has made or intends to make in order to carry out sections 4101, 4103, 4104, 4105, and 4106 of the Anti-Drug Abuse Act of 1988 regarding multinational drug control efforts.

(c) This report shall be submitted to Congress no later than December 1, 1989.

SEC. 1622. MANDATORY MINIMUM SENTENCES FOR ADULTS WHO INVOLVE JUVENILES IN DRUG OFFENSES.

(a) DISTRIBUTION TO PERSONS UNDER AGE TWENTY-ONE.—Section 405 of the Controlled Substances Act is amended—

(1) in subsection (a) by striking "Except to the extent a greater minimum sentence is otherwise provided by section 401(b) of this title, a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extent a greater minimum sentence is otherwise provided by section 401(b) of this title, a term of imprisonment under this subsection shall be not less than 10 years. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence."; and

(2) in subsection (b) by striking "Except to the extent a greater minimum sentence is otherwise provided by section 401(b) of this title, a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extent a greater minimum sentence is otherwise provided by section 401(b) of this title, a term of imprisonment under this subsection shall be not less than 20 years. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence.".

(b) EMPLOYMENT OF PERSONS UNDER 18 YEARS OF AGE.—Section 405B of the Controlled Substances Act is amended—

(1) in subsection (b) by striking "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extent a greater minimum sentence is otherwise provided by section 401(b) of this title, a term of imprisonment under this subsection shall be not less than 10 years. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence"; and

(2) in subsection (c) by striking "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extent a greater minimum sentence is otherwise provided by section 401(b) of this title, a term of imprisonment under this subsection shall be not less than 20 years. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence.".

SEC. 1623. STATEWIDE DRUG TREATMENT PLAN.

(a) IN GENERAL.—Title XIX of the Public Health Service Act is amended by inserting after section 1916A (42 U.S.C. 300x-4a) the following new section:

"SEC. 1916B. STATEWIDE DRUG TREATMENT PLAN.

"(a) NATURE OF PLAN.—To receive the drug abuse portion of its allotment for a fiscal year under section 1912A, a State shall develop, implement and submit, as part of the application required by section 1916(a), an approved statewide Drug Treatment Plan, prepared according to regulations promulgated by the Secretary, that shall contain—

"(1) a single, designated State agency for formulating and implementing the Statewide Drug Treatment Plan;

"(2) a description of the mechanism that shall be used to assess the needs for drug treatment in localities throughout the State including the presentation of relevant data;

"(3) a description of a Statewide plan that shall be implemented to expand treatment capacity and overcome obstacles that restrict the expansion of treatment capacity (such as zoning ordinances), or an explanation of why such a plan is unnecessary;

"(4) a description of performance-based criteria that shall be used to assist in the allocating of funds to drug treatment facilities receiving assistance under this subpart;

"(5) a description of the drug-free patient and workplace programs, that must include some form of drug testing, to be utilized in drug treatment facilities and programs;

"(6) a description of the mechanism that shall be used to make funding allocations under this subpart;

"(7) a description of the actions that shall be taken to improve the referral of drug users to treatment facilities that offer the most appropriate treatment modality;

"(8) a description of the program of training that shall be implemented for employees of treatment facilities receiving Federal funds, designed to permit such employees to stay abreast of the latest and most effective treatment techniques;

"(9) a description of the plan that shall be implemented to coordinate drug treatment facilities with other social, health, correctional and vocational services in order to assist or properly refer those patients in need of such additional services; and

"(10) a description of the plan that will be implemented to expand and improve efforts to contact and treat expectant women who use drugs and to provide appropriate follow-up care to their affected newborns.

"(b) SUBMISSION OF PLAN.—The plan required by subsection (a) shall be submitted to the Secretary annually for review and approval. The Secretary shall have the authority to review and approve or disapprove such State plans, and to propose changes to such plans.

"(c) GUIDELINES.—

"(1) IN GENERAL.—The Secretary, in consultation with the States, shall develop guidelines for each area to be covered by the State plan prepared under subsection (a).

"(2) CONFORMITY.—Beginning in fiscal year 1991, no payment shall be made to a State under section 1914 for the substance abuse portion of its allotment under section 1912A unless such State has submitted a plan under this section that is in reasonable conformance with the guidelines developed under paragraph (1), except that with respect to the performance criteria for treatment facilities described in subsection (a)(4), the State plan shall provide a reasonable time for such conformance.

"(3) MONITORING.—The Secretary shall monitor the compliance of the State with the plan submitted under this section and provide technical assistance to assist in achieving such compliance.

"(d) SUBMISSION OF PROGRESS REPORTS.—Each State shall submit reports, in such form, and containing such information as the Secretary may, from time to time, require, and shall comply with such additional provisions as the Secretary may from time to time find necessary to verify the accuracy of such reports and not overly burdensome on the State.

"(e) WAIVER OF PLAN REQUIREMENT.—At the discretion of the Secretary, the Secretary may waive any or all of the requirements of this section on the written request of a State, except that such waiver shall not be granted unless the State implements an alternative treatment plan that fulfills the objectives of this section.

"(f) MODEL STATE PLAN.—The Secretary shall establish a model State drug abuse treatment plan to guide States in establishing State plans under subsection (a), and shall provide technical assistance to assist States in complying with such plan.

"(g) DEFINITION.—As used in this section, the term 'drug abuse portion' means the amount of a State's allotment under section 1912A that is required by this subpart, or by any other provision of law, to be used for programs or activities relating to drug abuse.

"(h) ADMINISTRATIVE COSTS.—Expenses incurred for the training of individuals as required under any plans submitted under this section shall not be included in determining the costs of administering funds made available under section 1914.".

(b) REGULATIONS.—The Secretary shall promulgate regulations necessary to carry out section 1916B of the Public Health Service Act (as added by subsection (a)) not later than 6 months following the date of enactment of this section.

(c) EFFECTIVE DATE.—

(1) PERFORMANCE CRITERIA AND WORKPLACE REQUIREMENT.—Sections 1916B (a)(4) and (a)(5) of the Public Health Service Act (as added by subsection (a)) shall become effective on October 1, of the second fiscal year beginning after the date that final regulations under subsection (b) are published in the Federal Register.

(2) REMAINING PROVISIONS.—The remaining provision of such section 1916B shall become effective beginning on October 1, of the first fiscal year beginning after the date final regulations under paragraph (1) are published in the Federal Register.

SEC. 1624. USE OF ADAMHA ALLOTMENTS.

Section 1915 of the Public Health Service Act (42 U.S.C. 300x-3) is amended—

(1) in subsection (b)—

(A) by inserting after the comma in paragraph (1), the following: "except that funds may be used to pay for inpatient hospital drug treatment services pursuant to a contractual arrangement with a hospital if—

"(A) needed residential treatment services could not otherwise be provided; and

"(B) the rates paid for such services do not exceed 125 percent of the cost of the rates typically required for comparable residential services."; and

(B) by inserting after the fifth sentence in the matter following paragraph (5), the following new sentence: "The Secretary may waive or reduce the matching rate requirement of the preceding sentence if the State requests such a waiver and the Secretary determines that a failure to grant such a request would result in a reduction in the resources that would otherwise be used to provide direct treatment services and that are essential to implementation of the State drug abuse plan.";

(2) in subsection (c)(1)—

(A) by inserting "including social and health services necessary to improve treatment outcomes," after "drug abuse in subparagraph (A),";

(B) by striking out "and" at the end of subparagraph (B);

(C) by striking out the period and inserting in lieu thereof "; and" in subparagraph (C); and

(D) by adding at the end thereof the following new subparagraph:

"(D) to provide counseling to family members of drug abusers, including such family members in group and family counseling service settings for the treatment of drug abusers."; and

(3) in subsection (d), by adding at the end thereof the following new sentence: "Expenses incurred for the training of individuals as required under this subpart shall not be included in determining the costs of administering funds made available under section 1914.".

SEC. 1625. DRUGS FOR THE TREATMENT OF ADDICTIONS.

Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.) is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER C—DRUGS FOR THE TREATMENT OF ADDICTION TO ILLEGAL DRUGS

"SEC. 529A. RECOMMENDATIONS FOR INVESTIGATIONS OF DRUGS FOR THE TREATMENT OF ADDICTIONS TO ILLEGAL DRUGS.

"(a) IN GENERAL.—The sponsor of a drug for the treatment of an addiction to illegal drugs may request the Secretary to provide written recommendations for the nonclinical and clinical investigations that must be conducted with the drug before—

"(1) it may be approved for treatment of such addiction under section 505;

"(2) if the drug is an antibiotic, it may be certified for treatment of such addiction under section 507; or

"(3) if the drug is a biological product, it may be licensed for treatment of such addiction under section 351 of the Public Health Service Act.

"(b) RECOMMENDATIONS FOR INVESTIGATIONS.—If the Secretary has reason to believe that a drug for which a request is made under this section is a drug for the treatment of an addiction to illegal drugs, the Secretary shall provide the person making the request with written recommendations for the nonclinical and clinical investigations that the Secretary believes, on the basis of information available to the Secretary at the time of the request under this section, would be necessary for approval of such drug for treatment of such addiction under section 505, certification of such drug under section 507, or licensing of such drug under section 351 of the Public Health Service Act.

"(c) REGULATIONS.—The Secretary shall by regulation promulgate procedures for the implementation of subsections (a) and (b).

"SEC. 529B. DESIGNATION OF DRUGS FOR THE TREATMENT OF AN ADDICTION TO ILLEGAL DRUGS.

"(a) IN GENERAL.—

"(1) REQUEST.—The manufacturer or the sponsor of a drug may request the Secretary to designate the drug as a drug for the treatment of an addiction to illegal drugs. A request for designation of a drug shall be made before the submission of an application under section 505(b) for the drug, the submission of an application for certification of the drug under section 507, or the submission of an application for licensing of the drug under section 351 of the Public Health Service Act. If the Secretary finds that a drug for which a request is submitted under this subsection is being or will be investigated for the treatment of an addiction to illegal drugs and—

"(A) if an application for such drug is approved under section 505;

"(B) if a certification for such drug is issued under section 507; or

"(C) if a license for such drug is issued under section 351 of the Public Health Service Act;

the approval, certification, or license would be for use for treatment of such addiction, the Secretary shall designate the drug as a drug for the treatment of an addiction to illegal drugs. A request for a designation of a drug under this subsection shall contain the consent of the applicant to notice being given by the Secretary under subsection (b) respecting the designation of the drug.

"(2) DEFINITION.—As used in paragraph (1)—

"(A) the term 'drugs for the treatment' means those pharmacological agents or medications that—

"(i) reduce the craving for abused drugs;

"(ii) block the behavioral and physiological effects of abused drugs;

"(iii) safely serve as replacement therapies for the treatment of drug abuse;

"(iv) moderate or eliminate the process of withdrawal;

"(v) block or reverse the toxic effects of abused drugs; or

"(vi) prevent, where possible, the initiation of drug abuse in individuals at high risk;

"(B) the term 'addiction' means the state of an individual where that individual habitually uses an illegal drug in a manner that endangers the public morals, health, safety, or welfare, or who is so addicted to the use of illegal drugs that such individual loses the power of self-control with reference to such individuals addiction; and

"(C) the term 'illegal drugs' means a controlled substance, as defined in section 102(6) Schedule I the Controlled Substance Act (21 U.S.C. 892(6)).

"(b) CONDITIONS.—A designation of a drug under subsection (a) shall be subject to the condition that—

"(1) if an application was approved for the drug under section 505(b), a certificate was issued for the drug under section 507, or a license was issued for the drug under section 351 of the Public Health Service Act, the manufacturer of the drug will notify the Secretary of any discontinuance of the production of the drug at least one year before discontinuance, and

"(2) if an application has not been approved for the drug under section 505(b), a certificate has not been issued for the drug under section 507, or a license has not been issued for the drug under section 351 of the Public Health Service Act and if preclinical investigations or investigations under section 505(i) are being conducted with the drug, the manufacturer or sponsor of the drug will notify the Secretary of any decision to discontinue active pursuit of approval of an application under section 505(b), approval of an application for certification under section 507, or approval of a license under section 351 of the Public Health Service Act.

"(c) NOTICE.—Notice respecting the designation of a drug under subsection (a) shall be made available to the public.

"(d) REGULATION.—The Secretary shall by regulation promulgate procedures for the implementation of subsection (a).

"SEC. 529C. PROTECTION FOR DRUGS FOR THE TREATMENT OF AN ADDICTION TO ILLEGAL DRUGS.

"(a) IN GENERAL.—Except as provided in subsection (b), if the Secretary—

"(1) approves an application filed pursuant to section 505,

"(2) issues a certification under section 507, or

"(3) issues a license under section 351 of the Public Health Service Act.

For a drug designated under section 529A for the treatment of an addiction to illegal drugs, the Secretary may not approve another application under section 505, issue another certification under section 507, or issue another license under section 351 of the Public Health Service Act for such drug for the treatment of such addiction for a person who is not the holder of such approved application, of such certification, or of such license until the expiration of seven years from the date of the approval of the approved application, the issuance of the certification, or the issuance of the license. Section 505(c)(2) does not apply to the refusal to approve an application under the preceding sentence.

"(b) ISSUANCE OF ANOTHER LICENSE, APPLICATION, OR CERTIFICATION.—If an application filed pursuant to section 505 is approved for a drug designated under section 529A for the treatment of an addiction to illegal drug, if a certification is issued under section 507 for such a drug, or if a license is issued under section 351 of the Public Health Service Act for such a drug, the Secretary may, during the seven-year period beginning on the date of the application approval, of the issuance of the certification under section 507, or of the issuance of the license, approve another application under section 505, issue another certification under section 507, or issue a license under section 351 of the Public Health Service Act, for such drug for the treatment of such addiction for a person who is not the holder of such approved application, of such certification, or of such license if—

"(1) the Secretary finds, after providing the holder notice and opportunity for the submission of views, that in such period the

holder of the approved application, of the certification, or of the license cannot assure the availability of sufficient quantities of the drug to meet the needs of persons with such addictions for which the drug was designated; or

"(2) such holder provides the Secretary in writing the consent of such holder for the approval of other applications, issuance of other certifications, or the issuance of other licenses before the expiration of such seven-year period.

"SEC. 529D. OPEN PROTOCOLS FOR INVESTIGATIONS OF DRUGS FOR THE TREATMENT OF AN ADDICTION TO ILLEGAL DRUGS.

"If a drug is designated under section 529A as a drug for the treatment of an addiction to illegal drugs and if notice of a claimed exemption under section 505(i) or regulations issued thereunder is filed for such drug, the Secretary shall encourage the sponsor of such drug to design protocols for clinical investigations of the drug which may be conducted under the exemption to permit the addition to the investigations of persons with such addictions who need the drug to treat such addiction and who cannot be satisfactorily treated by available alternative drugs.

"SEC. 529E. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subchapter, such sums as may be necessary in each of the fiscal years 1990 through 1992.".

SEC. 1626. ENHANCED STATE AND LOCAL LAW ENFORCEMENT PROGRAMS.

Section 503(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)) is amended by adding at the end thereof the following new paragraphs:

"(11) A certification that State and local law enforcement agencies, prosecuting attorneys, and courts have in place, or are committed to develop, arrangements, to the extent permitted by law, for—

"(A) the prosecution and sentencing of drug offenders within one hundred days after arraignment;

"(B) the use of civil injunctive and other remedies to limit illegal activities; and

"(C) the use of civil and criminal forfeiture proceedings, including—

"(i) authority to seize real property, cash proceeds, cash found in proximity to a criminal enterprise or activity, and substitute assets;

"(ii) civil remission or mitigation and innocent owner protections; and

"(iii) distribution of forfeited proceeds from illegal drug activity evenly between State supply and demand reduction programs (after reimbursement of agencies of the cost of conducting forfeiture proceedings).

"(12) An agreement to report to the Bureau concerning—

"(A) the results of the programs described in paragraph (11); and

"(B) the need for changes in State laws to allow more effective use of the programs described in paragraph (11).".

SEC. 1627. AUTHORIZING ADDITIONAL JUDICIAL POSITIONS.

(a) UNITED STATES DISTRICT COURT JUDGES.—(1) In accordance with the provisions of paragraph (2), the President shall appoint, by and with the advice and consent of the Senate, twenty district judges in addition to those appointed pursuant to section 133 of title 28, United States Code.

(2) Prior to the appointment of any judge pursuant to paragraph (1), the number and locations of such judges among the several judicial districts shall be established by law after consideration, by the Congress, of the recommendations of the Judicial Conference of the United States submitted pursuant to subsection (b).

(b) JUDICIAL CONFERENCE.—The Judicial Conference of the United States shall prepare a report evaluating the impact of drug-related criminal activity on the Federal district courts. Such report shall contain recommendations as to how the additional United States District Court judges should be allocated based on criminal drug-related felony filings per judgeship in each district. The report shall be transmitted to the Committees on the Judiciary of the United States Senate and the House of Representatives not later than one hundred and twenty days after the date of enactment of this section.

SEC. 1628. FEDERAL PRISONER DRUG TESTING ACT OF 1989.

(a) SHORT TITLE.—This section may be cited as the "Federal Prisoner Drug Testing Act of 1989".

(b) CONDITIONS ON PAROLE.—Section 4209(a) of title 18, United States Code, is amended by inserting after the first sentence the following: "In every case, the Commission shall also impose as a condition of parole that the parolee pass a drug test prior to paroled release and refrain from any unlawful use of a controlled substance and submit to at least two periodic drug tests (as determined by the Commission) for use of a controlled substance during the period of paroled release.".

(c) This provision takes effect six months after enactment.

SEC. 1629. ANTITRUST LAW EXEMPTIONS.

(a)(1) Actions specified in subsection (b) shall be exempt from the antitrust laws of the United States.

(2) For purposes of this section—

(A) "antitrust laws" has the meaning given such term in the first section of the Clayton Act (15 U.S.C. 12), and shall also include section 5 of the Federal Trade Commission Act (15 U.S.C. 45);

(B) "person in the television industry" means a television network, any entity which produces programming for television distribution, including theatrical motion pictures, the National Cable Television Association, the Association of Independent Television Stations, Inc., the National Association of Broadcasters, the Motion Picture Association of America, and each of the networks' affiliate organizations, and shall include any individual acting on behalf of such person; and

(C) "telecast" means any program broadcast by a television broadcast station or transmitted by a cable television system.

(b) The antitrust laws shall not apply to any joint discussion, consideration, review, action, or agreement by or among persons in the television industry for the purpose of, and limited to, developing and disseminating voluntary guidelines designed to alleviate any negative impact of illegal drug use in telecast material.

(c)(1) The exemption provided in subsection (b) shall not apply to any joint discussion, consideration, review, action, or agreement which results in a boycott of any person.

(2) The exemption provided in subsection (b) shall apply only to activities conducted within 36 months after the date of enactment of this section.

SEC. 1630. STUDY OF FAMILY ASSISTANCE, CHILD WELFARE AND YOUTH SOCIAL SERVICE PROGRAMS.

(a) IN GENERAL.—The Secretary of Health and Human Services, acting through the National Academy of Sciences, shall conduct a study consisting of a comprehensive review and examination of the child welfare and youth social service programs administered or operated within the Office of Human Development Services and the family assistance programs administered or operated within the Family Support Administration.

(b) CONTENTS OF STUDY.—The study shall include—

(1) an assessment of the current content and organization of programs and data collection activities, including the relationship of local, State, and Federal Government efforts, to protect children and youth and support families;

(2) an identification of the gaps and deficiencies in the activities described in paragraph (1);

(3) a review of the available options for improving the structure and delivery of services and collection of data concerning the activities described in paragraph (1); and

(4) an examination—

(A) of the current array and alignment of programs that address the special needs of children with substance abusing parents, children with disabilities and chronic diseases, including HIV infection, and children without adequate housing; and

(B) of how related programs and activities, such as health care and juvenile justice programs, interact with social service and family assistance programs.

(c) REPORT.—Not later than six months after the completion of the study required under subsection (a), the Secretary of Health and Human Services shall prepare and submit, to the appropriate committees of Congress, a report concerning the results of such study, including a response by the Secretary to the report and the recommendations of the Secretary.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $1,000,000.

SEC. 1631. DEPORTED AGGRAVATED FELONS REENTERING THE UNITED STATES.

Pursuant to its authority under section 994(p) of title 28, United States Code, and section 21 of the Sentencing Act of 1987, the United States Sentencing Commission shall promulgate guidelines, or shall amend existing guidelines, to provide that a defendant convicted of violating section 276(b)(2) of the Immigration and Nationality Act (8 U.S.C. 1326) shall be assigned an offense level under chapter 2 of the sentencing guidelines that constitutes a meaningful deterrence to the commission of such offense.

SEC. 1632. AMENDMENTS TO THE IMMIGRATION AND NATIONALITY ACT.

(a) IN GENERAL.—Except as otherwise specifically provided in this section, whenever in this section an amendment is expressed as an amendment to a provision, the reference shall be deemed to be made to the Immigration and Nationality Act.

(b) DEFINITION OF GOOD MORAL CHARACTER.—Section 101(f) of the Immigration and Nationality Act is amended—

(1) by striking out the period at the end of paragraph (8) and inserting in lieu thereof "; or"; and

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

"(9) one who has been convicted of an aggravated felony, as defined in subsection (a)(43).".

(c) BAR ON REENTRY OF ALIENS CONVICTED OF AGGRAVATED FELONIES.—Section 212(a)(17) (8 U.S.C. 1182(a)(17)) is amended by striking out "or within ten years" and inserting in lieu thereof "or at anytime thereafter".

(d) CUSTODY PENDING DETERMINATION OF EXCLUDABILITY.—Section 236 (8 U.S.C. 1226) is amended by adding at the end thereof the following new subsection:

"(e) Pending a determination of excludability, the Attorney General shall take into custody any alien convicted of an aggravated felony upon completion of the alien's sentence for such conviction. Notwithstanding any other provision of this section, the Attorney General shall not release such felon from custody.".

(e) SUSPENSION OF DEPORTATION PROHIBITED.—Section 244 (8 U.S.C. 1254) is amended by adding at the end thereof the following new subsection:

"(g) No alien convicted of an aggravated felony (as defined in section 101(a)(43)) shall be eligible for suspension of deportation under this section.".

(f) EFFECT OF FILING PETITION FOR REVIEW.—Section 106(a)(3) (8 U.S.C. 1105a(a)(3)) is amended—

(1) by striking the semicolon at the end of paragraph (3) and inserting in lieu thereof "; or" and

(2) by adding at the end thereof the following: "unless the alien is convicted of an aggravated felony, in which case the Service shall not stay the deportation of the alien pending determination of the petition by the court, unless the court otherwise directs;".

(g) CUSTODY PENDING DETERMINATION OF DEPORTABILITY.—Section 242(a)(2) (8 U.S.C. 1252) is amended, as follows:

"(a)(2) Pending a determination of deportability, the Attorney General shall take into custody any alien convicted of an aggravated felony upon completion of the alien's sentence for such conviction. Notwithstanding any other provision of this section, the Attorney General shall not release such felon from custody.".

SEC. 1633. CRIMINAL FINES.

(a) IN GENERAL.—Pursuant to its authority under section 994(p) of title 28, United States Code, and section 21 of the Sentencing Act of 1987, the United States Sentencing Commission shall consider promulgating guidelines, for inclusion in its next submission to the Congress, to provide that an individual convicted of violating provisions of the Controlled Substances Act relating to sales or possession shall, in addition to being sentenced to any authorized term of imprisonment or assessed costs, be sentenced to pay a fine that constitutes a percentage of such individual's income, from all sources, during the twelve months prior to the commission of the offense for which the individual was convicted.

(b) AFFECT OF OTHER LAWS.—Any guidelines issued after the consideration mandated by subsection (a) or any subsequent changes thereto shall not be subject to the limits otherwise provided by section 3571 of title 18, United States Code.

SEC. 1634. REPORTS ON DRUG-RELATED RESEARCH AND DEVELOPMENT.

(a) Not later than December 31, 1989, the Director of National Drug Control Policy shall submit to the Congress a detailed report on the Drug Control Research and Development Committee (referred to hereinafter as "the Committee").

(b) The report required by subsection (a) shall include:

(1) a list of the members of the Committee and a description of the Committee's structure;

(2) a description of the staffing of the Committee, including the number of full-time employees assigned to the staff and the relationship between the Committee's staff and the staff of the Office of National Drug Control Policy;

(3) an estimate of the funding requirements to support the Committee, including the Committee's staff;

(4) a detailed description of the responsibilities and authorities of the Committee, including the authority of the Committee to give direction to the agencies participating on the Committee and the extent to which the Committee will have responsibility for research and development related to countering terrorism; and

(5) an interim plan and schedule for the Committee's activities, including the identification of national requirements for drug-related research and development, the establishment of national priorities for drug-related research and development, and the review and coordination of Federal research and development, data-collection, and evaluation activities.

(c) Not later than December 31, 1989, the President shall submit to the Congress a detailed plan to establish within the Department of Justice or elsewhere in the executive branch an office to provide centralized management of counterterrorism- and drug enforcement-related research, development, test and evaluation activities conducted by the Federal Government and an assessment of the desirability of implementing such a plan.

SEC. 1635. JUVENILE AND ADULT SUBSTANCE ABUSERS.

Amend section 1915(a)(1) of the Public Health Service Act after "programs" insert: "(including those for juvenile and adult substance abusers in State and local criminal and juvenile justice systems)".

SEC. 1636. DRUG EDUCATION TO PREVENT THE USE OF DRUGS AND BEVERAGE ALCOHOL DURING PREGNANCY.

(a) FINDINGS.—The Senate finds that—

(1) the use of drugs or the excessive use of beverage alcohol during pregnancy poses risks and serious injury or impairment to mother and child;

(2) three hundred and seventy-five thousand infants are born to mothers who engage in substance abuse during pregnancy and that number appears to grow exponentially each year;

(3) the initial cost of providing care to infants born exposed to maternal substance abuse during pregnancy is over $13,000,000,000 annually;

(4) the human cost in suffering and loss to society in terms of wasted human potential of both the abusing mother and especially the abused and innocent child is both incalculable and avoidable;

(5) drug and beverage alcohol abuse during pregnancy produces severe and lasting or even irreversible physical, mental, and emotional damage to the child, including low birthweight, prematurity, congenital deformities, risk of child abuse and death;

(6) it is essential to reduce the incidence of substance abuse by pregnant women and the birth of infants addicted or otherwise injured or impaired by such abuse, both for the sake of the mother and especially in order to reduce the avoidable cruel suffering of and damage to infants so afflicted, and to reduce the unaffordable costs in tax dollars that will be required as the necessary alternative to successful preventive measures;

(7) preventive drug abuse resistance education, including instruction by medical staff and experts in the field of maternal substance abuse during pregnancy, is needed to reduce the incidence of infants born exposed to maternal drug abuse during pregnancy;

(8) preventive drug abuse resistance education is especially needed to reduce the exploding incidence of cocaine use which has resulted in unprecedented infant mortality rates in many cities across the United States; and

(9) preventive drug abuse resistance education programs, Drug Abuse Resistance Education and Substance Abuse and Narcotics Education, have proven successful in reversing the destructive use of drugs during pregnancy.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that preventive drug abuse resistance education programs which seek to reduce the incidence of maternal substance abuse during pregnancy are essential to our efforts to win the war on drugs.

(c) Part B of the Drug-Free Schools and Communities Act of 1986 is amended as follows:

Section 5122(a)(6) is amended by striking the period and inserting the following: "and education regarding the risks of drug and beverage alcohol abuse during pregnancy.".

SEC. 1637. UNITED STATES-MEXICO JOINT AGREEMENT ON THE INTERDICTION OF AIRBORNE NARCOTICS SMUGGLERS.

(a) FINDINGS.—The Congress finds that—

(1) the Governments of the United States and Mexico, pursuant to section 4407 of Public Law 100-690, have a Letter of Agreement committing Mexico to "reduce drug production, drug consumption, and drug trafficking within its own territory," and "increase cooperation with United States drug enforcement officials";

(2) between 30 and 33 per centum of all marijuana, heroin, and cocaine entering the United States moves through or originates in Mexico;

(3) the Drug Enforcement Administration reports that nearly 60 per centum of its illegal cocaine seizures in the Southwest border area of the United States are air-related;

(4) the Drug Enforcement Administration knows of at least eleven major landing strip locations in Mexico which serve as launching points for airborne cocaine smugglers to fly to the United States and the United States Customs Service estimates that such illicit traffickers have approximately two thousand clandestine runways at their disposal on the American side of the border;

(5) section 2013 of Public Law 99-570 empowers Congress to evaluate the required annual reports of the President on whether narcotics-producing nations have "cooperated fully with the United States to prevent the cultivation, sale, and traffic of illegal drugs."

(b) POLICY.—The Senate declares that—

(1) the President of the United States should initiate discussions with the Government of Mexico to develop and implement a bilateral agreement to monitor, pursue, and capture airborne smugglers of illicit narcotics. Such an agreement should include provisions for reciprocal overflight and hot pursuit authority as well as arrangements for

the joint crewing of United States and Mexican drug enforcement aircraft.

(2) the President should report on the status of negotiations concerning this agreement in the annual International Narcotics Control Strategy Report on Mexico.

(3) if the President certifies in this report that the United States and Mexico have made significant progress toward the conclusion of the agreement, to include provisions for reciprocal overflight and hot pursuit authority as well as arrangements for the joint crewing of United States and Mexican drug enforcement aircraft, described in subsection (1), the Senate would consider such a declaration as a credible sign of the Government of Mexico's desire to "cooperate fully" with the United States on illegal drug interdiction programs pursuant to section 2013 of Public Law 99-570.

SEC. 1638. PREMIUM PAY FOR CERTAIN FEDERAL EMPLOYEES.

(a) IN GENERAL.—Section 5545(c)(2) of title 5, United States Code, is amended to read as follows:

"(2) an employee in a position in which the hours of duty cannot be controlled administratively, and which requires substantial amounts of irregular, unscheduled overtime duty with the employee generally being responsible for recognizing, without supervision, circumstances which require the employee to remain on duty, shall receive premium pay for this duty on an annual basis instead of premium pay provided by other provisions of this subchapter, except for regularly scheduled overtime, night, and Sunday duty, and for holiday duty. Premium pay under this paragraph is an appropriate percentage, not less than 10 percent nor more than 25 percent, of the rate of basic pay for the employee in that position, as determined by taking into consideration the frequency and duration of irregular, unscheduled overtime duty required in the position.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to overtime duty performed after September 30, 1989.

SEC. 1639. NARCOTIC OFFENDERS.

Section 501(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) as amended by the Anti-Drug Abuse Act of 1988 is amended by adding paragraphs 21 and 22 as follows:

"(21) Developing better interstate and intrastate narcotics intelligence networks and systems, including the acquisition of appropriate electronics and computer technologies for the purpose of detecting and monitoring narcotics trafficking and money laundering activities;

"(22) Organizing, educating, and training special drug intelligence units to combat narcotics trafficking and money laundering enterprises.

States shall give priority to allocations under paragraphs (21) and (22) that reflect the most complex and serious drug intelligence problems confronting units of local government, with particular emphasis on urban populations.".

SEC. 1640. SUBSTANCE ABUSE PROGRAMS.

(a) Part A of title V of the Public Health Service Act (42 U.S.C. 280aa et seq.), as amended, is amended by adding at the end thereof the following new section:

"SEC. 509H. COMMUNITY COALITION ON SUBSTANCE ABUSE.

"The Director of the Office of Substance Abuse shall develop model programs for community prevention activities.".

(b) The Director of the Office of Substance Abuse Prevention shall provide assistance to coalitions consisting of public and private organizations and agencies that represent law enforcement, schools, health and social services agencies, community-based organizations, and substance abuse prevention specialists and including representatives from among the following: clergy, academia, business, parents, youth, the media, civic and fraternal groups, or other nongovernmental interested parties in order to develop and implement comprehensive substance abuse programs.

(c) The Director shall establish a mechanism to evaluate the effectiveness of community coalitions established under subsection (b) in preventing substance abuse and to disseminate the results of such evaluations to community coalitions.

(d) The Director shall develop a substance abuse prevention training curriculum for community coalitions and shall provide technical assistance and support for community training on substance abuse prevention.

SEC. 1641. MILITARY INTERDICTION EDUCATION PROGRAM.

(a) PROGRAM REQUIRED.—The Secretary of Defense or his designee, shall provide that instruction on the military role in drug interdiction will be established for all senior officer personnel in the Armed Forces of the United States at basic, intermediate and advanced military educational facilities, to be selected at the discretion of the Secretary of Defense.

(b) PROGRAM CONTENT.—Instruction at such facilities shall include, but shall not be limited to the following topics:

(1) The nature of the threat posed to the national security of the United States by drug trafficking.

(2) Posse comitatus and other legal and constitutional restrictions on the participation of military personnel in law enforcement activities.

(3) The national drug control strategy of the United States and the United States Government organizations mandated to implement it.

(4) The history of United States Armed Forces' participation in drug interdiction, to include the types of assistance and equipment generally employed by DOD for such purposes.

(5) Other instruction, as appropriate, tailored to the specific mission, roles, organization, and functions of the military service providing such instruction.

(6) The Director of the Office of National Drug Control Policy is further directed to coordinate with the Secretaries of Defense, State, Commerce, Transportation, and Treasury, and with the Attorney General in establishing at the National Defense University a program designed to foster interagency cooperation on drug interdiction matters, emphasizing joint and combined operations between and among the participating agencies and the military services.

(c) REPORTING REQUIREMENTS.—The Secretary of Defense will submit to Congress not later than December 14, 1990, a report to the President on the value and status of such training, along with recommendations appropriate to the future value of interagency cooperation and education on drug interdiction activities involving the use of military assistance.

SEC. 1642. STATEMENT OF CONGRESSIONAL FINDINGS.

FINDINGS.—The Congress finds that—

(1) this Nation is engulfed in an epidemic of drug abuse that is threatening our country's productivity and, in particular, the minds and future of our youngest citizens;

(2) there is an urgent need to interrupt drug-related criminal activities and behavior of our youth through instilling discipline, self-respect, literacy, social and vocational skills, and a personal commitment to family values and the community;

(3) the proposals for addressing that need contained in a National Institute of Justice paper, entitled "About Face: Civil-Military Youth Leadership Program for the District of Columbia" needs to be evaluated by the Office of National Drug Control Policy; and

(4) said paper proposes applying the positive aspects of basic military training, which reinforces and encourages discipline, responsibility and teamwork. It also proposes a program to improve literacy and vocational skills of program participants in ways that lead to real career opportunities for participants returning to their community after their participation in the program.

SEC. 1643. STUDY ON THE FEASIBILITY OF A CIVIL-MILITARY YOUTH LEADERSHIP PROGRAM.

REPORT TO THE CONGRESS.—Not later than February 1, 1990, the Director of National Drug Control Policy shall submit a report to the Congress containing:

(1) an evaluation of the Department of Justice, National Institute of Justice concept paper entitled "About Face: Civil-Military Youth Leadership Program for the District of Columbia" (hereinafter referred to as the "Program");

(2) the feasibility of implementing the Program; and

(3) the feasibility of implementing the Program as a five-city pilot project.

SEC. 1644. DRUG TREATMENT FOR WOMEN PRISONERS.

Section 511 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking "application." and inserting in lieu thereof: "application: *Provided*, That not less than $3,000,000 shall be used for—

"(1) providing or arranging for the provision of intervention services for female inmates, including—

"(A) substance abuse and addiction treatment services, with priority given to discrete treatment units which provide detoxification if necessary, comprehensive substance abuse education, the development of individualized treatment plans, individual and group counseling, and ongoing access to self-help groups;

"(B) support services (such as counseling to address family violence and sexual assault);

"(C) life skills training (such as parenting and child development classes);

"(D) education services (such as literacy and vocational training); and

"(E) after care services; and

"(2) providing or arranging for the provision of ancillary social services and such other assistance that will ensure that women can maintain contact with their children and their children will receive age appropriate substance abuse education and counseling.".

SEC. 1645. STUDY BY THE NATIONAL ACADEMY OF SCIENCES AND THE NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT.

(a) SCOPE OF UNDERTAKING.—The Secretary of Health and Human Services, shall arrange to have a study conducted to—

(1) provide an analysis of the historical development of the problem of infants born

drug exposed due to maternal substance abuse during pregnancy;

(2) determine the number of infants born drug exposed due to maternal substance abuse during pregnancy annually;

(3) determine the impact of maternal substance abuse during pregnancy on infant mortality;

(4) assess other costs, including but not limited to, the medical, educational, developmental, social, and fiscal costs associated with the care of infants born drug exposed due to maternal substance abuse during pregnancy;

(5) quantify the costs identified in paragraph (4) to Federal, State, and local government;

(6) assess the costs associated with providing inpatient residential drug treatment to drug abusing pregnant and postpartum women and their infants, including but not limited to, prenatal and postnatal medical services, drug abuse treatment and education services, crisis counseling services, support group services, parent training services, and child developmental services, such as the Winnie Mandela House in Oakland, California;

(7) project the number of infants expected to be born exposed to maternal substance abuse during pregnancy through the year 1995; and

(8) project the costs, as defined under paragraph (4), of providing care for infants, as described in paragraph (7).

(b) ARRANGEMENTS.—

(1) REQUEST.—The Secretary of Health and Human Services shall request the National Academy of Sciences and the National Institute of Child Health and Human Development to conduct the study required by subsection (a) under an arrangement whereby the actual expenses incurred by such Academy and Institute in conducting such study shall be paid by the Secretary.

(2) UNWILLINGNESS TO ENTER INTO.—If either the National Academy of Sciences or the National Institute of Child Health and Human Development, but not both, decline to participate in the conduct of the study under an arrangement under paragraph (1), the Secretary shall enter into an arrangement similar to that required under such paragraph solely with the Academy or Institute that is willing to conduct such study.

(3) NONPROFIT PRIVATE GROUPS.—If both the National Academy of Sciences or the National Institute of Child Health and Human Development decline to participate in the conduct of the study under an arrangement under paragraph (1), the Secretary shall enter into an arrangement similar to that required under such paragraph with other nonprofit private groups or associations under which such groups or associations shall conduct such study and prepare and submit the report required under subsection (c);

(4) CONSULTATION.—The entity that conducts the study under subsection (a) shall consult with the Director of the National Institutes of Health.

(c) REPORT.—Not later than eighteen months after the date of enactment of this Act, the Secretary of Health and Human Services shall prepare and submit to Congress, a report concerning the results of the study conducted under subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $2,000,000.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. McCAIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

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

The majority leader is recognized.

UNANIMOUS-CONSENT AGREEMENT—S. 1726

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate turns to the consideration of S. 1726, the McCain, et al., bill, to repeal medicare catastrophic coverage provisions, and for other purposes, it be considered under the following time agreement:

That there be 1 hour on the bill to be equally divided between Senator McCAIN and Senator BENTSEN or their designees; that Senator McCAIN be recognized first to modify S. 1726; that a point of order with respect to the bill or amendment being in violation of the Budget Act follow immediately after the McCain modification, and at that time Senator McCAIN be recognized to make a motion to waive the Budget Act for consideration of the bill and all amendments; that there be 1 hour equally divided on the motion, and that no other points of order; that the following amendments then be considered under the following time limitations and in the order listed.

Mr. EXON. And what?

Mr. MITCHELL. And in the order listed.

An amendment by Senator KENNEDY, with 30 minutes of debate, equally divided, which amendment would eliminate the surtax and retain the drug and hospital benefits; an amendment by Senator WALLOP, with 30 minutes of debate, equally divided, which amendment would make the program voluntary; an amendment by Senator GRAHAM of Florida, with 30 minutes, equally divided, which amendment provides for modified repeal; another amendment by Senator GRAHAM of Florida, with 30 minutes of debate, equally divided, which amendment provides that if there is no repeal then there will be established conditions for voluntary opting out of the program; an amendment by Senators HARKIN and LEVIN, with 1 hour of debate, equally divided, which repeals the surtax and finances the benefits by extension of the 33-percent income tax bracket; an amendment by Senator EXON, with 30 minutes of debate, equally divided, which repeals the surtax and supplemental benefits, part B flat premium, and directs the Finance Committee to determine what benefits could be paid for with the flat premium total repeal occurring on December 31, 1989, if no new legislation is enacted by that time; an amendment by Senators DURENBERGER and MITCHELL, one with 1 hour of debate, equally divided, which amendment would retain parts A and B of the program; an amendment by Senator RIEGLE and Senator CHAFEE, with 1 hour of debate, equally divided, which amendment would eliminate the surtax and provide catastrophic coverage with a flat premium, other benefits to be optional; an amendment by Senators DANFORTH and ROTH, with 1 hour of debate, equally divided, which amendment would repeal the program; a possible amendment by Senator BRADLEY, with 10 minutes of debate, equally divided, which amendment deals with the respite provision; and then, finally, the McCain bill itself, which will have 1 hour, equally divided, under the previous provision of this unanimous-consent request; that the above-mentioned amendments be first-degree amendments; that no other amendment be in order; that no motion to commit the bill be in order; that no motion to table be in order; that it be in order to offer any of the foregoing amendments notwithstanding the adoption of another amendment; and that following the disposition of the amendments and the using or yielding back of time on the bill, the Senate proceed without any intervening action to third reading and final passage of S. 1726, as amended, if amended; provided further, that the bill, if adopted, remain at the desk and the language of S. 1726, as amended, if amended, be offered as an amendment to any revenue bill other than the reconciliation bill coming from the House on which there would be 1 hour of debate equally divided and against which no point of order would lie and no amendment to the amendment would be in order.

Mr. EXON. Reserving the right to object, would the leader kindly advise me? I was trying to keep track here. After the Riegle amendment, what was the next one after that?

Mr. MITCHELL. It would be the Danforth-Roth amendment.

Mr. EXON. Is that the repeal measure?

Mr. MITCHELL. Yes.

Mr. EXON. How much time on that?

Mr. MITCHELL. One hour, equally divided.

Mr. EXON. Let me further see if I understand. When we open debate on the McCain bill, which would be the underlying bill, it would be discussed for 1 hour; is that correct.

Mr. MITCHELL. There would be 1 hour on the bill, but I believe that it is Senator McCAIN's intention to reserve all or most of the hour for debate at the conclusion of the disposition of all the amendments and prior to the vote on his bill, which would be the last vote.

Mr. EXON. I understand the majority leader to say when he made these listings that the McCain amendment would have an hour at the end; is that correct?

Mr. MITCHELL. The McCain provision will be the underlying bill. He has 1 hour on that. He could use that at the opening of the debate, or some portion of it, and the balance could be used prior to the vote on the underlying bill, which would be the last vote.

Mr. EXON. So that would be 2 hours on the McCain amendment.

Mr. MITCHELL. No. He has only 1 hour.

Mr. EXON. What is the hour to start with?

Mr. MITCHELL. He has an hour and he can use some portion of it at the beginning and some portion at the end, but he has no more than an hour.

Mr. EXON. I have no objection to that.

I do not know, and was not in on the discussions, but if this unanimous-consent agreement is made and entered into, then we would take the amendments up by agreement in the order that the Senator just stated?

Mr. MITCHELL. Yes.

Mr. EXON. This Senator was not consulted as to how the amendments would fall. Would there be any objection to the Senator from Nebraska requesting that this amendment be placed at a different location on the list?

Mr. MITCHELL. I have no objection to that. Not all of the Senators were consulted. Most of those who were consulted said they had no preference as to where they appeared on the list. Others were not consulted and this was an effort to go back and forth between Republicans and Democrats to the extent possible. But I would be pleased to consider any request the Senator would like to make.

Mr. EXON. I would appreciate it very much if the leader and the others could agree to the Exon amendment that you have accurately described be placed further down on the list. I would like to have it immediately preceding the Danforth amendment. If I understand it correctly, the Danforth amendment, the second one from the bottom above the closing argument, whatever time was left by Mr. McCAIN, if the Exon amendment could just precede that particular amendment to be offered by Senator DANFORTH and Senator ROTH, as I understand it.

Mr. MITCHELL. The purpose of my announcing that we would seek this argument was to alert Senators, like the Senator from Nebraska, that we would be doing this. I asked all those Senators who have an interest to be present on the floor. So I will inquire of those Senators who are present if they object.

Mr. DURENBERGER. If the majority leader will yield, I think the majority leader has tried his best during the course of the day to elicit all of the amendments and then in the last hour or 2 to try to accommodate all of us to give the widest opportunity for debate on various approaches to catastrophic.

My inquiry to the Senator from Nebraska would be, I do not know the content of the amendment of the Senator and to some degree, as I understand the way the majority leader went through this, as he indicated in part, it is a matter of going from one side of the aisle to the other.

Also, in part, there is some logic in leaving the repeal amendments for somewhere near the end of the process.

Does the Senator from Nebraska have a repeal?

Mr. EXON. I have no objection to that. In fact, I just had requested that, if I understood the Senator from Minnesota. I have no objection to that. I am simply asking that the unanimous consent that we are now trying to propound be entered into, with the amendment offered by the Senator from Nebraska placed in the slot immediately ahead of the consideration of the repeal amendment by Senator ROTH and Senator DANFORTH, if I understand it, which was the next-to-the-last one before going to the amendment offered by the Senator from Arizona.

Is that correct? Is that the right sequence?

Mr. MITCHELL. Yes.

Mr. EXON. I am merely asking if the amendment of the Senator from Nebraska could be changed from the position that it held under the announcement made by the majority leader to a spot immediately preceding the debate on the amendment by Senator ROTH and Senator DANFORTH.

Mr. DURENBERGER. My only inquiry was as to the content of the amendment of the Senator from Nebraska. What is the purpose of the Senator's amendment?

Mr. MITCHELL. As I stated, and I will read from the summary description that has been provided to me, Senator EXON's amendment would repeal the surtax and supplemental benefits retained in part B flat premium, direct the Finance Committee to determine what benefits could be paid for with the flat premium, but provides further for total repeal of the program on December 31, 1989, if no new legislation has been enacted by that time.

Mr. DURENBERGER. I have no objection.

Mr. MITCHELL. Does any other Senator present have any objection to Senator EXON's amendment being placed immediately preceding the Danforth-Roth amendment?

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, I am advised there may be objection. But I have to say that I specifically stated, prior to the last vote, that any Senator who is interested should remain on the floor to protect his rights. That is the very reason the Senator from Nebraska is here. I asked all Senators to be here.

If a Senator has an objection, it is incumbent upon that Senator to come to the floor and express an objection.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

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

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

Mr. MITCHELL. Mr. President, I ask that my request be modified in the following four respects:

First, that there be added the following provision, that the agreement be in the usual form with respect to the division of time;

Second, that at that point in the request in which I stated that Senator McCAIN be recognized to make a motion to waive the Budget Act, that there be inserted at that time, Senator McCAIN or Senator DOMENICI be recognized to make a motion to waive the Budget Act;

Third, that the provision prohibiting motions to commit not be applicable to the Harkin-Levin amendment, which has, I am advised, already been drafted as a motion to commit;

And fourth, that the order of amendments be altered to provide that the amendment by Senator EXON immediately precede the Danforth-Roth amendment, and follow the Riegle-Chafee amendment, rather than in the order stated.

So there should be no misunderstanding, I will then now reread the proposed order of considering amendments for everyone's consideration and understanding. The amendments will be in the following order, after the motion to waive amendments by Senators KENNEDY, WALLOP, GRAHAM of Florida, then Graham of Florida, Durenberger-Mitchell, Riegle-Chafee, then Exon, then Danforth-Roth, then Bradley with a possible amendment, and then the underlying McCain bill.

Mr. President, I apologize. I left out the Harkin-Levin amendment, which should follow the second Graham

amendment and, under the revised list, precede the Durenberger-Mitchell amendment.

Mr. EXON. Reserving the right to object, when we get down to all the amendments, you come down to the Riegle amendment, then the Exon amendment, then the amendment to be offered by Senator ROTH and Senator DANFORTH with regard to outright repeal. Then I understood that the last amendment would be the amendment by Senator MCCAIN. Was there another amendment?

Mr. MITCHELL. Senator BRADLEY has requested a possible amendment regarding respite provisions which would be 10 minutes, which I understand he has discussed with Senator MCCAIN.

Mr. EXON. If I understand it, the Bradley amendment would be some kind of an addition to the list that the Senator from Arizona is proposing; is that correct?

Mr. MCCAIN. That is correct.

Mr. EXON. One last question. I appreciate the fact that the Senator from Arizona very kindly agreed to setting aside the freestanding arrangement, so forth and so on. Was there any agreement at that time when it was properly agreed that the Senator from Arizona be recognized first that we could also have the right to amend his amendment at that time? Or is that part of the unanimous-consent agreement that you are requesting at this time?

Mr. MITCHELL. It is my understanding that there was no provision to that effect at that time and that this is now being included in this unanimous-consent request at the request of the Senator from Arizona.

Mr. EXON. In that regard, I had assumed, and I had thought that most of the Members of the body had assumed, and I believe there were some questions, if I remember correctly, at the time that the amendment would be offered by Senator MCCAIN. Would that essentially be the amendment that he had previously offered and then thoughtfully agreed at the request of the majority leader to put off to another time? I guess before I can agree to that, can I have some degree of explanation from the Senator from Arizona as to what proposed changes in his original amendment he is going to make tomorrow before we agree to allow that?

Mr. MCCAIN. If I might illuminate, it is a modification I am seeking which basically allows for a delay of 1 year in two programs in order to reduce the costs in order to meet the OMB budget numbers. They are minor in nature. I though about doing them just as a technical modification, but I sought a modification which is a delay of two of the small programs for 1 year, to reduce the overall costs in order to reach the OMB numbers. It in no way changes the basic thrust of the amendment. It in no way changes the basic proposal that I have. It is simply a bookkeeping measure, a 1-year delay in two of the small programs in order to meet the OMB numbers.

Mr. EXON. To some extent, the Senator is cutting down the benefits or delaying them so as to better meet the number figure; is that correct?

Mr. MCCAIN. That is exactly right.

Mr. EXON. I have no objection to that.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request propounded by the majority leader? Hearing none, the unanimous-consent request is agreed to.

The text of the agreement is as follows:

Ordered, That at the hour of 10:30 a.m., on October 6, 1989, the Senate turn to the consideration of S. 1726, to repeal Medicare catastrophic coverage provisions, and for other purposes, and that the Senator from Arizona [Mr. MCCAIN] be recognized first to modify S. 1726.

Ordered further, That a point of order with respect to the bill, or amendment, being in violation of the Budget Act, follow immediately after the McCain modification and that either the Senator from Arizona [Mr. MCCAIN] or the Senator from New Mexico [Mr. DOMENICI] be recognized to move to waive the Budget Act on the bill and amendments, on which there shall be 1 hour debate, to be equally divided.

Ordered further, That no other points of order be in order.

Ordered further, That the following amendments be first degree amendments, be the only amendments in order, be offered in the following order, and with the time thereon, where specified, to be equally divided and controlled:

Kennedy: Eliminate surtax, retain drug and hospital benefits, 30 minutes;

Wallop: Making the program voluntary, 30 minutes;

Graham: Modified repeal, 30 minutes;

Graham: If no repeal, then establish conditions for voluntary opting out, 30 minutes;

Harkin-Levin: Repeals surtax, finances benefits by extension of 33 percent income tax bracket, 1 hour;

Durenberger-Mitchell: Retaining parts A and B of the catastrophic insurance, 1 hour;

Riegle-Chafee: Eliminates surtax, provides catastrophic coverage with a flat premium, other benefits optional, 1 hour;

Exon: Repeals surtax and supplemental benefits, part B flat premium, directs Finance Committee to determine what benefits could be paid for with flat premium, total repeal on 12/31/89 if no new legislation enacted, 30 minutes;

Danforth-Roth: Repealing the insurance (identical to House language), 1 hour;

Bradley: Respite provisions, 10 minutes.

Ordered further, That all amendments be in order, notwithstanding the adoption of another amendment.

Ordered further, That no motion to commit, with the exception of the Harkin-Levin amendment, be in order and that no motion to table be in order.

Ordered further, That time for debate on the bill be limited to 1 hour, to be equally divided and controlled by the Senator from Arizona [Mr. MCCAIN] and the Senator from Texas [Mr. BENTSEN], or their designees.

Ordered further, That following the disposition of the amendments, and the using or yielding back of the time on the bill, the Senate proceed without any intervening action to third reading and final passage of S. 1726, as amended, if amended.

Ordered further, That the bill, if adopted, remain at the desk and the language of S. 1726, as amended, if amended, be offered as an amendment to any revenue bill, other than the reconciliation bill, coming from the House on which there would be 1 hour for debate, to be equally divided, and against which no point of order would lie and no amendment to the amendment be in order.

Ordered further, That the agreement be in the usual form. (Oct. 5, 1989).

Mr. MITCHELL. Mr. President, I thank all of my colleagues. I thank the Senator from Nebraska and the Senator from Arizona and the others here. 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. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak thereon.

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

FLAG DESECRATION BILL

Mr. DOLE. Mr. President, all of us by now have heard of the Supreme Court's decision in Texas versus Johnson—the infamous flag-burning case. In this case, the Supreme Court said—unbelievably—that flag burning was a lawful hobby in this country. The Court also suggested that our Federal flag desecration statute violates the first amendment and is, therefore, unconstitutional.

Over the past couple of months, lawyers—acting more like a team of surgeons—have been tinkering with the language of the Federal flag desecration statute in a desperate effort to restore its constitutionality. They believe that the statute would somehow be constitutional if Congress removed a few of the statute's words—words like "cast contempt upon," "publicly," and "defiles." According to the lawyers, a Federal flag desecration statute without these words would not violate the first amendment, since the statute would only prohibit acts of conduct against the flag, not words of speech. The statute, the lawyers say, would

also be constitutional since it would view the flag neutrally.

At first, I thought a little surgery could do the trick—that the Federal flag desecration statute could indeed be revived with a Senate bill that deleted a few simple words.

But then I thought a little bit more—and then I realized what a bad idea this Senate bill was after all. Let me tell you why.

By removing the words "cast contempt upon," "publicly," and "defiles," the Senate bill would prohibit all sorts of conduct—conduct that Congress has absolutely no business regulating. The Senate bill, for example, would prohibit public and private acts, intentional and unintentional acts, contemptuous and uncontemptuous acts. You name it—the Senate bill covers it.

Let's talk about the word "publicly" for a moment. By deleting this word from the Federal flag desecration statute, the Senate bill would punish even those who unintentionally soil the flag in the privacy of their own homes. The Senate bill—in other words—could give the police a hunting license to enter our homes and arrest even the innocent child who spills some milk on the flag while in the family kitchen. A far fetched example? Perhaps. But such an arrest could be perfectly legal under the Senate bill. I repeat: Perfectly legal.

You know, I cannot quite understand why Congress is so defensive about this issue. I cannot understand why Congress is in such a mad rush to conform with a Supreme Court decision about which 97 Senators—97 Senators—expressed their "profound disappointment." And I cannot understand why Congress is so eager to pass a bill that is patently overbroad and still probably unconstitutional.

I will make no bones about it: I want a Federal flag desecration statute that punishes what it is supposed to punish—flag desecration. I want a statute that protects the cherished values that the flag symbolizes, not a statute that views the flag neutrally—as if it were some rock. And I want a statute that punishes people who "publicly cast contempt upon the flag," not a statute that lumps the innocent with people like Gregory Johnson.

Now, I will be the first to admit that the current Federal flag desecration statute is now unconstitutional as a result of the Texas versus Johnson decision. But the way to preserve that statute is not to neuter it. The way to protect the Federal statute—as well as the 48 State flag desecration statutes—is through an affirmative step, through a constitutional amendment. Pure and simple.

So, Mr. President, Old Glory is waving today—waving goodbye to protection; the kind of protection the American people are demanding and that the symbol of our Nation deserves. It is clear to me—especially after today's votes—that the statute "fix" is really no "fix" at all. It does not work. It will never work.

It was an effort that began with hope, but has now become hopeless. The only guarantee that can do the job is a constitutional amendment. If there was any doubt about it before, there's no doubt about it now.

AMERICAN VALUES

Mr. NUNN. Mr. President, we all know the President pro tempore of the Senate, ROBERT BYRD of West Virginia, is a man who lives what the exhorts others to do. He does not merely admire music, but makes music for all to enjoy. He is not content to complain that traditional formal wear is uncomfortable and urge that men be liberated from it, but has courageously liberated himself from the strictures of tuxedos without inhibiting his social life. Having worked his way from the coal fields of West Virginia to the mine fields of the U.S. Senate, he did not just advocate life-long education for others, but continued his own formal education, earning his law degree with honors while carrying out his growing Senate responsibilities with distinction. Fortunately for all of us, he continues his study of history, literature, and the Bible and is kind enough to share the knowledge and insights thus gained with his colleagues and friends.

On Wednesday, Senator BYRD spoke to the weekly Senate prayer breakfast on a subject that concerns us all—American values. He held a mirror up, not just to the perpetrator of the latest scandals around the Nation, but to our own daily conduct, and the standards we set and habits we encourage. I ask permission to share his valuable thoughts with the entire Senate, and to have them printed, in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

MEDITATION FOR PRAYER BREAKFAST, OCTOBER 4, 1989

(By Senator Robert Byrd)

In his letter to the Church at Philippi, the Apostle Paul wrote: "Finally, breathen, whatsoever things are true, whatsoever things are honest, whatsoever things are just, whatsoever things are pure, whatsoever things are lovely, whatsoever things are of good report; if there be any virtue, and if there be any praise, think on these things."—Philippians 4: 8

Paul was a sophisticated man of the Roman world—a much-traveled man, a learned man, an informed man.

Paul was not ignorant of the society and civilization in which he lived.

Paul knew, for instance, that many Greek and Roman temples were glorified houses of prostitution—religious centers wherein, for a price, a man might buy sexual favors from a priestess.

Paul knew that in the arenas of the Mediterranean world, roaring, laughing, drunken crowds might enjoy watching animals tearing human beings apart or gladiators battling one another to the death.

Paul knew that under Roman law slaves might be put to death on the whim of their owners, and that some men had deliberately turned their backs on their own masculinity to affect female attire and pursue sex with their own gender.

And certainly Paul was aware that, in just his maturity, the glorious Roman Empire had been ruled by one emperor—Caligula—who had wed his sister, murdered her with his own sword, declared himself a god, and made his horse a Roman senator, and another emperor—Nero—who had murdered his own mother and his wife.

Roman civilization, for all of its superiority and strength, was a cesspool of pornography, sexual excess, drunkenness and drug-taking, murder, faithlessness, and public immorality.

Yet, against all of that, Paul counsels, "whatsoever things are true, whatsoever things are honest, whatsoever things are just, whatsoever things are pure, whatsoever things are lovely, whatsoever things are of good report; if there be any virtue, and if there be any praise, think on these things."

Why would Paul write such Pollyanna advice to the Church at Philippi?

First, Paul had been reared in a strict Jewish tradition—the tradition of the one people in the Ancient World who saw themselves as witnessess to the purity, righteousness, and justice of the Living God; and second, Paul believed that the Gospel he proclaimed called on those who believed it to witness to that same Biblical holiness and purity of life in that debauched Roman world.

To Paul, Jew and Christian alike were called to the mission of shunning the evil and moral slime of their day and to live a higher life.

Paul likewise knew that those who allowed their outward lives to wallow in degradation and pollution would soon find their inner lives drowning in that same degradation and pollution.

Unfortunately, I wonder if Paul would judge our own society in which we live—morally much superior to his own.

To be sure, we no longer allow gladiators to kill one another for public amusement or animals to devour human victims at RFK Stadium or Memorial Stadium.

But take a look at what we do permit:

A drug epidemic of such vicious proportions that some addicted mothers have been reported to offer their own young daughters to any man who would pay the price of a "fix"; television programs that come into our homes touting prostitutes, murderers, drug pushers, homosexuals, and whorehouse madams as heroes and heroines.

One of the leading writers, Ms. Judy Blum, of books for teenage girls is most noted for the sprinkling of profanity and scatological dialogue throughout her stories; our movies, newspapers, magazines, and television alike play on violence, greed, terrorist, lust, adultery, infidelity, and crime; murderers like Charlie Manson are interviewed as celebrities on prime time, and actors and entertainers known for their drug abuse, promiscuity, and bohemian lifestyles are treated by tabloids and serious press people alike as idols and authorities even on the most complex issues of the day.

Even now, the rock group "The Rolling Stones" is touring this country, singing to packed auditoriums and stadiums songs with titles like "Sympathy for the Devil" and "Let's Spend the Night Together."

One might paraphrase Paul to declare that the model advice of today's culture is: "Finally, brethren, whatsoever is lurid, whatsoever is filthy, whatsoever is base, whatsoever is corrupting, whatsoever is low and common and demeaning, whatsoever is unfaithful and unbelieving, glorify this!"

I was not born yesterday. Like Paul, I have a certain degree of sophistication. I know that we are living in an age of far-flung communications and an age of pluralistic values.

I know likewise that the Senate is neither a church nor a monastic community.

But, as a Senator and as a concerned American, I would like to know where we are permitted to draw a line? In this era of tolerance and levelling of all values, is every perversity, every moral deformity, and every degree of looseness to be allowed to flourish without question? Is profanity to be accepted as the aesthetic equivalent of reasoned, circumspect conversation? In the name of freedom of expression and novelty, are we expected to stand idly by while this great country and all that made her the greatest nation in world history are drowned in a rising tide of vulgarity and licentiousness?

Imagine a young child who watches television or attends movies in most American communities.

By the time that child reaches his or her adulthood, how many extramarital affairs has that child witnessed on the soap operas? How many murders? How many drug addicts inserting how many needles into their arms? How many depictions of rape, incest, burglaries, car thefts, assaults, orgies, tortures, and drug sales?

Worse, what kind of interpretation of life and citizenship will that child carry into his or her maturity?

And what kind of citizen will that child become in later life?

How differently did we once nurture the young mind!

For generations, young boys and girls across America learned their values from the old McGuffey's Readers. An examination of just the sixth book in that series is instructive.

There, the young reader could read poems by Shakespeare, Dryden, or William Cullen Bryant; there one read Rip Van Winkle by Washington Irving or A Psalm of Life by Longfellow; there were The Death of Little Nell by Dickens or The Memory of Our Fathers—prose and poetry geared to challenge the mind, massage the conscience, and teach values like courage and patriotism and decency.

In most homes the Scriptures of the Hebrew Bible and the New Testament were learned along with the ABC's and the multiplication table.

In most homes The Ten Commandments were taught and observed as the sine qua non of civilized behavior and acceptable human virtue.

In recent decades the word "Puritanism" has had woven about it the mystique of prudishness, priggery, and pre-Freudian neuroticism.

But historical English Puritanism arose from the reasoned decision of large numbers of thoughtful people in Britain that seventeenth-century public morality had become decadent, perverted, and debauched.

That Puritanism was not about fostering prudery, but about fostering a higher, healthier lifestyle among the people of England.

I see nothing miguided about that kind of Puritanism, and I would welcome its return among us today.

Be that as it may, I think that we as United States Senators have a particular role to play in the moral toning-up of our society today.

Instead of standing quietly by in expected acquiescence to whatever new outrages the cultural elites of this country and Western Europe decree as the new morality, I believe that we have both the prerogative and the responsibility to call into question whatever would degrade or further debase our culture.

We should have no fear of public ridicule from the self-appointed grand viziers of glamor and trendiness if, in both precept and personal example, we lend our prestige to the religious ethic, work ethic, to honesty, to marital fidelity, to decency, to family values, and to the highest standards forged by Western civilization.

Teddy Roosevelt said that the Presidency was a bully pulpit.

The same might be said of a seat in the United States Senate!

Let us, then, not be afraid to call attention to the emperor's lack of clothes when the occasion calls.

Let us remember that, like the Jewish people and the Early Church that Paul knew so well, we too must witness to our Lord.

THE FLAG PROTECTION ACT OF 1989

Mr. CONRAD. Mr. President, I rise today as a cosponsor of H.R. 2978. I strongly support this legislation, which will immediately afford the flag the protection it deserves—protection from physical desecration.

On June 21, 1989, the Supreme Court ruled 5 to 4 that a protester in Texas who burned a U.S. flag should not have been convicted of a crime. This decision overruled State laws against burning the flag in 48 States. I shared my colleague's sense of deep dismay that the Supreme Court did not see fit to protect the flag from desecration.

The decision in Texas versus Johnson focused on a particularly blatant set of circumstances. During the Republican National Convention in Dallas in August 1984, Gregory Johnson participated in a series of demonstrations against the policies of the Reagan administration and the Republican Party. One demonstration, which culminated with a rally at Dallas City Hall, included activity in which Johnson unfurled an American flag, doused it with kerosene and set it on fire. While the flag burned, the protestors chanted "America, the red, white and blue, we spit on you."

Mr. President, every American feels strongly about the flag. In my home State of North Dakota, people of all ages and walks of life have been deeply offended by this incident, and want to restore respect and integrity to the flag. Recently, a high school senior from Hatton, ND, wrote to me to express his concern about the flag-burning controversy. In the letter, he said:

> This is a subject that bothers me a lot. My father is a veteran of the Vietnam War as well as the commander of our local American Legion Post. To see the Supreme Court make it legal to desecrate Old Glory is enough to make the man cry.
>
> I'm a veteran of sorts too, a veteran of Boys' State. If I or others there learned anything it was that our flag and country are two of the most important parts of American lives.

Mr. President, the flag is certainly an important part of American lives. The American flag is a symbol of the liberty and justice which all citizens of this great country enjoy. School children across the country begin each day by pledging their allegiance to the flag. Millions of men and women have fought under the American flag to ensure that this country remains the land of the free and the home of the brave. Many have sacrificed their lives for the flag, and the republic for which it stands. From Iwo Jima to the Moon, the Star Spangled Banner has proudly flown around the world and beyond, as a symbol of American freedom, bravery, humanity, and pioneering spirit.

I oppose the burning of the American flag, one of this Nation's most precious symbols. I believe that we must protect the flag, just as we have fought to protect the principles upon which this country was founded. Earlier this year, I joined my colleagues to pass Senate Resolution 51, expressing the Senate's disappointment with the Supreme Court ruling. I also supported a later Senate amendment rewritting Federal antidesecration law, making it illegal to display our flag on the floor or ground, or burn, mutilate, or deface our national emblem.

Mr. President, I am pleased to be a cosponsor of the legislation before us today, and I urge my colleagues to support it. According to constitutional scholars, the flag can be protected through Federal legislation such as this bill.

This legislation would make it an offense to knowingly mutilate, physically defile, deface, burn, or trample upon a flag of the United States. The American flag deserves protection from physical desecration, and this bill is the quickest way to ensure that this sacred symbol is protected and maintains its integrity. Mr. President, I urge rapid consideration and passage of this important legislation.

RAOUL WALLENBERG RECOGNITION DAY

Mr. PELL. Mr. President, 8 years ago today, Raoul Wallenberg was made an honorary U.S. citizen. As the Senate sponsor of the resolution giving Wal-

lenberg this status and as a member of the Raoul Wallenberg Committee of the United States, I want to join in paying tribute to this "lost hero of the Holocaust."

At the behest of the U.S. Government, Raoul Wallenberg courageously and selflessly risked his life to save thousands of Hungarian Jews from death at the hands of the Nazis during World War II. His heroic work has proven to be a unique contribution in the history of the salvation of European Jews from the Holocaust. Wallenberg himself, who has not been heard from since January 1945 when he was seized in Budapest by Soviet authorities, has become, for millions of people, a symbol of our deepest humanitarian values.

Over the years, the United States has made several attempts to obtain information from the Soviet Union about Wallenberg's fate. The Soviet Government has repeatedly refused to open the records or to cooperate with any who seek to solve the mystery of his disappearance. Despite mounting evidence that Wallenberg might still have been alive as recently as a few years ago, Soviet authorities continue to insist that Wallenberg died of a heart attack while in a Soviet prison in 1947.

Raoul Wallenberg undertook his humanitarian mission and put his own life in jeopardy at the request of our Government. Without a doubt, the United States has a responsibility to Wallenberg and his family to resolve the question of his fate and to save him as he saved so many others. I have raised the Wallenberg case with Soviet officials on many occasions. I urge the Bush administration to do so as well so that the "lost hero of the Holocaust" will be lost to us no more.

THE FLAG PROTECTION ACT

Mr. CHAFEE. Mr. President, I think it is important that during discussion on the American flag, and how best to protect its integrity, we take a step back and reevaluate what we are trying to do, and why.

Every individual in this room is a patriotic American. Each and every one of us respects and values the American flag. If the protection of the flag, and all that it stands for, is our goal, then we, as legislators, I believe, should not undertake legislative action.

In the Bill of Rights we find the most fundamental American values, including the right to freedom of speech, expression, assembly, and religion. All of these rights are an integral part of the history of the United States. In fact, it is on these rights that we base our collective identity as Americans. Our belief in these rights is what makes even the most bitter national debate a unifying and strengthening experience.

The American flag is domestically and internationally, recognized as a symbol of freedom: Freedom to express one's opinions, in speech or print, freedom to worship; freedom from intolerance. Whenever we exercise these freedoms, we reaffirm everything for which the flag stands.

In my view, we in Congress have inadvertently already given a lone protester in Texas far more attention than his protest ever merited. By doing so, we have probably accomplished more than his actions intended, and fulfilled his wildest dreams. He's received his "15 minutes of fame" and considerably more. And yet his act in no way threatened our Nation's confidence in itself and its own strength.

Mr. President, I do not condone or salute the actions of Mr. Gregory Johnson. But I believe he has the right to express himself. In the words of the commonly used expression, I firmly believe he is entitled to his wrong opinion. In a peculiar way, his burning of an American flag actually legitimized, in the strongest manner possible, everything for which our flag stands.

There is no doubt in my mind that the intent of the Senate in this matter is well-meant, and certainly heartfelt. But no matter whether by statute or by amendment, we are stumbling into a morass. How, for example, do we define the term "desecration?" Where does veneration end, and desecration start? If I wear a flag pin, am I defiling the flag? What about bumper stickers with flags on them—which, incidentally, would cover most political election decals? What about works of art that depict the flag? Or cocktail toothpicks with little flags on them?

I think we must recognize that when people wear, or copy, or even pattern hooked rugs after the flag—as patriots did in the 19th century—they often are showing their pride and respect for a symbol they hold dear.

I would also urge caution before approving a constitutional amendment to "correct" Mr. Johnson's unpleasant behavior. The Bill of Rights is a beautifully crafted document. Amending the Bill of Rights, or any part of the Constitution, is a process that should be undertaken with great caution. If we rush to amend the Constitution, without a "cooling-down" period, without careful and thorough examination of what is involved, we risk much that is set forth in the Constitution. With the best of intentions, we could end up doing considerable damage.

Mr. President, I would make just one last point. Simply put, we cannot mandate respect and pride in the flag. It is far better to act from motives of love and respect than out of obedience.

Like many of my colleagues, I am a veteran. Even more importantly, I am a U.S. citizen. I value our flag. But I value far less the cloth of the flag than the beliefs and rights for which it stands. When I fought, I fought for freedom.

The burning of the flag is not, nor ever has been, an imminent threat to national security. Our tolerance of the act of burning the flag—however contempitible that act may be—is an affirmation of our most fundamental values, our strength, and our wisdom.

MESSAGES FROM THE HOUSE

At 10:16 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has agreed to the following resolutions:

H. Res. 251. A resolution amending the articles of impeachment exhibited by the House of Representatives against Walter L. Nixon, a judge of the U.S. District Court for the Southern District of Mississippi; and

H. Res. 252. A resolution notifying the Senate of the amendment to the articles of impeachment against Judge Walter L. Nixon.

At 7:08 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House insists upon its amendment to the amendment of the Senate to the bill (H.R. 2712) to facilitate the adjustment or change of status of Chinese nationals in the United States by waiving the 2-year foreign residence requirement for "J" nonimmigrants; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. BROOKS, Mr. MORRISON of Connecticut, Mr. BERMAN, Mr. SMITH of Texas, and Mr. MCCOLLUM as managers of the conference on the part of the House.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 3281) to extend the expiration date of the Defense Production Act of 1950; with amendments, in which it requests the concurrence of the Senate.

ENROLLED BILL AND JOINT RESOLUTION SIGNED

The PRESIDENT pro tempore (Mr. BYRD) announced that he had signed the following enrolled bill and joint resolution, which had previously been signed by the Speaker of the House:

H.R. 2358. An act to authorize appropriations for fiscal year 1990 for the Civil Achievement Award Program in Honor of the Office of the Speaker of the House of Representatives, and for other purposes; and

S.J. Res. 122. Joint resolution to designate October 1989 and 1990 as "National Down Syndrome Month".

ENROLLED JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, October 5, 1989, he

had presented to the President of the United States the following enrolled joint resolution:

S.J. Res. 122. Joint resolution to designate October 1989 and 1990 as "National Down Syndrome Month."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BURDICK from the Committee on Environment and Public Works, with amendments:

S. 804. A bill to conserve North American wetland ecosystems and waterfowl and the other migratory birds and fish and wildlife that depend upon such habitats (Rept. No. 101-161).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LEAHY, from the Committee on Agriculture, Nutrition, and Forestry:

Harold B. Steele, of Illinois, to be a member of the Farm Credit Administration Board, Farm Credit Administration, for the remainder of the term expiring May 21, 1992;

Catherine Ann Bertini, of Illinois, to be an Assistant Secretary of Agriculture; and

Bruce L. Gardner, of Maryland, to be an Assistant Secretary of Agriculture.

(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. HOLLINGS, from the Committee on Commerce, Science, and Transportation:

Warren G. Leback, of New Jersey, to be Administrator of the Maritime Commission.

(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. HOLLINGS. Mr. President, for the Committee on Commerce, Science, and Transportation, I also report favorably a nomination list in the Coast Guard which was printed in full in the CONGRESSIONAL RECORD of August 4, 1989, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

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

By Mr. CRANSTON, from the Committee on Veterans' Affairs:

Thomas E. Collins III, of Mississippi, to be Assistant Secretary of Labor for Veterans Employment and Training;

Edward T. Timperlake, of Virginia, to be an Assistant Secretary of Veterans Affairs;

Raoul Lord Carroll, of the District of Columbia, to be General Counsel, Department of Veterans Affairs;

S. Anthony McCann, of Maryland, to be an Assistant Secretary of Veterans Affairs (Finance and Planning);

Allen B. Clark, Jr., of Texas to be an Assistant Secretary of Veterans Affairs (Veterans Liaison and Program Coordination); and

JoAnn Krukar Webb, of Virginia, to be Director of the National Cemetery System, Department of Veterans Affairs.

(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.)

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. DOLE (for himself, Mr. MCDONNELL, and Mr. SIMPSON) (by request):

S. 1727. A bill to amend the Federal Election Campaign Act to provide comprehensive campaign finance reform, to lessen the power of special economic interests and to restore competition to American Congressional elections; to the Committee on Rules and Administration.

By Mr. THURMOND (for himself, Mr. HELMS, Mr. HOLLINGS, and Mr. SANFORD):

S. 1728. A bill to provide disaster assistance to timber producers who suffered losses of trees due to Hurricane Hugo to help them reestablish private timber stands; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. LEAHY (for himself, Mr. LUGAR, and Mr. KERREY):

S. 1729. A bill to amend the Commodity Exchange Act to reauthorize such act and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. GRAMM:

S. 1730. A bill to affirm that certain orders issued by the Federal Energy Regulatory Commission were and are within the Commission's authority under the Natural Gas Act and the Natural Gas Policy Act of 1978; to the Committee on Energy and Natural Resources.

By Mr. BREAUX (for himself, Mr. JOHNSTON, Mr. MITCHELL, Mr. BURDICK, and Mr. BENTSEN):

S. 1731. A bill to provide for the creation, restoration, protection, enhancement, and conservation of coastal wetlands, and to conserve North American wetland ecosystems and waterfowl and the other migratory birds and fish and wildlife that depend upon such habitats, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BOSCHWITZ:

S. 1732. A bill to amend the Internal Revenue Code of 1986 to allow monthly deposits of payroll taxes for employers with monthly payroll tax payments under $10,000, and for other purposes; to the Committee on Finance.

By Mr. BENTSEN:

S. 1733. A bill to suspend temporarily the duty on a certain specialty thermostat resin; to the Committee on Finance.

By Mr. BREAUX:

S. 1734. A bill to regulate interstate commerce with respect to parimutuel wagering on greyhound racing, to maintain the stability of the greyhound racing industry and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BYRD:

S. 1735. A bill to provide authorizations for antidrug abuse appropriations, and for other purposes; 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. ROTH (for himself, Mr. LEAHY, Mr. JEFFORDS, Mr. ARMSTRONG, Mr. BOND, Mr. BOSCHWITZ, Mr. CHAFEE, Mr. COATS, Mr. COHEN, Mr. D'AMATO, Mr. DOLE, Mr. DOMENICI, Mr. GARN, Mr. GORTON, Mr. HATCH, Mr. HELMS, Mr. LUGAR, Mr. MACK, Mr. MCCONNELL, Mr. MCCLURE, Mr. PACKWOOD, Mr. SPECTER, Mr. SYMMS, Mr. THURMOND, Mr. WALLOP, Mr. WARNER, Mr. WILSON, Mr. BURNS, Mr. HUMPHREY, Mr. BIDEN, Mr. BOREN, Mr. BRADLEY, Mr. BURDICK, Mr. BRYAN, Mr. CRANSTON, Mr. DECONCINI, Mr. GORE, Mr. HEFLIN, Mr. HOLLINGS, Mr. KERREY, Mr. KERRY, Mr. LAUTENBERG, Mr. PRYOR, Mr. REID, Mr. SANFORD, Mr. CONRAD, Mr. JOHNSTON, Mr. SASSER, Mr. NUNN, Mr. ADAMS, Mr. KOHL, and Mr. EXON):

S. Res. 191. Resolution to recognize the bicentennial of the American Morgan Horse and to designate the period commencing October 9, 1989 and ending October 15, 1989 as "National Morgan Horse Week"; considered and agreed to.

By Mr. PELL (for himself, Mr. HELMS, Mr. MOYNIHAN, Mr. BIDEN, Mr. PRESSLER, Mr. SIMON, Mr. SANFORD, Mr. SARBANES, and Mr. DURENBERGER):

S. Con. Res. 75. Concurrent resolution to congratulate His Holiness the XIV Dalai Lama of Tibet for being awarded the 1989 Nobel Peace Prize; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOLE (for himself, Mr. MCCONNELL, and Mr. SIMPSON) (by request):

S. 1727. A bill to amend the Federal Election Campaign Act to provide comprehensive campaign finance reform, to lessen the power of special economic interests and to restore competition to American congressional elections; to the Committee on Rules and Administration.

COMPREHENSIVE CAMPAIGN FINANCE REFORM ACT

Mr. DOLE. Mr. President, the baseball season is drawing to a close; the regular season had ended and the playoffs are under way. But there is one season that never ends—I'm talking about the political campaign season.

Even in this so-called nonelection year of 1989, many States have already had important special elections, reminding us all how high the stakes can be, and how much preparation it takes to get the job done.

It also reminds us that election day 1990 is only 398 days away. To my colleagues who are up for re-election in 1990, it probably seems even closer. Still, the campaign finance issue remains unsolved.

Today, I am pleased to announce that the Republican Party—under the leadership of President Bush—continues its commitment to campaign reform. I want to underscore that commitment today by introducing President Bush's Comprehensive Campaign Reform Act of 1989. My distinguished colleague from Kentucky—Senator MITCH MCCONNELL—has been our leader on this issue, and I am pleased he is with me to help introduce this important presidential initiative.

THE IMPORTANCE OF COMPETITION

The No. 1 goal of the President's package is to restore competition to congressional elections. Let's face it, politics is all about competition; or at least is should be. But statistics tell us that competition is on the endangered list.

If you are looking for a sure thing, take a look at incumbency on Capitol Hill. During the past decade, incumbents in the U.S. House of Representatives have posted an astounding 97.7 percent re-election rate. We have seen some turnover in the U.S. Senate, but Senators seeking re-election have still won 85 percent of the time. Those are pretty good odds—unless, of course, you are a challenger.

Of the 410 U.S. Representatives who sought re-election in 1988, only 8 were defeated; of those 8, 3 were under indictment, and 1 was actually convicted.

New York Times correspondent Hedrick Smith once wrote—and I quote—"The lack of authentic competition in so many election undermines the essence of representative government"—end quote. If you want to talk about why we need campaign reform, this is the place to start—right here. What we need is more competition, not less.

INCUMBENT ADVANTAGES

Of course, we incumbents enjoy plenty of advantages over any potential challenger. The most visible is the multimillion dollar franking privilege.

THE ABUSE OF THE FRANK

Although there is a legitimate need for reasonable use of the frank, it is no secret that in an election year franked mail pours out of congressional offices, and that almost 90 percent of this mail is unsolicited. A recent study conducted by the Congressional Research Service found that when taken together, the House and Senate sent out nearly four times as much mail—805 million pieces—as they received—210.4 million pieces—during the 1988 fiscal year. The study also found that congressional use of franked mail jumped from $63.6 million to $113.4 million between 1987 and 1988, a 78.3 percent increase in an election year.

The President's plan bans the use of the frank for unsolicited mass mailings, and requires Members to file quarterly reports of the money they spend on franked mail. This provision is not intended to prohibit a Member of Congress from responding to his or her constituents; its purpose is to halt the tidal wave of junk mail that is flooding the taxpayers' mailboxes.

President Bush also takes on another juicy incumbent advantage, and that is the campaign war chest savings plan. The President says it's time to stop incumbents from rolling over excess campaign money from one campaign to the next, and to prevent members from using excess campaign funds for personal use.

GERRYMANDERING

In my view, any meaningful campaign reform package will have to deal with the problem of gerrymandering. Congressional boundaries will be redrawn after the 1990 census and that will have a dramatic impact on the composition of Congress in 1992. The redistricting standards contained in this bill are among the most important provisions in the President's plan.

I firmly believe that this issue must be addressed as part of any meaningful campaign finance reform package. Politicians should not be allowed to manipulate congressional district boundaries as part of some self-serving partisan scheme.

President Bush agrees. His plan features a non-partisan Federal standard for congressional districts that would go a long way toward making congressional races fair and competitive.

STRENGTHENING POLITICAL PARTIES

Another key ingredient in the President's reform package is an initiative which was part of the Congressional Campaign Reform Act of 1989 (S. 7), a bill I introduced with 15 Republican cosponsors this past January. These provisions would strengthen the role of the political parties in Federal elections, a change advocated by a number of neutral, academic observers who study our political system.

In simple terms, the Bush plan raises the cap on the amount of funds parties can give to candidates. This change benefits all candidates, by giving them an opportunity to spend more time raising issues and less time raising money. Stronger political parties also make it easier for challengers to mount credible campaigns with a nest egg free of special interest obligations.

THE DISPROPORTIONATE INFLUENCE OF SPECIAL INTERESTS

No doubt about it, a growing number of Americans are becoming disgusted with a political system that appears to be captive to special interests. In Kansas, we have a strong tradition of grass-roots politics, where the individual can—and does—make a difference. But, here in Washington, the special interests with all their clout and their millions of dollars seem to be the ones calling the shots. Here's why:

The Democratic Party is the majority party on Capitol Hill, a fact not lost on political action committees. PAC directors know the numbers, and they want to bet on winners. They recognize that incumbents are the heavy favorites to win re-election. As a result, most PAC dollars now go to incumbents.

It has even gotten to the point where a candidate's position on the issues has taken a back seat to incumbency in determining where PAC dollars go. PAC directors justify their response to a lopsided system that favors incumbents as earning a good return on their contributors' investment.

A recent article by Brooks Jackson of the Wall Street Journal—Sept. 15, 1989—underscored the importance of PAC dollars to House Democrats. The article showed that while donations to the Democratic Congressional Campaign Committee declined by nearly two-thirds in the 12 months ended June 30, political action committees [PAC's] increased their giving during the same period by 18 percent, to $1.9 million.

President Bush has a plan to deal with special interest influence. His proposal bans PAC's sponsored by corporations, labor unions and trade associations, and increases disclosure requirements on so-called soft money contributions and independent expenditures, the kind of contributions that big labor and other well-financed organizations can dump into a campaign without limitation. For the so-called ideological PAC's that are protected under the first amendment's freedom of association, the President would slash the contribution limits from $5,000 per candidate per election to $2,500 per candidate per election.

INCREASED DISCLOSURE

The first amendment guarantees each American the right to freedom of speech. The Supreme Court has held that political expenditures are a form of political speech. But, if we are genuinely concerned about the level of money in the political system, we need to know where the dollars come from and how they are being spent. Under these circumstances, disclosure is the best solution.

CONCLUSION

Mr. President, George Bush has taken the lead in the campaign finance reform debate with this initiative.

By curbing the influence of the special interests, reducing incumbent advantages, strengthening political parties and increasing the level of competition in congressional elections with-

out shifting the burden of campaign reform onto the backs of the American taxpayers, George Bush has developed a comprehensive reform plan that would go a long way toward restoring public confidence in the current campaign financing system.

I look forward to a lively discussion of these proposals in the Senate Rules Committee and on the Senate floor.

I ask unanimous consent that a section-by-section analysis, the letter of transmittal, and a press release of the White House appear with the text of the bill in the RECORD.

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

S. 1727

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

Section 1. That this Act may be cited as "Comprehensive Campaign Finance Reform Act of 1989".

LIMITATIONS ON POLITICAL ACTION COMMITTEES

SEC. 2. (a) Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by deleting all of the text following subsection (b)(2)(B).

(b) Section 315(a)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(2)) is amended by striking out "5,000" and inserting in lieu thereof "2,500" in subseciton (A), and by placing a period after the word "committee" and striking all that follows in subsection (C).

(c) Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by inserting the following text as a new subparagraph "(c)":

"(c) It is unlawful for any bank, labor organization, or corporation referred to in Subparagraph (a) of this Section to make any contribution or expenditure for the establishment, administration, or solicitation of contributions to any political committee.".

LIMITATIONS ON MULTIPLE POLITICAL COMMITTEES

SEC. 3. (a) Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended as follows:

(1) Subsections (a)(6) through (a)(8) inclusive are renumbered (a)(7) through (a)(9) inclusive, and,

(2) The following text is inserted as subparagraph (a)(6):

"For the purposes of the limitations provided by paragraphs (1) and (2) of this subparagraph, all contributions made to any political committee which is established or financed or maintained or controlled by any candidate or federal officeholder shall be deemed to be a contribution to said individual.".

(b) Section 302 of the Federal Election Campaign Act of 1971 (2 U.S.C. 432) is amended by deleting subsection (e)(3)(B).

PROTECTIONS FOR EMPLOYEES

SEC. 4. (a) Section 315(a)(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(8)) is amended to read as follows:

"(9) For purposes of this subsection–

"(A) contributions made by a person, either directly or indirectly, to or on behalf of a particular candidate, including contributions which are in any way earmarked or otherwise directed through an intermediary or conduit to such candidate, shall be treated as contributions from such person to such candidate;

"B) in all cases where contributions are made by a person either directly or indirectly to or on behalf of a particular candidate through an intermediary or conduit, the intermediary or conduit shall report the original source and the intended recipient of such contribution to the Commission and to the intended recipient; and,

"(C) no conduit or intermediary shall deliver or arrange to have delivered contributions from more than two persons who are employees of the same employer or members of the same labor organization.".

(b) Section 316(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b(b)) is amended—

(1) in paragraph (2), by inserting "political committee," after "campaign committee,";

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

'(3)(A) Subparagraphs (A) and (B) of paragraph (2) apply only to labor organizations which—

"(i) provide to all employees within the labor organization's bargaining unit(s), at least once annually, and to new employees within 30 days after commencement of their employment, written notification presented in a manner to inform any such employee of the following information:

"(I) that an employee cannot be obligated to pay, through membership dues or any other mandatory payment, for the political activities of the labor organization, including but not limited to, political communications to members, voter registration and get-out-the-vote campaigns;

"(II) that an employee may elect to pay an agency fee to the labor organization, in lieu of formal membership in such organization and the payment of full membership dues;

"(III) that the amount of such agency fee shall be limited to the employee's pro rata share of the cost of the labor organization's exclusive representation services to its bargaining unit(s), i.e., collective bargaining, contract administration, and grievance adjustment;

"(IV) that an employee who elects to be a full member of the labor organization and pay membership dues is entitled to a reduction of those dues by the employee's pro rata share of the total spending by the labor organization for political activities, from funds contributed by membership dues;

"(V) that the cost of the labor organization's exclusive representation services and the amount of spending by such organization for political activities from funds contributed by membership dues, shall be computed according to the immediately preceding fiscal year of such organizations; and

"(VI) the amount of labor organization full membership dues, initiation fees, and assessments for the current year; the amount of the reduced membership dues, subtracting the employee's pro rata share of the organization's spending for political activities, for the current year; and the amount of such agency fee, for the current year.

"(ii) for the purpose of verifying the cost of such organization's exclusive representation services, submit to an annual inspection, by an independent certified public account, of financial statements supplied by such organization which reveal the cost of such services; and

"(iii) maintain procedures to determine which costs may properly be charged to agency fee payors as costs of exclusive representation, and explain such procedure in the written notification required in clause (i)(I) of this subparagraph.

"(B) Any labor organization which does not satisfy the requirements of paragraph (3)(A) shall finance any expenditures specified in subparagraphs (A) or (B) of paragraph (2) with funds properly collected under the Act. For purposes of this paragraph, subparagraph (A) of paragraph (2) shall apply only with respect to communications for political purposes.".

DISCLOSURE OF INDEPENDENT EXPENDITURES

SEC. 5. Section 318 of the Federal Election Campaign Act of 1971 (2 U.S.C. § 441d) is amended by renumbering subsection (b) thereof as subsection (c), and by inserting a new subsection (b):

"For purposes of subsection (a)(3) of this section, the term "clearly" shall mean that the statement regarding sponsorship of the communication:

"(1) is given at the beginning of the communication;

"(2) is given at the end of the communication;

"(3) is easily readable or audible;

"(4) is in such a format or design as to be completely unambiguous regarding the actual payor and sponsor of the communication, and

"(5) contains the statement that the communication is "not authorized by any candidate.".

INCREASED ROLE FOR POLITICAL PARTIES

SEC. 6. (a) Sections 315(d) (2) and (3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(d) (2) and (3)) are amended by substituting the words "5 cents" for the words "2 cents" each time they appear in said subsections.

(b) Section 315(d)(3)(A)(ii) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(d)(3)(A)(ii)) is amended by striking out "20,000" and inserting in lieu thereof "50,000.".

(c) Section 315(d)(3)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(d)(3)(B)) is amended by striking out "10,000" and inserting in lieu thereof "25,000.".

EXCESS CAMPAIGN FUNDS PROHIBITIONS

SEC. 7. Section 313 of the Federal Election Campaign Act of 1971 (2 U.S.C. 439a), is hereby amended to read as follows:

"439a. USE OF SURPLUS CAMPAIGN FUNDS.

"(a) Amounts received as contributions by the authorized political committee of a candidate that are in excess of the amount necessary to defray the expenditures incurred by that political committee, may be transferred without limitation to any national, state or local committee of any political party; or may be refunded to contributors on a pro rata basis.

"(b) Any amount of surplus campaign funds that has not been disposed of in accordance with the terms set forth in subparagraph (a) of this Section shall be transferred to the Treasurer of the United States and applied to the National Debt Retirement Account.

"(c) It shall be unlawful for any political committee authorized by a candidate, or for any person acting as an agent of such a political committee, to utilize or dispose of surplus campaign funds in any manner except as described in subparagraphs (a) or (b) of this Section. It shall also be unlawful for any person to accept or receive or receive surplus campaign funds for purposes, or in a

manner, other than that specified in Subparagraphs (a) or (b) of this Section.

"(d) All dispositions of surplus campaign funds shall be reported through an itemization of each such expenditure pursuant to section 304 of the Federal Election Campaign Act as amended (2 U.S.C. 434) on the post election semi-annual report that is filed on or before July 31 of the year following the election for which they are raised.

"(3) This section shall apply to any surplus campaign funds existing on November 7, 1990, and thereafter.

"(f) For purposes of this section "surplus campaign funds" means the balance remaining, if any, between the contributions made for the purpose of influencing the election of the candidate who authorized the campaign committee and the expenditures made by said committee for the purpose of influencing the election of said candidate.".

TIGHTENING ENFORCEMENT

SEC. 8. (a) Section 406 of the Federal Election Campaign Act of 1971 (2 U.S.C. 455) is repealed.

(b) Section 309(a)(12) of the Federal Election Campaign Act of 1972 (2 U.S.C 437g(a)(12)(A)) is amended by adding thereto the following text as a new subsection "(C)":

"(C) Nothing in this Section shall be deemed to prohibit or prevent the Federal Election Commission from making information contained in compliance files available to the Attorney General, at his request, in connection with an investigation and/or a trial.".

LIMITATIONS ON CONGRESSIONAL FRANK

SEC. 9. (a) Subsection (a) of section 3210 of title 39, United States Code, is amended—

(1) in paragraph (6)(A), by placing a period after the words "franked mail" and deleting all that follows;

(2) in paragraph (6)(C) by placing a period after the words "franked mail" and deleting all the following: and,

(3) by deleting paragraph (6)(D).

(b) Effective October 1, 1989, subsection (a)(2) of section 3216 of title 39, United States Code, is amended by striking out "by a lump sum appropriation to the legislative branch" and inserting in lieu thereof "from funds appropriated to (or otherwise available from) the Senate (for costs attributable to the Senate) and from funds appropriated to (or otherwise available from) the House (for costs attributable to the House of Representatives).".

(c) Subsection (c) of section 3216 of title 39, United States Code, is repealed and subsection (d) of such section is redesignated subsection (c).

(d) Effective October 1, 1989, there shall be—

(1) within the contingent fund of the Senate, a separate appropriation account to be known as the "Senate Official Mail Costs Account", which shall be administered by the Secretary of the Senate, and

(2) within the fund for Contingent Expenses of the House, a separate appropriation account to be known as the "House Official Mail Costs Account", which shall be administered by the Clerk of the House of Representatives.

(e) The Senate Select Committee on Ethics and House Commission on Congressional Mailing Standards shall prescribe for each respective House rules and regulations governing any franked mail. Such rules and regulations shall include, for each Member of each respective House, an allocation from the amount appropriated for official mail. For Members of the Senate, such allocation shall be related to the population of the state represented. The costs for postage for such franked mail mailed by or for a Member in excess of the amount of the allocation shall be charged to such Member and shall be paid by such Member (if the allocation is from the Senate) in accordance with rules and regulations as may be prescribed by the Senate Committee on Rules and Administration, and (if the allocation is from the House) in accordance with such rules and regulations as may be prescribed by the House Commission on Congressional Mailing Standards.

(f)(1) Two weeks after the close of each calendar quarter, or as soon as practicable thereafter, the Sergeant at Arms and Doorkeeper of the Senate shall send to each Senator a statement of the cost of postage and paper and of the other operating expenses incurred as a result of mass mailings, as defined in subparagraphs (iv) through (vii) of section 3210(a)(6)(C) of title 39, United States Code, processed for such Senator during such quarter. The statement shall separately identify the cost of postage and paper and other costs and shall distinguish the costs attributable to different classes of mass mailings. The statement shall also include the total cost per capita in the State. A compilation of all such statements shall be sent to the Committee on Rules and Administration. A summary tabulation of such information shall be printed in the Congressional Record next printed after the statements are received by the Committee and shall be included in the semiannual Report of the Secretary of the Senate. Such summary tabulations shall set forth for each Senator the following information: the Senator's name, the total number of pieces of mass-mail mailed during the quarter, the total cost of such mail, and the cost of such mail divided by the total population of the State from which the Senator was elected.

(2) Two weeks after the close of each calendar quarter, or as soon as practicable thereafter, the House Commission on Congressional Mailing Standards shall send to each Member of the House of Representatives a statement of the cost of postage and paper and of the other operating expenses incurred as a result of mass mailings, as defined in subparagraphs (iv) through (vii) of section 3210(a)(6)(C) of title 39, United States Code, processed for such Member during such quarter. The statement shall separately identify the cost of postage and paper and other costs, and shall distinguish the costs attributable to different classes of mass mailings. The statement shall also include the total cost per capita in the district from which such Member was elected. A compilation of all such statements shall be sent to the House Committee on House Administration. A summary tabulation of such information shall be printed in the Congressional Record next printed after the statements are received by the Committee and shall be included in the quarterly Report of the Clerk of the House. Such summary tabulations shall set forth for each Member the following information: the Representative's name, the total number of pieces of mass-mail mailed during the quarter, the total cost of such mail, and the cost of such mail divided by the total population of the district from which the Member was elected.

SOFT MONEY DISCLOSURE AND ALLOCATION

SEC. 10. (a) Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. § 434(b)(6)) is amended by adding the following new subsection:

"(c) All accounts maintained by any political committee subject to registration under this Act shall be subject to the provisions of this Section.".

(b) The following new section is added to the Federal Election Campaign Act as amended as a new section 324 thereof:

"324. REQUIRED ALLOCATION OF CONTRIBUTIONS AND EXPENDITURES MADE FOR MIXED PURPOSES.

"(a) Within 180 days of the effective date of this Act the Commission shall issue final regulations providing for a uniform and realistic method for allocating the costs for any mixed activity between Federal and non-Federal accounts.

"(b) Such regulations shall—

"(i) recognize the importance of Federal races in affecting the solicitation and distribution of funds for mixed activities, by requiring that a certain minimum proportion of the funds shall be allocated to the Federal race or races, which proportion in no event shall, except in extraordinary circumstances, be less than 33 percent; and,

"(ii) require any reporting of disbursements on a mixed activity under this Act to indicate the method and rationale used in allocating the cost of the mixed activity as well as the amount and percentage of the overall expense of the activity allocated to one or more Federal or non-Federal accounts.

"(c) For purposes of this Section, the term "mixed activity" shall include any activity the expense of which must be allocated between Federal and non-Federal accounts because such activities affect both Federal and non-Federal races. Such activities shall include, but not be limited to, voter registration and get-out-the-vote drives in connection with elections which involve both Federal and non-Federal races, and general political advertising, brochure, or other material, which includes reference, however incidental, to Federal as well as non-Federal candidates, or which urge support for or opposition to all the candidates of a political party.".

LIMITATIONS ON GERRYMANDERING

SEC. 11. (a) Section 22 of the Act entitled "An Act To provide for the fifteenth and subsequent decennial censuses and to provide for apportionment of Representatives in Congress," approved June 18, 1929, as amended (2 U.S.C. 2a) is amended by striking out subsection (c)(1-5).

(b) The second paragraph (relating to congressional redistricting) of the Act entitled "An Act for the relief of Doctor Ricardo Vallejo Samala and to provide for Congressional redistricting" approved December 14, 1967 (2 U.S.C. 2c) is repealed, and in lieu thereof the following sections are added:

"(c) In each State entitled in the 103rd Congress or in any subsequent Congress to more than one Representative under an apportionment made pursuant to the provisions of subsection (b) of this section, there shall be established in the manner provided by the law thereof a number of districts equal to the number of Representatives to which such State is so entitled, and Representatives shall be elected only by eligible voters from districts so established, no district to elect more than one Representative. Such districts shall be established in accordance with the provisions of this Act as soon as practicable after the decennial census date established in section 141(a) of title 13, United States Code, but in no case later

than such time as is reasonably sufficient for their use in the elections for the 103rd Congress and in each fifth Congress thereafter.

"(d) The number of persons in Congressional districts within each State shall be as nearly equal as is practicable, as determined under the then most recent decennial census. The enumeration established according to the Federal decennial census pursuant to Article I, Section II, United States Constitution, shall be the sole basis of population for the establishment of Congressional districts.

"(e) Congressional districts shall be comprised of contiguous territory, including adjoining insular territory.

"(f) Congressional districts shall not be established with the intent and effect of diluting the voting strength of any person, group of persons, or members of any political party.

"(g) Congressional districts shall be compact in form. In establishing such districts, nearby population shall not be bypassed in favor of more distant population.

"(h) Congressional district boundaries shall avoid the unnecessary division of counties or their equivalent in any State.

"(i) Congressional district boundaries shall be established in such a manner as to minimize the division of cities, towns, villages and other political subdivisions.

"(j)(1) It is the intent of the Congress that Congressional districts established pursuant to this section be subject to reasonable public scrutiny and comment prior to their establishment.

"(2) At the same time that Federal decennial census tabulations data, reports, maps, or other material or information produced or obtained using Federal funds and associated with the Congressional reapportionment and redistricting process, are made available to any officer or public body in any State, such materials shall be made available by such State at the cost of duplication to any person from that State meeting the qualifications for voting in an election of a Member of the House of Representatives.

"(k) Nothing in this section shall be construed to supersede any provision of the Voting Rights Act of 1965, as amended.

"(l) Any State may establish by Law criteria for implementing the standards set forth in this section. Nothing in this section shall be construed as limiting the power of a State to strengthen or add to these standards, nor to interpret these standards in a manner consistent with the Law of the State, to the extent that such additional criteria or interpretations are not in conflict with this section.".

(c)(1) The District Courts shall have exclusive jurisdiction to hear and determine any action to enforce section 11 of this Act. Any person meeting a State's qualifications for voting in an election of a Member of the House of Representatives from such State may bring an action in the district court for the district in which such person resides, without regard to any amount in controversy, to enforce the provisions of section 11 of this Act with regard to the State in which such person resides.

(2) Notwithstanding any other provision of this section, the district court shall have authority to issue all judgments, orders, and decrees necessary to ensure that any criteria established by State law pursuant to this section are not in conflict with the section.

(3) With the exception of actions brought under subsection (c)(2), the district court for the purposes of this section shall be a three-judge district court pursuant to 28 U.S.C. § 2284. Upon motion of any party in accordance with 28 U.S.C. § 1657, it shall be the duty of the district court to assign the case for briefing and hearing at the earliest practicable date, and to cause the case to be in every way expedited. The district court shall have authority to enter all judgments, orders and decrees necessary to bring a State into complaince with this Act. Any such action with respect to the establishment of Congressional districts in a State after a Federal decennial census may not be brought after the end of the nine-month period beginning on the date on which the last such district is so established.

(4) For the purposes of this section, an order dismissing a complaint for failure to state a cause of action shall be appealable in accordance with 28 U.S.C. § 1253.

(5) If the district court fails to establish a briefing and hearing schedule that will permit resolution of the case prior to the next general election, any party may seek a writ of mandamus from the United States Court of Appeals for the circuit in which the district court sits. The court of appeals shall have jurisdiction over the motion for a writ of mandamus and shall establish an expedited briefing and hearing schedule for resolution of the motion. Such a motion shall not stay proceedings in the district court.

(6) If the district court determines that the districts established by the State's redistricting authority pursuant to this Act are not in compliance with this Act, the court shall remand the plan to the State's redistricting authority to establish new districts consistent with section 11. The district court shall retain jurisdiction over the case after remand.

(7) If, after remand in accord with subsection (6) of this section, the district court determines that the districts established by the State's redistricting authority under the remand order are not consistent with section 11, the district court shall enter an order establishing districts that are consistent with section 11 of this Act for the next general congressional election.

(8) If any question of state law arises in a case under this section that would require abstention, the district court shall not abstain. However, in any State permitting certification of such questions, the district court shall certify that question to the highest court of the state whose law is in question. Such certification shall not stay proceeding in the district court.

(9) With the exception of actions brought under subsection (c)(2), an appeal from a decision of the district court under this section shall be taken in accord with 28 U.S.C. § 1253. An appeal under this section shall be noticed in the district court and perfected by docketing in the Supreme Court within 30 days of the entry of judgment below. Appeals brought to the Supreme Court under this subsection shall be heard as soon as practicable.

(10) For purposes of this section, "redistricting authority" shall mean the officer, officers, public body, public bodies, or any combination thereof, having initial responsibility for the Congressional redistricting of each State.".

(d) The first sentence of section 1657 of title 28, United States Code, is amended by striking out "or" and inserting in lieu thereof "any action under section 11 of the Comprehensive Campaign Reform Act of 1989, or".

(e) Section 141(c) of Title 13, United States Code is amended to add at the end of that section the following: "Where this subsection requires that the Secretary provide criteria to, consult with, or report tabulations of population to (or where the Secretary otherwise provides material or information to) the public bodies having responsibility for the legislative apportionment or districting of each State, the Secretary shall provide, without cost, such criteria, consultations, tabulations, or other material or information simultaneously to the leadership of each political party represented on such public bodies. For purposes of this subsection, "political party" shall mean any political party whose candidates for Representatives to Congress received, as the candidates of such party, 5 percent or more of the total number of votes received statewide by all candidates for such office in any of the five most recent general Congressional elections. Such materials may include those developed by the Census Bureau for redistricting purposes for the 1990 Census.".

SEVERABILITY

SEC. 12. If any provision of this Act or any amendment made by this Act, or the application of any such provision to any person or circumstance is held invalid, the validity of any other such provision, and the application of such provision to other persons and circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 13. Unless otherwise stated herein, this Act and the amendments made by this Act shall become effective on November 7, 1990 and shall apply to all contributions and expenditures made after such date.

SECTION-BY-SECTION ANALYSIS

Section 1. This section provides that the title of the Act will be "The Comprehensive Campaign Reform Act of 1989."

Section 2. Limitation on Political Action Committees.

This section eliminates the exception in law which permits the organization of political committees connected to corporations, unions or trade associations.

It prohibits the use of any corporate, union or trade association funds for the purpose of paying any of the costs of "non-connected" or independent political committees.

It decreases by half the amount "non-connected" political committees may give to candidates from $5000 to $2500 per election.

Section 3. Limitations On Leadership PACs.

This section limits contributions to so-called "Leadership PACs" by including the amount of contributions to such PACs toward the total given to the campaign committee of the candidate or federal officer holder associated with such PACs, for the purposes of determining contribution limits under the Federal Election Campaign Act. This will prevent "double" contributions by individuals and political committees to the same candidate. These new restrictions would apply to Presidential as well as Congressional candidates.

This section also closes the loophole that permits transfers between candidate committees.

Section 4. Protections For Employees.

This section deals with the problem of coercion in "bundling" by intermediaries or conduits.

It prohibits any intermediary or conduit from delivering or arranging to have delivered contributions from more than two persons who are employees of the same employer or members of the same labor organization or trade association.

This section also codifies the Supreme Court decision in *Beck* and sets forth the following rights:

Employees cannot be obligated to pay for the political activities of their union through membership dues;

Employees who choose to pay agency fees are only obligated to pay for the cost of the collective bargaining services the union provides;

Employers who choose to pay membership dues have the right to have their dues reduced by a pro rata share of the amount the union spends out of the membership treasury on political activities; and,

Employees must be informed of the amount of the full membership dues and related fees; the amount of reduced fees; and the cost of the political activities.

Unions are required to disclose these rights their members.

Section 5. Disclosure of Independent Expenditures.

This section increases the disclosure requirements of unauthorized independent expenditures. Information regarding the sponsorship of such an advertisement would have to be given at the beginning and the end of the communication; would have to be clearly readable or audible; and, would have to include the statement that it is not authorized by any candidate.

Section 6. Increased Role For Political Parties.

This section increases by 150% the amount a national, State or local committee of a political party may contribute to federal elections through coordinated expenditures.

Section 7. Excess Campaign Funds Prohibitions.

This section prohibits the rollover of excess campaign funds into the next election cycle; eliminates the "grandfather clause" that allows some members of Congress to convert excess funds to personal use; prohibits Senators from supplementing their official accounts with excess funds; and, requires that any excess funds be returned pro-rata to contributors, be given to national, State or local party committees, or be used to retire the federal debt.

Section 8. Tightening Enforcement.

This section repeals the shortened 3-year statute of limitations for violations of the Act and returns to the general 5-year statute of limitations.

It also permits the Attorney General to have access to FEC compliance files pursuant to a criminal investigation or trial.

Section 9. Limitations on Congressional Frank.

This section bans the use of the congressional frank for unsolicited mass mailings and requires quarterly reports by Members of Congress and Senators of the amounts spent on franked mail.

Section 10. Soft Money Disclosure and Allocation.

This section requires the disclosure of all soft money accounts by all political committees regulated by the FEC. It also requires political parties, corporations and labor organizations to allocate the costs of general political activities affecting the election of federal and non-federal candidate between their federal and non-federal accounts.

Section 11. Limitations On Gerrymandering.

This section sets out new standards for congressional reapportionment and redistricting. It codifies current case law and maintains previous statutory requirements that congressional districts be of equal population, and be contiguous and compact in form. It repeals current statutory provisions to the extent that they may permit multimember congressional districts, and reiterates a requirement of single-member congressional districts. New subsections would also limit the division of county and political subdivision boundary lines, as well as restricting egregious partisan gerrymandering.

It expresses the intent that the congressional redistricting process be open and subject to public scrutiny, and provides for equal access to federally funded census materials.

It also provides that nothing in the Act shall be construed as superseding any provision of the Voting Rights Act of 1965, as amended. Accordingly, the Act supplements the Voting Rights Act.

Finally, it establishes an expedited federal judicial review procedure of the congressional redistricting process, and gives the federal courts exclusive jurisdiction to enforce the standards set out in the Act.

Section 13. Severability.

If any portion of this Act is held invalid, the remaining portions of the Act shall continue in full force and effect.

Section 14. Effective Date.

This Act is effective November 7, 1990.

LETTER OF TRANSMITTAL

To the Congress of the United States:

I am pleased to submit for your consideration and enactment the "Comprehensive Campaign Finance Reform Act of 1989." This legislative proposal would implement the reforms I announced earlier this summer. It represents comprehensive campaign finance reform legislation designed to reduce substantially the power of special economic interests, while enhancing the role of individuals and political parties. The proposal also restores competition to Congressional elections by reducing the advantages of incumbency.

I look forward to working with Congress on these critical issues.

GEORGE BUSH.

THE WHITE HOUSE, *September 26, 1989.*

[From the White House Office of the Press Secretary, Sept. 26, 1989]

FACTSHEET ON THE COMPREHENSIVE CAMPAIGN FINANCE REFORM ACT OF 1989

Today the President transmitted to Congress comprehensive campaign finance reform legislation designed to lessen the power of special economic interests and restore competition to American Congressional elections. This legislative proposal implements the reforms already announced by the President.

While curtailing the influence of special economic interests, the proposal enhances the roles of individuals and the political parties in the electoral process. It is also designed to reform a system which has led to a "permanent Congress". In the 1980s, House incumbents have had a 97.7 percent reelection rate and Senate incumbents an 85 percent reelection rate. Below is an outline of the major proposals:

Elimination of political action committees (PACs) supported by corporations, unions or trade associations, and a prohibition on any such entities paying for the overhead or administrative costs of any independent PAC.

Reforms to address the problem of the "permanent Congress" by reducing the unwarranted advantages of incumbency. Specifically, the proposal would prohibit the personal use of excess campaign funds, drastically reduce congressional franked mailings, ban the rollover of campaign funds from one election cycle to the next, and legislate fair neutral criteria for the redistricting that will follow the 1990 census.

A strengthening of political parties by increasing the amounts they can spend on behalf of congressional candidates. This source of funds would permit legislators to spend less time fundraising, would ensure that challengers have greater resources with which to challenge incumbents, and would further limit the role of special economic interests in elections.

Full disclosure of all "soft money" spent by the political parties and all labor unions, corporations, and trade associations to influence a federal election.

Mr. McCONNELL. Mr. President, I am here this morning to commend the President of the United States and the Republican leader for their interest in and leadership on the subject of campaign finance reform.

Having been involved in the formulation of the President's bill, I might say that I think it is a very effective approach to the question of campaign finance reform. As a student of this issue over the last 5 years, and for a period of time as a professor on a part-time basis in college on this very subject, it seems to me that of all the various proposals that have been presented, the President's bill is probably the best.

Nevertheless, when we talk about campaign finance reform, we, of course, are talking about the rules of the game. In our democracy and in our strong two-party system, each side would love to write the rules in a way that would benefit their cause. So at some point, obviously, there must be a compromise.

It seems to me that there are a number of significant measures in this particular field of campaign finance reform that could be addressed on a bipartisan basis. I hope at some point we will get to that stage. Maybe it has already begun.

The Senator from Nevada, Senator REID, and I, introduced last week a proposal that we think does not tilt the playing field either way against either party, and would provide for meaningful campaign finance reform.

Nevertheless, whatever we do I hope at some point we will do something, because I do not think that any of us are satisfied with the status quo in this particular field of campaign finance reform.

But principally this morning I am here to commend the President of the United States for his leadership, to state that I think his proposal that Senator DOLE and I are introducing this morning is truly an outstanding one.

The bill is an urgently needed new bill: The President's election and campaign reform bill.

For a number of years, Congress has talked about lack of competitiveness in the world market. But one of the biggest problems in this country today is the lack of competitiveness in Congress.

Over the last several years, the reelection rate to the House has been over 95 percent. There is more political competition in the Soviet Politburo than there is in the United States House of Representatives.

This is because of unfair election practices like black market soft money and gerrymandered electoral districts.

For too long, Congress has been playing a game of protectionist politics—using the campaign finance rules and the advantages of incumbency to shut out the competition.

What the President is proposing in this bill is fair play in the political marketplace. He is urging the elimination of special interest PAC's, which fund incumbents overwhelmingly over challengers.

The bill requires public disclosure of the millions of dollars spent each year by unions, corporations, and parties in the form of soft money and independent expenditures.

Further, the President's bill requires unions to let their members know if they are using union dues for political activities; and gives workers a right not to pay for political operations they object to.

Finally, this bill sets some minimum standards of fairness with regard to redistricting. It is time to redraw the electoral lines to abolish the old-fashioned political fiefdoms in Congress.

In introducing President Bush's election reform bill, I fully expect it to come under fire from those with a vested interest in maintaining the current system.

Some people benefit a great deal from the current system, and they are well-insulated from any kind of political competition because of the present rules of the game.

The President's bill, however, would strip away their insulation, and expose them to potentially tough competition.

Some people won't like that. But competition, after all, is what Amerca is all about—competition in business, in sports, even in the arts.

It is time to rewrite the rules of the election game to make Congress a competitive playing field once again.

I commend the President and the Republican leader for taking an interest in this issue, which has been one of my major concerns since long before I came to this body.

By Mr. THURMOND (for himself, Mr. HELMS, Mr. HOLLINGS, and Mr. SANFORD):

S. 1728. A bill to provide disaster assistance to timber producers who suffered losses of trees due to Hurricane Hugo to help them reestablish private timber stands; to the Committee on Agriculture, Nutrition, and Forestry.

HUGO FORESTRY RESTORATION ACT

Mr. THURMOND. Mr. President, I rise today to introduce legislation which will help reforest the many thousands of acres of timberland destroyed when Hurricane Hugo passed through South Carolina, North Carolina, Puerto Rico, and the U.S. Virgin Islands.

The distinguished Senator from North Carolina [Mr. HELMS], the distinguished Senator from South Carolina [Mr. HOLLINGS], and the distinguished Senator from North Carolina [Mr. SANFORD], join me in the introduction of this bill.

This storm caused damage unseen in modern history. Approximately 36 percent, or 4.4 million acres, of the 12.2 million acres of forested land in South Carolina were damaged. Of the 46 counties in my State, 23 suffered significant timber damage and 7 of those are classified as extensively damaged. Estimates are that Hugo damaged a total of 6.7 billion board feet of sawtimber. Since South Carolina normally harvests only 2.2 billion board feet annually, it would take 3 years under normal conditions for loggers to cut this amount of timber. Approximately 660,000 homes could be built with the volume of sawtimber damaged. This would be enough timber to house nearly all of the population of West Virginia or the city of Philadelphia. The 30,000 South Carolinians employed in the forest industry will suffer for many years from this catastrophe.

Mr. President, from these examples you can see that this hurricane caused serious damage to our forests and natural resources. The legislation I am introducing today is similar to the Forestry Incentive Program [FIP], which provides land owners who cut timber an incentive to replant trees. Specifically, this bill would authorize $100 million to aid the land owners in their reforestation efforts and be administered through the local Agricultural Stabilization and Conservation Service offices. Land owners would have until December 31, 1995, to apply for funds under this program.

Financial assistance will be provided on a cost-share basis between the Federal Government and the land owner. For persons owning less than 1,000 acres, assistance could be as much as 75 percent of the total cost of implementing eligible practices. For owners of more than 1,000 acres, cost-share could be as much as 50 percent of the total cost of the recommended practices.

Land owners who apply for assistance for site preparation and reforestation will have to complete a forest management plan in consultation with the State forest service. Currently, this practice is required for the FIP and helps assure that the forests are restored in a beneficial manner.

This bill is needed to help renew the natural resources destroyed from Hurricane Hugo. Without this assistance, the natural resources will suffer severe hardships. I look forward to expeditious considerations of this important issue.

Mr. President, I might say that we requested the Agriculture Department to prepare this legislation, and they kindly did this.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD.

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

S. 1728

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

SECION 1. SHORT TITLE.—This Act may be cited as the "Hugo Forestry Restoration Act."

SEC. 2. COST-SHARE ASSISTANCE.—(a) The Secretary of Agriculture shall develop and implement a tree planting reimbursement program to provide financial assistance to owners of private timber stands that were damaged, as determined by the Secretary, in 1989 by Hurricane Hugo. This assistance shall only be made available in those counties and contiguous counties declared by the President to be disaster areas as a result of damage caused by Hurricane Hugo in South Carolina, North Carolina, Puerto Rico, and the U.S. Virgin Islands. The purpose of such program is to encourage tree owners to reestablish their damaged stands with commercial tree seedlings for the production of timber and related products. Practices which shall be eligible for assistance are: (1) reforestation of damaged stands, (2) site preparation, and (3) other timber stand reestablishment practices as may be prescribed by the Secretary.

(b) For the purpose of this Act, the term "private timber stands" means trees existing prior to Hurricane Hugo which would have become suitable for commercial harvest for the production of wood or related products. Such trees must have been owned prior to the damage, and must, at the time the request for assistance is made, be owned by any private individual, group, Indian tribe or other native group, association, corporation, or other legal entity, except agencies of Federal, State, or local governments.

(c) A request for assistance shall only be approved by the Secretary after individual forest management plans have been developed by the tree owner in cooperation with, and approved by, the State forester or equivalent State official. The Secretary shall encourage States to use private agencies, consultants, organizations, and firms to the extent feasible for the preparation of individual forest management plans.

(d) The Secretary shall agree to share the cost of those practices for which the Secretary determines that cost-share assistance is appropriate. The portion of such cost (including labor) to be shared shall be that

portion of the cost that the Secretary determines is necessary and appropriate.

(e) Requests for assistance under this Act must be filed with the Secretary not later than December 31, 1995.

(f)(1) For any person owning 1,000 or less acres of land planted to trees, regardless of their type, size or condition, assistance made available under this Act shall be limited to 75 percent of the total cost of implementing eligible practices.

(2) For any person owning more than 1,000 acres of land planted to trees, regardless of their type size or condition, assistance made available under this Act shall be limited to 50 percent of the total cost of implementing eligible practices.

(3) For the purpose of this subsection, the Secretary shall issue regulations defining the term "person" which shall conform, to the extent practicable, to the regulations defining the term "person" issued under section 1001 of the Food Security Act of 1985, as amended.

(g) The Secretary may use the facilities, services, authorities, and funds of the Commodity Credit Corporation to carry out the provisions of this Act, except that the Secretary may not use funds of the Corporation for such purpose unless the Corporation has received funds to cover such expenditures from appropriations made to carry out this Act.

(h) There is hereby authorized to be appropriated not to exceed 100 million dollars to remain available until expended to carry out the provisions of this Act.

(i) The Secretary or the Commodity Credit Corporation shall issue regulations to implement the provisions of this Act as soon as practicable after the date of the enactment of this Act, without regard to the requirement for notice and public participation in rule making prescribed in section 553 of title 5, United States Code, or in any directive of the Secretary.

By Mr. LEAHY (for himself, Mr. LUGAR, and Mr. KERREY):

S. 1729. A bill to amend the Commodity Exchange Act to reauthorize such act, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

FUTURES TRADING PRACTICES ACT

Mr. LEAHY. Mr. President, in the past 9 months, regulation of the futures industry has suffered a nervous breakdown. Last January, the Justice Department's sting operation directed at the Chicago futures markets hit the front pages. In February, the Commodity Futures Trading Commission's critical rule report criticized audit trails systems. In April, 22 Chicago bond traders were charged with "ginzy" trading. In May, 59 New York exchange members' records were subpoenaed. In July there was the Chicago emergency, in August the indictments of 46 Chicago traders and in September the GAO report of deep flaws in exchange audit trail systems.

The events add up to one inescapable conclusion—the system is not working. Rules are being ignored; customers are not being protected. We will not allow the crimes of a few to damage the futures markets. These markets are simply too essential a part of our national economy for us to stand by and allow this to happen. Without the public's trust, the markets can no longer function. They can no longer serve the needs of our country. Today, that trust is damaged.

White collar crime has reached epidemic proportions in America. We will not tolerate it—on Wall Street, LaSalle Street, or Main Street. Criminals will be punished. Weak laws will be strengthened. Law enforcement officials will be given the tools to crack down. Senator LUGAR and I are today introducing the "Futures Trading Practices Act of 1989." It is a bipartisan, comprehensive package of reforms designed to restore faith in futures markets. This bill is tough, but fair. It is a code of conduct that any honest trader can live by.

But let me make it clear: Any floor trader caught cheating will be severely punished. Any exchange not policing its floor will be forced to clean up its act. The Commission will be given the money and tools to police the exchanges. I expect them to use these tools to the full extent allowed by law. This is their duty. There is no other course of action.

This bill was written following a comprehensive and exhaustive review of futures regulation by the Committee on Agriculture, Nutrition, and Forestry. The committee held four public hearings, received written comments from scores of individuals and groups, reviewed thousands of pages of CFTC documents, and directed GAO to undertake a major study of trading practices. We consulted with Chicago U.S. attorney Anton Valukas on the undercover investigation of those markets. Finally, in drafting this bill, we informally tapped the knowledge of experts at GAO, the CFTC, and in the futures industry.

This bill is tough and not everyone will agree with all its language. It imposes costs and liabilities. It demands an overhaul of trading practices some of which date back 100 years. Controversy will be inevitable.

We have kept one goal consistently in mind—design a workable system that is efficient, effective and fair.

Among other things, the legislation takes these basic steps:

First, beef up the CFTC enforcement powers, boost its funding authority by 50 percent over 5 years, and expand its power to charge service fees;

Second, require the exchanges to install new audit trails able to record the times of trades "independently, precisely, and completely" as proposed by GAO;

Third, through a new system of "deficiency orders" backed by stiff penalties, expand CFTC's powers to demand prompt improvements in exchange oversight, compliance, and disciplinary programs;

Fourth, if an exchange fails to prevent abuses, dual trading will be barred. If the public interest would be harmed, the CFTC could impose other "deficiency order" remedies;

Fifth, allow punitive damage recoveries against traders by customers. Awards up to twice the actual loss in civil lawsuits and arbitrations will be allowed. Retail brokerage firms will be made accountable for the violations of floor brokers they choose to execute orders;

Sixth, authorize the exchanges to conduct limited undercover operations to investigate suspected abuses; and

Seventh, require the exchange to open their governing systems to public participation and to bar insider deals.

This is tough medicine for a tough time. Tough medicine is necessary if the futures industry can regain the public's confidence. We cannot avoid action.

I plan to move this bill fast. On October 17, the Agriculture Committee will hold a hearing on the bill and I plan to move it through the Senate this year.

Mr. President, I ask unanimous consent that a summary of the provisions of the Futures Trading Practices Act of 1989 be printed in the RECORD.

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

EXECUTIVE SUMMARY ON THE FUTURES TRADING PRACTICES ACT OF 1989—KEY ELEMENTS

I. BEEFING UP THE CFTC

The Act authorizes a 50 percent budget increase for the CFTC over five years (adjusted for inflation and annual government-wide salary increases). Authorized funding would rise from $41 million in FY 1990 to $66 million in FY 1994.

These added resources would make possible greater CFTC presence on trading floors, stengthened oversight of exchange self-regulatory programs, heightened monitoring of computer technology, and more staff to develop and prosecute enforcement actions.

The CFTC may establish a pay system comparable to federal bank regulators and the SEC under pending new legislation. This would help the CFTC retain skilled personnel, particularly in regional offices suffering high turnover. The CFTC could not implement this new authority without Congressional review.

The CFTC today is a "permanent" federal agency, and the five-year extension will give it a chance to put needed reforms in place. We will hold annual oversight hearings on the CFTC's progress in this effort and we will make any legislative changes needed along the way.

Service fees

To help finance this funding boost, the Act expands the CFTC's authority to charge service fees reflecting its cost in monitoring trading floors and insuring compliance by exchanges with self-regulatory standards. The CFTC could consider phasing in fee increases to accommodate other up-front costs required by this bill, particularly for with regard to new audit trail systems.

II. NEXT GENERATION AUDIT TRAIL TECHNOLOGY

The futures industry has committed itself to developing this technology; Congress must insist that it be done.

This legislation requires each futures exchange to implement within three years a new audit trails capable of capturing transaction times independently, precisely, and completely as proposed in GAO's recent study.

The CFTC, with GAO comments, would report to Congress within two years on the progress of exchanges in installing the new systems, including their advice on whether the timetable or statutory standards need adjustment.

III. EXCHANGE ACCOUNTABILITY

The bill greatly expands the CFTC's power to force exchanges to improve their trade practice oversight and disciplinary systems.

The CFTC would be required to assess each exchange system—including both the audit trail as well as other floor oversight and compliance efforts—on a two-year cycle. If the CFTC finds flaws at any time, it can issue an interim "deficiency order"—which becomes final under expedited procedures—requiring that corrections be made under a CFTC-set timetable. If the exchange violates this order, it becomes subject to possible suspension or revocation of its license to operate and to penalities of fines up to $500,000 per violation and a cease and desist order; it is violates the cease and desist order, fines escalate up to $500,000 per day.

Under this system, the CFTC could require an exchange—

1. To institute improvements in its trade monitoring, compliance, or disciplinary systems needed to bring it into compliance with self-regulatory standards;

2. Satisfy objective performance criteria for compliance wih those standards;

3. Hire additional staff or deploy or upgrade technology;

4. Suspend dual trading where appropriate; or

5. Remove particular officers, directors, staff or committee members after a hearing on the record if they have willfully abused their authority, failed in their regulatory duties, or rendered themselves unfit.

The CFTC could also delay approval of new contracts for an exchange while a deficiency order is in effect.

Dual trading

During the first year after enactment, the CFTC must suspend dual trading at each exchange under a deficiency order unless the exchange demonstrates that its trade oversight system, including the audit trail, can and does detect dual trading-related abuses. If defects do exist but there is substantial likelihood that a dual trading suspension would harm the public interest, then the CFTC would impose other "deficiency order" remedies. The CFTC can fashion the dual trading suspension to the particular circumstances of the affected exchange.

IV. EXCHANGE "SUNSHINE"

The legislation requires that exchanges and registered futures associations open their governing procedures to a broad cross-section of market and public interests and that conflicts of interest and insider deals be prevented.

Board of directors

Exchange boards would be required to include meaningful representation of such interests as brokerage firms, producers and consumers of commodities traded on the exchange, floor traders and brokers. At least 20 percent of the board must be qualified non-member public directors.

Disciplinary panels

Major disciplinary panels must be diverse enough to ensure fairness and prevent special treatment or preference in disciplinary proceedings and assessment of penalties. Where appropriate for fairness—such as where an exchange director or disciplinary committee member is the subject of a proceeding or where price manipulation is alleged—non-members of the exchange must be included.

Conflict of interest

The bill adopts two key CFTC staff proposals made after the 1979/1980 silver market crisis designed to prevent conflict of interest in exchange emergencies (such as the July Chicago soybean order): (1) Exchange directors must abstain from any matter were they, or a close associate, are a direct, specific party in interest. (2) Before any emergency deliberation, board or committee members must disclose positions in the market, including positions held to their knowledge in accounts at affiliated firms. The board would then take full, knowing responsibility for deciding whether the "interested directors" may participate. Exchanges also must prevent insiders from exploiting official access to non-public information for personal gain.

Members with disciplinary records

Members having violated federal commodity laws or other rules reflecting on their fitness are barred from serving on exchange oversight or disciplinary panels for an appropriate time as defined by the CFTC.

V. CIVIL LIABILITY/PUNITIVE DAMAGES

The legislation allows customers victimized by floor traders willfully and intentionally breaking the rules to sue for recovery and punitive damages of up to double the amount of their actual losses (triple damages altogether) in private lawsuits or reparations claims. Arbitration systems under NFA (National Futures Association) and exchanges must also provide for punitive damages where appropriate.

Accountability of brokerage firms

The Act clarifies that in a lawsuit brought by an aggrieved customer, a retail brokerage firm (futures commission merchant) is responsible to the customer for any losses caused by the malfeasance of a floor broker it selects to execute that customer's order on the exchange floor. If the brokerage firm willfully and intentionally failed to exercise due diligence in selecting the floor broker or monitoring the trade, it would pay punitive damages as well.

Customer notification

Exchanges will be required to notify victimized customers whenever the exchange takes final disciplinary action against a member-floor broker or trader for floor trading violations so that the customer will know to begin exploring legal action.

Class action suits

The CFTC is authorized to adopt rules providing for class action suits under the reparations system if it decides that it can manage the resource burden involved in such complex cases and that it can provide a useful forum for these actions compared with federal court.

VI. PENALTIES

The legislation stiffens penalties for wrongdoers by:

1. Authorizing the CFTC to assess fines against rule violators of the higher of $100,000 (the current ceiling) or triple the monetary gain per violation;

2. Extending criminal penalties to those who willfully provide false information to self-regulators (such as by making fraudulent audit trail entries) or who willfully violate CFTC rules;

3. Raising top civil penalties against exchanges from $100,000 to $500,000 per violation;

4. Including restitution to customers as a penalty which the CFTC could impose against defendants in CFTC enforcement actions;

5. Updating commodity anti-fraud laws to make standards consistent among regulated entities;

6. Incorporating two ideas proposed by the CFTC in response to Chairman Leahy's 11 reform suggestions from March 9, 1989, expanding its flexibility to assess tough penalties against those who violate the rules or fail to pay fines.

Penalties Study/Guidelines

Within one year, the CFTC must report to Congress on a study of penalties assessed for trade practice violations. The study would—

a. Analyze whether systematic differences exist in penalties assessed by different exchanges and why, and

b. Propose guidelines to assure that exchange and CFTC penalties are consistent, including possibly minimum penalties or penalty ranges for various offenses.

VII. BROKER ASSOCIATIONS

All trade, business, or financial affiliations among or between floor brokers and traders, such as partnerships, cost-, profit-, or capital-sharing agreements, or other joint arrangements, must be disclosed to the exchange and the CFTC. Beginning in 270 days, trading among broker-group members, including customer order executions, would be barred unless the CFTC adopts rules governing such trading which it certifies to Congress will inhibit abuses.

Oral orders

Also after 270 days, orders on exchange floors for member-for-member trades would be barred unless the CFTC adopts rules governing this practice which it certifies to Congress will likewise inhibit abuses.

VIII. UNDERCOVER INVESTIGATIONS

The legislation gives the CFTC direct authority to conduct limited undercover investigations where it has reason to believe that violations of the commodity exchange act may be taking place and the Justice Department has declined to do so. The CFTC would be required to inform the Department of Justice before initiating any such investigation; in conducting the investigation, the CFTC would seek to work with other relevant law enforcement officials as appropriate.

IX. FLOOR TRADER REGISTRATION

As proposed by the CFTC, floor traders would be required to register and undergo fitness checks, including fingerprinting and FBI background investigations.

X. HOUSE PROVISIONS/CFTC, GAO, NFA PROPOSALS

The legislation incorporates a number of proposals from H.R. 2869, the Commodity Futures Improvements Act of 1989 recently passed by the House of Representatives. These include provisions on telemarketing fraud, requirements that futures industry

professionals attend periodic ethics training sessions, and the mandated GAO study of delivery points in agricultural futures markets. The legislation expands the proposed GAO study to include an examination of the feasibility and relative merits of cash delivery for agricultural contracts and the special concerns raised by the presence of multinational firms with global delivery needs in these markets.

Also included are proposals by the CFTC to authorize greater cooperation in international enforcement investigations and to amend venue and service of process rules in certain futures litigations.

As requested by GAO, the GAO is given explicit access to data maintained by futures self-regulators under the same confidentiality restrictions as the CFTC.

Finally, the legislation incorporates two proposals by the National Futures Association to tighten registration standards and to allow NFA to appeal certain rulings of the CFTC.

Mr. LUGAR. Mr. President, I am pleased to join Senator LEAHY in introducing the Futures Trading Practices Act of 1989.

The credibility of U.S. futures markets has been eroded as a result of the events in the last 9 months. The credibility of the Commodity Futures Trading Commission and its effectiveness to deal strongly with this industry has been called into question by the General Accounting Office and others acknowledgeable about futures issues.

Against this background, the Senate Agriculture Committee must reauthorize the Commodity Futures Trading Commission. In doing so, we have undertaken efforts with this legislation to strengthen the regulatory authority of that agency and restore public confidence in the U.S. futures markets.

Our actions to shore up confidence in this system are extremely important to the well-being of the entire U.S. economy. These markets serve as the risk transfer and price discovery mechanisms upon which commerce, both domestically and abroad, depend. For many years, most of the major agricultural commodities grown in this country have traded on U.S. futures such as Treasury bonds has been remarkable.

The CFTC reauthorization effort has undergone a considerable transformation since the beginning of this year. In January I was prepared to launch the reauthorization effort with the introduction of a simple reauthorization bill. In the intervening months, however, the markets have been buffeted by indictments and conflict of interest charges.

This past spring, the FBI announced indictments of futures traders in Chicago. This undercover operation was conducted by the FBI over the course of 18 months by agents posing as brokers in the trading pits of the largest futures exchanges. Agents observed first hand the trading practices and techniques utilized on exchange floors. Evidence gathered during this investigation resulted in the filing of 4 indictments implicating 46 traders. Of those traders indicted, 20 traders came from one particular pit—representing nearly 10 percent of the traders in that pit. Testimony received from the FBI suggests that the trading abuses may extend far beyond the indictments issued thus far.

The markets suffered an additional setback when in July the liquidation of the soybean contract became the focus of charges of market manipulation and self dealing. The Chicago Board of Trade instituted an emergency order calling for all traders having positions in the July soybean contract in excess of 3 million bushels to liquidate their positions by 20 percent per day. This emergency order had the effect of forcing the sale of millions of bushels of soybeans by the largest holder of July soybean futures contracts, resulting in a price decline of nearly $1 per bushel over a 1-week period of time. Concerns were immediately raised about the composition of the Chicago Board of Trade panel that recommended and instituted the emergency order. A review of the positions held by the members of that panel demonstrated that a significant number of those members held positions or their firms had positions for customers that benefited from a price decline.

The Agriculture Committee has received testimony and input from the CFTC, the General Accounting Office and several commodities exchanges, and has been provided a great deal of background and insight into the issues that have emerged as focal points of this debate. This bill attempts to correct deficiencies in the statute or regulatory practices to address concerns such as inefficient audit trails, dual trading, and self dealing.

In our last hearing, the GAO testified that the trade monitoring controls and procedures currently used in the markets provide dishonest floor participants with the opportunity to cheat customers. GAO made recommendations to the committee on the types of changes that could be employed to vastly reduce those opportunities for trading abuses. Many of those recommendations are included in this bill.

Without question, the most important aspect of this bill is the requirement that the exchanges develop an audit trail that will capture the trade data necessary to detect and thus deter trading abuses. Within 3 years from the date of enactment, audit trails will be required to record the essential data of a trade, including the time the trade is executed, in a manner that cannot be altered. The Chicago investigations and indictments pointed to the need for a better method of recording trading activity, and the GAO report outlined the benefits a detailed audit trail system will bring to the ability of the CFTC to carry out its regulatory function.

The bill greatly expands the authority of the CFTC to oversee exchanges and make changes in methods of monitoring trade practices. The CFTC would be required to assess and determine the effectiveness of the trade monitoring system used by an exchange to detect trading abuses. The bill provides the CFTC with the authority to order exchanges to make corrections in their trade monitoring systems, and to set specific time limits for exchange compliance with such orders. Penalties of $500,000, which could escalate to $500,000 per day, are designed to encourage exchange compliance with CFTC directives.

Within 1 year from enactment of the bill, dual trading will be suspended unless the CFTC determines that the exchange's trade monitoring system has the ability to detect trading abuses. This provides further incentive for contract markets to develop and implement effective trade monitoring systems while putting the onus on proof on the traders who engage in this dubious endeavor.

The bill provides the CFTC with the authority to conduct its own undercover investigations on the various futures exchanges. The Chicago investigations provided a clear example of the value of this authority.

To address concerns about conflicts of interest on exchange and futures association governing boards, the bill requires a diversity of interests on those governing boards. The bill also contains provisions to ensure that members of governing boards do not participate when the member knows that he or she is a party to the subject under deliberations.

To ensure that the futures markets continue to perform their historical function, the bill instructs the GAO to conduct a study of delivery points and mechanisms on agricultural futures. This study is intended to explore the relationship between cash and futures prices in order to determine the effectiveness of the current delivery system. The independent analysis of GAO will provide significant insight into a system that so greatly impacts cash prices received by U.S. farmers.

The bill requires complete disclosure of any association between brokers to address concerns of secret dealings. The bill also requires that trading among brokers groups be banned unless the CFTC adopts rules to govern this trading practice.

Finally, in order to carry out the additional regulatory mandates of the bill we increase funding authority by 50 percent for the CFTC over the next 4 years. An increase in the size of the CFTC is justified, indeed absolutely necessary then you consider that since

the last reauthorization trade volume has increased from 216 million contracts in 1986 to over 321 million contracts in 1989, as 48-percent increase. The number of CFTC staff years over the same period increased by only 9.5 percent.

The bill however is also mindful of the budget impact of such an increase. Accordingly, the bill provides authority for fees to be charged for services provided by the CFTC to the exchanges. These fees are to be reflective of the CFTC's cost for trade surveillance, supervision, new contract analysis and other appropriate activities.

Mr. President, if the United States is going to retain its preeminant position in the world's commodity futures markets, those markets must have integrity. The reforms contained in this legislation will allow the United States to continue to compete abroad. If confidence in the commodity markets is not restored, this business could go elsewhere.

Mr. President, I want to commend Senator LEAHY for his attention and leadership on this issue. This bill is indeed reform legislation, and as such is not likely to be embraced by the futures industry. I believe the bill, however, represents a necessary step in restoring public confidence in these markets. I urge my colleagues to support the provisions set forth by Senator LEAHY and me on this very important issue.

By Mr. BREAUX (for himself, Mr. JOHNSTON, Mr. MITCHELL, Mr. BURDICK, and Mr. BENTSEN):

S. 1731. A bill to provide for the creation, restoration, protection, enhancement, and conservation of coastal wetlands, and to conserve North America wetland ecosystems and waterfowl and the other migratory birds and fish and wildlife that depend upon such habitats, and for other purposes; to the Committee on Environment and Public Works.

CONSERVATION AND RESTORATION OF COASTAL WETLANDS

Mr. BREAUX. Mr. President, today I am pleased to be joined by Senators JOHNSTON, MITCHELL, BURDICK, and BENTSEN in introducing comprehensive legislation to address the rapid rate of loss of our Nation's wetlands by establishing a program to restore our coastal wetlands and to conserve our important North American wetlands ecosystems.

This bill modifies and combines several legislative proposals now pending in the Senate. Title I of the bill, entitled the Coastal Wetlands Planning, Protection and Restoration Act, addresses the loss of coastal wetlands. This title combines significant features of S. 630, which I had previously introduced, and Senate amendment 2229 offered by Senator JOHNSTON. Both of these provisions have been the subject of hearings during this session.

Subtitles A and B address the unprecedented wetlands loss currently ongoing in the Mississippi River Delta. Forty percent of the coastal wetlands are located in the State of Louisiana, yet, that area is experiencing 80 percent of the Nation's total loss of coastal wetlands. This rate of loss is an estimated 40 to 60 square miles per year. These wetlands are a critical national resource valuable for fish and wildlife habitat, pollution and flood control, and hurricane protection. These vitally important wetland areas require further protection and restoration.

Subtitle C of title I provides grant assistance to coastal States for carrying out coastal wetlands conservation projects. Such projects are intended to address losses in all coastal States through wetlands acquisition, restoration and long term preservation.

Title II of the bill entitled the North American Wetlands Conservation Act, contains a modified version of S. 804, sponsored by Senator MITCHELL, and previously reported by the Senate Committee on Environment and Public Works. This title is a crucial program directed toward preserving vital wetland habitat as a means to maintain healthy populations of migratory birds in North America. Populations of such birds have declined due, in a large part, to declines in habitat.

Finally, title III of the bill clarifies that the Corps of Engineers has the authority to engage in environmental restoration activities. As the need for new projects which the corps has traditionally constructed diminishes, the mission of the corps should be redirected to environmental restoration. This provision would help accomplish that, and simply provides that the corps has the authority to give equal consideration to projects that benefit the environment with projects that benefit navigation and flood control. This was a provision originally included in S. 630.

Wetlands loss is a national concern. This proposal would provide a national response to this concern. Our wetlands are being lost every minute of every day. This bill, Mr. President, will take steps immediately upon enactment to restore and conserve our Nation's wetlands.

Restoring and conserving our wetlands will require that we provide the necessary resources. The Senate Finance Committee has reported legislation establishing a wetlands trust fund which is intended to fund a program substantially identical to the program outlined in this bill. The support of the chairman of the Finance Committee in taking action on this wetlands crisis is most appreciated.

Mr. MITCHELL. Mr. President, I join Senators BREAUX, JOHNSTON, BURDICK, and BENTSEN today in introducing legislation to restore and conserve coastal and inland wetlands.

This legislation is intended to authorize and direct expenditure of moneys from the new wetlands trust fund approved by the Finance Committee and included in the reconciliation legislation for fiscal year 1990 which the Senate will consider shortly.

The wetlands trust fund would consist of receipts from fees on natural gas and oil produced from the Outer Continental Shelf, and I commend Senator BENTSEN and my colleagues on the Finance Committee for establishing this new source of revenues to meet one of the Nation's most pressing environmental needs.

The wetlands of this continent, like the forests of Central America and tropical South America, are libraries of nature which contain volumes of priceless genetic information. They are North America's most biologically productive areas, and roughly a third of the continent's endangered species of animals are dependent on them.

And like the tropical forests, we have subjected our wetlands to much destruction.

From the 1950's to the 1970's, Americans drained, filled, and cleared 9 million acres of wetlands in the 48 contiguous States. Less than half of the original 200 million acres remain, and the destruction continues today at a rate of half a million acres per year—an area 12 times the size of the District of Columbia.

Since the turn of the century, Louisiana has lost more than a million acres of coastal wetlands, and if the present loss rate remains unchanged, Louisiana will lose 2.4 million acres over the next 50 years.

Total wetlands loss in Canadian prairie provinces of Alberta, Saskatchewan, and Manitoba is estimated to be 40 percent of the original wetlands acreage.

The State of Maine has lost approximately 100,000 acres of wetlands since European settlement began.

The coastal wetlands in Lousiana account for 40 percent of the Nation's coastal wetlands, and they support over 30 percent of the Nation's fish and shellfish harvest and provide wintering habitat for two-thirds of the 6 million ducks and geese in the Mississippi Flyway.

The tremendous loss of the Nation's wetlands in Louisiana is due largely to the dramatic reduction in the amount of sediment carried by the Mississippi River into the coastal zone.

The Army Corps of Engineers, at the direction of Congress and with the support of the State of Louisiana, has managed the Mississippi River primarily for navigation and flood control.

Unfortunately, the river control structures that were built for these purposes also have transported wetland-building sediments to the edge of the Outer Continental Shelf where they are dumped into deep waters of the gulf. Starved of these sediments, soft wetland soils subside, erode, and are lost.

The legislation being introduced today would direct expenditures from the wetlands trust fund for coastal wetlands restoration projects. These projects would create, restore, and protect coastal wetlands by means of diverting sediment and fresh water from the Mississippi River to nearshore areas where wetlands have eroded and disappeared. They would not have substantial navigation or flood control benefits, and they would not include construction of seawalls, levees, or impoundments.

This measure will start us on the road to restoring our wetlands in coastal Louisiana and eliminating future loss of these magnificent areas and the valuable resources they support.

The legislation also would direct expenditures from the wetlands trust fund to restore and conserve other coastal wetlands in the United States.

Finally, the legislation incorporates the provisions of the North American Wetlands Conservation Act, which I introduced earlier this year and which has been approved by the Environment and Public Works Committee, and directs expenditure from the wetlands trust fund to carry out wetlands conservation projects in the United States approved under that act.

One of the principal goals of the North American Wetlands Conservation Act included in this legislation is to begin a long-term commitment to work with Canada and Mexico in implementation of the North American waterfowl management plan.

The plan is the best, and maybe the last opportunity we will ever have to halt the decline of many species of ducks, geese, and other migratory birds.

But the plan is only a statement of needs and objectives.

The North American Wetlands Conservation Act will establish a structure to meet these needs and objectives. And it will provide the Federal matching funds essential to encouraging public and private partnership, for wetlands conservation projects in Canada and Mexico, as well as in the United States.

The destruction of wetlands throughout North America, where many migratory bird species breed, spells disaster for these species just as surely as the destruction of forests in Central and tropical South America, where they winter.

The average number of North American ducks in recent years has been lower than any comparable period on record.

Of the 30 species of migratory nongame birds that are currently of management concern to the U.S. Fish and Wildlife Service because of their uncertain status, nearly one half are dependent upon coastal and freshwater wetlands.

Thirteen of some of our most abundant and widespread songbirds, like the American goldfinch and the eastern meadowlark, have declined at an average rate of nearly 3 percent per year over the past 20 years.

Introduction of this legislation in conjunction with establishment of the wetlands trust fund will enable us to restore and maintain wetlands throughout the nation and the continent to protect the fisheries, shellfisheries, migratory birds, and the many other public benefits that these valuable aquatic areas provide.

Mr. JOHNSTON. Mr. President, I am pleased to join today with my colleagues, Senators BREAUX, MITCHELL, BURDICK, and BENTSEN, in sponsoring legislation to provide for the restoration and creation of coastal wetlands and to conserve North American wetland habitat. My friend Senator BREAUX has been dedicated to resolving this issue and has played a leadership role in this regard. Likewise, my friend Senator MITCHELL has long exhibited a strong interest and concern for a variety of wetlands issues, especially regarding the North American waterfowl plan and related matters.

I have worked closely with Senator BREAUX and the leadership of the Senate Committee on Environment and Public Works in developing this legislation. I am pleased that we have been able to combine the BREAUX, MITCHELL, and JOHNSTON approaches to resolving this problem.

In recent years, numerous studies and reports have documented the serious and deteriorating condition of our coastal marshes and wetlands. Nowhere is this situation more critical than the Gulf Coast and no portion of this region is more seriously impacted than the coastal wetlands of Louisiana. While the State contains over 40 percent of the Nation's coastal wetlands, it experiences over 80 percent of the annual wetland loss. Today, this loss ranges between 40 to 60 square miles annually. Estimates are that unless significant steps are taken, Louisiana will lose an additional 2.4 million acres of coastal wetlands between now and the year 2040.

These losses threaten an almost $1 billion a year commercial fish and shellfish industry; 40 percent of the Nation's annual harvest of wild fur and hides; valuable habitat for nearly 5 million migratory birds; areas of significant recreation use and potential—especially for sport hunting and fishing; and billions of dollars of infrastructure investments.

Mr. President, it will take a significant commitment of resources to address this serious problem. My friends on the Finance Committee, and most particularly, my good friend Senator BENTSEN, the distinguished chairman of that committee, are to be commended for establishing the wetlands trust fund, which will provide the level of substantial funding needed for coastal wetlands restoration and conservation.

Mr. President, it is my expectation that the moneys in the wetlands trust fund will be expended in accordance with the provisions of the legislation we introduce today. This legislation provides funding for priority coastal wetlands both nationwide and in Louisiana, where by far the greatest loss is occurring. It also authorizes the State of Louisiana to develop a wetlands conservation plan, having as its goal no net loss of wetlands in the coastal areas of Louisiana as a result of development activities. Finally, the bill provides for the conservation of North American wetland habitat.

Mr. President, I urge my colleagues to join me in supporting this important legislation. I believe this is good legislation that will go far in addressing this critical situation. I ask unanimous consent that the full text of the bill be printed in the RECORD.

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

S. 1731

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

TITLE I—COASTAL WETLANDS CONSERVATION AND RESTORATION

SECTION 101. SHORT TITLE.

This title may be cited as the "Coastal Wetlands Planning, Protection and Restoration Act."

SEC. 102. FINDINGS.

The Congress finds and declares that—

(1) wetlands provide multiple benefits and are vital to the Nation's environmental and economic health;

(2) the environmental benefits of wetlands include, among others, providing critical habitat to avian, terrestrial, and aquatic species; maintaining water quality; forming barriers to waves and erosion; helping to reduce flood damage; nurturing valuable commercial and recreational fisheries; and providing habitat for rare and endangered species;

(3) scientists estimate that since European settlement began in the United States, more than 50 per centum of the wetlands in the 48 coterminous States have been lost due to manmade and natural causes;

(4) the State of Louisiana contains a significant portion of the Nation's wetlands including 40 per centum of the Nation's coastal wetlands;

(5) the coastal wetlands of Louisiana are of particular value to the Nation for they contribute 46 per centum of the Nation's annual shrimp harvest; contain the wintering grounds of millions of migratory birds

and are crucial to meeting the United States' international migratory bird treaty obligations with Canada, Mexico, Japan, and the Soviet Union; contribute 40 per centum of the Nation's wild fur and hide harvest; contribute 16 percentum of the Nation's total production of petroleum and 20 per centum of the Nation's total production of natural gas; and buffer the destructive effects of hurricanes, storms, and floods;

(6) Louisiana is losing up to 50 square miles of these valuable coastal wetlands per year which is 80 per centum of the total loss of the Nation's coastal wetlands; at this rate of loss, between now and the year 2040, it is estimated that nearly one million additional acres of coastal wetlands will be lost—an area 1⅓ times larger than the State of Rhode Island—bringing the total loss of such wetlands to an estimated 2.4 million acres by the year 2040;

(7) the loss of coastal wetlands in Louisiana means a loss of valuable fish, shellfish, migratory bird, and fur resources that will jeopardize valuable public investments including 100 miles of Federal and State highways, 55 miles of hurricane protection levees and floodwalls, 27 miles of railroad tracks, 1,570 miles of oil and gas pipelines, and 383 miles of gas, water, electric power, and telephone lines;

(8) an estimated 75 per centum of coastal wetlands in Louisiana are privately owned, and the loss of such wetlands adversely affects landowners;

(9) the Mississippi River drains 40 per centum of the United States and has been developed by the Federal Government to provide navigation and flood control benefits to the entire Nation, including construction and maintenance of three of the largest deepwater ports in the country that service producers nationwide; development of an extensive inland navigation system that helps connect producers with the ports and world markets; and the construction of flood control levees that have prevented an estimated $111.3 billion of flood damages;

(10) these flood control and navigation activities conducted by the Federal Government have contributed significantly to the loss of coastal Louisiana wetlands because development of the Mississippi River has resulted in fresh water and sediment no longer nurturing coastal wetlands of the Mississippi River delta, but are being dumped instead into the deep waters of the Gulf of Mexico;

(11) navigation, access, and pipeline canals and other activities related to the exploration, development and production of oil and gas along the Gulf Coast and on the Outer Continental Shelf, have had adverse effects on many of the coastal wetlands of the Gulf Coast region;

(12) in order for the citizens of the United States to continue to reap the environmental benefits from the coastal wetlands of Louisiana, efforts must be made to significantly reduce the rapid rate of loss;

(13) a coastal wetlands restoration plan that includes engineering solutions to restore and conserve coastal wetlands is critical to arrest the loss of wetlands;

(14) in addition to the need for a plan to restore wetlands, a program to conserve coastal wetlands in the State of Louisiana to achieve a goal of no net loss of wetlands as a result of development activities would be beneficial; and

(15) because of the large portion of the Nation's coastal wetlands located within the State of Louisiana, the disproportionate rate of loss of these wetlands, and the unique causes of the loss, there needs to be a unique solution to address the rapid rate of loss of coastal wetlands in the State.

SEC. 103. STATEMENT OF PURPOSE.

The purposes of this title are to—

(a) provide for the planning, identification and implementation of priority coastal wetlands restoration projects in Louisiana;

(b) encourage the State of Louisiana to develop a plan with the goal of achieving no net loss of coastal wetlands as a result of future development activities; and

(c) provide for grants to coastal States to implement coastal wetlands conservation projects.

SEC. 104. DEFINITIONS.

As used in this title, the term—

(1) "Secretary" means the Secretary of the Army;

(2) "Administrator" means the Administrator of the Environmental Protection Agency;

(3) "development activities" means any activity, including the discharge of dredged or fill material, which results directly in a more than de minimus change in the hydrologic regime, bottom contour, or the type, distribution or diversity of hydrophytic vegetation, or which impairs the flow, reach, or circulation of surface water within wetlands or other waters;

(4) "State" means the State of Losusiana;

(5) "coastal State" means a State of the United States in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes. For the purposes of this title, the term also includes Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territories of the Pacific Islands, and American Samoa;

(6) "coastal wetlands restoration project" means a technically feasible project to create, restore, protect, or enhance coastal wetlands through sediment and freshwater diversion, restoring and maintaining barrier islands through pumping of sand and planting vegetation, and other measures which the Secretary finds will significantly contribute to long-term restoration of the physical, chemical, and biological integrity of Louisiana's coastal wetlands. A "coastal wetlands restoration project" can be a complete project or an individual phase, portion, or component thereof. A "coastal wetlands restoration project" shall not provide substantial navigation or substantial flood control benefits;

(7) "coastal wetlands conservation project" means—

(A) the obtaining of a real property interest in coastal lands or waters, if the obtaining of such interest is subject to terms and conditions that will ensure that the real property will be administered for the long-term conservation of such lands and waters and the fish and wildlife dependent thereon; and

(B) the restoration, management, or enhancement of coastal wetlands ecosystems if such restoration, management, or enhancement is conducted on coastal lands and waters that are administered for the long-term conservation of such lands and waters and the fish and wildlife dependent thereon; and (8) "Governor" means the governor of Louisiana.

Subtitle A—Priority Projects for Louisiana Coastal Wetlands.

SEC. 105. PRIORITY PROJECTS.

(a) PROJECT LIST. (1) Within 45 days after the date of enactment of this title, the Secretary, in conjunction and consultation with the Secretary of the Interior, the Secretary of Commerce, the Secretary of Agriculture, the Administrator, and the Governor, shall initiate a process to identify and prepare a list coastal wetlands restoration projects in Louisiana in order of priority, based on the cost-effectiveness of such projects in creating, restoring, protecting, or enhancing coastal wetlands, taking into account the quality of such coastal wetlands, with due allowance for small-scale projects necessary to demonstrate the use of new techniques or materials for coastal wetlands restoration.

(2) Until completion of the plan required by section 108 of this title, such list shall include only those coastal wetlands restoration projects which can be substantially completed during the five-year period commencing on the date the project is placed on the list.

(3) Starting with the year after completion of the plan required by section 108, the coastal wetlands restoration projects placed on the list shall be those identified in such plan.

(4) To assist in the preparation of the list provided for by subsection (a) of this section and the plan required by section 108, the Secretary of the Treasury shall make funds available from the Wetlands Trust Fund (hereinafter in this title referred to as the "Wetlands Fund") to the Secretary to prepare preliminary assessments; general or site specific inventories; reconnaissance, engineering, or other studies; preliminary design work; and such other studies as may be necessary to identify and evaluate the feasibility of such coastal wetlands restoration projects. Such of these funds as are determined to be necessary by the Secretary, but not to exceed the aggregate amount of $5 million annually, shall be allocated by the Secretary to the federal agency heads identified in paragraph (1) of this subsection and the Governor based on the need for such funds and such other factors as the Secretary in consultation with the other federal agency heads and the Governor, deems appropriate to carry out the purposes of this section.

(b) TRANSMITTAL OF LIST.—No later than one year after the date of enactment of this title, the Secretary shall compile and transmit the initial list of high priority coastal wetlands restoration projects to the Congress. Thereafter, the list shall be updated and transmitted to the Congress annually as part of the President's budget submission. Such transmittal shall include a status report on each project and a statement from the Secretary of the Treasury indicating the amounts available for expenditure from the Wetlands Fund.

(c) LIST CONTENTS.—The list shall include, but not be limited to, the following:

(i) identification, by map or other means, of the coastal area to be covered by the coastal wetlands restoration project; and

(ii) a detailed description of each proposed coastal wetlands restoration project including a justification for including such project on the list, the proposed activities to be carried out pursuant to each coastal wetlands restoration project, the benefits to be realized by such project, the identification of a lead federal agency to undertake each proposed coastal wetlands restoration project, an estimated timetable for the completion of each coastal wetlands restoration project, and the estimated cost of each such project.

(d) BENEFITS.—Where such a determination is required under applicable law, the net ecological, aesthetic, and cultural bene-

fitgs, together with the economic benefits, shall be deemed to exceed the costs of any coastal wetlands restoration project within the State which the Secretary finds to contribute significantly to wetlands restoration.

SEC. 106. FUNDING FOR PRIORITY COASTAL WETLANDS RESTORATION PROJECTS.

(a) ALLOCATION OF FUNDS.—Except with respect to mcneys made available from the Wetlands Fund pursuant to paragraphs 105(a)(4) and 109(c)(1) of this title, all moneys in the Wetlands Fund available for coastal wetlands restoration projects under this subtitle shall be allocated in accordance with the priorities set forth on the list prepared in accordance with subsection 105(a) of this subtitle.

(b) FUNDING FOR PROJECTS.—The Secretary of the Treasury is authorized and directed, one the date one year after the initial list prepared in accordance with subsection 105(a) of this subtitle is transmitted pursuant to subsection 105(b), and one the first day of February of each succeeding year, to make moneys from the Wetlands Fund directly available to the head of the appropriate Federal agency for the purpose of carrying out coastal wetlands restoration projects as identified on such list. Seventy-five percent of the total amount deposited in the Wetlands Funds during a given fiscal year shall be available for carrying out the provisions of subtitles A and B of this title, and shall remain available until expended.

SEC. 107. COST-SHARING.

(a) FEDERAL SHARE.—The amount made available from the Wetlands Fund for any coastal wetlands restoration project under this subtitle shall be 80 percent of the cost of such project.

(b) FEDERAL SHARE UPON PLAN APPROVAL.—Notwithstanding the previous subsection, if the State develops a Coastal Wetlands Conservation Plan pursuant to Subtitle B of this title, and such plan is approved pursuant to that subtitle, the amount made available from the Wetlands Fund for any coastal wetlands restoration project under this subtitle shall be 90 per centum of the cost of the project. In the event that the Secretary and the Administrator jointly determine that the State is not taking reasonable steps to implement and administer such plan, the amount made available from the Wetlands Fund for any coastal wetlands restoration project shall revert to 80 percent of the cost of the project: *Provided, however,* That this shall not occur until the State has been provided notice, 90 days to take corrective action, and a hearing on the matter.

(c) FORM OF STATE SHARE.—The share of the cost required of the State shall be from a non-Federal source. Such State share shall consist of a cash contribution of not less than 5 percent of the cost of the project. The balance of such State share may take the form of land, easements, or rights-way, or any other form of in-kind contribution.

SEC. 108. FEDERAL AND STATE PROJECT PLANNING.

(a) PLAN PREPARATION.—The Secretary, in conjunction and consultation with the Secretary of the Interior, the Secretary of Commerce, the Secretary of Agriculture, the Administrator, and the Governor, shall prepare a plan to identify coastal wetlands restoration projects in Louisiana in order of priority, based on the cost-effectiveness of such projects in creating, restoring, protecting, or enhancing coastal wetlands, taking into account the quality of such coastal wetlands, with due allowance for small scale projects necessary to demonstrate the use of new techniques or materials for coastal wetlands restoration. Such plan shall be completed within three years from the date of enactment of this Act.

(b) PURPOSE OF THE PLAN.—The purpose of the plan is to develop a comprehensive approach to arrest the loss of coastal wetlands in Louisiana. Such plan shall coordinate and integrate coastal wetlands restoration projects in a manner that will ensure the long-term conservation of the coastal wetlands of Louisiana.

(c) ELEMENTS OF THE PLAN.—The plan developed pursuant to this section shall include the following elements—

(1) identification of the entire area in the State that contains coastal wetlands;

(2) identification, by map or other means, of coastal areas in Louisianas is in need of coastal wetlands restoration projects;

(3) identification of high priority coastal wetlands restoration projects in Louisiana needed to address the areas identified in paragraph (2);

(4) a listing of such coastal wetlands restoration projects in order of priority to be submitted annually, taking into account the list submitted under section 105;

(5) a detailed description of each proposed coastal wetlands restoration project, including a justification for including such project on the list;

(6) the proposed activities to be carried out pursuant to each coastal wetlands restoration project;

(7) the benefits to be realized by each such project;

(8) an estimated timetable for completion of each coastal wetlands restoration project;

(9) an estimate of the cost of each coastal wetlands restoration project;

(10) identification of a lead Federal agency to undertake each proposed coastal wetlands restoration project listed in the plan;

(11) demonstration of public consultation and review during development of the plan; and

(12) evaluation of the effectiveness of each coastal wetlands restoration project in achieving long-term solutions to arresting coastal loss in Louisiana.

(d) PLAN MODIFICATION.—The Secretary, in conjunctions and consultation with those parties listed in subsection (a) of this section, may modify the plan from time to time as necessary to carry out the purposes of this title.

(e) PLAN SUBMISSION.—Upon completion of the plan, the Secretary shall submit the plan to the Congress and to the Governor.

(f) PLAN EVALUATION.—Not less than every three years after the completion of the plan provided for by this section, the Secretary shall provide a report to the Congress containing a scientific evaluation of the effectiveness of the coastal wetlands restoration projects carried out under the plan in creating, restoring, protecting and enhancing coastal wetlands.

Subtitle B. Louisiana Coastal Wetlands Conservation Planning.

SEC. 109. AGREEMENT TO DEVELOP A WETLANDS CONSERVATION PLAN.

(A) AGREEMENT. The Secretary and the Administrator are directed to enter into an agreement authorized by subsection (b), with the Governor upon notification of the Governor's willingness to enter into such agreement.

(b) AGREEMENT. (1) Upon receiving notification pursuant to subsection (a), the Secretary and the Administrator shall promptly enter into an agreement with the State described in paragraph (2) (hereafter in this title referred to as the "agreement").

(2) The agreement shall—

(A) set forth a process by which the State agrees to develop, in accordance with this title, a Coastal Wetlands Conservation Plan (hereafter in this title referred to as the "Plan");

(B) designate a single agency of the State to develop the Plan;

(C) assure an opportunity for participation in the development of the Plan, during the planning period, by the public and by federal and State agencies;

(D) obligate the State, not later than 3 years after the date of signing the agreement, unless extended by the parties thereto, to submit the plan to the Secretary and the Administrator for their approval; and

(E) upon approval of the Plan, obligate the State to implement the Plan.

(c) GRANTS AND ASSISTANCE.—Upon the date of signing the agreement—

(1) the Secretary of the Treasury shall make funds available from the Wetlands Fund to the Secretary who shall make grants in the aggregate amount of $2,500,000 annually during the development of the Plan to assist the designated State agency in developing the Plan: *Provided, however,* That the total of such grants shall not exceed $10,000,000; and

(2) the Secretary and the Administrator shall provide technical assistance to the State to assist it in the development of the plan.

SEC. 110. WETLANDS CONSERVATION PLAN.

If a Plan is developed pursuant to this title, it shall have a goal of achieving no net loss of wetlands in the coastal areas of Louisiana as a result of development activities.

SEC. 111. ELEMENTS OF THE PLAN.

The Plan authorized by this title shall include the following elements—

(a) identification of the entire coastal area in the State that contains coastal wetlands;

(b) designation of a single State agency with the responsibility for implementing and enforcing the Plan;

(c) identification of measures that the State shall take using existing Federal authority and existing or modified State authority to achieve a goal of no net loss of wetlands as a result of development activities;

(d) a system that the State shall implement to account for gains and losses of wetlands within coastal areas for purposes of evaluating the degree to which the goal of no net loss of wetlands as a result of development activities in such wetlands or other waters has been attained;

(e) satisfactory assurances that the State will have adequate personnel, funding, and authority to implement the Plan;

(f) a program to be carried out by the State for the purpose of educating the public of the necessity to conserve wetlands;

(g) a program to encourage the use of technology by persons engaged in development activities that will result in negligible impact on wetlands; and

(h) a program for the review, evaluation, and identification of regulatory and nonregulatory options that will be adopted by the State to encourage and assist private owners of wetlands to continue to maintain those lands as wetlands.

SEC. 112. APPROVAL OF THE PLAN.

(a) SUBMISSION TO SECRETARY AND ADMINISTRATOR.—Upon the completion of the Plan, the Governor is authorized to submit the Plan to the Secretary and the Adminis-

trator for their approval. The Secretary and the Administrator shall, within 180 days following the submission to them of the Plan, approve or disapprove such Plan.

(b) APPROVAL.—The Secretary and the Administrator shall approve such Plan, if they determine that—

(1) the State has adequate authority to fully implement all provisions of the Plan;

(2) such Plan is adequate to attain the goal of no net loss of wetlands and is in compliance with the other requirements of sections 110 and 111; and

(3) the Plan was developed in accordance with the agreement provided for in section 109.

(c) COMPLIANCE.—If the Secretary and the Administrator, under subsection (b) find that the Plan is not in compliance with the requirements of this subtitle, they shall submit to the Governor a statement explaining why the Plan is not in compliance and how the Plan should be changed to be in compliance. The State may correct the deficiencies and submit a modified Plan to the Secretary and the Administrator for their approval. The Secretary and the Administrator shall have 90 days to determine whether the modifications render the Plan adequate. If the Secretary and the Administrator fail to approve or disapprove such Plan, as modified, within the 90-day period following the date on which it was submitted to them by the Governor, such Plan, as modified, shall be deemed to be approved effective upon the expiration of such 90-day period.

(d) MODIFICATION OF PLAN.—The State is authorized, from time to time, to modify the Plan approved under this subtitle. Any such modification shall be submitted, considered, and acted on in the same manner as in the case of approval of the initial Plan.

SEC. 113. IMPLEMENTATION OF THE PLAN.

Following its approval in accordance with section 112, the Plan shall be implemented as provided therein.

SEC. 114. FEDERAL OVERSIGHT.

(a) REPORT BY GOVERNOR.—After approval of any Plan, the Governor shall, not less than annually, report to the Secretary and the Administrator on the progress of the State in carrying out the Plan, including an accounting of the gains and losses of wetlands under the system required by subsection 111(d).

(b) INITIAL REPORT TO CONGRESS.—Within 180 days after entering into the agreement provided for by section 109 of this title, the Secretary and the Administrator shall report to the Congress as to the status of the Plan.

(c) REPORT TO CONGRESS.—At the end of each 24-month period thereafter, the Secretary and the Administrator shall report to the Congress on the status of the Plan and provide an evaluation of the effectiveness of the Plan in meeting the provisions of this subtitle.

Subtitle C.—Coastal Wetlands Conservation Grants

SEC. 115. GRANTS.

(a) GRANTS FOR COASTAL WETLANDS CONSERVATION PROJECTS.—For each fiscal year, the Secretary of the Treasury is authorized and directed to make available to the Secretary of the Interior an amount equal to 10 per centum of the total amount deposited in the Wetlands Fund during such fiscal year for use by the Secretary of the Interior in making matching grants to any coastal state to carry out coastal wetlands conservation projects.

(b) PRIORITY.—Subject to the cost-sharing requirements of this subtitle, the Secretary of the Interior may grant or otherwise provide matching moneys from the Wetlands Fund to any coastal state which submits a proposal substantial in character and design to carry out a coastal wetlands conservation project. In awarding such matching grants, the Secretary of the Interior shall give priority to coastal wetlands conservation projects that are—

(1) in areas affected by or likely to be affected by offshore oil or gas exploration, development, or production activities;

(2) in coastal states that have established dedicated funding for programs to acquire coastal wetlands, natural areas and open spaces; and

(3) consistent with the National Wetlands Priority Conservation Plan developed under section 301 of the Emergency Wetlands Resources Act (16 U.S.C. 3921).

(c) CONDITIONS.—The Secretary of the Interior may only grant or otherwise provide matching moneys from the Wetlands Fund to a coastal state for purposes of carrying out a coastal wetlands conservation project if the grant or provision is subject to terms and conditions that will ensure that any real property interest acquired in whole or in part, or enhanced, managed, or restored with such moneys will be administered for the long-term conservation of such lands and waters and the fish and wildlife dependent thereon. Real property and interests in real property acquired pursuant to this subtitle shall not become part of the National Wildlife Refuge System.

SEC. 116. COST-SHARING.

(a) FEDERAL SHARE.—Grants to coastal states of matching moneys from the Wetlands Fund by the Secretary of the Interior for any fiscal year to carry out coastal wetlands conservation projects shall be used for the payment of not to exceed 50 percent of the total costs of such projects: *Provided, however,* That such matching moneys may be used for payment of not to exceed 75 per centum of the costs of such projects if a coastal state has established a trust fund, from which the principal is not spent, for the purpose of acquiring coastal wetlands, other natural areas or open spaces.

(b) FROM THE STATE SHARE.—The matching moneys required of a coastal state to carry out a coastal wetlands conservation project shall not be derived from a Federal source.

(c) PARTIAL PAYMENTS.—(1) The Secretary of the Interior may from time to time make matching payments to carry our coastal wetlands conservation projects as such projects progress, but such payments including previous payments, if any, shall not be more than the Federal pro rata share of any such project in conformity with subsection (a) of the section.

(2) The Secretary of the Interior may enter into agreements to make matching payments on an initial portion of a coastal wetlands conservation project and to agree to make payments on the remaining Federal share of the cost of such project from subsequent moneys in the Wetlands Fund if and when they become available. The liability of the United States under such an agreement is contingent upon the continued availability of funds for the purpose of this subtitle.

SEC. 117. WETLANDS ASSESSMENT.

Notwithstanding the foregoing sections of this subtitle, $2,500,000 shall be made available by the Secretary of the Interior in fiscal year 1991 to the State of Texas for an assessment of the status, condition and trends of wetlands in that state.

TITLE II—NORTH AMERICAN WETLANDS CONSERVATION

SEC. 201. SHORT TITLE.

This title may be cited as the "North American Wetlands Conservation Act."

SEC. 202. FINDINGS AND STATEMENT OF PURPOSE.

(a) FINDINGS.—The Congress finds and declares that—

(1) the maintenance of healthy populations of migratory birds in North America is dependent on the protection, restoration, and management of wetland ecosystems and other habitats in Canada, as well as in the United States and Mexico;

(2) wetland ecosystems provide essential and significant habitat for fish, shellfish, and other wildlife of commercial, recreational, scientific, and aesthetic values;

(3) almost 35 per centum of all rare, threatened, and endangered species of animals are dependent on wetland ecosystems;

(4) wetland ecosystems provide substantial flood and storm control values and can obviate the need for expensive manmade control measures;

(5) wetland ecosystems make a significant contribution to water availability and quality, recharging groundwater, filtering surface runoff, and providing waste treatment;

(6) wetland ecosystems provide aquatic areas important for recreational and aesthetic purposes;

(7) more than 50 per centum of the original wetlands in the United States alone have been lost;

(8) wetlands destruction, loss of nesting cover, and degradation of migration and wintering habitat have contributed to long-term downward trends in populations of migratory bird species such as pintails, American bitterns, and black ducks;

(9) the migratory bird treaty obligations of the United States with Canada, Mexico, and other countries require protection of wetlands that are used by migratory birds for breeding, wintering, or migration and are needed to achieve and to maintain optimum population levels; distributions, and patterns of migration;

(10) the 1988 amendments to the Fish and Wildlife Conservation Act of 1980 require the Secretary of the Interior to identify conservation measures to assure that nongame migratory bird species do not reach the point at which measures of the Endangered Species Act are necessary;

(11) protection of migratory birds and their habitats requires long-term planning and the close cooperation and coordination of management activities by Canada, Mexico, and the United States within the framework of the 1916 and 1936 Migratory Bird Conventions and the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere;

(12) the North American Waterfowl Management Plan, signed in 1986 by the Minister of Environment for Canada and the Secretary of the Interior for the United States, provides a framework for maintaining and restoring an adequate habitat base to ensure perpetuation of populations of North American waterfowl and other migratory bird species;

(13) a tripartite agreement signed in March 1988 by the Director General for Ecological Conservation of Natural Resources of Mexico, the Director of the Canadian Wildlife Service and the Director of the United States Fish and Wildlife Service provides for expanded cooperative efforts in Mexico to conserve wetlands for migratory birds;

(14) the long-term conservation of migratory birds and habitat for these species will require the coordinated action of governments, private organizations, landowners, and other citizens; and

(15) the treaty obligations of the United States under the Convention on Wetlands of International Importance especially as Waterfowl Habitat requires promotion of conservation and wise use of wetlands.

(b) PURPOSE.—The purposes of this title are to encourage partnership among public agencies and private interests—

(1) to protect, enhance, restore, and manage an appropriate distribution and diversity of wetland ecosystems and other habitats for migratory birds and other fish and wildlife in North America;

(2) to maintain current or improved distributions of migratory bird populations; and

(3) to sustain an abundance of waterfowl and other migratory birds consistent with the goals of the North American Waterfowl Management Plan and the international obligations contained in the migratory bird treaties and conventions and other agreements with Canada, Mexico, and other countries.

SEC. 203. DEFINITIONS.

For the purposes of this title—

(1) The term "Agreement" meant the tripartite agreement signed in March 1988 by the Director General for Ecological Conservation of Natural Resources of Mexico, the Director of the Canadian Wildlife Service and the Director of the United States Fish and Wildlife Service.

(2) The term "appropriate Committees" means the Committee on Environment and Public Works of the United States and the Committee on Merchant Marine and Fisheries of the United States House of Representatives.

(3) The term "flyway" means the four administrative units used by the United States Fish and Wildlife Service and the States in the management of migratory bird populations.

(4) The term "migratory birds" means all wild birds native to North America that are in an unconfined state and that are protected under the Migratory Bird Treaty Act, including ducks, geese, and swans of the family Anatidae, species listed as threatened or endangered under the Endangered Species Act (16 U.S.C. 1531 et seq.), and species defined as nongame under the Fish and Wildlife Conservation Act of 1980 (16 U.S.C. 2901-2912).

(5) The term "Migratory Bird Conservation Commission" means the commission established by section 2 of the Migratory Bird Conservation Act (16 U.S.C. 715a).

(6) The term "Plan" means that North American Waterfowl Management Plan signed by the Minister of the Environment for Canada and the Secretary of the Interior for the United States in May 1986.

(7) The term "Secretary" means the Secretary of the Interior.

(8) The term "State" means the State fish and wildlife agency, which shall be construed to mean any department, or any division of any department of another name, of a State that is empowered under its laws to exercise the functions ordinarily exercised by a State fish and wildlife agency.

(9) The term "wetland conservation project" means—

(A) the obtaining of a real property interest in lands or waters, including water rights, from willing sellers or donors if the obtaining of such interest is subject to terms and conditions that will ensure that the real property will be administered for the long-term conservation of such lands and waters and the migratory birds and other fish and wildlife dependent thereon;

(B) the restoration, management, or enhancement of wetland ecosystems and other habitat for migratory birds and other fish and wildlife species if such restoration, management, or enhancement is conducted on lands and waters that are administered for the long-term conservation of such lands and waters and the migratory birds and other fish and wildlife dependent thereon; and

(C) in the case of projects undertaken in Mexico, includes technical training and development of infrastructure necessary for the conservation and management of wetlands and studies on the sustainable use of wetland resources.

SEC. 204. ESTABLISHMENT OF NORTH AMERICAN WETLANDS CONSERVATION COUNCIL.

(a) COUNCIL MEMBERSHIP.—(1) There shall be established a North American Wetlands Conservation Council which shall consist of the Director of the United States Fish and Wildlife Service and eight other members who may not receive compensation as members of the Council. Of the remaining Council members—

(A) four shall be individuals who shall be appointed by the Secretary, who shall reside in different flyways and who shall each be a State Director;

(B) one shall be the Secretary of the Board of the National Fish and Wildlife Foundation appointed pursuant to section 3(2)(B) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3702); and

(C) three shall be individuals who shall be appointed by the Secretary and who shall each represent a different charitable and nonprofit organization which is actively participating in carrying out the wetlands conservation projects under the Act, the Plan or the Agreement.

(2) The Secretary shall appoint an alternate member of the Council who shall be knowledgeable and experienced in matters relating to fish, wildlife and wetlands conservation and who shall perform the duties of a Council member appointed under subsection (a)(1)(C) of this section—

(A) until a vacancy referred to in subsection (b)(3) of this section is filled; or

(B) in the absence of such a member from any meeting of the Council.

(b) APPOINTMENT AND TERMS.—(1) Except as provided in paragraph (2), the term of office of a member of the Council appointed under Subsection (a)(1)(C) of this section is three years.

(2) Of the Council members first appointed under subsection (a)(1)(C) of this section after the date of enactment of this title, one shall be appointed for a term of one year, one shall be appointed for a term of two years, and one shall be appointed for a term of three years.

(3) Whenever a vacancy occurs among members of the Council appointed under subsection (a)(1)(C) of this section, the Secretary shall appoint an individual in accordance with that subsection for the remainder of the applicable term.

(c) EX OFFICIO COUNCIL MEMBERS.—The Secretary is authorized and encouraged to include as ex officio nonvoting members of the Council representatives of—

(1) the Federal, provincial, territorial, or State government agencies of Canada and Mexico, which are participating actively in carrying out one or more wetland conservation projects under this title, the Plan or the Agreement;

(2) the Environmental Protection Agency and other appropriate Federal agencies, which are participating actively in carrying out one or more wetlands conservation projects under this title, the Plan or the Agreement; and

(3) non-profit charitable organizations and native American interests, including tribal organizations, which are participating actively in one or more wetlands conservation projects under this title, the Plan or the Agreement.

(d) CHAIRMAN.—The Chairman shall be elected by the Council from its members for a three-year term, except that the first elected chairman may serve a term of less than three years.

(e) QUORUM.—A majority of the current membership of the Council shall constitute a quorum for the transaction of business.

(f) MEETINGS.—The Council shall meet at the call of the Chairman at least once a year. Council meetings shall be open to the public. If a Council member appointed under subsection (a)(1)(C) of this section misses three consecutive regularly scheduled meetings, the Secretary may remove that individual in accordance with subsection (b)(3).

(g) COORDINATOR.—The director of the United States Fish and Wildlife Service shall designate an employee of the Service—

(1) who shall be educated and experienced in the principles of fish, wildlife, and wetlands conservation;

(2) who shall be responsible, with assistance from the United States Fish and Wildlife Service, for administration of this title; and

(3) who shall be compensated with the funds available under section 208(a)(1) for administering this title.

SEC. 205. APPROVAL OF WETLANDS CONSERVATION PROJECTS.

(a) CONSIDERATION BY THE COUNCIL.—The Council shall recommend wetlands conservation projects to the Secretary based on consideration of—

(1) the extent to which the wetlands conservation project fulfills the purposes of this title, the goals of the Plan or the Agreement;

(1) the availability of sufficient non-Federal moneys to carry out any wetlands conservation project and to match Federal contributions in accordance with the requirements of section 208(b) of this title;

(2) the extent to which any wetlands conservation project represents a partnership among public agencies and private entities;

(3) the consistency of any wetlands conservation project in the United States with the National Wetlands Priority Conservation Plan developed under section 301 of the Emergency Wetlands Resources Act (16 U.S.C. 3921);

(5) the extent to which any wetlands conservation project would aid the conservation of migratory nongame birds, other fish and wildlife and species that are listed, or are candidates to be listed, as threatened and endangered under the Endangered Species Act (16 U.S.C. 1531 et seq.);

(6) the substantiality of the character and design of the wetlands conservation project; and

(7) the recommendations of any partnerships among public agencies and private entities in Canada, Mexico, or the United States which are participating actively in carrying out one or more wetlands conserva-

tion projects under this title, Plan or the Agreement.

(b) RECOMMENDATIONS TO THE SECRETARY.—The Council shall submit to the Secretary and the appropriate Committees by January 1 of each year, a description, including estimated costs, of the wetlands conservation projects which the Council has considered under subsection (a) of this section and which it recommends, in order of priority, that the Secretary approved for Federal funding under this title and the Act of September 2, 1937 (16 U.S.C. 669b(b)), as amended by this title.

(c) COUNCIL PROCEDURES.—The Council shall establish practices and procedures for the carrying out of its functions under subsections (a) and (b) of this section. The procedures shall include requirements that—

(1) a quorum of the Council must be present before any business may be transacted; and

(2) no recommendations referred to in subsection (b) of this section may be adopted by the Council except by the vote of two-thirds of all members present and voting.

(d) APPROVAL OF COUNCIL RECOMMENDATIONS BY THE SECRETARY.—The Secretary, in consultation with the Migratory Bird Conservation Commission, shall make available the Federal funding provided under this title and section 3(b) of the Act of September 2, 1937 (16 U.S.C. 669b(b)), as amended by this title, for the wetlands conservation projects in the order of priority recommended by the Council unless the Secretary determines, based on review of the factors in subsection (a) of this section, that any such projects should not receive such Federal funding or that the order of priority for such Federal funding of recommended projects should be modified.

(e) NOTIFICATION OF APPROPRIATE COMMITTEES.—The Secretary shall submit annually to the appropriate Committees a report including a list and description of the wetlands conservation projects approved by the Secretary for Federal funding under subsection (d) of this section in order of priority; the amounts and sources of Federal and non-Federal funding for such projects; a justification for the approval of such projects and the order of priority for funding such projects; and a list and description of the wetlands conservation projects which the Council recommended, in order of priority, that the Secretary approve for Federal funding.

SEC. 206. CONDITONS RELATING TO WETLAND CONSERVATION PROJECTS.

(a) PROJECTS IN THE UNITED STATES.—(1) Subject to the allocation requirements of section 208(a) and the limitations on Federal contributions under section 208(b) of this title, the Secretary shall assist in carrying out wetlands conservation projects in the United States, which have been approved under section 205(d) of this title, with the Federal funds made available under sections 207(b) and 207(c) of this title.

(2) Except as provided in paragraph (3), any lands or waters or interests therein acquired in whole or in part by the Secretary with the Federal funds made available under sections 207(b) and 207(c) of this title to carry out wetlands conservation projects shall be included in the National Wildlife Refuge System.

(3) In lieu of including in the National Wildlife Refuge System any lands or waters or interests therein acquired under this title, the Secretary may grant or otherwise provide the Federal funds made available under sections 207(b) and 207(c) of this title or convey without cost to a State, or to another public agency or other entity, any real property interest acquired in whole or in part with the Federal funds made available under sections 207(b) and 207(c) of this title. The Secretary shall not convey any such interest to a State, another public agency or other entity unless the Secretary determines that such State, agency or other entity is committed to undertake the management of the property being transferred in accordance with the objectives of this title, and the deed or other instrument of transfer contains provisions for the reversion of title to the property to the United States if such State, agency or other entity fails to manage the property in accordance with the objectives of this title. Any real property interest conveyed pursuant to this paragraph shall be subject to such terms and conditions that will ensure that the interest will be administered for the long-term conservation and management of the wetland ecosystem and the fish and wildlife dependent thereon.

(b) PROJECTS IN CANADA OR MEXICO.—Subject to the allocation requirements of section 208(a) and the limitations on Federal contributions under section 208(b) of this title, the Secretary shall grant or otherwise provide the Federal funds made available under section 207(b) of this title and section 3(b) of the Act of September 2, 1937 (16 U.S.C. 669b(b)), as amended by section 207(a) of this title, to public agencies and other entities for the purpose of assisting such entities and individuals in carrying out wetlands conservation projects in Canada or Mexico that have been approved under section 205(d) of this title: *Provided,* That the grant recipient shall have been so identified in the project description accompanying the recommendation from the Council and approved by the Secretary. The Secretary may only grant or otherwise provide Federal funds if the grant or provision is subject to terms and conditions that will ensure that any real property interest acquired in whole or in part, or enhanced, managed, or restored with such Federal funds will be administered for the long-term conservation of such lands and waters and the migratory birds and other fish and wildlife dependent thereon. Real property and interests in real property acquired pursuant to this subsection shall not become part of the National Wildlife Refuge System. Acquisitions of real property and interests in real property carried out pursuant to this subsection shall not be subject to any provision of Federal law governing acquisitions of property for inclusion in the National Wildlife Refuge System.

SEC. 207. AMOUNTS AVAILABLE TO CARRY OUT THIS TITLE.

(a) AID IN WILDLIFE RESTORATION.—(1) Section 3 of the Act of September 2, 1973 (16 U.S.C. 669b) is amended—

(A) by inserting "(a)" before "An amount" in the first sentence thereof; and

(B) by adding at the end thereof the following:

"(b)(1) The Secretary of the Treasury shall invest in interest-bearing obligations of the United States such portion of the fund as is not, in the Secretary's judgment, required for meeting a current year's withdrawals. For purposes of such investment, the Secretary of the Treasury may—

"(A) acquire obligations at the issue price and purchase outstanding obligations at the market price; and

"(B) sell obligations held in the fund at the market price.

"(2) The interest on obligations held in the fund—

"(A) shall be credited to the fund;

"(B) constitute the sums available for allocation by the Secretary under section 208(a)(3) of the North American Wetlands Conservation Act; and

"(C) shall become available for apportionment under this Act at the beginning of fiscal year 2006.".

(2) Section 4(a) of the Act of September 2, 1937 (16 U.S.C. 669c(a)) is amended by inserting "(excluding interest accruing under section 3(b))" after "revenues" in the first sentence thereof.

(3) The amendments made by this subsection of this title take effect October 1, 1989.

(b) AUTHORIZATION OF APPROPRIATIONS.—In addition to the amounts made available under subsection (a) of this section, there are authorized to be appropriated to the Department of the Interior for purposes of allocation under section 208(a) of this title not to exceed $15,000,000 for each of fiscal years 1991, 1992, 1993, and 1994.

(c) ADDITIONAL FUNDING.—In addition to the amounts made available under subsections (a) and (b) of this section, the Secretary of the Treasury is authorized and directed to make available to the Secretary an amount equal to 15.0 percent of the total amount deposited in the Wetlands Trust Fund during a given fiscal year for purposes of allocation under section 208(a) of this title: *Provided, however,* That such moneys shall not be made available to carry out projects in Mexico or Canada.

(d) AVAILABILITY OF FUNDS.—Sums made available under this section shall be available until expended.

SEC. 208. ALLOCATION OF AMOUNTS AVAILABLE TO CARRY OUT THIS TITLE.

(a) ALLOCATIONS.—(1) Such amount of the sums available to the Secretary for any fiscal year under sections 207(b) and 207(c) of this title, which can be matched with non-Federal moneys in accordance with the requirements of subsection (b) of this section, as considered necessary by the Secretary (but not more than 4 per centum) is available to defray the costs of administering this title during such fiscal year.

(2) The sums available to the Secretary for any fiscal year from the Wetlands Trust Fund under section 207(c) of this title, which can be matched with non-Federal moneys in accordance with the requirements of subsection (b) of this section, shall be allocated by the Secretary to carry out approved wetlands conservation projects in the United States in accordance with section 206(a) of this title.

(3) The sums available to the Secretary for any fiscal year under section 3(b) of the Act of September 2, 1937 (16 U.S.C. 669b(b)), as amended by section 207(a) of this title, which can be matched with non-Federal moneys in accordance with the requirements of subsection (b) of this section, shall be allocated by the Secretary to carry out approved wetlands conservation projects in Canada and Mexico in accordance with section 206(b) of this title.

(4) Such percentage of the sums available to the Secretary for any fiscal year under section 207(b) of this title (but at least 50 per centum and not more than 70 per centum thereof) which can be matched with non-Federal moneys in accordance with the requirements of subsection (b) of this section, shall be allocated by the Secretary to carry out approved wetlands conservation

projects in Canada and Mexico in accordance with section 206(b) of this title.

(5) Such percentage of the sums available to the Secretary for any fiscal year under section 207(b) of this title (but at least 30 per centum and not more than 50 per centum thereof), which can be matched with non-Federal moneys in accordance with the requirements of subsection (b) of this section, shall be allocated by the Secretary to carry out approved wetlands conservation projects in the United States in accordance with section 206(a) of this title.

(b) FEDERAL CONTRIBUTION FOR PROJECTS.—The Federal moneys allocated under subsection (a) of this section for any fiscal year to carry out approved wetlands conservation projects shall be for the payment of not to exceed 50 per centum of the total United States contribution to the costs of such projects, or many be used for payment of 100 per centum of the costs of such projects located on Federal lands and waters, including the acquisition of inholdings within such lands and waters. The non-Federal share of the United States contribution to the costs of such projects may not be derived from Federal grant programs.

(c) PARTIAL PAYMENTS.—The Secretary may from time to time make payments to carry out approved wetlands conservation projects as such projects progress, but such payments, including previous payments, if any, shall not be more than the Federal pro rata share of any such project in conformity with subsection (b) of this section.

(2) The Secretary may enter into agreements to make payments on an initial portion of an approved wetlands conservation project and to agree to make payments on the remaining Federal share of the costs of such project from subsequent allocations if and when they become available. The liability of the United States under such an agreement is contingent upon the continued availability of funds for the purposes of this title.

SEC. 209. REFUGE REVENUE SHARING.

No payment of any money allocated under sections 208(a)(2) and 208(a)(5) may be made by the Secretary for any fiscal year to acquire lands and waters for inclusion in the National Wildlife Refuge System under this title unless there are appropriated under section 401(d) of the Act of June 15, 1935 (commonly referred to as the "Refuge Revenue Sharing Act;" 16 U.S.C. 715(s)(d), for such fiscal year an amount equal to the difference between the total amount of net receipts and the aggregate amount of payments required to be made for such fiscal year.

SEC. 210. RESTORATION, MANAGEMENT, AND PROTECTION OF WETLANDS AND HABITAT FOR MIGRATORY BIRDS ON FEDERAL LANDS.

The head of each Federal agency responsible for acquiring, managing, or disposing of Federal lands and waters shall, to the extent consistent with the mission of such agency and existing statutory authorities, cooperate with the Director of the United States Fish and Wildlife Service to restore, protect, and enhance the wetland ecosystems and other habitats for migratory birds, fish, and wildlife within the lands and waters of each such agency. In the consideration of land disposal alternatives, the head of each such agency shall give priority to the transfer of real property interests for conservation purposes under would contribute to furtherance of the purposes of this title and the goals of the Plan and the Agreement.

SEC. 211. REPORTS TO CONGRESS.

The Secretary shall report to the appropriate Committees on the implementation of this title. The report shall include:

(a) a biennial assessment of—

(1) the estimated number of acres of wetlands and habitat for waterfowl and other migratory birds that were restored, protected, or enhanced during such two-year period by Federal, State, and local agencies and other entities in the United States, Canada, and Mexico;

(2) trends in the population size and distribution of North American migratory birds; and

(3) the status of efforts to establish agreements with nations in the western hemisphere pursuant to section 217 of this title.

(b) an annual assessment of the status of wetlands conservation projects, including an accounting of expenditures by Federal, State, and other United States entities, and expenditures by Canadian and Mexican sources to carry out these projects.

SEC. 212. REVISIONS TO THE PLAN.

The Secretary shall, in 1991 and at five-year intervals thereafter, undertake with the appropriate officials in Canada to revise the goals and other elements of the Plan in accordance with the information required under section 211 and with the other provisions of this title. The Secretary shall invite appropriate officials of Mexico to participate in any revisions of the Plan made pursuant to this section.

SEC. 213. RELATIONSHIP TO OTHER AUTHORITIES.

(a) ACQUISITION OF LANDS AND WATERS.—Nothing in this title affects, alters, or modifies the Secretary's authorities, responsibilities, obligations, or powers to acquire lands or waters or interests therein under any other statute.

(b) MITIGATION.—The Federal funds made available under this title and section 3(b) of the Act of September 2, 1937 (16 U.S.C. 669b(b)), as amended by this title, may not be used for fish and wildlife mitigation purposes under the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.) or the Water Resources Development Act of 1986 (Public Law 99-662; 100 Stat. 4235).

SEC. 214. TECHNICAL AND CONFORMING AMENDMENTS TO THE MIGRATORY BIRD TREATY ACT.

Section 2 of the Migratory Bird Treaty Act (16 U.S.C. 703) is amended—

(1) by striking "and" after "1936,"; and

(2) by inserting after "1972," the following: "and the convention between the United States and the Union of Soviet Socialist Republics for the conservation of migratory birds and their environment concluded November 19, 1976."

SEC. 215. OTHER AGREEMENTS.

(a) The Secretary shall undertake with the appropriate officials of nations in the western hemisphere to establish agreements, modeled after the Plan or the Agreement, for the protection of migratory birds identified in section 13(a)(5) of the Fish and Wildlife Conservation Act of 1980 (16 U.S.C. 2912(a)). When any such agreements are reached, the Secretary shall make recommendations to the appropriate Committees on legislation necessary to implement the agreements.

(b) Section 13(a) of the Fish and Wildlife Conservation Act (16 U.S.C. 2912(a)) is amended by adding at the end the following:

"(5) identify lands or waters in the United States and other nations in the western hemisphere whose protection, management or acquisition will foster the conservation of species, subspecies and populations of migratory non-game birds, including those identified in paragraph (3).".

TITLE III.—GENERAL PROVISIONS

SEC. 301. ADDITIONAL AUTHORITY FOR THE CORPS OF ENGINEERS.

(a) The Chief of Engineers of the Department of the Army is authorized to carry out projects for the protection, restoration, and creation of vegetated wetlands. In carrying out such projects, the Chief of Engineers shall give such projects equal consideration with projects relating to navigation and flood control.

(b) The Secretary is hereby authorized and directed to study the feasibility of modifying the operation of existing navigation and flood control projects to allow for an increase in the share of Mississippi River flows and sediment sent down the Atchafalaya River for purposes of land building and wetlands nourishment.

By Mr. BENTSEN:

S. 1733. A bill to suspend temporarily the duty on a certain specialty thermoset resin; to the Committee on Finance.

TEMPORARY DUTY SUSPENSION ON A SPECIALTY THERMOSET RESIN

● Mr. BENTSEN. Mr. President, today I introduce a bill to suspend temporarily the duty on a specialty thermoset plastic resin called XU-71787. This bill would suspend through 1992 the current 5.8 percent rate of duty on the importation of XU-71787.

XU-71787 is a highly specialized thermoset resin imported into the United States from Switzerland. It is an experimental resin used in high-speed computer applications and in producing advanced plastic composites for aerospace, sports equipment, industrial, and automotive applications. Experiments are being conducted with this resin for some military applications such as the advanced tactical fighter and advanced tactical aircraft programs.

The manufacture of XU-71787 involves a multistage chemical process. The first stage is performed in the United States, but the remaining stages are carried out in Switzerland because there is no United States chemical manufacturer with the raw materials and processing equipment needed to complete production. The capital investment required to perform the additional stages of processing in the United States would make such production unprofitable at this point, while the product is still in the early stages of market development and product volumes are small. According to an International Trade Commission analysis, there was no domestic production of XU-71787, or any viable substitute, in the years 1984 through 1988.

Duty-free importation of this resin will allow domestic users of the resin to obtain it at a lower cost until domestic production becomes feasible.

Because XU-71787 competes with less than 5 percent of the total plastic resins market in the United States and there is no domestic manufacturer of the resin, temporary duty suspension should be noncontroversial. In addition, temporary duty suspension should cost only approximately $95,000 over the 3-year period it is in effect.

In sum, Mr. President, I believe that this legislation is desirable and noncontroversial, and I urge my colleagues to support it. I ask unanimous consent that a copy of the bill be printed following my remarks.

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

S. 1733

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

SECTION 1. Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new subheading:

"9902.30.07	XU-71787 (hydrocarbon novolac cynate ester) (provided for in subheading) 3911.90.30) ...	Free	No charge	No charge	On or before 12/31/92".

SEC. 2. The amendment made by the first section of this act applies with respect to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this act.●

By Mr. BREAUX:

S. 1734. A bill to regulate interstate commerce with respect to parimutuel wagering on greyhound racing, to maintain the stability of the greyhound racing industry, and for other purposes; to the Committee on Commerce, Science, and Transportation.

INTERSTATE GREYHOUND RACING ACT

● Mr. BREAUX. Mr. President, the bill that I am introducing today, the Interstate Greyhound Racing Act of 1989, will regulate commerce with respect to interstate parimutuel wagering on greyhound racing.

Eleven years ago a similar bill, the Interstate Horse Racing Act of 1978, was considered by the Congress and passed both the Senate and the House by voice vote. This legislation would provide a statutory structure for greyhound racing comparable to that currently provided for horse racing.

Mr. President, this bill does not require that we spend Federal money. It does not create a new agency of government, and it does not legalize off-track betting. The decisions as to whether racing or wagering are to be permitted are left to the States.

This legislation provides that an interstate wager on a greyhound race taking place in one State may not be placed with an off-track betting office in another State without the consent of:

First, the racetrack at which the race is to be run;

Second, the racing commission of the State where the race is to be run; and

Third, the racing commission of the State where the off-track betting choice is located.

Greyhound wagering across State lines will not take place without the agreement of these indispensable parties. State interests in the regulation of racing are protected, as are the interests of greyhound and racetrack owners. A host racetrack must have a written agreement with the greyhound owners' group, specifying the terms and conditions under which the track will consent to an interstate wager with an off-track, out-of-State system. Thus, the proprietary interests of greyhound owners would be protected in the same manner as those of horse owners.

Mr. President, this bill allows the regulation of wagers placed in one State on the outcome of a race taking place in another State. This system would require the concurrence of all the parties involved, including the State racing commissions, the racetracks, the greyhound owners, and the off-track establishments. This system is, Mr. President, one that would prevent abuses and ensure that the interests of all the parties and institutions are properly protected. I urge my colleagues to join me in advancing this worthwhile legislation.●

ADDITIONAL COSPONSORS

S. 89

At the request of Mr. SYMMS, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of S. 89, a bill to delay for 1 year the effective date for section 89 of the Internal Revenue Code of 1986.

S. 346

At the request of Mr. WIRTH, the names of the Senator from Massachusetts [Mr. KENNEDY], the Senator from Maryland [Mr. SARBANES], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from North Dakota [Mr. CONRAD], the Senator from New Jersey [Mr. BRADLEY], the Senator from Washington [Mr. ADAMS], and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of S. 346, a bill to amend the Alaska National Interest Lands Conservation Act, and for other purposes.

S. 619

At the request of Mr. SARBANES, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 619, a bill to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr., in the District of Columbia.

S. 659

At the request of Mr. SYMMS, the name of the Senator from New Mexico [Mr. DOMENICI] was added as a cosponsor of S. 659, a bill to repeal the estate tax inclusion related to valuation freezes.

S. 1081

At the request of Mr. LAUTENBERG, the names of the Senator from Hawaii [Mr. MATSUNAGA] and the Senator from Washington [Mr. ADAMS] were added as cosponsors of S. 1081, a bill to authorize the Secretary of Housing and Urban Development to carry out a cost-effective community-based program for housing rehabilitation and development to serve low- and moderate-income families.

S. 1245

At the request of Mr. MITCHELL, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 1245, a bill to amend the Federal Meat Inspection Act to expand the meat inspection programs of the United States by establishing a comprehensive inspection program to ensure the quality and wholesomeness of all fish products intended for human consumption in the United States, and for other purposes.

S. 1361

At the request of Mr. FOWLER, the name of the Senator from Minnesota [Mr. BOSCHWITZ] was added as a cosponsor of S. 1361, a bill to amend title 38, United States Code, to require that burials be permitted in national cemeteries on weekends and holidays under certain conditions, and for other purposes.

S. 1384

At the request of Mr. DASCHLE, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 1384, a bill to amend title XVIII of the Social Security Act to provide direct reimbursement under part B of Medicare for nurse practitioner or clinical nurse specialist services that are provided in rural areas.

S. 1385

At the request of Mr. LOTT, the name of the Senator from Hawaii [Mr. MATSUNAGA] was added as a cosponsor of S. 1385, a bill to establish a tropical cyclone reconnaissance, surveillance, and research program under the joint control of Secretary of Defense and the Secretary of Commerce.

S. 1399

At the request of Mr. SARBANES, the name of the Senator from Hawaii [Mr. MATSUNAGA] was added as a cosponsor of S. 1399, a bill to improve forest management in urban areas and other communities, and for other purposes.

S. 1560

At the request of Mr. SYMMS, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 1560, a bill to suspend the enforcement of certain regulations relating to underground storage tanks, and for other purposes.

S. 1570

At the request of Mr. PRYOR, the names of the Senator from Wisconsin [Mr. KOHL] and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of S. 1570, a bill to amend the Social Security Act to partially deregulate the collection of fees for the representation of claimant in administrative proceedings.

S. 1571

At the request of Mr. PRYOR, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 1571, a bill to amend the Social Security Act to establish in the Social Security Administration the Office of Chief Administrative Law Judge, and for other purposes.

S. 1618

At the request of Mr. BOSCHWITZ, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 1618, a bill to amend the Internal Revenue Code of 1986 to allow less frequent deposits of payroll taxes for employers of certain lower paid employees.

S. 1626

At the request of Mr. DOMENICI, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 1626, a bill to establish within the Office of Minority Economic Impact the Department of Energy programs involving loans and grants to enhance the development and operation of minority business enterprises with respect to energy related business, to amend the Nuclear Waste Policy Act of 1982 to permit the investment of certain funds in the Minority Bank Deposit Program of the Department of the Treasury, and for other purposes.

S. 1645

At the request of Mr. MCCONNELL, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 1645, a bill to protect the right of workers to choose whether their collective bargaining dues or any other payment required as a condition of employment shall be used for political purposes.

S. 1676

At the request of Mr. PELL, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of S. 1676, a bill to strengthen the teaching profession, and for other purposes.

SENATE JOINT RESOLUTION 177

At the request of Mr. BOND, the names of the Senator from Nebraska [Mr. EXON] and the Senator from Delaware [Mr. ROTH] were added as cosponsors of Senate Joint Resolution 177, a joint resolution designating October 29, 1989, as "Fire Safety At Home—Change Your Clock, Change Your Battery Day."

SENATE JOINT RESOLUTION 190

At the request of Mr. HEINZ, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of Senate Joint Resolution 190, a joint resolution designating April 89, 1990 as "National Former Prisoners of War Recognition Day."

SENATE JOINT RESOLUTION 194

At the request of Mr. LAUTENBERG, the names of the Senator from Alabama [Mr. HEFLIN] and the Senator from Ohio [Mr. GLENN] were added as cosponsors of Senate Joint Resolution 194, a joint resolution designating November 12-18, 1989 as "National Glaucoma Awareness Week."

SENATE JOINT RESOLUTION 204

At the request of Mr. NUNN, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of Senate Joint Resolution 204, a joint resolution designating October 28, 1989, as "National Women Veterans of World War II Day."

SENATE JOINT RESOLUTION 212

At the request of Mr. DOLE, the name of the Senator from Georgia [Mr. NUNN] was withdrawn as a cosponsor of Senate Joint Resolution 212, a joint resolution designating April 24, 1990, as "National Day of Remembrance of the Seventy-Fifth Anniversary of the Armenian Genocide of 1915-1923."

AMENDMENT NO 912

At the request of Mr. NICKLES, his name was added as a cosponsor of amendment No. 912 proposed to S. 1711, a bill to implement the President's 1989 National Drug Control Strategy.

AMENDMENT NO. 952

At the request of Mr. DOLE, the names of the Senator from California [Mr. WILSON], the Senator from New York [Mr. D'AMATO], the Senator from Idaho [Mr. SYMMS], and the Senator from Wyoming [Mr. WALLOP] were added as cosponsors of amendment No. 952 proposed to H.R. 2978, a bill to amend section 700 of title 18, United States Code, to protect the physical integrity of the flag.

SENATE CONCURRENT RESOLUTION 75—CONGRATULATING HIS HOLINESS THE XIV DALAI LAMA OF TIBET FOR BEING AWARDED THE 1989 NOBEL PEACE PRIZE

Mr. PELL (for himself, Mr. HELMS, Mr. MOYNIHAN, Mr. BIDEN, Mr. PRESSLER, Mr. SIMON, Mr. SANFORD, Mr. SARBANES, and Mr. DURENBERGER) submitted the following concurrent resolution which was considered and agreed to:

S. CON. RES. 75

Whereas His Holiness the XIV Dalai Lama of Tibet spiritual mentor to millions of Buddhists throughout the world and the leader of the Tibetan people;

Whereas His Holiness the XIV Dalai Lama of Tibet has persistently promoted justice, offered hope to the oppressed, and upheld the rights and dignity of all men and women regardless of faith, nationality, or political views;

Whereas His Holiness the XIV Dalai Lama is a world leader who has admirably and with dedication advanced the cause of regional and world peace through adherence to the doctrines of nonviolence and universal responsibility;

Whereas His Holiness the XIV Dalai Lama has, through his example, his teachings, and his travels, furthered mutual understanding, respect, and unity among nations and individuals; and

Whereas the Norwegian Nobel Committee has awarded His Holiness the XIV Dalai Lama of Tibet the 1989 Nobel Peace Prize: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress commends His Holiness the Dalai Lama for furthering the just and honorable causes that he has championed, and congratulates him for being awarded the 1989 Nobel Peace Prize.

SENATE RESOLUTION 191—RECOGNIZING THE BICENTENNIAL OF THE AMERICAN MORGAN HORSE

Mr. ROTH (for himself, Mr. LEAHY, Mr. JEFFORDS, Mr. ARMSTRONG, Mr. BOND, Mr. BOSCHWITZ, Mr. CHAFEE, Mr. COATS, Mr. COHEN, Mr. D'AMATO, Mr. DOLE, Mr. DOMENICI, Mr. GARN, Mr. GORTON, Mr. HATCH, Mr. HELMS, Mr. LUGAR, Mr. MACK, Mr. MCCONNELL, Mr. MCCLURE, Mr. PACKWOOD, Mr. SPECTER, Mr. SYMMS, Mr. THURMOND, Mr. WALLOP, Mr. WARNER, Mr. WILSON, Mr. BURNS, Mr. HUMPHREY, Mr. BIDEN, Mr. BOREN, Mr. BRADLEY, Mr. BURDICK, Mr. BRYAN, Mr. CRANSTON, Mr. DECONCINI, Mr. GORE, Mr. HEFLIN, Mr. HOLLINGS, Mr. KERRY, Mr. KERREY, Mr. LAUTENBERG, Mr. LEAHY, Mr. PRYOR, Mr. REID, Mr. SANFORD, Mr. CONRAD, Mr. JOHNSTON, Mr. SASSER, Mr. NUNN, Mr. ADAMS, Mr. KOHL, and Mr. EXON) submitted the following resolution; which was considered and agreed to:

S. RES. 191

Whereas the American Morgan Horse is the only horse perpetuated as a breed by the United States Government at a Government breeding farm for use by the military;

Whereas the American Morgan Horse served in every major American war from the 1800's through the 1940's and should be recognized for its contribution to America like any other war hero;

Whereas the American Morgan Horse served as this country's early American work horse, clearing the land, plowing the fields, and settling the West;

Whereas the American Morgan Horse is the progenitor of America's light horse breeds and was used to contribute to the de-

velopment of the American Saddlebred horse, the Standardbred, and the American Quarterhorse;

Whereas the American Morgan Horse continues to serve the people of this country in a variety of ways including farming, cattle ranching and recreation; and

Whereas the American Morgan Horse provides entertainment and sport to Americans in all 50 States as well as foreign countries by means of trail and endurance rides, carriage driving, showing, dressage, western riding, hunter/jumpers and serving the handicapped riding programs: Now, therefore, be it

Resolved, That the period commencing October 9, 1989, and ending October 15, 1989, is designated as "National Morgan Horse Week", and the President is requested to issue a proclamation calling on the people of the United States to observe such period with appropriate ceremonies and activities.

AMENDMENTS SUBMITTED

IMPLEMENTATION OF PRESIDENT'S DRUG CONTROL STRATEGY

WILSON AMENDMENT NO. 953

(Ordered to lie on the table.)

Mr. WILSON submitted an amendment intended to be proposed by him to the bill (S. 1711) to implement the President's 1989 national drug control strategy, as follows:

At the appropriate place, insert the following new section:

SEC. . (a) STUDY BY THE NATIONAL ACADEMY OF SCIENCES AND THE NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT.

(a) SCOPE OF UNDERTAKING.—The Secretary of Health and Human Services, shall arrange to have a study conducted to—

(1) provide an analysis of the historical development of the problem of infants born drug-exposed due to maternal substance abuse during pregnancy;

(2) determine the number of infants born drug-exposed due to maternal substance abuse during pregancy annually;

(3) determine the impact of maternal substance abuse during pregnancy on infant mortality;

4) assess other costs, including but not limited to, the medical, educational, developmental, social, and fiscal costs associated with the care of infants born drug-exposed due to maternal substance abuse during pregnancy;

(5) quantify the costs identified in paragraph (4) to Federal, state, and local government;

(6) assess the costs associated with providing inpatient residential drug treatment to drug abusing pregnant and postpartum women and their infants, including but not limited to, prenatal and postnatal medical services, drug abuse treatment and education services, crisis counseling services, support group services, parent training services, and child developmental services, such as the Winnie Mandela House in Oakland, California;

(7) project the number of infants expected to be born exposed to maternal substance abuse during pregnancy through the year 1995; and

(8) project the costs, as defined under paragraph (4), of providing care for infants, as described in paragraph (7).

(b) ARRANGEMENTS.—

(1) REQUEST.—The Secretary of Health and Human Services shall request the National Academy of Sciences and the National Institute of Child Health and Human Development to conduct the study required by subsection (a) under an arrangement whereby the actual expenses incurred by such Academy and Institute in conducting such study shall be paid by the Secretary.

(2) UNWILLINGNESS TO ENTER INTO.—If either the National Academy of Sciences or the National Institute of Child Health and Human Development, but not both, decline to participate in the conduct of the study under an arrangement under paragraph (1), the Secretary shall enter into an arrangement similar to that required under such paragraph solely with the Academy or Institute that is willing to conduct such study.

(3) NONPROFIT PRIVATE GROUPS.—If both the National Academy of Sciences or the National Institute of Child Health and Human Development decline to participate in the conduct of the study under an arrangement under paragraph (1), the Secretary shall enter into an arrangement similar to that required under such paragraph with other nonprofit private groups or associations under which such groups or associations shall conduct such study and prepare and submit the report required under subsection (c);

(4) CONSULTATION.—The entity that conducts the study under subsection (a) shall consult with the Director of the National Institutes of Health.

(c) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary of Health and Human Services shall prepare and submit to Congress, a report concerning the results of the study conducted under subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $2,000,000.

NUNN (AND OTHERS) AMENDMENT NO. 954

Mr. NUNN (for himself, Mr. LUGAR, Mr. COHEN, Mr. WARNER, Mr. BIDEN, Mr. DODD, Mr. BYRD, Mrs. KASSEBAUM, Mr. KERRY, Mr. BOREN, Mr. MITCHELL, and Mr. LEVIN) proposed an amendment to amendment No. 924 proposed by Mr. BIDEN to the bill S. 1711, supra, as follows:

In the amendment on page 3, line 4, strike out "(2) submit a report to Congress" and all that follows through the end of the amendment and insert in lieu thereof the following:

(2) submit a report to Congress annually on the manner and extent to which such remedies are being used and the effect of such use in curtailing drug trafficking. The amendments made by this section shall take effect one day after enactment.

SEC. 43. POLICY TOWARD EFFORT TO RESTORE CONSTITUTIONAL GOVERNMENT IN PANAMA.

(a) FINDINGS.—The Congress finds that General Manuel Noriega—

(1) runs one of the most pervasive police states in the Western Hemisphere;

(2) has usurped the power of the legitimate government of Panama;

(3) has undermined the economy of Panama;

(4) has been indicted in the United States for international drug trafficking and money laundering;

(5) is opposed by the overwhelming majority of the Panamanian people;

(6) has lost support of all democratic governments in the Western Hemisphere; and

(7) has, as evidenced by the attempted coup of October 3, 1989, lost significant support within the Panama Defense Forces.

(b) POLICY.—(1) It is the sense of the Congress that the President in his capacity as Chief Executive and Commander-in-Chief has authority under the Constitution and consistent with relevant laws of the United States and treaty commitments of the United States, including the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal and the Inter-American Treaty of Reciprocal Assistance (also known as the "Rio Treaty"), to protect United States citizens and property, to protect and defend the Panama Canal, and to enforce the laws of the United States.

(2) The Congress hereby supports—

(A) the efforts of the President of the United States to restore constitutional government to Panama and to remove General Manuel Noriega from his illegal control of the Republic of Panama.

(B) The President's utilization of the full range of appropriate diplomatic, economic, and the military options in the Republic of Panama; and

(C) the President's authority to exercise, to the fullest extent, the rights and obligations of the United States to protect the Panama Canal and American citizens in Panama pursuant to the Panama Canal treaties which entered into force in 1978.

(3) It is further the sense of the Congress that the President should inform the Congress of the steps he has taken to provide timely assistance for the establishment of a coordinating office for the Panamanian democratic opposition.

GRAMM AMENDMENT NO. 955

Mr. GRAMM proposed an amendment to the bill S. 1711, supra, as follows:

At the appropriate place, insert the following:

Sec. . MANDATORY MINIMUM SENTENCES FOR ADULTS WHO INVOLVE JUVENILES IN OFFENSES.

(a) DISTRIBUTION TO PERSONS UNDER AGE TWENTY-ONE.—Section 405 of the Controlled Substances Act is amended—

(1) in subsection (a) by striking "Except to the extent a greater minimum sentence is otherwise provided by section 401(b) of this title, a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extent a greater minimum sentence is otherwise provided by section 401(b) of this title, a term of imprisonment under this subsection shall be not less than 10 years. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence."; and

(2) in subsection (b) by striking "Except to the extent a greater minimum sentence is otherwise provided by section 401(b) of this title, a term of imprisonment under this subsection shall be not less than one year."

and inserting "Except to the extent a greater minimum sentence is otherwise provided by section 401(b) of this title, a term of imprisonment under this subsection shall be not less than 20 years. Nowithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence.".

(b) EMPLOYMENT OF PERSONS UNDER 18 YEARS OF AGE.—Section 405B of the Controlled Substances Act is amended—

(1) in subsection (b) by striking "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extent a greater minimum sentence is otherwise provided by section 401(b) of this title, a term of imprisonment under this subsection shall be not less than 10 years. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence"; and

(2) in subsection (c) by striking "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extend a greater minimum sentence is otherwise provided by section 401(b) of this title, a term of imprisonment under this subsection shall be not less than 20 years. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence.".

McCONNELL (AND OTHERS) AMENDMENT NO. 956

Mr. McCONNELL (for himself, Mr. KERRY, and Mr. D'AMATO) proposed an amendment to the bill S. 1711, supra, as follows:

At the appropriate place add the following:

GENERAL AUTHORITY

SECTION 1. (a) The purpose of this amendment is to provide Federal drug interdiction agencies with the authority to use necessary and appropriate force to compel airborne drug traffickers to land their aircraft.

(b) Whenever any law enforcement officer of the United States Customs Service, United States Coast Guard, or Drug Enforcement Administration, commanding an aircraft displaying proper identifying insignia, instructs an aircraft to land on the basis of knowledge that the aircraft is transporting illegal narcotics on board, and the aircraft does not land or make preparations to land; then, after observing all appropriate safeguards established under section 2 of this Act, the law enforcement officer is authorized to fire a warning signal; and if the aircraft does not land or prepare to land in response to such warning signal and other previous instructions, the law enforcement officer is authorized to fire into the aircraft.

PROCEDURAL SAFEGUARDS

SEC. 2. (a) The United States Customs Service, United States Coast Guard, and Drug Enforcement Administration are required to adopt regulations to implement section 1 of this Act, providing that neither a warning shot, nor disabling or deadly force, may be used against an aircraft until all of the following safeguards have been met:

(1) public notice has been provided, through the Federal Aviation Adminstration, informing all private aircraft operators entering United States airspace that they are required to obey any instructions from United States law enforcement agents, including instructions to land their aircraft, and that failure to obey such instructions may result in use of force;

(2) such aircraft is flying outside of flight corridors established and maintained by the Federal Aviation Administration, which shall in no case be lower than an altitude of three thousand (3,000) feet, except to provide reasonable access to designated airports and landing strips, and provide for emergency flight conditions;

(3) the airborne law enforcement officer has visually confirmed that such aircraft is engaging in illegal narcotics trafficking;

(4) the airborne law enforcement officer must use all means of communication that are available, internationally recognized, and accepted by the International Civil Aviation Organization, including, but not limited to, radio communications on the international emergency frequencies, rocking of wings, and flashing landing lights, to order such aircraft to land;

(5) if such aircraft fails to comply with such instructions to land, the airborne law enforcement officer must notify his command authority located on the ground of the circumstances and seek permission to fire a warning signal to land;

(6) if such aircraft fails to comply with such instructions to land after a warning signal has been fired, the airborne law enforcement officer must notify his command authority located on ground of the circumstances and seek permission to fire into the aircraft; and

(7) no use of disabling or deadly force shall be permitted while such aircraft is over land, or if the airborne law enforcement officer has reason to believe that, under the circumstances, innocent person would be harmed by the use of disabling or deadly force against such aircraft.

(b) The regulations required by this section shall be promulgated and adopted by the United States Customs Service, United States Coast Guard, and Drug Enforcement Administration not later than January 1, 1990.

(c) No officer of the United States Customs Service, United States Coast Guard, or Drug Enforcement Administration shall be deemed to have the authority provided under section 1 of this Act until the regulations required by this section have been promulgated and adopted.

(d) For the purposes of this section, "airborne law enforcement officer" means an officer in command of an aircraft operated by the United States Customs Service, United States Coast Guard, or Drug Enforcement Administration.

INDEMNIFICATION

SEC. 3. The person commanding an aircraft of the United States Customs Service, United States Coast Guard, or Drug Enforcement Administration, and all other persons acting under such person's direction, shall be indemnified from any penalty or action for damages resulting from the firing at or into any aircraft pursuant to section 1 of this act. If such person or persons are arrested or prosecuted as a result of such firing pursuant to section 1 of this Act, such person or persons shall be forthwith admitted to bail.

REPEAL OF MEDICARE CATASTROPHIC COVERAGE PROVISIONS

WALLOP AMENDMENT NO. 957

(Ordered to lie on the table.)

Mr. WALLOP submitted an amendment intended to be proposed by him to the bill (S. 1726) to repeal Medicare catastrophic coverage provisions effective in years after 1989 and the supplemental Medicare premium, and for other purposes, as follows:

At the end, insert the following

SECTION 1. ELECTION TO RECEIVE CATASTROPHIC COVERAGE BENEFITS.

(a) IN GENERAL.—Title XVIII of the Social Security Act is amended by adding at the end thereof the following new sections.

"ELECTION TO RECEIVE CERTAIN BENEFITS UNDER PARTS A AND B

"SEC. 1893. (a) An individual is described in this section for any period of time in which the individual elects in accordance with subsection (b) to receive the additional benefits under this title established by the amendments made by the Medicare Catastrophic Coverage Act of 1988 and to pay the appropriate monthly catastrophic coverage premium amount under section 1839(g) and (if required for such individual) applicable supplemental premium under section 59B of the Internal Revenue Code of 1986.

"(b) An election made under subsection (a) shall be made under procedures established by the Secretary and (subject to section 1894) shall be effective with respect to any calendar year beginning after the date on which the election is made.

"CONSTRUCTION OF TITLE WITH REGARD TO MEDICARE SUPPLEMENTAL POLICIES

"SEC. 1894. Nothing in this title shall be construed as to prohibit the offering of a medicare supplemental policy which provides benefits that duplicate any benefits provided by any section of this title which is subject to voluntary participation.".

"(b) MODIFICATION OF SUPPLEMENTAL PREMIUM.—Section 59B(b) of the Internal Revenue Code of 1986 (26 U.S.C. 59B(b)) is amended—

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

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

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

"(3) such individual elects in accordance with section 1893(b) of the Social Security Act to pay the appropriate monthly catastrophic coverage premium amount under section 1839(g) of such Act and is otherwise subject to a premium under this subsection and elects to pay such premium in accordance with section 1893(b) of such Act.".

(c) ADJUSTMENT OF MEDICARE PART B BENEFITS.—Section 1839(g) of the Social Security Act (42 U.S.C. 1395r(g)) is amended—

(1) by striking out "the monthly premium for each individual enrolled under this part otherwise determined, without regard to this subsection" in paragraph (1)(A) and inserting in lieu thereof "the monthly premium, otherwise determined without regard to

this subsection, for each individual enrolled under this part and who elects in accordance with section 1893(b) to pay the appropriate monthly catastrophic coverage premium amount under this subsection"; and

(2) by striking out "the monthly premium for each individual enrolled under this part otherwise determined, without regard to this subsection" in paragraph (4)(A) and inserting in lieu thereof "the monthly premium, otherwise determined without regard to this subsection, for each individual enrolled under this part and who elects in accordance with section 1893(b) to pay the appropriate monthly catastrophic coverage premium amount under this subsection";

(d) FUTURE ADJUSTMENT OF PREMIUMS.—The Secretary of Health and Human Services shall report to Congress within 120 days after the date of enactment of this Act with regard to the effect of the amendments made by this section on the financing mechanism for catastrophic coverage benefits established under the Medicare Catastrophic Coverage Act of 1988.

(e) EFFECTIVE DATE.—The amendments made by this section shall become effective with respect to elections under section 1893 of the Social Security Act (as added by subsection (a) of this section) made on or after the date of enactment of this Act.

BIDEN AMENDMENT NO. 958

Mr. BIDEN proposed an amendment to the bill S. 1711, supra, as follows:

On line 3 of the bill, strike "Section" and all that follows through the period on line 4 and insert the following:

CHAPTER .—RURAL DRUG ENFORCEMENT ACT

SECTION . SHORT TITLE.

This Act may be cited as the "Rural Drug Enforcement Act."

SEC. 2. LEADERSHIP ON RURAL DRUG POLICY.

(a) DESIGNATION OF OFFICIAL.—The Director of National Drug Control Policy (hereafter in this chapter referred to as the "Director") shall designate an official in the Office of National Drug Control Policy to act as the Rural Drug Policy Coordinator.

(b) DUTIES OF OFFICIAL.—The Rural Drug Policy Coordinator shall—

(1) examine the special needs of rural areas in drug interdiction;

(2) recommend to the Director policy options for the enhancement of drug interdiction in rural areas;

(3) coordinate the drug interdiction efforts of Federal agencies (including the Drug Enforcement Administration, Bureau of Land Management, the Bureau of Indian Affairs and the National Forest Service) in rural areas; and

(4) make available to law enforcement agencies in rural areas materials pertinent to drug interdiction in rural areas.

SEC. 3. RURAL DRUG ENFORCEMENT ASSISTANCE.

(a) Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding a new section 509 as follows:

"RURAL DRUG ENFORCEMENT ASSISTANCE

"SEC. 509. (a) There is authorized to be appropriated $20,000,000 for fiscal year 1990 and such sums as may be necessary for each of the fiscal years 1991 and 1992.

"(b) Of the total amount appropriated for this section in any fiscal year:

"(1) 50 per centum shall be allocated to and shared equally among rural States as described in subsection (c); and

"(2) 50 per centum shall be allocated to the remaining States for use in non-metropolitan areas within those States, as follows:

"(A) $100,000 to each non-rural State; and

"(B) of the total funds remaining after the allocation in clause (A), there shall be allocated to each State an amount which bears the same ratio to the amount of remaining funds described as the population of such State bears to the population of all States.

"(c) For the purpose of subsections (b) and (c), the term "rural State" means a State that has a population density of 52 or fewer persons per square mile or a State in which the largest county has fewer than 150,000 people.".

(b) Section 503(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)) is amended by:

(1) at the end of paragraph (10) strike the "." and insert in lieu thereof "; and";

(2) inserting a new paragraph (11) as follows:

"(11) A separate and detailed request for a grant under section 509 of this subpart, including how the funds provided by a grant under section 506 shall be coordinated with the funds provided by a grant under section 509.".

SEC. 4. FEDERAL DRUG ENFORCEMENT ASSISTANCE.

(a) In order to provide adequate Federal drug enforcement assistance to each of the several States, and to encourage Federal, State and local drug enforcement cooperation, the Attorney General shall attempt to assign not less than 10 Drug Enforcement Administration special agents to each of the several States.

(b) In order to provide adequate Federal drug enforcement assistance to rural States for any rural State that is currently assigned less than 10 DEA special agents; the Attorney General shall attempt to assign not less than 4 additional Drug Enforcement Administration special agents to each rural State as defined in section 3 of this Act.

SEC. 5. TRAINING FOR RURAL LAW ENFORCEMENT OFFICERS.

(a) IN GENERAL.—The Secretary of the Treasury, acting through the Federal Law Enforcement Training Center, shall develop a drug training program for law enforcement officers in rural areas.

(b) TRAINING.—By no later than September 30, 1991, the Secretary of the Treasury shall double the number of law enforcement officers from rural jurisdictions in each of the several States that receive drug enforcement training.

(c) AUTHORIZATION—There is authorized to be appropriated $1,000,000 for fiscal year 1990 and such sums as may be necessary for each of the fiscal years 1991 and 1992 to carry out the purposes of this Act.

SEC. 1002. BASE ALLOCATION FOR DRUG ENFORCEMENT GRANTS.

(a) AUTHORIZATION.—Paragraph (5) of section 1001(a) of part J of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended to read as follows:

"(5) There are authorized to be appropriated $600,000,000 for fiscal year 1990 and such sums as may be necessary for each of the fiscal years 1991 and 1992 to carry out the programs under parts D and E of this title.".

(b) BASE ALLOCATION.—Section 506(a) of part D of title I of the Omnibus Crime Control and Safe Streets Act (42 U.S.C. 3756(a)) is amended to read as follows:

"(a) Of the total amount appropriated for this part in any fiscal year, the amount remaining after setting aside the amount to be reserved to carry out section 511 of this title shall be set aside for section 502 and allocated to States as follows:

"(1) 0.40 percent shall be allocated to each of the participating States; and

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

(c) MATCHING REQUIREMENTS.—Section 504 of part D of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3754(a)) is amended to read as follows:

"(a) A grant made under this subpart may not be expended for more than 75 percent of the cost of identified uses for which such grant is received to carry out any purpose specified in section 502, except that in the case of funds distributed to an Indian tribe which performs law enforcement functions as determined by the Secretary of the Interior) for any such program or project, the amount of such grant shall be equal to 100 percent of such cost. The non-Federal portion of the expenditures for such uses shall be paid in cash.".

SHORT TITLE

SEC. . (a) This section may be cited as the "Department of Justice Community Substance Abuse Prevention Act of 1989".

(b)(1) COMMUNITY PARTNERSHIPS.—Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end thereof the following:

"Subpart 4—Community Coalitions on Substance Abuse

"GRANTS TO COMBAT SUBSTANCE ABUSE

"SEC. 531. (a) DEFINITION.—As used in this section, the term 'eligible coalition' means an association, consisting of at least seven organizations, agencies, and individuals that are concerned about preventing substance abuse, that shall include—

"(1) public and private organizations and agencies that represent law enforcement, schools, health and social service agencies, and community-based organizations; and

"(2) representatives of 3 of the following groups: the clergy, academia, business, parents, youth, the media, civic and fraternal groups, or other nongovernmental interested parties.

"(b) GRANT PROGRAM.—The Attorney General, acting through the Director of the Bureau of Justice Assistance, shall make grants to eligible coalitions in order to—

"(1) plan and implement comprehensive long-term strategies for substance abuse prevention;

"(2) develop a detailed assessment of existing substance abuse prevention programs and activities to determine community resources and to identify major gaps and barriers in such programs and activities;

"(3) identify and solicit funding sources to enable such programs and activities to become self-sustaining;

"(4) develop a consensus regarding the priorities of a community concerning substance abuse;

"(5) develop a plan to implement such priorities; and

"(6) coordinate substance abuse services and activities, including prevention activi-

ties in the schools or communities and substance abuse treatment programs.

"(c) COMMUNITY PARTICIPATION.—In developing and implementing a substance abuse prevention program, a coalition receiving funds under subsection (b) shall—

"(1) emphasize and encourage substantial voluntary participation in the community, especially among individuals involved with youth such as teachers, coaches, parents, and clergy; and

"(2) emphasize and encourage the involvement of businesses, civic groups, and other community organizations and members.

"(d) APPLICATION.—An eligible coalition shall submit an application to the Attorney General in order to receive a grant under this section. Such application shall—

"(1) describe and, to the extent possible, document the nature and extent of the substance abuse problem, emphasizing who is at risk and specifying which groups of individuals should be targeted for prevention and intervention;

"(2) describe the activities needing financial assistance;

"(3) identify participating agencies, organizations, and individuals;

"(4) identify the agency, organization, or individual that has responsibility for leading the coalition, and provide assurances that such agency, organization or individual has previous substance abuse prevention experience;

"(5) describe a mechanism to evaluate the success of the coalition in developing and carrying out the substance abuse prevention plan referred to in subsection (b)(5) and to report on such plan to the Attorney General on an annual basis; and

"(6) contain such additional information and assurances as the Attorney General may prescribe.

"(e) PRIORITY.—In awarding grants under this section, the Attorney General shall give priority to a community that—

"(1) provides evidence of significant substance abuse;

"(2) proposes a comprehensive and multifaceted approach to eliminating substance abuse;

"(3) encourages the involvement of businesses and community leaders in substance abuse prevention activities;

"(4) demonstrates a commitment and a high priority for preventing substance abuse; and

"(5) demonstrates support from the community and State and local agencies for efforts to eliminate substance abuse.

"(f) REVIEW.—Each coalition receiving money pursuant to the provisions of this section shall submit an annual report to the Attorney General evaluating the effectiveness of the plan described in subsection (b)(5) and containing such additional information as the Attorney General may prescribe. The Attorney General, in conjunction with the Director of the Bureau of Justice Assistance, shall submit an annual review to the Committees on the Judiciary of the United States Senate and United States House of Representatives. Such review shall—

"(1) evaluate the grant program established in this section to determine its effectiveness;

"(2) implement necessary changes to the program that can be done by the Attorney General; and

"(3) recommend any statutory changes that are necessary.

"(g) AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated to carry out the provisions of this section, $15,000,000 for fiscal year 1990, $20,000,000 for fiscal year 1991, and $25,000,000 for fiscal year 1992.".

(2) The table of sections of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end thereof the following:

"SUBPART 4—COMMUNITY COALITION ON SUBSTANCE ABUSE

"Sec. 531. Grants to combat substance abuse.".

At the end of the bill add the following new section:

SEC. . ENHANCED STATE AND LOCAL LAW ENFORCEMENT PROGRAMS.

Section 503(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)) is amended by adding at the end thereof the following new paragraphs:

"(11) A certification that State and local law enforcement agencies, prosecuting attorneys, and courts have in place, or are committed to develop, arrangements, to the extent permitted by law, for—

"(A) the prosecution and sentencing of drug offenders within 100 days after arraignment;

"(B) the use of civil injunctive and other remedies to limit illegal activities; and

"(C) the use of civil and criminal forfeiture proceedings, including—

"(i) authority to seize real property, cash proceeds, cash found in proximity to a criminal enterprise or activity, and substitute assets;

"(ii) civil remission or mitigation and innocent owner protections; and

"(iii) distribution of forfeited proceeds from illegal drug activity evenly between State supply and demand reduction programs (after reimbursement of agencies of the cost of conducting forfeiture proceedings).

"(12) An agreement to report to the Bureau concerning—

"(A) the result of the programs described in paragraph (11); and

"(B) the need for changes in State laws to allow more effective use of the programs described in paragraph (11).".

Subtitle C—Juvenile Justice Anti-Drug Grant Program

SEC. 21. GRANT PROGRAM.

The Juvenile Justice and Delinquency Prevention Act of 1974 is amended in part B by—

(1) inserting after the heading for such part the following:

"Subpart I—General Grant Programs"

; and

(2) adding at the end thereof a new subpart III, as follows:

"Subpart III—Juvenile Drug Trafficking and Prevention Grants

"FORMULA GRANTS

"SEC. 231. (a) The Administrator is authorized to make grants to States and units of general local government or combinations thereof to assist them in planning, establishing, operating, coordinating, and evaluating projects directly or through grants and contracts with public and private agencies for the development of more effective programs to reduce the use and sale of illegal drugs by juveniles, including education, prevention, treatment and enforcement programs.

"(b) The grants made under this section can be used for any of the following specific purposes:

"(1) To reduce the participation of juveniles in drug related crimes (including drug trafficking and drug use), particularly in and around elementary and secondary schools;

"(2) To develop within the juvenile justice system, including the juvenile correction system, new and innovative means to address the problems of juveniles convicted of serious criminal, drug-related and gang-related offenses;

"(3) To reduce juvenile involvement in organized crime drug and gang-related activity, particularly activities that involve the distribution of drugs by or to juveniles;

"(4) To reduce juvenile drug and gang-related activity in public housing projects;

"(5) To provide technical assistance and training to personnel and agencies responsible for the adjudicatory and corrections components of the juvenile justice system to identify drug-dependent juvenile offenders and to provide appropriate counseling and treatment to such offenders;

"(6) To promote the involvement of juveniles in lawful activities, including in-school education and prevention programs and after-school programs;

"(7) To facilitate Federal and State cooperation with local school officials to develop education, prevention and treatment programs for juveniles who are likely to participate in the drug trafficking, drug use of gang-related activities;

"(8) To prevent juvenile drug and gang involvement in public housing projects through programs establishing youth sports and other activities, including girls club, boys club, scout troups and little league.

"(9) To provide pre- and post-trial drug abuse treatment to juveniles in the juvenile justice system; with the highest possible priority to providing drug abuse treatment to drug-dependent pregnant juveniles and drug-dependent juvenile mothers; and

"(10) To provide drug abuse education and prevention involving police and juvenile justice personnel in demand reduction programs.".

"(c) Of the funds made available to each State under this section (Formula Grants) 50 percent of the funds made available to each State in any fiscal year shall be used for juvenile drug supply reduction programs and 50 percent shall be used for juvenile drug demand reduction programs.

"SPECIAL EMPHASIS DRUG DEMAND REDUCTION AND ENFORCEMENT GRANTS

"SEC. 232. (a) The purpose of this section is to provide additional Federal assistance and support to identify promising new juvenile drug demand reduction and enforcement programs, to replicate and demonstrate these programs to serve as national, regional or local models that could reused, in whole or in part, by other public and private juvenile justice programs, and to provide technical assistance and training to public or private organizations to implement similar programs. In making grants under this section, the Administrator shall give priority to programs aimed at juvenile involvement in organized gang- and drug-related activities, including supply and demand reduction programs.

"(b) The Administrator is authorized to make grants to, or enter into contracts with, public or private agencies, institutions, or organizations or individuals to carry out any purpose authorized in section 231. The Administrator shall have final authority over all funds awarded under this subchapter.

"(c) Of the total amount appropriated for this subchapter, 20 per centum shall be reserved and set aside for this section in a special discretionary funds for use by the Administrator to carry out the purposes specified in section 231. Grants made under this section may be made for amounts up to 100 percent of the costs of the programs or projects.

"AUTHORIZATION

"SEC. 233. There is authorized to be appropriated $100,200,000 in fiscal year 1990 and such sums as may be necessary in each of the fiscal years 1991 and 1992 to carry out the purposes of this subpart.

"ALLOCATION OF FUNDS

"SEC. 234. Of the total amounts appropriated under this subpart in any fiscal year to carry out the purposes of section 231 (formula grants) the amount remaining after setting aside the amounts required to be reserved to carry out section 232 (discretionary grants) shall be allocated as follows:

"(1) $400,000 shall be allocated to each of the participating States;

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

"APPLICATION

"SEC. 235. (a) Each State applying for grants under section 231 (Formula Grants) and each public or private entity applying for grants under section 2322 (Discretionary Grants) shall submit an application to the Administrator in such form and containing such information as the Administrator shall prescribe.

"(b) To the extent practical, the Administrator shall prescribe regulations governing applications for this subpart that are substantially similar to the applications required under part I (general juvenile justice formula grant) and part C (special emphasis prevention and treatment grants), including the procedures relating to competition.

"(c) In addition to the requirements prescribed in subsection (b), each State application submitted under section 231 shall include a detailed description of how the funds made available shall be coordinated with Federal assistance provided in parts B and C of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 and by the Bureau of Justice Assistance under the Drug Control and System Improvement Grant program.

"REVIEW AND APPROVAL OF APPLICATIONS

"SEC. 236. The procedures and time limits imposed on the Federal and State governments under sections 505 and 508 respectively, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 relating to the review of applications and distribution of Federal funds shall apply to the review of applications and distribution of funds under this subpart.".

SEC. 22. CONFORMING AMENDMENTS.

(a) Section 291 of title II of the Juvenile Justice Delinquency Prevention Act of 1974 (42 U.S.C. 5671) is amended—

(1) in subsection (a)—

(A) in paragraph (1) by striking "(other than part D)";

(B) and by striking paragraph (2) in its entirety; and

(2) in subsection (b) by striking "(other than part D)".

(b) Part D of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 is hereby repealed.

(c) Part E of title II of such Act is redesignated as part D.

SEC. 2. AMENDMENT RELATING TO JUSTICE ASSISTANCE AND DRUG TESTING.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end of part E (42 U.S.C. 3750-3766b) the following:

HATCH (AND BENTSEN) AMENDMENT NO. 959

Mr. HATCH (for himself and Mr. BENTSEN) proposed an amendment, which was subsequently modified, to the bill S. 1711, supra, as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . AUTHORIZING ADDITIONAL JUDICIAL POSITIONS.

(a)(1) The President shall appoint, by and with the advice and consent of the Senate, two additional circuit judges for the third circuit court of appeals, four additional circuit judges for the fourth circuit court of appeals, one additional circuit judge for the fifth circuit court of appeals, two additional circuit judges for the eighth circuit court of appeals, and two additional circuit judges for the tenth circuit court of appeals.

(2) In order that the table contained in section 44(a) of title 28, United States Code, will, with respect to each judicial circuit, reflect the changes in the total number of permanent circuit judgeship authorized as a result of subsection (a)(1) of this section, such table is amended to read as follows:

"Circuits:	*Number of judges*
District of Columbia	12
First	6
Second	13
Third	14
Fourth	15
Fifth	17
Sixth	15
Seventh	11
Eight	12
Ninth	28
Tenth	12
Eleventh	12
Federal	12".

(b)(1) The President shall appoint, by and with the advice and consent of the Senate, one additional district judge for the western district of Arkansas, two additional district judges for the northern district of California, six additional district judges for the central district of California, two additional district judges for the district of Connecticut, two additional district judges for the middle district of Florida, one additional district judge for the northern district of Illinois, one additional district judge for the southern district of Iowa, one additional district judge for the western district of Louisiana, one additional district judge for the southern district of Mississippi, one additional district judge for the eastern district of Missouri, three additional district judges for the district of New Jersey, one additional district judge for the district of New Mexico, one additional district judge for the southern district of New York, one additional district judge for the eastern district of New York, one additional district judge for the southern district of Ohio, one additional district judge for the northern district of Oklahoma, two additional district judges for the western district of Oklahoma, one additional district judge for the district of Oregon, three additional district judges for the eastern district of Pennsylvania, one additional district judge for the eastern district of Tennessee, one additional district judge for the district of South Carolina, three additional district judges for the southern district of Texas, one additional district judge for the western district of Texas, and one additional district judge for the district of Utah.

(2) The President shall appoint, by and with the advice and consent of the Senate, one additional district judge for the northern district of Alabama, one additional district judge for the eastern district of California, one additional district judge for the district of Hawaii, one additional district judge for the central district of Illinois, one additional district judge for the southern district of Illinois, one additional district judge for the district of Kansas, one additional district judge for the middle district of Louisiana, one additional district judge for the district of Maryland, one additional district judge for the district of Massachusetts, one additional district judge for the western district of Michigan, one additional district judge for the eastern district of Missouri, one additional district judge for the district of Nebraska, one additional district judge for the district of Nevada, one additional district judge for the northern district of New York one additional district judge for the northern district of Ohio, one additional district judge for the southern district of Ohio, one additional district judge for the western district of Oklahoma, one additional district judge for the eastern district of Pennsylvania, one additional district judge for the middle district of Tennessee, one additional district judge for the eastern district of Texas, and one additional district judge for the eastern district of Virginia. The first vacancy in the office of district judge in each of the judicial districts named in this subsection, occurring five years or more after the position for that district authorized by this subsection in first filled, shall not be filled.

(3) The existing district judgeships for the northern district of Illinois, the northern district of Indiana, the district of Massachusetts, the western district of New York, the northern district of Ohio, and the western district of Washington heretofore authorized by section 202(b) of the Bankruptcy Amendments and Federal Judgeship Act of 1984 (Public Law 98-353, 98 Stat. 347-348) shall, as of the effective date of this Act, be authorized under section 133 of title 28 of the United States Code, and the incumbents in those offices shall henceforth hold the office under section 133, as amended by this Act.

(4) The existing two district judgeships for the eastern and western districts of Arkansas, heretofore provided by section 133 of title 28 of the United States Code, shall hereafter be district judgeships for the eastern district of Arkansas only, and the incumbents of such judgeships shall henceforth hold the offices under section 133, as amended by this Act. The existing district judgeship for the northern and southern districts of Iowa, heretofore provided by section 133 of title 28, shall hereafter be a district judgeship for the northern district of Iowa only, and the incumbent of such judgeship shall henceforth hold the office under section 133, as amended by this Act. The existing district judgeship for the northern, eastern, and western districts of

Oklahoma, heretofore provided by section 133 of title 28 and the occupant of which has his official duty station at Oklahoma City on the date of enactment of this Act, shall hereafter be a district judgeship for the western district of Oklahoma only, and the incumbent of such judgeship shall hereafter hold the office under section 133, as amended by this Act.

(5) In order that the table contained in section 133 of title 28, United States Code, will, with respect to each judicial district, reflect the changes in the total number of permanent district judgeships authorized as a result of subsections (b)(1), (b)(3), and (b)(4) of this section, such table is amended to read as follows:

"Districts:	*Number of judges*
Alabama:	
Northern	7
Middle	3
Southern	3
Alaska	3
Arizona	8
Arkansas:	
Eastern	5
Western	2
California:	
Northern	14
Eastern	6
Central	28
Southern	7
Colorado	7
Connecticut	3
Delaware	4
District of Columbia	15
Florida:	
Northern	3
Middle	11
Southern	15
Georgia:	
Northern	11
Middle	3
Southern	3
Hawaii	3
Idaho	2
Illinois:	
Northern	22
Central	3
Southern	3
Indiana:	
Northern	5
Southern	5
Iowa:	
Northern	2
Southern	3
Kansas	5
Kentucky:	
Eastern	4
Western	4
Eastern and Western	1
Louisiana:	
Eastern	13
Middle	2
Western	7
Maine	2
Maryland	10
Massachussetts	12
Michigan:	
Eastern	15
Western	4
Minnesota	7
Mississippi:	
Northern	3
Southern	6
Missouri:	
Eastern	6
Western	5
Eastern and Western	2
Montana	3
Nebraska	3
Nevada	4
New Hampshire	2
New Jersey	17
New Mexico	5
New York:	
Northern	4
Southern	28
Eastern	13
Western	4
North Carolina:	
Eastern	3
Middle	3
Western	3
North Dakota	2
Ohio:	
Northern	11
Southern	8
Oklahoma:	
Northern	3
Eastern	1
Western	7
Northern, Eastern, and Western	1
Oregon	6
Pennsylvania:	
Eastern	22
Middle	5
Western	10
Puerto Rico	7
Rhode Island	3
South Carolina	8
South Dakota	3
Tennessee:	
Eastern	3
Middle	3
Western	4
Texas:	
Northern	10
Southern	16
Eastern	6
Western	8
Utah	4
Vermont	2
Virginia:	
Eastern	9
Western	4
Washington:	
Eastern	3
Western	7
West Virginia:	
Northern	2
Southern	4
Wisconsin:	
Eastern	4
Western	2
Wyoming	2".

(c)(1) The President shall appoint, by and with the advice and consent of the Senate, one additional judge for the District Court of the Virgin Islands, who shall hold office for a term of 10 years and until a successor is chosen and qualified, unless sooner removed by the President for cause.

(2) In order to reflect the change in the total number of permanent judgeships authorized as a result of subsection (c)(1) of this section, section 24(a) of the Revised Organic Act of the Virgin Islands, Chapter 558, 68 Stat. 506, as amended (48 U.S.C. § 1614(A)), is further amended by striking out "two" and inserting in lieu thereof "three".

(d) This Act shall take effect on the date of enactment of this Act.

(e) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

BIDEN AMENDMENT NO 960

Mr. BIDEN proposed an amendment to amendment No. 959 proposed by Mr. HATCH to the bill S. 1711, supra, as follows:

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

(a) UNITED STATES DISTRICT COURT JUDGES.—(1) In accordance with the provisions of paragraph (2), the President shall appoint, by and with the advice and consent of the Senate, 20 district judges in addition to those appointed pursuant to section 133 of title 28, United States Code.

(2) Prior to the appointment of any judge pursuant to paragraph (1), the number and locations of such judges among the several judicial districts shall be established by law after consideration, by the Congress, of the recommendations of the Judicial Conference of the United States submitted pursuant to subsection (b).

(b) JUDICIAL CONFERENCE.—The Judicial Conference of the United States shall prepare a report evaluating the impact of drug-related criminal activity on the Federal district courts. Such report shall contain recommendations as to how the additional United States District Court judges should be allocated based on criminal drug-related felony filings per judgeship in each district. The report shall be transmitted to the Committees on the Judiciary of the United States Senate and the House of Representatives not later than 120 days after the date of enactment of this section.

CRANSTON (AND OTHERS) AMENDMENT NO. 961

Mr. CRANSTON (for himself, Mr. HARKIN, Mr. KOHL, Mr. DECONCINI, Mr. KENNEDY, and Mr. LEAHY) proposed an amendment to the bill S. 1711, supra, as follows:

At the appropriate place, insert the following new section:

SEC. . COMPREHENSIVE COMMUNITY SUBSTANCE ABUSE PREVENTION PROGRAMS.

(a) FINDINGS AND PURPOSE.—

(1) FINDINGS.—Congress finds that—

(A) preventing substance abuse is the key to reducing the demand for illegal drugs and stopping the drug epidemic;

(B) substance abuse prevention activities have been seriously ignored and underfunded;

(C) successful prevention efforts require the involvement of all segments of the community including those in leadership positions and other concerned individuals and organizations on the grassroots level;

(D) many communities lack the tools, resources, and knowledge to mount an effective and comprehensive substance abuse prevention program; and

(E) the Federal Government should be a partner with local and State governments and community organizations in an effort to prevent substance abuse.

(2) PURPOSE.—It is the purpose of this section to assist communities in planning, developing, and implementing long-term comprehensive substance abuse prevention strategies and programs—

(A) by developing communicative and cooperative relationships between various organizations, agencies, businesses, clergy, schools, parents, youth, and interested citizens regarding substance abuse prevention activities; and

(B) by assisting communities in training individuals in methods of planning, developing, and implementing substance abuse prevention and intervention programs and activities.

(b) COMMUNITY PARTNERSHIPS.—Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) as amended, is amended by adding at the end thereof the following new sections:

"SEC. 509H. COMMUNITY COALITIONS ON SUBSTANCE ABUSE.

"(a) DEFINITION.—As used in this section, the term 'eligible coalition' means an association, consisting of at least seven organizations, agencies, and individuals that are concerned about preventing substance abuse, that shall include—

"(1) public and private organizations and agencies that represent law enforcement, schools, health and social service agencies, community-based organizations, and substance abuse prevention specialists; and

"(2) at least three representatives of the clergy, academia, business, parents, youth, the media, civic and fraternal groups, or other nongovernmental interested parties.

"(b) GRANT PROGRAM.—The Secretary, acting through the Director of the Office, shall make grants to eligible coalitions in order to—

"(1) plan a comprehensive long-term program for substance abuse prevention;

"(2) implementing such substance abuse prevention program, including the development of materials, public awareness campaigns, and community events;

"(3) develop a detailed assessment of existing substance abuse prevention programs and activities to determine community resources and to identify major gaps and barriers in such programs and activities;

"(4) identify and solicit funding sources to enable such programs and activities to become self-sustaining;

"(5) develop and implement a consensus regarding the priorities of a community concerning substance abuse;

"(6) provide outreach prevention services to target populations; and

"(7) coordinate substance abuse services and activities, including establishing referral linkages, between prevention activities in the schools and communities and substance abuse treatment programs.

"(c) COMMUNITY PARTICIPATION.—In developing and implementing a substance abuse prevention program, a coalition receiving funds under paragraph (1) shall—

"(1) emphasize and encourage substantial voluntary participation in the community, especially among individuals involved with youth such as teachers, coaches, parents, and clergy; and

"(2) emphasize and encouraging the involvement of businesses, civic groups, and other community organizations and members.

"(d) APPLICATION.—An eligible coalition shall submit an application to the Secretary in order to receive a grant under this section, such application shall—

"(1) describe and, to the extent possible, document the nature and extent of the substance abuse problem including any identifiable target groups;

"(2) describe the activities and services needing financial assistance;

"(3) describe the substance abuse prevention plan;

"(4) identify participating agencies, organizations, and individuals;

"(5) identify the agency, organization, or individual that has responsibility for leading the coalition and provide assurances that such agency, organization or individual has previous substance abuse prevention experience;

"(6) describe a mechanism to evaluate the success of the coalition in developing and carrying out the substance abuse prevention plan referred to in subsection (b)(5); and

"(7) contain such additional information and assurances as the Secretary may prescribe.

"(e) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to a community that—

"(1) provides evidence of significant substance abuse;

"(2) proposes a comprehensive and multifaceted approach to preventing substance abuse;

"(3) encourages the involvement of businesses and community leaders in substance abuse prevention activities;

"(4) demonstrates a commitment and a high priority for preventing substance abuse; and

"(5) demonstrates support from the community and State and local agencies for efforts to eliminate substance abuse.

"(f) EVALUATION.—The Director shall establish a mechanism to evaluate the effectiveness of community coalitions established under this section in preventing substance abuse and to disseminate the results of such evaluations to community coalitions.

"(g) AUTHORIZATION OF APPROPRIATION.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $60,000,000 for fiscal year 1990, $70,000,000 for fiscal year 1991, and $80,000,000 for fiscal year 1992.

"(2) SIZE OF COMMUNITIES.—The Secretary shall allocate at least 35 percent of the amount appropriated under paragraph (1) for a fiscal year to communities, with populations of no more than 250,000 individuals, that have made substance abuse prevention a high priority, as determined by the Secretary.

"SEC. 509. SUBSTANCE ABUSE PREVENTION TRAINING.

"(a) ESTABLISHMENT.—The Secretary, acting through the Director of the Office, shall establish a National Substance Abuse Prevention Training Program (hereinafter in this section referred to as the 'Program').

"(b) PROGRAM DIRECTOR.—The Progam shall be headed by a Director who has extensive experience in substance abuse prevention (hereinafter in this section referred to as the 'Program Director').

"(c) DUTIES.—The Program Director shall—

"(1) develop a substance abuse prevention training curriculum for community groups in organizing development, program operation, prevention concepts, and models;

"(2) provide technical assistance and support for community training on substance abuse prevention, including organizing the community, developing skills, and establishing program goals;

"(3) provide technical assistance and support for advanced prevention and intervention training for the community organizating staff and State and local substance abuse agency staff;

"(4) develop specific training modules for problem areas such as substance abuse, teen pregnancy, and acquired immune deficiency syndrome and for professional groups that work with children and adolescents, such as juvenile court judges, pediatricians, coaches, and counselors;

"(5) provide substance abuse prevention outreach and support to communities with substantial minority populations through workshops and collaborative initiatives with organizations serving such populations;

"(6) disseminate successful curricula and training practices in substance abuse prevention in communities through involvement with parents, civic groups, members of the business community, clergy, law enforcement representatives, and community leaders; and

"(7) evaluate the appropriateness and effectiveness of substance abuse prevention training.

"(d) AUTHORIZATION.—There are authorized to be appropriated to carry out this section $15,000,000 for each of the fiscal years 1990 through 1992.

"SEC. 509J. SPECIALIZED TRAINING PROGRAM.

"(a) GRANT PROGRAM.—The Secretary, acting through the Director of the Office, shall make grants to States, local agencies, and community organizations in order to—

"(1) provide substance abuse prevention training to representatives of such organizations and agencies;

"(2) provide substance abuse prevention training to parents, teachers, clergy, the business community, and civic groups;

"(3) coordinate with other community resources and programs; and

"(4) provide specialized training programs for professional groups that work with children and adolescents, or that are targeted to specific population groups.

"(b) AUTHORIZATION.—There are authorized to be appropriated to carry out this section $20,000,000 for each of the fiscal years 1990 through 1992.".

"(c) OFFICE FOR SUBSTANCE ABUSE PREVENTION.—Section 508(d)(2) of the Public Health Service Act (42 U.S.C. 290aaa(d)(2)) is amended by striking out "$5,300,000" and inserting in lieu thereof "$4,000,000".

THURMOND AMENDMENT NO. 962

Mr. THURMOND proposed an amendment to the bill S. 1711, supra, as follows:

At the appropriate place add the following:

CHARTER

SECTION 1. The 82nd Airborne Division Association, Incorporated, a nonprofit corporation organized under the laws of the State of Illinois, is recognized as such and is granted a Federal charter.

POWERS

SEC. 2. The 82nd Airborne Division Association, Incorporated, (hereinafter in this Act referred to as the "corporation") shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State or States in which it is incorporated and subject to the laws of such State or States.

OBJECTS AND PURPOSES OF CORPORATION

SEC. 3. The objects and purposes of the corporation are those provided in its articles of incorporation and shall include—

(1) perpetuating the memory of members of the 82nd Airborne Division who fought and died for our Nation,

(2) furthering the common bond between retired and active members of the 82nd Airborne Division,

(3) providing educational assistance in the form of college scholarships and grants to the qualified children of current and former members,

(4) promoting civic and patriotic activities, and

(5) promoting the indispensable role of airborne defense in our national security.

SERVICE OF PROCESS

SEC. 4. With respect to service of process, the corporation shall comply with the laws of the State or States in which it is incorporated and the State or States in which it

carries on its activities in furtherance of its corporate purposes.

MEMBERSHIP

SEC. 5. (a) Subject to subsection (b), eligibility for membership in the corporation and the rights and privileges of members of the corporation shall be as provided in the constitution and bylaws of the corporation.

(b) Terms of membership and requirements for holding office within the corporation shall not discriminate on the basis of race, color, national origin, sex, religion, or handicapped status.

BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES

SEC. 6. The composition of the board of directors of the corporation and the responsibilities of such board shall be as provided in the articles of incorporation of the corporation and shall be in conformity with the laws of the State or States in which it is incorporated.

OFFICERS OF CORPORATION

SEC. 7. The positions of officers of the corporation and the election of members to such positions shall be as provided in the articles of incorporation of the corporation and shall be in conformity with the laws of the State or States in which it is incorporated.

RESTRICTIONS

SEC. 8. (a) No part of the income or assets of the corporation may insure to the benefit of any member, officer, or director of the corporation or be distributed to any such individual during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers of the corporation or reimbursement for actual and necessary expenses in amounts approved by the board of directors.

(b) The corporation may not make any loan to any officer, director, or employee of the corporation.

(c) The corporation and any officer and director of the corporation, acting as such officer or director, shall not contribute to, support or otherwise participate in any political activity or in any manner attempt to influence legislation.

(d) The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

(e) The corporation shall not claim congressional approval or Federal Government authority for any of its activities.

LIABILITY

SEC. 9. The corporation shall be liable for the acts of its officers and agents whenever such officers and agents have acted within the scope of their authority.

BOOKS AND RECORDS; INSPECTION

SEC. 10. The corporation shall keep correct and complete books and records of account and minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors. The corporation shall keep, at its principal office, a record of the names and addresses of all members having the right to vote in any proceeding of the corporation. All books and records of such corporation may be inspected by any member having the right to vote in any corporation proceeding, or by any agent or attorney of such member, for any proper purpose at any reasonable time. Nothing in this section shall be construed to contravene any applicable State law.

AUDIT OF FINANCIAL TRANSACTIONS

SEC. 11. The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law," approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end thereof the following:

"(74) 82nd Airborne Division Association, Incorporated".

ANNUAL REPORT

SEC. 12. The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be summitted at the same as the report of the audit of the corporation required by section 2 of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101). The report shall not be printed as a public document.

RESERVATION OF RIGHT TO AMEND, ALTER, OR REPEAL CHARTER

SEC. 13. The right to amend, alter, or repeal this Act is expressly reserved to the Congress.

DEFINITION OF STATE

SEC. 14. For purposes of this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States.

TAX-EXEMPT STATUS

SEC. 15. The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1986.

TERMINATION

SEC. 16. If the corporation fails to comply with any of the restrictions or provisions of this Act, the charter granted by this Act shall expire.

HATCH AMENDMENT NO. 963

Mr. HATCH proposed an amendment to amendment No. 961 proposed by Mr. CRANSTON (and others) to the bill S. 1711, supra, as follows:

In lieu of the matter proposed to be inserted, insert the following: Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) as amended is amended by adding at the end thereof the following new section:

SEC. 509H. COMMUNITY COALITIONS ON SUBSTANCE ABUSE.

(a) The Director of the Office of Substance Abuse shall develop model programs for community prevention activities.

(b) The Director of the Office of Substance Abuse Prevention shall provide assistance to coalitions consisting of public and private organizations and agencies that represent law enforcement, schools, health and social service agencies, community-based organizations and substance abuse prevention specialists and including representatives from among the following: Clergy, academia, business, parents, youth, the media, civic and fraternal groups, or other nongovernmental interested parties in order to develop and implement comprehensive substance abuse programs.

(c) The Director shall establish a mechanism to evaluate the effectiveness of community coalitions established under subsection (b) in preventing substance abuse and to disseminate the results of such evaluations to community coalitions.

(d) The Director shall develop a substance abuse prevention training curriculum for community coalitions and shall provide technical assistance, and support for community training on substance abuse prevention.

STEVENS AMENDMENT NO. 964

Mr. HATCH (for Mr. STEVENS) proposed an amendment to the bill S. 1711, supra; as follows:

On page 1, line 8, strike "(21 U.S.C. 802(6))," and insert "(21 U.S.C. 802(6)) except when authorized under the Controlled Substances Act".

On page 1, line 10, strike "the second undesignated paragraph of subsection (h)" and insert "the first undesignated paragraph following subsection (i)".

HATCH AMENDMENT NO. 965

Mr. HATCH proposed an amendment to the bill S. 1711, supra, as follows:

At the appropriate place, insert the following new section:

MILITARY INTERDICTION EDUCATION PROGRAM

SEC. (a) PROGRAM REQUIRED.—The Secretary of Defense or his designee, shall provide that instruction on the military role in drug interdiction will be established for all senior officer personnel in the Armed Forces of the United States at basic, intermediate and advanced military educational facilities, to be selected at the discretion of the Secretary of Defense.

(b) PROGRAM CONTENT.—Instruction at such facilities shall include, but shall not be limited to the following topics:

(1) The nature of the threat posed to the national security of the United States by drug trafficking.

(2) Posse comitatus and other legal and constitutional restrictions on the participation of military personnel in law enforcement activities.

(3) The national drug control strategy of the United States and the U.S. Government organizations mandated to implement it.

(4) The history of U.S. Armed Forces' participation in drug interdiction, to include the types of assistance and equipment generally employed by DOD for such purposes.

(5) Other instruction, as appropriate, tailored to the specific mission, roles, organization, an functions of the military service providing such instruction.

(6) The Director of the Office of National Drug Control Policy is further directed to coordinate with the Secretaries of Defense, State, Commerce, Transportation and Treasury, and with the Attorney General in establishing at the National Defense University a program designed to foster interagency cooperation on drug interdiction matters, emphasizing joint and combined operations between and among the participating agencies and the military services.

(c) REPORTING REQUIREMENTS.—The Secretary of Defense will submit to Congress not later than December 14, 1990, a report to the President on the value and status of such training, along with recommendations appropriate to the future value of interagency cooperation and education on drug interdiction activities involving the use of military assistance.

BINGAMAN (AND DANFORTH) AMENDMENT NO. 966

Mr. HATCH (for Mr. BINGAMAN, for himself and Mr. DANFORTH) proposed an amendment to the bill S. 1711, supra, as follows:

Amend section 1212 of the Higher Education Act of 1965 as follows:

(1) In subsection (a), strike "of Law," and insert in lieu thereof "of law, except as provided in subsection (c),"

(2) In subsection (a), strike "and has implemented" and insert in lieu thereof "a plan with a timetable to implement"

(3) Strike sections 1212(a) (2), (3), and (4) and insert in lieu thereof the following:

"(2) a policy that restricts distribution on campus of any promotional material that encourages consumption of alcoholic beverages by persons under the state's legal drinking age;

"(3) In the case of the financing, sponsoring, or supporting of any athletic, musical, cultural or social program, event, or competition of such institution by any alcoholic beverage company or industry, the acknowledgement of such financing, sponsorship, or support in promotional material shall be limited to statements of corporate identification;

"(4) a policy that encourages such institution's newspapers and other publications to reject advertisements promoting irresponsible or illegal consumption of alcoholic beverages;"

(4) Add a new subsection (c) to read as follows:

"(c) Upon application by an institution of higher education, the Secretary shall grant a waiver of the sanctions authorized by this section to any institution of higher education which demonstrates that it is in the process of developing and implementing a plan required by subsection (a), for up to one year from the date of enactment of this section."

D'AMATO (AND OTHERS) AMENDMENT NO. 967

Mr. HATCH (for Mr. D'AMATO, for himself, Mr. DECONCINI, Mr. DOMENICI, Mr. GRAHAM, and Mr. WILSON) proposed an amendment to the bill S. 1711, supra, as follows:

At the appropriate place, insert the following:

SEC. . STATEMENT OF CONGRESSIONAL FINDINGS.

(a) FINDINGS.—The Congress finds that—

(1) this Nation is engulfed in an epidemic of drug abuse that is threatening our country's productivity and, in particular, the minds and future of our youngest citizens;

(2) there is an urgent need to interrupt drug-related criminal activities and behavior of our youth through instilling discipline, self-respect, literacy, social and vocational skills, and a personal commitment to family values and the community;

(3) the proposals for addressing that need contained in a National Institute of Justice paper, entitled "About Face: Civil-Military Youth Leadership Program for the District of Columbia" needs to be evaluated by the Office of National Drug Control Policy; and

(4) said paper proposes applying the positive aspects of basic military training, which reinforces and encourages discipline, responsibility and teamwork. It also proposes a program to improve literacy and vocational skills of program participants in ways that lead to real career opportunities for participants returning to their community after their participation in the program.

SEC. . STUDY ON THE FEASIBILITY OF A CIVIL-MILITARY YOUTH LEADERSHIP PROGRAM.

(a) REPORT TO THE CONGRESS.—Not later than February 1, 1990, the Director of National Drug Control Policy shall submit a report to the Congress containing:

(1) an evaluation of the Department of Justice, National Institute of Justice concept paper entitled "About Face: Civil-Military Youth Leadership Program for the District of Columbia" (hereinafter referred to as the "Program");

(2) the feasibility of implementing the Program; and

(3) the feasibility of implementing the Program as a five-city pilot project.

KOHL AMENDMENT NO. 968

Mr. HATCH (for Mr. KOHL, for himself, Mr. DECONCINI, Mr. D'AMATO, Mr. KERRY, Mr. GRAHAM, and Mr. SIMON) proposed an amendment to the bill S. 1711, supra, as follows:

Section 511 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking "application." and inserting in lieu thereof: "application: *Provided,* That not less than $3,000,000 shall be used for—

"(1) providing or arranging for the provision of intervention services for female inmates, including—

"(A) substance abuse and addiction treatment services, with priority given to discrete treatment units which provide detoxification if necessary, comprehensive substance abuse education, the development of individualized treatment plans, individual and group counseling, and ongoing access to self-help groups;

"(B) support services (such as counseling to address family violence and sexual assault);

"(C) life skills training (such as parenting and child development classses);

"(D) education services (such as literacy and vocational training); and

"(E) after care services; and

"(2) providing or arranging for the provision of ancillary social services and such other assistance that will ensure that women can maintain contact with their children and their children will receive age appropriate substance abuse education and counseling."

SIMON AMENDMENT NO. 969

Mr. HATCH (for Mr. SIMON) proposed an amendment to the bill S. 1711, supra, as follows:

At the appropriate place, insert the following:

SEC. . FEDERAL PRISONER DRUG TESTING ACT OF 1989.

(a) SHORT TITLE.—This section may be cited as the "Federal Prisoner Drug Testing Act of 1989".

(b) CONDITIONS ON PAROLE.—Section 4209(a) of title 18, United States Code, is amended by inserting after the first sentence the following: "In every case, the Commission shall also impose as a condition of parole that the parolee pass a drug test prior to paroled release and refrain from any unlawful use of a controlled substance and submit to at least 2 periodic drug tests (as determined by the Commission) for use of a controlled substance during the period of paroled release.".

(c) This provision takes effect six months after enactment.

KOHL AMENDMENT NO. 970

Mr. HATCH (for Mr. KOHL, for himself and Mr. HEFLIN) proposed two amendments to the bill S. 1711, supra, as follows:

At the appropriate place insert the following:

SEC. (a)(1) Actions specified in subsection (b) shall be exempt from the antitrust laws of the United States.

(2) For purposes of this section—

(A) "antirust laws" has the meaning given such term in the first section of the Clayton Act (15 U.S.C. 12), and shall also include section 5 of the Federal Trade Commission Act (15 U.S.C. 45);

(B) "person in the television industry" means a television network, any entity which produces programming for television distribution, including theatrical motion pictures, the National Cable Television Association, the Association of Independent Televison Stations, Inc., the National Association of Broadcasters, the Motion Picture Association of America, and each of the networks' affiliate organizations, and shall include any individual acting on behalf of such person; and

(C) "telecast" means any program broadcast by a television broadcast station or transmitted by a cable television system.

(b) The antitrust laws shall not apply to any joint discussion, consideration, review, action, or agreement by or among persons in the television industry for the purpose of, and limited to, developing and disseminating voluntary guidelines designed to alleviate any negative impact of illegal drug use in telecast material.

(c)(1) The exemption provided in subsection (b) shall not apply to any joint discussion, consideration, review, action, or agreement which results in a boycott of any person.

(2) The exemption provided in subsection (b) shall apply only to activities conducted within 36 months after the date of enactment of this section.

KOHL (AND OTHERS) AMENDMENT NO. 971

Mr. HATCH (for Mr. KOHL, for himself, Mr. SIMON, and Mr. KENNEDY) proposed an amendment to the bill S. 1711, supra, as follows:

At the appropriate place, insert the following new section:

SEC. . STUDY OF FAMILY ASSISTANCE, CHILD WELFARE AND YOUTH SOCIAL SERVICE PROGRAMS.

(a) IN GENERAL.—The Secretary of Health and Human Services, acting through the National Academy of Sciences, shall conduct a study consisting of a comprehensive review and examination of the child welfare and youth social service programs administered or operated within the Office of Human Development Services and the family assistance programs administered or operated within the Family Support Administration.

(b) CONTENTS OF STUDY.—The study shall include—

(1) an assessment of the current content and organization of programs and data col-

lection activities, including the relationship of local, State, and Federal government efforts, to protect children and youth and support families;

(2) an identification of the gaps and deficiencies in the activities described in paragraph (1);

(3) a review of the available options for improving the structure and delivery of services and collection of data concerning the activities described in paragraph (1); and

(4) an examination—

(A) of the current array and alignment of programs that addresses the special needs of children with substance abusing parents, children with disabilities and chronic diseases, including HIV infection, and children without adequate housing; and

(B) of new related programs and activities, such as health care and juvenile justice programs, interact with social service and family assistance programs.

(c) REPORT.—Not later than 6 months after the completion of the study required under subsection (a), the Secretary of Health and Human Services shall prepare and submit, to the appropriate Committees of Congress, a report concerning the results of such study, including a response by the Secretary to the report and the recommendations of the Secretary.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $1,000,000.

GRAHAM (AND D'AMATO) AMENDMENT NOS. 972 AND 973

Mr. HATCH (for Mr. GRAHAM, for himself and Mr. D'AMATO) proposed two amendments to the bill S. 1711, supra, as follows:

AMENDMENT No. 972

At the appropriate place, insert the following:

SEC. . DEPORTED AGGRAVATED FELONS REENTERING THE UNITED STATES.

Pursuant to its authority under section 994(p) of title 28, United States Code, and section 21 of the Sentencing Act of 1987, the United States Sentencing Commission shall promulgate guidelines, or shall amend existing guidelines, to provide that a defendant convicted of violating section 276(b)(2) of the Immigration and Nationality Act (8 U.S.C. 276(b)(2) of the Immigration and Nationality Act (8 U.S.C. 1326) shall be assigned an offense level under chapter 2 of the sentencing guidelines that constitutes a meaningful deterrence to the commission of such offense.

AMENDMENT No. 973

At the appropriate place in the bill, insert the following:

SEC. . AMENDMENTS TO THE IMMIGRATION AND NATIONALITY ACT.

(a) IN GENERAL.—Except as otherwise specifically provided in this section, whenever in this section an amendment is expressed as an amendment to a provision, the reference shall be deemed to be made to the Immigration and Nationality Act.

(b) DEFINITION OF GOOD MORAL CHARACTER.—Section 101(f) of the Immigration and Nationality Act is amended—

(1) by striking out the period at the end of paragraph (8) and inserting in lieu thereof "; or"; and

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

"(9) one who has been convicted of an aggravated felony, as defined in subsection (a)(43).".

(c) BAR ON REENTRY OF ALIENS CONVICTED OF AGGRAVATED FELONIES.—Section 212(a)(17) (8 U.S.C. 1182(a)(17)) is amended by striking out "or within ten years" and inserting in lieu thereof "or at anytime thereafter".

(d) CUSTODY PENDING DETERMINATION OF EXCLUDABILITY.—Section 236 (8 U.S.C. 1226) is amended by adding at the end thereof the following new subsection:

"(e) Pending a determination of excludability, the Attorney General shall take into custody an alien convicted of an aggravated felony upon completion of the alien's sentence for such conviction. Notwithstanding any other provision of this section, the Attorney General shall not release such felon from custody.".

(e) SUSPENSION OF DEPORTATION PROHIBITED.—Section 244 (8 U.S.C. 1254) is amended by adding at the end thereof the following new subsection:

"(g) No alien convicted of an aggravated felony (as defined in section 101(a)(43)) shall be eligible for suspension of deportation under this section.".

(f) EFFECT OF FILING PETITION FOR REVIEW.—Section 106(a)(3) (8 U.S.C. 1105a(a)(3)) is amended—

(1) by striking the semicolon at the end of paragraph (3) and inserting in lieu thereof "; or" and

(2) by adding at the end thereof the following: "unless the alien is convicted of an aggravated felony, in which case the Service shall not stay the deportation of the alien pending determination of the petition by the court, unless the court otherwise directs;"

(g) CUSTODY PENDING DETERMINATION OF DEPORTABILITY).—

Sec. 242(a)(2) (8 U.S.C. 1252) is amended, as follows:

"(a)(2) * * *

BIDEN AMENDMENT NO. 974

Mr. HATCH (for Mr. BIDEN) proposed an amendment to the bill S. 1711, supra, as follows:

On page 1, strike lines 5 through 8.

KOHL (AND OTHERS) AMENDMENT NO. 975

Mr. HATCH (for Mr. KOHL, for himself, Mr. BINGAMAN, Mr. BOND, and Mr. DANFORTH) proposed an amendment to the bill S. 1711, supra, as follows:

Amend section 1212 of the Higher Education Act of 1965 as follows:

(1) In subsection (a), strike "of law," and insert in lieu thereof "of law, except as provided in subsection (c),"

(2) In subsection (a), strike "and has implemented" and insert in lieu thereof "a plan with a timetable to implement".

(3) Strike sections 1212(a)(2), (3), and (4) and insert in lieu thereof the following:

"(2) a policy that restricts distribution on campus of any promotional material that encourages consumption of alcoholic beverages by persons under the state's legal drinking age;

"(3) In the case of the financing, sponsoring, or supporting of any athletic, musical, cultural or social program, event, or competition of such institution by any alcoholic beverage company or industry, the acknowledgement of such financing, sponsorship, or support in promotional material shall be limited to statements of corporate identification;

"(4) a policy that encourages such institution's newspapers and other publications to reject advertisements promoting irresponsible or illegal consumption of alcoholic beverages;".

(4) Add a new subsection (c) to read as follows:

"(c) Upon application by an institution of higher education, the Secretary shall grant a waiver of the sanctions authorized by this section to any institution of higher education which demonstrates that it is in the process of developing and implementing a plan required by subsection (a), for up to one year from the date of enactment of this section."

THURMOND AMENDMENT NO. 976

Mr. HATCH (for Mr. THURMOND) proposed an amendment to the bill S. 1711, supra, as follows:

At the appropriate place, insert the following:

TITLE II—CONTROLLED SUBSTANCES AND MONEY LAUNDERING AMENDMENTS

SEC. 201. CLARIFICATION OF NARCOTIC OR OTHER DANGEROUS DRUGS UNDER THE RICO STATUTE.—Section 1961(1) of title 18, United States Code, is amended by striking out "narcotic or other dangerous drugs" each place those words appear and inserting in lieu thereof "a controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)".

SEC. 202. CORRECTION OF ERRONEOUS PREDICATE OFFENSE REFERENCE UNDER 18 U.S.C. 1956.—Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking out "section 310 of the Controlled Substances Act (21 U.S.C. 830) (relating to precursor and essential chemicals)" and inserting in lieu thereof "a felony violation of the Chemical Diversion and Trafficking Act of 1988 (relating to precursor and essential chemicals)".

SEC. 203. MARITIME DRUG LAW ENFORCEMENT AMENDMENTS.—Sections 3142(e) and (f) of title 18, United States Code, and sections 994(h)(1) and (2) of title 28, United States Code, are each amended by striking out "section 1 of the Act of September 15, 1980 (21 U.S.C. 955a)" and inserting in lieu thereof "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)";

SEC. 204. CONFORMING AMENDMENTS TO RECIDIVIST PENALTY PROVISIONS OF THE CONTROLLED SUBSTANCES ACT AND THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.—(a) Section 401(b)(1)(B), (C), and (D) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(B), (C), and (D)) and sections 1010(b)(1), (2), and (3) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1), (2), and (3)) are each amended in the sentence or sentences beginning "If any person commits" by striking out "one or more prior convictions" through "have become final" and inserting in lieu thereof "a prior conviction for a felony drug offense has become final";

(b) Section 1012(b) of the Controlled Substances Import and Export Act (21 U.S.C. 962(b)) is amended by striking out "one or more prior convictions of him for a felony under any provision of this subchapter or subchapter I of this chapter or other law of

a State, the United States, or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant drugs, have become final" and inserting in lieu thereof "one or more prior convictions of such person for a felony drug offense have become final".

(c) Section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) is amended by striking out the sentence beginning "For purposes of this subparagraph, the term 'felony drug offense' means";.

SEC. 205. ADDITION OF CONFORMING PREDICATE MONEY LAUNDERING REFERENCES TO "INSIDER" EXEMPTION FROM THE RIGHT TO FINANCIAL PRIVACY ACT.—Section 1113(1)(2) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413(1)(2)) is amended by inserting "or of section 1956 or 1957 of title 18, United States Code" after "any provision of subchapter II of chapter 53 of title 31, United States Code".

SEC. 206. CLARIFICATION OF DEFINITION OF "MONETARY INSTRUMENTS".—Section 1956(c)(5) of title 18, United States Code, is amended to read as follows:

"(5) the term 'monetary instruments' means (i) coin or currency of the United States or of any other country, travelers' checks, personal checks, bank checks, and money orders, or (ii) investment securities or negotiable instruments, in bearer form or otherwise in such form that title thereto passes upon delivery;".

SEC. 207. CLARIFICATION OF MANDATORY MINIMUM PENALTY FOR SERIOUS CRACK POSSESSION.—Section 404(a) of the Controlled Substances Act (21 U.S.C. 844(a)) is amended in the third sentence by striking out "shall be fined under title 18, United States Code, or imprisoned not less than 5 years and not more than 20 years, or both," and inserting in lieu thereof "shall be imprisoned not less than 5 years and not more than 20 years, and find a minimum of $1,000,".

SEC. 208. CONFORMING AMENDMENT ADDING CERTAIN CONTROLLED SUBSTANCES OFFENSES AS REQUIRING FINGERPRINTING AND RECORDS FOR RECIDIVIST JUVENILES.—Sections 5038(d) and (f) of title 18, United States Code, are amended by striking out "or an offense described in section 841, 952(a), 955, or 959, of title 21," and inserting in lieu thereof "or an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841) or section 1002(a), 1003, 1005, 1009, or 1010(b)(1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 955, 959, or 960(b)(1), (2), or (3)),".

SEC. 209. CORRECTION OF AN ERROR RELATING TO THE QUANTITY OF METHAMPHETAMINE NECESSARY TO TRIGGER A MANDATORY MINIMUM PENALTY.—Section 401(b)(1)(A)(viii) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)(viii)) is amended by striking out "or 100 grams or more of a mixture or substance containing a detectable amount of methamphetamine" and inserting in lieu thereof "or 1 kilogram or more of a mixture or substance containing a detectable amount of methamphetamine".

SEC. 210. CONFORMING AMENDMENT TO CONSPIRACY AND ATTEMPT PENALTY UNDER THE MARITIME DRUG LAW ENFORCEMENT ACT.—Section 3(j) of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903(j)) is amended by striking out "is punishable by imprisonment or fine, or both, which may not exceed the maximum punishment" and inserting in lieu thereof "shall be subject to the same penalties as those".

SEC. 212. CONFORMING AMENDMENTS TO CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT RELATING TO METHAMPHETAMINE.—(1) Section 1010(b)(1) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)) is amended by—

(A) striking out "or" at the end of subparagraph (F);

(B) inserting "or" at the end of subparagraph (G); and

(C) adding a new subparagraph (H), as follows:

"(H) 100 grams or more of methamphetamine, its salts, isomers, and salts of its isomers or 1 kilogram or more or a mixture, or substance containing a detectable amount of methamphetamine, its salts, isomers, or sales of its isomers.";

(2) Section 1010(b)(2) of the Controlled Substances Import and Export Act (21 U.S.CL. 960(b)(2)) is amended by—

(A) striking out "or" at the end of subparagraph (F);

(B) inserting "or" at the end of subparagraph (G); and

(C) adding a new subparagraph (H), as follows:

"(H) 10 grams or more of methamphetamine, its salts, isomers, and salts of its isomers or 100 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers.".

TITLE III—PENALTIES AND SENTENCING AMENDMENTS

SEC. 301. MODIFICATION OF APPROVAL REQUIREMENTS FOR GOVERNMENT SENTENCE APPEALS.—Section 3742(b) of title 18, United States Code, is amended by striking out "The Government, with the personal approval of the Attorney General or the Solicitor General, may file a notice of appeal in the district court for review of" and inserting in lieu thereof "The Government, with the approval of the Attorney General for the Solicitor General, may appeal."

SEC. 302. PENALTY FOR CERTAIN ACCESSORY AFTER THE FACT OFFENSES.—Section 3 of title 18, United States, is amended by striking out "ten years" and inserting in lieu therefor "twenty years".

SEC. 303. DELETION OF REQUIREMENT FOR SOLICITOR GENERAL APPROVAL OF APPEAL TO A DISTRICT COURT FROM A SENTENCE IMPOSED BY A MAGISTRATE.—Section 3742(g) of title 18, United States Code, is amended by inserting "(except for the requirement of approval by the Attorney General or the Solicitor General in the case of a Government appeal)" after "and this section shall apply".

SEC. 304. ELIMINATION OF REDUNDANT PENALTY IN 18 U.S.C. 1864.—Section 1864(c) of title 18, United States Code, is amended by striking out "(b) (3), (4), or (5)" and inserting in lieu thereof "(b)(5)".

TITLE IV—MISCELLANEOUS AMENDMENTS

SEC. 401. RESTORATION OF INADVERTENTLY DELETED DIAL-A-PORN REMEDIES.—Section 223(b) of the Communications Act of 1934 (27) U.S.C. 223(b) is amended by adding at the end thereof the following paragraphs:

"(3) in addition to the penalties under paragraph a(1), whoever in the District of Columbia or a interstate or foreign communication, violates paragraph (1) shall be subject to a fine of nor more than $50,000 for each violation. For purposes of this paragraph, each day of violation shall constitute to a separate violation.

"(4)(A) In addition to the penalties under paragraph (1), whoever, in the District of Columbia or in interstate or foreign communication, violates paragraph (1) shall be subject to a civil fine of not more than $50,000 for each violation. For purposes of this paragraph, each day of violation shall constitute a separate violation.

"(B) A fine under this paragraph may be assessed either—

"(i) by a court, pursuant to a civil action by the Commission or any attorney employed by the Commission who is designated by the Commission for such purposes, or

"(ii) by the Commission after appropriate administrative proceedings.

"(5) The Attorney General may bring a suit in the appropriate district court of the United States to enjoin any act or practice which violates paragraph (1).".

SEC. 403. DELETION OF ERRONEOUS REFERENCE FOR JUVENILE PROCEEDINGS.—Section 5032 of title 18, United States Code, is amended in the first paragraph by striking out "or section 922(p) of this title,".

SEC. 404. CORRECTION OF MISSPELLED WORDS, TYPOGRAPHICAL ERRORS, AND MISDESIGNATIONS.—

(1) Section 102(32)(A) of the Controlled Substances Act (21 U.S.C. 802(32)(A)) is amended by striking out "stimulent" each place that word appears and inserting in lieu thereof "stimulant";

(2) Section 1010(b)(2) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(2)) is amended by striking out "supervised" each place that words appears and inserting in lieu thereof "supervised";

(3) Sections 401(b)(1)(A)(ii)(IV) and 401(b)(1)(B)(ii)(IV) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)(ii)(IV) and 841(b)(1)(B)(ii)(IV)) are amended by striking out "any of the substance" and inserting in lieu thereof "any of the substances";

(4) Section 151 of title 18, United States Code, is amended by striking out "mean" and inserting in lieu thereof "means";

(5) Section 665(c) of title 18, United States Code, is amended by striking out "Any person whoever" and inserting in lieu thereof "Any person who";

(6) Section 794(d)(4) of title 18, United States Code, is amended by striking out "all amount" and inserting in lieu thereof "all amounts";

(7) The second section 798 of title 18, United States Code, entitled "Temporary extension of section 794" is designated as section 800 of such title, and the table of sections for chapter 37 of such title is amended accordingly;

(8) Section 3125(d) of title 18, United States Code, is amended by striking out "A provider for a wire or electronic service," and inserting in lieu thereof "A provider of a wire or electronic service,";

(10) Section 4285 of title 18, United States Code, is amended by striking out "exced" and inserting in lieu thereof "exceed";

(11) Sections 405(b), 405A(b), and 405B(c) of the Controlled Substances Act (21 U.S.C. 845(b), 845a(b), and 845b(c)) are amended by striking out "have become final" and inserting in lieu thereof "has become final";

(12) Section 510(b)(3) of the Controlled Substances Act (21 U.S.C. 880(b)(3)) is amended by striking out "paragraph (5)" and inserting in lieu thereof "paragraph (4)";

(13) Section 12 of title 18, United States Code, is amended by striking out "every officer and employer of that Service, whether he has taken the oath of office" and inserting in lieu thereof "every officer and employee of that Service, whether or not such officer or employee has taken the oath of office";

(14) Section 1546(a) of title 18, United States Code is amended by striking out "Shall be fined not more than in accordance with this title" and inserting in lieu thereof "Shall be fined in accordance with this title";

(15) Section 3563(b)(3) of title 18, United States Code, is amended by striking out "section 3663 and 3664" and inserting in lieu thereof "sections 3663 and 3664";

(16) Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking out "paraphenalia" and inserting in lieu thereof "paraphernalia";

(17) Section 219(c) of title 18, United States Code, is amended by striking out "branch of Governments" and inserting in lieu thereof "branch of Government";

(18) Section 513(c)(3) of title 18, United States Code, is amended by striking out "15 U.S.C. 1693(c)" and inserting in lieu thereof "15 U.S.C. 1693n(c)";

(19) Section 665 of title 18, United States Code, is amended in the section heading by striking out both colons and inserting in lieu thereof semicolons;

(20) Section 844(d) of title 18, United States Code, is amended by striking out "this subsection,," and inserting in lieu thereof "this subsection,";

(21) Section 1466(b) of title 18, United States Code, is amended—

(1) by striking out "this subsection" and inserting in lieu thereof "this section"' and

(2) by striking out "subsection (b)" and inserting in lieu thereof "this subsection";

(22) Section 1963(a) of title 18, United States Code, is amended by striking out "both.," and inserting in lieu thereof "both,"

(23) Section 2254(e) of title 18, United States Code, is amended by inserting the following subsection heading: "NON-APPLICABILITY TO VISUAL DEPICTIONS.—";

(25) Section 3583(e) of title 18, United States Code, is amended—

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

(2) in paragraph (3) by striking out the period and inserting in lieu thereof "; or"; and

(3) by redesignating paragraph "(5)" as paragraph "(4)";

(26) Section 3077(4) of title 18, United States Code, is amended by striking out the semicolon at the end and inserting in lieu thereof a period;

(27) Section 3166(b)(8) of title 18, United States Code, is amended by striking out "extention" and inserting in lieu thereof "extension"; and

(28) Section 4352(c) of title 18, United States Code, is amended by striking out "Each recipient of assistance under this shall" and inserting in lieu thereof "Each recipient of assistance under this title shall".

SEC. 405. CORRECTION OF ERRONEOUS CROSS-REFERENCE.—Section 2703(d) of title 18, United States Code, is amended by striking out "section 3126(s)(A) of this title" and inserting in lieu thereof "section 3127(2)(A) of this title".

SEC. 406. CONFORMING AMENDMENT TO THE ELECTRONIC COMMUNICATIONS PRIVACY ACT.—Section 2705(a)(1)(B) of title 18, United States, Code, is amended by inserting "or trial" after "grand jury".

SEC. 407. REDESIGNATION OF PARAGRAPHS IN WIRETAP LAW.—Section 1516(1) of title 18, United States Code, is amended—

(1) by redesignating the first paragraph (m) which reads "any conspiracy to commit any of the foregoing offenses." as paragraph (o);

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

(3) by striking out the period at the end of paragraph (n) and inserting in lieu thereof; "and".

SEC. 409. TABLE OF SECTIONS AMENDMENT FOR THE INTERSTATE AGREEMENT ON DETAINERS.—The table of sections for the Interstate Agreement on Detainers Act (84 Stat. 1397) is amended by adding at the end thereof the following: "9. Special Provisions when United States is a Receiving State.".

SEC. 410. APPLICATION OF VARIOUS OFFENSES TO POSSESSION AND TERRITORIES.—(1) Section 232 of title 18, United States Code, is amended by adding a new subsection, as follows:

"(8) The term 'State' includes a State of the United States, and any commonwealth, territory, or possession of the United States.".

(2) Section 245 of title 18, United States Code, is amended by adding a new subsection, as follows:

"(d) For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(3) Section 402 of title 18, United States Code, is amended by adding a new undesignated paragraph, as follows:

"For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(4) Section 666(d) of title 18, United States Code, is amended—

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

(b) by striking out the period at the end of paragraph (3) and inserting in lieu thereof"; and"; and

(c) by adding a new paragraph, as follows:

"(4) the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(5) Sections 1028(d)(5) and 1030(e)(3) of title 18, United States Code, are each amended by inserting "commonwealth," before "possession or territory of the United States".

(6) Section 1029(f) of title 18, United States Code, is amended by adding at the end the following: "For purposes of this subsection, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States."

(7) Section 1084(e) of title 18, United States Code, is amended by inserting "commonwealth," before "territory or possession of the United States".

(8) Section 1114 of title 18, United States Code, is amended by inserting "or any other commonwealth, territory, or possession" after "the Virgin Islands";

(9) Section 1952(b) of title 18, United States Code, is amended—(a) inserting "(i)" after "As used in this section"; and;

(b) by inserting "and (ii) the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States" before the period.

(10) Section 1956(c) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(8) the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(11) Section 1958(b) of title 18, United States Code is amended—

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

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

(c) by adding a new paragraph (3), as follows:

"(3) 'State' includes a State of the United States, the District of Columbia, and any commonwealth, terrority or possession of the United States.".

(12) Section 2313 of title 18, United States Code, is amended—(a) by inserting "(a)" before "Whoever"; and

(b) by adding a new subsection, as follows:

"(b) For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(13) Section 2315 of title 18, United States Code, is amended by adding at the end the following undesignated paragraph:

"For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(14) Section 5032 of title 18, United States Code, is amended—

(a) in the second undesignated paragraph, by adding at the end the following: "For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States."; and

(b) in the third undesignated paragraph, by striking out "to the authorities of a State or the District of Columbia" and inserting in lieu thereof "to the authorities of a State".

SEC. 411. REPEAL OF ANTIQUATED OFFENSE AND DELETION OF TABLE REFERENCES TO REPEALED OFFENSES.—(1) Section 45 of title 18, United States Code, is repealed; (2) the table of sections for chapter 3 of title 18, United States Code, is amended by striking out the items relating to sections 43, 44, and 45.

SEC. 412. REPEAL OF OTHER OUTMODED OFFENSES AND RELATED PROVISIONS.— (1) Section 969 of title 18, United States Code, is repealed and the table of sections for chapter 45 of title 18, United States Code, is amended by striking out the items relating to sections 968 and 969.

(2) Sections 2198 and 3286 of title 18, United States Code, are repealed and the respective tables of sections in chapter 107 and 213 are amended by striking out the items relating to sections 2198 and 3286.

SEC. 413. DELETION OF REDUNDANT PROVISION AND CORRECTION OF CITATIONS IN WIRETAP LAW.—Section 2516(1) of title 18, United States Code, is amended—

(1) in paragraph (c) by striking out "the section in chapter 65 relating to destruction of an energy facility,"; and

(2) in paragraph (j), by striking out "any violation of section 1679a(c)(2) (relating to destruction of a natural gas pipeline) or subsection (i) or (n) of section 1472 (relating to aircraft piracy) of title 49, of the United States Code" and inserting in lieu thereof "any violation of section 11(c)(2) of the Natural Gas Pipeline Safety Act of 1968 (relating to destruction of a natural gas pipeline) (49 U.S.C. App. 1679a(c)(2)) or sections 902(i) or (n) of the Federal Aviation Act of 1958 (relating to aircraft piracy) (49 U.S.C. App. 1472(i) or (n))".

SEC. 414. FRAUD THROUGH USE OF A FACILITY OF COMMERCE.—Section 1343 of title 18, United States Code, is amended by striking out "transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds" and inserting in lieu thereof "uses or causes to be used any facility of interstate or foreign commerce or attempts to do so".

(2) The heading of section 1343 of title 18, United States Code, is amended to read: "Fraud by use of facility of interstate commerce".

(3) The table of sections for chapter 63 of title 18, United States Code, is amended by striking out the item relating to section 1343 and inserting in lieu thereof: "1343. Fraud by use of facility of interstate commerce.".

SEC. 415. CONFORMING JURISDICTIONAL AMENDMENT FOR SECTION 2314 to Cover Fraudulent Schemes Involving Foreign as Well as Interstate Travel.—The second paragraph of section 2314 of of title 18, United States Code, is amended by inserting "or foreign" after "interstate".

SEC. 416. CLARIFICATION OF ONE YEAR PERIOD.—Section 666(d) of title 18, United States Code, is amended—

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

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof"; and"; and

(3) by adding a new paragraph, as follows:

"(4) the term 'in any one year period' means a continuous period that commences no earlier than twelve months before the commission of the offense or that ends no later than twelve months after the commission of the offense. Such period may include time both before and after the commission of the offense."

SEC. 417. REPEAL OF PROVISIONS JUDICIALLY DETERMINED TO BE INVALID.—(1) Section 1730 of title 18, United States Code, is amended by striking out ", if the portrayal does not tend to discredit that service";

(2) Section 1714 of title 18, United States Code, is repealed and the section analysis for such section in chapter 83 of title 18 is likewise repealed;

(3) Section 1718 of title 18, United States Code, is repealed and the section analysis for such section in chapter 83 of title 18 is likewise repealed.

SEC. 418. DELETION OF REQUIREMENT OF PERSONAL APPROVAL OF ATTORNEY GENERAL FOR PROSECUTIONS UNDER THE ATOMIC ENERGY ACT.—Section 221(c) of the Atomic Energy Act of 1954 (42 U.S.C. 2271(c)) is amended by striking out "That no action shall be brought under section 222, 223, 224, 225, or 226 except by the express direction of the Attorney General: And provided further,".

SEC. 419. TECHNICAL CORRECTION TO PROVISION FOR COMPUTING MARSHAL'S COMMISSION.—Section 1921(c)(1) of title 28, United States Code, is amended in the second sentence by striking out "If the property is to be disposed of by marshal's sale" and inserting in lieu thereof "If the property is not disposed of by marshal's sale".

SEC. 420. CORRECTION OF CROSS-REFERENCE.—Section 4247(h) of title 18, United States Code, is amended by striking out "subsection (e) of section 4241, 4243, 4244, 4245, or 4246," and inserting in lieu thereof "subsection (e) of section 4241, 4244, 4245, or 4246, subsection (f) of section 4243,".

SEC. 421. SEXUAL ABUSE AMENDMENTS RELATING TO MINORS.—

(a) INCLUSION OF THIRTEEN AND FOURTEEN YEAR-OLDS.—Section 2241(c) of title 18, United States Code, is amended to read as follows:

"(c) WITH CHILDREN.—Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly engages in a sexual act with another person who—

"(1) has not attained the age of 12 years; or

"(2) has attained the age of 12 years but has not attained the age of 14 years, and is at least four years younger than the person so engaging;

or attempts to do so, shall be fined under this title, imprisoned for any term of years of life, or both.".

(b) CONFORMING AMENDMENT FOR STATE OF MIND PROOF REQUIREMENT.—Section 2241(d) of title 18, United States Code, is amended by striking out "knew" and all that follows and inserting in lieu thereof "knew—

"(1) the age of the other person engaging in the sexual act; or

"(2) that the requisite age difference existed between the persons so engaging.".

(c) CONFORMING AMENDMENT TO SECTION 2243.—Paragraph (1) of section 2243(a) of title 18, United States Code, is amended by striking out "12" and inserting "14" in lieu thereof.

(d) DEFINITIONS OF SEXUAL ACT AND SEXUAL CONTACT REGARDING PERSONS UNDER 16 YEARS OF AGE.—Paragraph (2) of section 2245 of title 18, United States Code, is amended—

(1) is subparagraph (B) by striking out "or" after the semicolon;

(2) in subparagraph (C) by striking out "; and" and inserting "; or" in lieu thereof; and

(3) by inserting a new subparagraph (D) as follows:

"(D) the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;".

(e) CONFORMING AMENDMENT TO DEFINITION OF SEXUAL CONTACT.—Paragraph (3) of section 2245 of title 18, United States Code, is amended by inserting ", but does not include the conduct described in paragraph (2)(D)" after "of any person" the second place it appears.

(f) REDESIGNATION OF SECTION.—Section 2245 of title 18, United States Code, is redesignated section 2246.

(g) PENALTIES FOR SUBSEQUENT OFFENSES.—Chapter 109A of title 18, United States Code, is amended by inserting the following new section after section 2244:

"§ 2245. Penalties for subsequent offenses

"Any person who violates a provision of this chapter after a prior conviction under a provision of this chapter or the law of a State (as defined in section 513 of this title) for conduct proscribed by this chapter has become final is punishable by a term of imprisonment up to twice that otherwise authorized.".

(h) TABLE OF SECTIONS.—The table of sections for chapter 109A of title 18, United States Code, is amended by—

(1) striking out "2245" and inserting "2246" in lieu thereof; and

(2) inserting the following after the item relating to section 2244:

"2245. Penalties for subsequent offenses.".

SEC. 422. CORRECTION OF MISPLACED PHRASE IN 18 U.S.C. 3289.—Section 3289 of title 18, United States Code, is amended by striking out "or, in the event of an appeal, within 60 days of the date the dismissal of the indictment or information becomes final," and inserting that same stricken language after "within six months of the expiration of the statute of limitations,".

SEC. 423. REDESIGNATION OF SECTION.—The second section 3117 of title 18, United States Code, enacted by section 6477(b) of the Anti-Drug Abuse Act of 1988, is redesignated as section 3118 and the section analysis for such section is redesignated accordingly.

Subtitle F—Miscellaneous

PART 1.—MANDATORY DETENTION BY SERIOUS OFFENDERS

SEC. 65. TECHNICAL AMENDMENTS.

(a) ELIMINATION OF DUPLICATE SECTION NUMBER.—(1) Section 3117 of title 18, United States Code, as enacted by Public Law 100-690, is redesignated as section 3118.

(2) The section analysis for chapter 205 of title 18, United States Code, is amended by striking "3117. Implied consent for certain tests" and inserting "3118. Implied consent for certain tests."

(b) INSERTION OF MISSING WORD.—Section 1716A of title 18, United States Code, is amended by inserting "fined" after "shall be".

(c) CORRECTION OF CROSS-REFERENCE.—Section 1958 of title 18, United States Code, is amended by—

(1) striking "1952B" and inserting "1959";

(2) inserting "or who conspires to do so" before "shall be fined" the first place it appears; and

(3) striking "not more than $10,000", "not more than $20,000", and "not more than $50,000", and inserting in each instance "under this title".

(d) ELIMINATION OF LANGUAGE MISTAKENLY INCLUDED.—Section 3125(a)(2) is amended by—

(1) striking the quotation marks;

(2) inserting a comma after "installation and use"; and

(3) beginning the indentation of the text following such comma at the margin.

(e) CORRECTION OF CROSS-REFERENCE.—Section 1791(b) of title 18, United States Code, is amended by striking "(c)" and inserting "(d)" each place it appears.

(g) ELIMINATION OF DUPLICATIVE PENALTY.—Section 1864 of title 18, United States Code, is amended—

(1) by striking subsection (c); and

(2) by redesignating subsection (d) as (c).

SEC. 66. MONEY LAUNDERING AMENDMENTS.

Section 1956(c)(1) is amended by striking "State or Federal" and inserting "State, Federal, or foreign".

SEC. 67. PENALTY PROVISIONS RELATING TO DRUG QUANTITIES.

Section 401(b) of the Controlled Substances Act (21 U.S.C. 841) is amended in paragraph (1)(A)(vii) by striking "100 grams" the second time it appears and inserting "1 kilogram"; and

SEC. 68. CLARIFICATION RELATING TO POLLUTING FEDERAL LANDS.

Section 401(b)(6) of the Controlled Substances Act (21 U.S.C. 841(b)(6)) is amended by striking "who violates subsection (a), or attempts to do so, and knowingly or intentionally uses a poison, chemical, or other hazardous substance on Federal land," and inserting "who knowingly uses a poison, chemical, or other hazardous substance on Federal land with the intent to commit an act in violation of subsection (a),".

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SEC. 69. REVOCATION OF PROBATION FOR POSSESSION OF CONTROLLED SUBSTANCE.

Section 3565(a) of title 18, United States Code, is amended by—

(1) striking "to not less than one-third of the original sentence" and inserting "to a term of imprisonment that was available under subchapter A at the time of the initial sentencing"; and

(2) by striking "of modifying" and inserting "or modifying".

SEC. 70. EXCEPTION TO BAR ON PROBATION FOR COOPERATING WITNESSES.

Section 3553(e) of title 18, United States Code, is amended by—

(1) inserting "a" before "minimum sentence", and inserting after "minimum sentence" the following: ", or to impose a term of probation notwithstanding any statutory bar to such sentence,"; and

(2) striking the last sentence and inserting: "Such sentence shall be imposed in accordance with the sentencing guidelines and with the policy statements issued by the Sentencing Commission".

SEC. 71. REDESIGNATION OF CONFUSING SECTIONS IN THE CONTROLLED SUBSTANCES ACT.

(a) SECTION 405—NEW SECTION 418.—(1) Section 405 of the Controlled Substances Act is redesignated as section 418.

(2) Section 418 of such Act (as redesignated by paragraph (1)) is amended—

(A) in subsection (a), by striking "section 405A" and inserting "section 419"; and

(B) in subsection (b) by striking "section 405A" and inserting "section 419".

(b) SECTION 405A—NEW SECTION 419.—Section 405A of the Controlled Substances Act is redesignated as section 419.

(c) SECTION 405B—NEW SECTION 420.—Section 405B of the Controlled Substances Act is redesignated as section 420.

(d) TRANSFER OF SECTION 5301 OF THE ANTI-DRUG ABUSE ACT OF 1988—NEW SECTION 421.—(1) Section 5301 of the Anti-Drug Abuse Act of 1988 is—

(A) transferred to the Controlled Substances Act; and

(B) redesignated as section 421 of the Controlled Substances Act.

(e) Section 421(a)(1) of the Controlled Substances Act, as amended by paragraph (1) of this subsection, is amended by striking "as such terms are defined for purposes of the Controlled Substances Act)".

(e) CONFORMING AMENDMENTS TO OTHER SECTIONS.—(1) Section 401(b) of the Controlled Substances Act is amended by striking section 405, 405A, or 405B" and inserting "section 418, 419, or 420".

(2) Section 401(c) of the Controlled Substances Act is amended by striking "section 405, 405A, or 405B" and inserting "section 418, 419, or 420".

(f) AMENDMENT TO TABLE OF CONTENTS.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended in part D of title II by striking the items for sections 405, 405A and 405B and inserting at the end thereof the following:

"418. Distribution to persons under age twenty-one.

"419. Distribution or manufacturing in or near schools and colleges.

"420. Employment of persons under 18 years of age.

"421. Denial of Federal benefits to drug traffickers and possessors.".

(g) TRANSFER OF SECTION 6486 OF THE ANTI-DRUG ABUSE ACT OF 1988—NEW SECTION 405.—(1) Section 6486 of the Anti-Drug Abuse Act of 1988 is—

(A) transferred to the Controlled Substances Act; and

(B) redesignated as section 405 of the Controlled Substances Act.

(2) Section 405 of the Controlled Substances Act, as amended by paragraph (1) of this subsection, is amended—

(A) in subsection (a), by—

(i) striking "of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A))"; and

(ii) striking "of that Act (21 U.S.C. 841(b)(1)(A))";

(B) in subsection (c), by striking "as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)";

(C) in subsection (j)(4), by striking "as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)".

(3) The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (as amended by subsection (c) of this section) is amended in part D of title II by inserting after the item for section 404 the following:

"405. Civil penalty for possession of small amounts of certain controlled substances.".

(h) PART E OF THE CONTROLLED SUBSTANCES ACT.—

(1) SECTION 511A—NEW SECTION 518.—Section 511A of the Controlled Substances Act is redesignated as section 518.

(2) TRANSFER OF SECTION 1764 OF THE FOOD SECURITY ACT OF 1985.—Section 1764 of the Food Security Act of 1985 is—

(A) transferred to the Controlled Substances Act; and

(B) redesignated as section 519 of the Controlled Substances Act.

(3) AMENDMENT TO TABLE OF CONTENTS.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended in part E of of title II by striking the items for section 511A and inserting at the end thereof the following:

"518. Expedited procedures for seized conveyances.

"519. Production control of controlled substances.".

SEC. 72. CLARIFICATION OF ENHANCED PENALTIES UNDER CONTROLLED SUBSTANCES ACT.

(a) SECTION 418 (OLD SECTION 405).—Section 418 of the Controlled Substances Act (as redesignated by section 1507 of this Act) is amended—

(1) in subsection (a), by striking "punishable by (1) a term of imprisonment, or a fine, or both, up to twice that authorized by section 401(b)" and inserting "subject to (1) twice the maximum punishment authorized by section 401(b)"; and

(2) in subsection (b), by striking "punishable by (1) a term of imprisonment, or a fine, or both, up to three times that authorized by section 401(b)" and inserting "subject to (1) three times the maximum punishment authorized by section 401(b)".

(b) SECTION 419 (OLD SECTION 405A).—Section 419 of the Controlled Substances Act (as designated by section 1507 of this Act) is amended—

(1) in subsection (a), by striking "punishable (1) by a term of imprisonment, or a fine, or both, up to twice that authorized by section 401(b)" and inserting "subject to (1) twice the maximum punishment authorized by section 401(b)"; and

(2) in subsection (b)(1), by striking subparagraph (B) and inserting "(B) three times the maximum punishment authorized by section 401(b) for a first offense".

(c) SECTION 420 (OLD SECTION 405B).—Section 402 of the Controlled Substances Act (as redesignated by section 1507 of this Act) is amended—

(1) in subsection (b), by striking "is punishable by a term of imprisonment up to twice that authorized, or up to twice the fine authorized, or both," and inserting "is subject to twice the maximum punishment otherwise authorized"; and

(2) in subsection (c), by striking "is punishable by a term of imprisonment up to three times that authorized, or up to three times the fine authorized, or both," and inserting "is subject to three times the maximum punishment otherwise authorized".

SEC. 73. FORFEITABILITY OF REAL PROPERTY UNDER GAMBLING STATUTE.

(a) IN GENERAL.—Section 1955(d) of title 18, United States Code, is amended to read as follows:

"(d) Any person convicted of a violation of this section shall forfeit to the United States, irrespective of any provision of State law, or of any bankruptcy proceding instituted after or in contemplation of a prosecution under this section—

"(1) any property constituting or derived from any proceeds the person obtained, directly or indirectly, as a result of such violation; and

"(2) any of the person's property used or intended to be used, in any manner or part, to commit or to facilitate the commission of such violation.

The provisions of section 413 of the Controlled Substances Act (21 U.S.C. 853) shall apply to property subject to forfeiture under this section, to any seizure or disposition thereof, and to any administrative or judicial proceeding in relation thereto, if not inconsistent with this section.".

(b) TECHNICAL AMENDMENT.—Section 1955(a) of title 18 is amended by striking out "shall be fined not more than $20,000 or" and inserting "shall be fined under this title,".

SEC. 76. APPLICATION OF VARIOUS OFFENSES TO POSSESSIONS AND TERRITORIES.

(1) Section 232 of title 18, United States Code, is amended by adding a new paragraph, as follows:

"(8) The term 'State' includes a State of the United States, and any commonwealth, territory, or possession of the United States.".

(2) Section 245 of title 18, United States Code, is amended by adding a new subsection, as follows:

"(d) For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(3) Section 402 of title 18, United States Code, is amended by adding a new undesignated paragraph, as follows:

"For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(4) Section 666(d) of title 18, United States Code, is amended—

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

(B) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(C) by adding a new paragraph, as follows:

"(4) the term 'State' includes a State of the United States, the District of Columbia,

and any commonwealth, territory, or possession of the United States.".

(5) Sections 1028(d)(5) and 1030(e)(3) of title 18, United States Code, are each amended by inserting "commonwealth," before "possession or territory of the United States".

(6) Section 1029(f) of title 18, United States Code, is amended by adding at the end the following: "For purposes of this subsection, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States."

(7) Section 1084(e) of title 18, United States Code, is amended by inserting "commonwealth," before "territory or possession of the United States".

(8) Section 1114 of title 18, United States Code, is amended by inserting "or any other commonwealth, territory, or possession" after "the Virgin Islands".

(9) Section 1952(b) of title 18, United States Code, is amended—

(A) by inserting "(i)" after "As used in this section"; and

(B) by inserting "and (ii) the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States" before the period.

(10) Section 1956(c) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(8) the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(11) Section 1958(b) of title 18, United States Code, is amended—

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

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

(C) by adding a new paragraph (3), as follows:

"(3) 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(12) Section 2313 of title 18, United States Code, is amended—

(A) by inserting "(a)" before "Whoever"; and

(B) by adding a new subsection, as follows:

"(b) For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(13) Section 2315 of title 18, United States Code, is amended by adding at the end the following undersignated paragraph:

"For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(14) Section 5032 of title 18, United States Code, is amended—

(A) in the second undesignated paragraph, by adding at the end the following: "For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States."; and

(B) in the third undesignated paragraph, by striking out "to the authorities of a State or the District of Columbia" and inserting in lieu thereof "to the authorities of a State".

SEC. 77. CLARIFICATION OF "BURGLARY" UNDER THE ARMED CAREER CRIMINAL STATUTE.

Section 924(e)(2) of title 18, United States Code, is amended by adding a new subparagraph, as follows:

"(D) the term 'burglary' means any crime punishable by a term of imprisonment exceeding one year and consisting of entering or remaining surreptitiously within a building that is the property of another with intent to engage in conduct constituting a Federal or State offense.".

SEC. 78. CLARIFICATION OF PENALTY ENHANCEMENT.

Section 924(c) of title 18, United States Code, is amended—

(1) by redesignating paragraphs (2) and (3) and (4) and (5), respectively;

(2) in the second sentence of paragraph (1), by striking "In the case of his second or subsequent conviction under this subsection" and inserting "(2) When a person is sentence under this subsection for an offense that was committed after a prior sentence under this subsection has become final"; and

(3) in the third sentence of paragraph (1) by inserting "(3)" before "Notwithstanding" and by striking "convicted of a violation of" and inserting "sentenced pursuant to".

SEC. 79. PEREMPTORY CHALLENGES.

Rule 24(b) of the Federal Rules of Criminal Procedure is amended to read as follows:

"(b) PEREMPTORY CHALLENGES.—If the offense charged is punishable by death, each side is entitled to 20 peremptory challenges. If the offense charged is punishable by imprisonment for more than one year, each side is entitled to 8 peremptory challenges. If the offense charged is punishable by imprisonment for not more than one year or by fine or both, each side is entitled to 3 peremptory challenges. If there is more than one defendant, the court may allow both sides additional peremptory challenges: *Provided*, That the Government shall not have more challenges than the total allocated to all defendants. The court may permit multiple defendants to exercise peremptory challenges separately or jointly.".

WILSON AMENDMENT NO. 977

Mr. HATCH (for Mr. WILSON) proposed an amendment to the bill S. 1711, supra, as follows:

At the appropriate place in the bill, add the following:

SEC. . CRIMINAL FINES.

(a) IN GENERAL—Pursuant to its authority under section 994(p) of title 28, United States Code, and section 21 of the Sentencing Act of 1987, the United States Sentencing Commission shall consider promulgating guidelines, for inclusion in its next submission to the Congress, to provide that an idividual convicted of violating provisions of the Controlled Substances Act relating to sales or possession shall, in addition to being sentenced to any authorized term of imprisonment or assessed costs, be sentenced to pay a fine that constitutes a percentage of such individual's income, from all sources, during the twelve months prior to the commission of the offense for which the individual was convicted.

(b) AFFECT OF OTHER LAWS.—Any guidelines issued after the consideration mandated by subsection (a) or any subsequent changes thereto shall not be subject to the limits otherwise provided by section 3571 of title 18, United States Code.

HATCH AMENDMENT NO. 978

Mr. HATCH proposed an amendment to the bill S. 1711, supra, as follows:

At an appropriate place in the bill, insert the following new section:

SEC. . REPORTS ON DRUG-RELATED RESEARCH AND DEVELOPMENT.

(a) Not later than December 31, 1989, the Director of National Drug Control Policy shall submit to the Congress a detailed report on the Drug Control Research and Development Committee (referred to hereinafter as "the Committee").

(b) The report required by subsection (a) shall include:

(1) a list of the members of the Committee and a description of the Committee's structure;

(2) a description of the staffing of the Committee, including the number of full-time employees assigned to the staff and the relationship between the Committee's staff and the staff of the Office of National Drug Control Policy;

(3) an estimate of the funding requirements to support the Committee, including the Committee's staff;

(4) a detailed description of the responsibilities and authorities of the Committee, including the authority of the Committee to give direction to the agencies participating on the Committee and the extent to which the Committee will have responsibility for research and development related to countering terrorism; and

(5) an interim plan and schedule for the Committee's activities, including the identification of national requirements for drug-related research and development, the establishment of national priorities for drug-related research and development, and the review and coordination of Federal research and development, data-collection, and evaluation activities.

(c) Not later than December 31, 1989, the President shall submit to the Congress a detailed plan to establish within the Department of Justice or elsewhere in the executive branch an office to provide centralized management of counterterrorism- and drug enforcement-related research, development, test and evaluation activities conducted by the Federal Government and an assessment of the desirability of implementing such a plan.

CHAFEE AMENDMENT NO. 979

Mr. CHAFEE proposed an amendment to the bill S. 1711, supra, as follows:

At the end of the bill add:

To amend section 1915(a)(1) of the Public Health Service Act, add after programs: "(including those for juvenile and adult substance abusers in state and local criminal and juvenile justice systems).".

WILSON AMENDMENT NOS. 980 AND 981

Mr. HATCH (for Mr. WILSON) proposed two amendments to the bill S. 1711, supra, as follows:

AMENDMENT NO. 980

At the appropriate place, insert the following:

SEC. . (a)(1) DRUG EDUCATION TO PREVENT THE USE OF DRUGS AND BEVERAGE ALCOHOL DURING PREGNANCY.

(A) FINDINGS.—The Senate finds that—

(i) the use of drugs or the excessive use of beverage alcohol during pregnancy poses risks and serious injury or impairment to mother and child;

(ii) 375,000 infants are born to mothers who engage in substance abuse during pregnancy and that number appears to grow exponentially each year;

(iii) the initial cost of providing care to infants born exposed to maternal substance abuse during pregnancy is over $13,000,000,000 annually;

(iv) the human cost in suffering and loss to society in terms of wasted human potential of both the abusing mother and especially the abused and innocent child is both incalculable and avoidable;

(v) drug and beverage alcohol abuse during pregnancy produces severe and lasting or even irreversible physical, mental, and emotional damage to the child, including low birthweight, prematurity, congenital deformities, risk of child abuse and death;

(vi) it is essential to reduce the incidence of substance abuse by pregnant women and the birth of infants addicted or otherwise injured or impaired by such abuse, both for the sake of the mother and especially in order to reduce the avoidable cruel suffering of and damage to infants so afflicted, and to reduce the unaffordable costs in tax dollars that will be required as the necessary alternative to successful preventive measures;

(vii) preventive drug abuse resistance education, including instruction by medical staff and experts in the field of maternal substance abuse during pregnancy, is needed to reduce the incidence of infants born exposed to maternal drug abuse during pregnancy;

(viii) preventive drug abuse resistance education is especially needed to reduce the exploding incidence of cocaine use which has resulted in unprecedented infant mortality rates in many cities across the United States;

(ix) preventive drug abuse resistance education programs Drug Abuse Resistance Education and Substance Abuse and Narcotics Education, have proven successful in reversing the destructive use of drugs during pregnancy.

(2) SENSE OF THE SENATE.—It is the sense of the Senate that preventive drug abuse resistance education programs which seek to reduce the incidence of maternal substance abuse during pregnancy are essential to our efforts to win the war on drugs.

(b) Part B of the Drug-Free Schools and Communities Act of 1986 is amended as follows:

"SEC. 5122(a)(6) is amended by striking the period and inserting the following: "and education regarding the risks of drug and beverage alcohol abuse during pregnancy."

AMENDMENT NO. 981

(Purpose: To provide for a study of infants born drug-exposed due to maternal substance abuse during pregnancy)

At the appropriate place, insert the following new section:

SEC. . (a) STUDY BY THE NATIONAL ACADEMY OF SCIENCES AND THE NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT.

(a) SCOPE OF UNDERTAKING.—The Secretary of Health and Human Services, shall arrange to have a study conducted to—

(1) provide an analysis of the historical development of the problem of infants born drug-exposed due to maternal substance abuse during pregnancy;

(2) determine the number of infants born drug-exposed due to maternal substance abuse during pregnancy annually;

(3) determine the impact of maternal substance abuse during pregnancy on infant mortality;

(4) assess other costs, including but not limited to, the medical, educational, developmental, social, and fiscal costs associated with the care of infants born drug-exposed due to maternal substance abuse during pregnancy;

(5) quantify the costs identified in paragraph (4) to Federal, state, and local government;

(6) assess the costs associated with providing inpatient residential drug treatment to drug abusing pregnant and postpartum women and their infants, including but not limited to, prenatal and postnatal medical services, drug abuse treatment and education services, crisis counseling services, support group services, parent training services, and child developmental services, such as the Winnie Mandela House in Oakland, California;

(7) project the number of infants expected to be born exposed to maternal substance abuse during pregnancy through the year 1995; and

(8) project the costs, as defined under paragraph (4), of providing care for infants, as described in paragraph (7).

(b) ARRANGEMENTS.—

(1) REQUEST.—The Secretary of Health and Human Services shall request the National Academy of Sciences and the National Institute of Child Health and Human Development to conduct the study required by subsection (a) under an arrangement whereby the actual expenses incurred by such Academy and Institute in conducting such study shall be paid by the Secretary.

(2) Unwillingness to enter into.—If either the National Academy of Sciences or the National Institute of Child Health and Human Development, but not both, decline to participate in the conduct of the study under an arrangement under paragraph (1), the Secretary shall enter into an arrangement similar to that required under such paragraph solely with the Academy or Institute that is willing to conduct such study.

(3) Nonprofit private groups.—If both the National Academy of Sciences or the National Institute of Child Health and Human Development decline to participate in the conduct of the study under an arrangement under paragraph (1), the Secretary shall enter into an arrangement similar to that required under such paragraph with other nonprofit private groups or associations under which such groups or associations shall conduct such study and prepare and submit the report required under subsection (c);

(4) Consultation.—The entity that conducts the study under subsection (a) shall consult with the Director of the National Institutes of Health.

(c) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary of Health and Human Services shall prepare and submit to Congress, a report concerning the results of the study conducted under subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $2,000,000.

AMENDMENT NO. 981

At the appropriate place, insert the following new section:

SEC. . (a) STUDY BY THE NATIONAL ACADEMY OF SCIENCES AND THE NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT.

(a) SCOPE OF UNDERTAKING.—The Secretary of Health and Human Services, shall arrange to have a study conducted to—

(1) provide an analysis of the historical development of the problem of infants born drug-exposed due to maternal substance abuse during pregnancy;

(2) determine the number of infants born drug-exposed due to maternal substance abuse during pregnancy annually;

(3) determine the impact of maternal substance abuse during pregnancy on infant mortality;

(4) assess other costs, including but not limited to, the medical, educational, developmental, social, and fiscal costs associated with the care of infants born drug-exposed due to maternal substance abuse during pregnancy;

(5) quantify the costs identified in paragraph (4) to Federal, state, and local government;

(6) assess the costs associated with providing inpatient residential drug treatment to drug abusing pregnant and postpartum women and their infants, including but not limited to, prenatal and postnatal medical services, drug abuse treatment and education services, crisis counseling services, support group services, parent training services, and child developmental services, such as the Winnie Mandela House in Oakland, California;

(7) project the number of infants expected to be born exposed to maternal substance abuse during pregnancy through the year 1995; and

(8) project the costs, as defined under paragraph (4), of providing care for infants, as described in paragraph (7).

(b) ARRANGEMENTS.—

(1) REQUEST.—The Secretary of Health and Human Services shall request the National Academy of Sciences and the National Institute of Child Health and Human Development to conduct the study required by subsection (a) under an arrangement whereby the actual expenses incurred by such Academy and Institute in conducting such study shall be paid by the Secretary.

(2) UNWILLINGNESS TO ENTER INTO.—If either the National Academy of Sciences or the National Institute of Child Health and Human Development, but not both, decline to participate in the conduct of the study under an arrangement under paragraph (1), the Secretary shall enter into an arrangement similar to that required under such paragraph solely with the Academy or Institute that is willing to conduct such study.

(3) NONPROFIT PRIVATE GROUPS.—If both the National Academy of Sciences or the National Institute of Child Health and Human Development decline to participate in the conduct of the study under an arrangement under paragraph (1), the Secretary shall enter into an arrangement similar to that required under such paragraph with other nonprofit private groups or associations under which such groups or associations shall conduct such study and prepare and submit the report required under subsection (c);

(4) CONSULTATION.—The entity that conducts the study under subsection (a) shall

consult with the Director of the National Institutes of health.

(c) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary of Health and Human Services shall prepare and submit to Congress, a report concerning the results of the study conducted under subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $2,000,000.

WILSON AMENDMENT NO. 982

Mr. HATCH (for Mr. WILSON) proposed an amendment to the bill S. 1711, supra, as follows:

SEC. . UNITED STATES-MEXICO JOINT AGREEMENT ON THE INTERDICTION OF AIRBORNE NARCOTICS SMUGGLERS.

(a) FINDINGS.—The Congress finds that—

(1) the governments of the United States and Mexico, pursuant to Sec. 4407 of P.L. 100-690, have a Letter of Agreement committing Mexico to "reduce drug production, drug consumption, and drug trafficking within its own terroritory," and "increase cooperation with United States drug enforcement officials;"

(2) between 30 and 33 percent of all marijuana, heroin, and cocaine entering the United States moves through or originates in Mexico;

(3) the Drug Enforcement Administration reports that nearly 60 percent of its illegal cocaine seizures in the Southwest Border area of the United States are air-related;

(4) the Drug Enforcement Administration knows of at least 11 major landing strip locations in Mexico which serve as launching points for airborne cocaine smugglers to fly to the United States and the U.S. Customs Service estimates that such illicit traffickers have approximately 2,000 clandestine runways at their disposal on the American side of the border;

(5) Sec. 2013 of P.L. 99-570 empowers Congress to evaluate the required annual reports of the President on whether narcotics-producing nations have "cooperated fully with the United States to prevent the cultivation, sale, and traffic of illegal drugs.

(b) POLICY.—The Senate declares that—

(1) the President of the United States should initiate discussions with the Government of Mexico to develop and implement a bilateral agreement to monitor, pursue, and capture airborne smugglers of illicit narcotics. Such an agreement should include provisions for reciprocal overflight and hot pursuit authority as well as arrangements for the joint crewing of U.S. and Mexican drug enforcement aircraft.

(2) the President should report on the status of negotiations concerning this agreement in the annual International Narcotics Control Strategy Report on Mexico.

(3) if the President certifies in this report that the United States and Mexico have made significant progress toward the conclusion of the government, to include provisions for reciprocal overflight and hot pursuit authority as well as arrangements for the joint crewing of U.S. and Mexican drug enforcement aircraft, described in subsection (1), the Senate would consider such a declaration as a credible sign of the Government of Mexico's desire to "cooperate fully" with the United States on illegal drug interdiction programs pursuant to Sec. 2013 of P.L. 99-570.

KOHL (AND OTHERS) AMENDMENT NO. 983

Mr. HATCH (for Mr. KOHL, for himself, MR. KENNEDY, and Mr. SIMON) proposed an amendment to the bill S. 1711, supra, as follows:

At the appropriate place, insert the following new section:

SEC. . STUDY OF FAMILY ASSISTANCE, CHILD WELFARE AND YOUTH SOCIAL SERVICE PROGRAMS.

(a) GENERAL.—The Secretary of Health and Human Services, acting through the National Academy of Sciences, shall conduct a study consisting of a comprehensive review and examination of the child welfare and youth social service programs administered or operated within the office of Human Development Services and the family assistance programs administered or operated within the Family Support Administration.

(b) CONTENTS OF STUDY.—The study shall include—

(1) an assessment of the current content and organization of programs and data collection activities, including the relationship of local, State, and Federal government efforts, to protect children and youth and support families;

(2) an identification of the gaps and deficiencies in the activities described in paragraph (1);

(3) a review of the available options for improving the structure and delivery of services and collection of data concerning the activities described in paragraph (1); and

(4) an examination—

(A) of the current array and alignment of programs that addresses the special needs of children with substance abusing parents, children with disabilities and chronic diseases, including HIV infection, and children without adequate housing; and

(B) of how related programs and activities, such as health care and juvenile justice programs, interact with social service and family assistance programs.

(c) REPORT.—Not later than 6 months after the completion of the study required under subsection (a), the Secretary of Health and Human Services shall prepare and submit, to the appropriate Committees of Congress, a report concerning the results of such study, including a response by the Secretary to the report and the recommendations of the Secretary.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $1,000,000.

KERRY (AND OTHERS) AMENDMENT NO. 984

Mr. KERRY (for himself, Mr. D'AMATO, Mr. LEVIN, Mr. SANFORD, and Mr. MURKOWSKI) proposed an amendment to the bill S. 1711, supra, as follows:

At the appropriate place in the bill, add the following new sections:

SEC. . Section 501b of the Omnibus Crime Control and Safe Streets Act of 1968 (42 USC 3711 et seq) as amended by the Anti-Drug Abuse Act of 1988 is amended by adding paragraphs 21 and 22 as follows:

"21. Developing better interstate and intrastate narcotics intelligence networks and systems, including the acquisition of appropriate electronics and computer technologies for the purpose of detecting and monitoring narcotics trafficking and money laundering activities;

"22. Organizing, educating and training special drug intelligence units to combat narcotics trafficking and money laundering enterprises.".

At an appropriate place add the following new subsection:

"States shall give priority to allocations under paragraphs (21) and (22) that reflect the most complex and serious drug intelligence problems confronting units of local government, with particular emphasis on urban populations.".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, October 5, at 4 p.m., to hold hearings on ambassadorial nominations.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, October 5, at 3 p.m., to hold a hearing on Barbara Zartman, to be Deputy Director of the Peace Corps.

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

SUBCOMMITTEE ON ENVIRONMENTAL PROTECTION

Mr. BIDEN. Mr. President, I ask unanimous consent that the Subcommittee on Environmental Protection, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Thursday, October 5, beginning at 10 a.m., to conduct a hearing concerning the National Acid Precipitation Assessment Program and the scientific understanding of acid precipitation.

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

COMMITTEE ON ENERGY AND NATIONAL RESOURCES

Mr. BIDEN. Mr. President, I ask unanimous consent that the full committee of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, October 5, 1989, 9:15 a.m. for a hearing to receive testimony on the Department of Energy's efforts to improve the operations and management of its atomic energy defense activities and its efforts to restore public credibility in the Department's ability to operate its facilities in a safe and environmentally sound manner; and on S. 972, S. 1304, and any other legislation pending before the committee related to the environment, safety, and health aspects of operation of the Department's nuclear facilities.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate, Thursday, October 5, 1989, at 10 a.m. to conduct oversight hearings on the condition of the banking system.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. BIDEN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, October 5, 1989, at 2 p.m. to hold a closed hearing on intelligence matters.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. BIDEN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, October 5, 1989, at 5 p.m. to hold a closed hearing on intelligence matters.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on October 5, 1989, at 9:30 a.m. to consider pending committee business.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Thursday, October 5, at 9:30 a.m., for a hearing on the subject: OMB's response to management problems in the U.S. Government.

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

COMMITTEE ON THE JUDICIARY

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Thursday, October 5, 1989, at 10 a.m.

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. BIDEN. Mr. President, the Committee on Veterans' Affairs would like to request unanimous consent to hold a meeting to consider the nomination of Thomas E. Collins III, to be Assistant Secretary of Labor for Veterans' Employment and Training and the following Department of Veterans Affairs nominations: Raoul L. Carroll to be General Counsel, Allen B. Clark, Jr., to be Assistant Secretary for Veterans Liaison and Program Coordination, Edward T. Timperlake to be Assistant Secretary for Congressional and Public Affairs, Jo Ann K. Webb to be Director of the National Cemetery System, and possibly S. Anthony McCann to be Assistant Secretary for Finance and Planning on Thursday, October 5, 1989, directly following the first rollcall vote after 4 p.m., in the reception room off the Senate floor.

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

ADDITIONAL STATEMENTS

GILA WILDERNESS CELEBRATION

● Mr. BINGAMAN. Mr. President, I rise today to bring to the attention of my colleagues the 25th anniversary of the Wilderness Act. I had the privilege of attending a celebration of this landmark legislation this past weekend. I want to commend the U.S. Forest Service, the Friends of the Gila Forest, and Western New Mexico University for the well organized series of events commemorating the silver anniversary of the Wilderness Act. I would like to express my utmost appreciation to the sponsors of the celebration, especially the dedicated employees of the southwestern region of the U.S. Forest Service who made this such a successful event.

The ceremony was timely as this is the silver anniversary of the Wilderness Act and what more appropriate place to recognize the creation of the National Wilderness Preservation System than on the national forest which is the site of the first wilderness in the United States. The Gila Wilderness is especially significant in the history of the wilderness movement. In 1924, Aldo Leopold, a great New Mexican conservationist, a U.S. Forest Service employee, and a cofounder of the Wilderness Society, urged the Forest Service to protect the Gila National Forest. That same year, the Gila became the Nation's first administratively designated wilderness.

The Forest Service is to be commended for its foresight in recognizing the wilderness concept and for its continued professional role in wilderness management. Dave Jolly is to be congratulated for his effective management in the southwestern region.

While the Gila and other areas were protected administratively before 1964, the Wilderness Act was necessary to ensure their protection forever. We are especially indebted to the late Senator Clinton P. Anderson for making the Wilderness Act a reality. Senator Anderson of New Mexico was a leader of the conservation Congress, which earned its name by passing a sparkling collection of conservation measures in 1963 and 1964. The jewel in that particular crown was the Wilderness Act which was signed on September 3, 1964.

Today, thanks to Senator Anderson and his colleagues, there are 474 units in the National Wilderness Preservation System, encompassing about 91 million acres. Our Nation's Wilderness Preservation System is envied throughout the world.

On Saturday, September 30, the Forest Service unveiled a bronze plaque commemorating the contributions of Senator Anderson to the establishment of the National Wilderness Preservation System. We all owe a debt to Senator Anderson for helping protect these special pristine wilderness lands that provide valuable solitude, critical watershed, wildlife habitat and a legacy of our natural heritage.

Wilderness enthusiasts and managers, particularly the Forest Service, have made incredible progress in the last 25 years since the passage of the Wilderness Act. Some people have criticized the Federal Government for adding more wilderness and for managing wilderness in strict accordance with the Wilderness Act. But I believe no apologies are necessary for accomplishing the intent of the Wilderness Act. The framers of the Wilderness Act has a strong and purposeful vision that should serve as guidance for our actions today and in the future.

In closing, I would again like to acknowledge the Gila National Forest, the southwestern region of the USDA Forest Service, Western New Mexico University, and the Friends of the Gila Forest for sponsoring the Gila Wilderness celebration. It is entities such as these that brought the Wilderness Act to fruition and that continue action in wilderness designation, management, and education. We are deeply indebted to their fine efforts.●

WESTVACO COMPANY EXPANSION

● Mr. WARNER. Mr. President, I traveled earlier this week, together with my colleague Senator ROBB, to Covington, VA, to participate in ceremonies marking a $400 million expansion of the Westvaco Co.'s paper mill operations there.

The Westvaco Co. is a major employer in the Commonwealth of Virginia, and it uses state-of-the-art technology to produce its products, approximately 9 percent of which it exports overseas.

During the ceremonies, Westvaco's president and chief executive officer, Mr. John A. Luke, delivered some thought-provoking remarks on two areas of importance to his enterprise—one dealing with the challenge to

American firms of trading in today's international markets, and the other with his company's experience in complying with Federal and State environmental laws.

Mr. President, I found Mr. Luke's comments to be of considerable significance. I ask permission to enter a copy of his address into the RECORD, so it might be shared with my colleagues and others.

The remarks follow:

REMARKS OF JOHN A. LUKE: COVINGTON EXPANSION ANNOUNCEMENT, OCTOBER 2, 1989

This is a very important day for Westvaco and its Covington mill. I believe that it is an equally major day for this area and the Commonwealth of Virginia. And I know that today's news will be welcomed, as well, by our customers here in America and throughout the world.

All of us in Westvaco are very pleased to have such a distinguished assembly of guests here to share in our announcement. We are deeply honored by your presence.

There are two matters I want to address prior to sharing with you our announcement, and both are environmental. One relates to the business environment and the other relates to the natural environment.

The first dealing with the business environment is that we live and work in an increasingly competitive world. We respect and we welcome competition—it is the force that drives progress, and we fully accept our responsibility to meet the demands it places on us. We always have done everything in our power to be fully competitive, and we will continue to do so in the interest of our shareholders, our customers, our employees, and the communities where we are located.

The world is now one market, and its needs are served by suppliers from all parts of it. Our competitors are no longer only those here in America. They are located in every region of the globe, and they are able, aggressive, and determined. Their plants are increasingly modern and efficient, and their products are very, very good.

Beyond this, the markets of the world are not nearly as open and free as those in this country, and this is the international business environment that we face. Others have in place a variety of barriers designed to protect their own industry, and most are also directly subsidized by their governments—sources of competitive advantage that we in America do not share. These countries also have many forms of very forgiving regulatory support which are carefully designed to enhance the competitive position of their industry. The world is a long way from being a level playing field with the game played under the same rules for all teams.

While we must compete in the world with products made in other countries, we have equally demanding and intense competition right here at home in America. There are no protective market barriers, but there are variations among the domestic business environments. These measure the extent to which a state and local community assures that its industry has the same positive support as do others against which it competes. A business environment describes just how strongly a community feels about the competitive position of its industry. Business environment is a broad combination of factors, but two which are most readily visible are taxation and regulation, and in these, comparisons can readily be made. It is easy to see whether an industry is penalized with high taxes or more costly regulation than are its competitors elsewhere.

Higher than competitive taxation and more costly regulation clearly and directly affect an industry's ability to compete. As such, we take them very seriously. We cannot disregard anything that weakens our ability to compete. Westvaco stands ready now and always to work closely with its state and local communities to be sure that competitive equity is our joint product, and that each business environment is just as state-of-the-art as the organization and facilities it supports.

The competitive situation constantly tests our ability to its utmost limits, and it means that there is practically no margin between success and failure. As such, I cannot emphasize strongly enough the importance that we attach to the need for us all—this community, this state, all of our salaried and hourly employees, our suppliers—to work closely and positively together in our independent, but very interrelated roles. Team work is essential to the future strength of this mill and its potential for steady employment and economic contribution to this area. I expressed these same views last January when I spoke at the Chamber of Commerce meeting in Hot Springs. They were true then, and they are even more true today.

Following that speech, we were very heartened by the commitment of support that we received. And, believe me, that response has played a very significant role in the decision I will announce today. We welcome your support, and we honor it in the spirit offered. Together we are going to do great things.

The second matter I want to address deals with the natural environment and particularly one aspect of it. It is this, quite honestly, that has delayed our decision-making because of the uncertainty surrounding it. Westvaco has had a long-standing commitment to the environment and to the safety of its products, its workplaces, and its communities. As a company, we have invested $300 million in assuring its protection—$130 million of it right here in Covington. Our investments began well before the EPA was born, with many being voluntary and well ahead of regulatory requirement. In terms of regulation, I can assure you that every Westvaco facility is in full compliance with every regulatory standard governing it. We have done more than has been necessary, and we will continue to do so because we believe in it. It is good business, and a healthy environment is important for society. It is that simple.

Against this background, the natural environmental aspect that has delayed our expansion decision is dioxin. When we became aware, as a result of a congressionally mandated study, that dioxin was being found in minute quantities below bleached paper mills, we began a major, voluntary, scientific effort to ascertain the facts in our mills and to correct any problem that might exist. Our investigations determined that dioxin was being produced in trace quantities as an unwanted by-product of the pulp bleaching process, and our technology promptly pointed the way to process changes to reduce the potential for its creation. We were the very first company to announce a voluntary and comprehensive dioxin reduction program, and our remarkable progress since then has put us at the cutting edge of industry progress.

The result of this work is that Covington's products do not contain detectable dioxin at the limits of today's analytical technology and neither does its effluent. This is a dramatic accomplishment—it is a credit to our scientists and to our operating personnel at all levels. It has required an investment of $10 million here in Covington and a total of $30 million across the company, and it has been done on Westvaco's own initiative and ahead of any regulatory requirement.

The EPA is studying the future regulation of dioxin discharges, but it will be at least several years before final standards are promulgated, and there is presently no way to know exactly what they will finally be. However, levels seem to be under consideration that are literally 750 times beyond the ability of today's most advanced science to even measure.

Further, EPA uses a dioxin potency factor 1,600 times more severe than Canada, and some 150 times more severe than the Netherlands, Germany, and other developed, industrial nations. Additionally, EPA's risk assessment assumptions are very different and substantially more severe than other agencies in our own government. There is no rationality of standards whatsoever between the agencies of our own government or between the world's industrial nations. These matters are, potentially, very serious competitive disadvantages to Covington and the U.S. paper industry.

To put the dioxin matter in yet another perspective, the whole of the U.S. paper industry accounts for less than 1 percent of all the dioxin generated in this country. The total quantity of dioxin released in the combined wastewater from all of the 104 bleached paper mills in this country over the period of a whole year amounts to just two ounces. Yes, two ounces from all 104 mills in a whole year! We calculate, but cannot measure, that any wastewater discharge of dioxin from Covington would, at most, amount to less than one hundredth of one ounce over a whole year, and this would be diluted in 175 billion gallons of river flow.

Extensive fish samplings have been conducted independently by Westvaco and the State of Virginia at various locations along the river during the past year. All test results are safely below the criteria used by the U.S. Food and Drug Administration to express a level of concern associated with fish.

Finally, it remains an absolute fact that no causative link between dioxin and any serious human health problem has ever been demonstrated.

Since final dioxin standards on a national basis cannot be accurately forecast, and since uncertainty will prevail for a number of years, we ask only that sound science and regulatory reason be the compelling forces in their development. We ask as well that any standard which Virginia may adopt be based on eqaually sound science and regulatory reason. We are counting on this, and we are counting equally on your active and personal participation in the country's political process to assure that this is the regulatory approach. Your sound judgment and your active involvement can well be critical.

Despite regulatory uncertainty, Westvaco can no longer wait to respond to the growing market demand for the bleached board products made here at Covington. I have said many times that we are developing the world's best products and that we intend to meet the market demand they create. Thereafter, I am very pleased to announce that Westvaco's Board of Directors has approved the largest single investment in the

company's history. This investment in the amount of $400 million, which will be made in Covington, will be for an additional increment of pulping capacity and for a large, state-of-the-art, new paper machine which will initially produce 600 tons per day, but which will have an eventual capability in the range of 1,000 tons per day. The new facilities will incorporate state-of-the-art environmental protection throughout, and there will not be any adverse environmental impact.

When added to the $130 million already authorized for the new recovery boiler, today's new investment represents a financial commitment of $530 million in a period of six months to the Covington mill and to the markets it serves. It also represents, by far, the largest industrial capital investment ever made in the Commonwealth of Virginia.

This major investment will significantly strengthen Covington's competitive position in its markets, and it will also significantly strengthen the job security of all who work here. The additional pulp will be produced incrementally, but we will create about 50 new jobs to staff the paper machine.

Construction will proceed promptly so that the new machine can be operational in June 1992. The construction contracts will be awarded to qualified contractors on a competitive basis to assure the very best construction performance at the very lowest cost. We expect that over the course of construction, more than 1,200 construction workers will be required.

Expansion at Covington is more than just another step in Westvaco's history. It is a very key part of our future. We are a strong company today because of the members of our organization and also because of the vision and commitment of those who have gone before. We are a strong company because we have always had a firm sense of purpose and direction. Our current performance is based on clearly defined earlier plans, and our future performance will be the result of more of the same—able people, organizational commitment, and clear programs and objectives of the type represented by today's announcement. We feel very positively about the future and the opportunity it holds for Westvaco. We are investing in it aggressively and at record levels.

I have absolute confidence that our Westvaco organization will perform with distinction as it brings this record $530-million investment to operational reality and market success.

I have the same absolute confidence that, as the Westvaco team goes about its job, the unflagging support of the fine people and able leaders in this area and this state will be right there with us. This is the ingredient that is now crucial to competitive success.

In conclusion, I want to add that we particularly value this opportunity to share our plans and aspirations with you, because we deeply believe in clear, forthright, and proactive communication throughout our organization and throughout our communities.

Thank you.●

TRIBUTE TO PARTICIPANTS OF THE NATIONAL HISPANA LEADERSHIP INITIATIVE

● Mr. GRAHAM. Mr. President, today I rise to offer a tribute to 25 outstanding women selected to participate in the "National Hispana Leadership Initiative" because of their significant contributions to their communities.

Hispanic women are part of the rich diversity of America, and help lead this Nation in business, education, law, religion, public service and in family life.

The leadership initiative has, as its goal, to help prepare local Hispanic leaders for positions of national impact. They have studied public policy, management, goal setting, action planning and executive leadership, and have attended training sessions on national issues facing the Hispanic community today and tomorrow.

The women selected represent different regions, ethnic subgroups, professions and ages. I would like to recognize these leaders: Yolanda Alvarado, Conchi Bretos, Patricia Carpio, Maria Del Rosario Castro, Margarita Colmenares, Ivette Del Rio, Rosa Elsbree, Alicia Fernandez, Nely Galan, Anita Gomez-Bennett, Carmen Lomellin, Olga "Cookie" Mapula, Rosa Montano, Theresa Nieves, Pauline Nunez, Ella Ochoa, Deborah Ortega, Gloria Parra, Janice Payan, Mercedes Pena, Janice Petrovich, Hermelinda Pompa, Lula Rodriguez, Miriam Singer and Maria Vizcarrondo-DeSoto.

These outstanding citizens already have demonstrated their commitment and leadership abilities—our Nation is ready for them.●

MY GRANDFATHER'S LIFE

● Mr. GRASSLEY. Mr. President, during each recess period I make it a point to set up listening post meetings to obtain the views and concerns of my constituents. Because I am a strong believer in participatory democracy, I visit all of the 99 counties in my State at least once every year.

Through the course of these meetings, Mr. President, I believe I am given a rare opportunity to not only hear the concerns of my constituents, but also to feel the emotion in their voice, a fact that does not always come through in a written letter or postcard.

Mr. President, I am always struck by the articulation of those I visit and the knowledge each possesses on the issues we are dealing with in the Congress. At one of these listening post meetings in Pocahontas, IA, during the month of August I received a letter from a gentleman in attendance by the name of Herman C. Aaberg. The letter was somewhat different than I normally receive, in that Mr. Aaberg did not write to me about any problem, but rather to share a personal moment between his granddaughter and himself.

Because I was so impressed by the granddaughter's research on her grandfather, I would like to share those words with you and the rest of my colleagues. I ask to insert, at this point in the RECORD, a tribute to Mr. Aaberg by his granddaughter, Noonie Benford, entitled My Grandfather's Life: "The Son of Poor Norwegian Immigrants Contributes to Agriculture, Public Health and Society."

Mr. President, I sincerely hope that our grandchildren, colleagues, and friends will speak as well of us regarding our accomplishments. Hard work, perseverance, and dedication appear to be the key elements of Mr. Aaberg's life. This is an example we can all use to guide our daily lives.

MY GRANDFATHER'S LIFE: "THE SON OF POOR NORWEGIAN IMMIGRANTS CONTRIBUTES TO AGRICULTURE, PUBLIC HEALTH AND SOCIETY"

(By Noonie Benford)

This is the story of my grandfather, Herman C. Aaberg, son of Norwegian pioneers, and his extraordinary service to American agriculture and the nation.

He was born in 1902 on a primitive Nebraska homestead, during a time when farmers, ranchers and many other people were suffering from life-threatening diseases transmitted from livestock, such as tuberculosis and brucellosis.

My grandfather lost his mother to tuberculosis when he was but six years old. She called him to her bedside a few hours before she died, and asked God to take care of her little boy. He credits her prayers with giving him the strength and ability to assume a leading role in the eradication of this disease.

Tuberculosis also claimed the lives of three of his sisters and one brother; and my grandpa himself became infected as a young teenager. He was not expected to live. Banished to a small tent, isolated from his family and friends for several months, he was never able to attend high school.

He determined that if his life would be spared, he would pledge his years on earth to eradicating tuberculosis and other livestock diseases that had such a profound and devastating impact on his whole family.

The cost of vaccinating to control hog cholera alone was $1 million a week. The dollar loss from the death of hogs was many millions more. More than 7,000 people were infected with undulant fever each year, and a high percentage of cattle and hogs were aborting their calves and pigs.

Tuberculosis was the most serious disease of both livestock and humans at that time. Hundreds of costly sanitariums were built for treating human infected with this dreaded disease. The sanitariums were of little value in eradicating the disease, since they did not deal with the source of the problem.

Although my grandpa had missed all of high school, he eventually scraped together enough money from farming in the lower Rio Grande Valley in Texas to complete a two-year noncollegiate course in agriculture at Iowa State University, finishing near the top of his class. He also met the "most perfect human being he has ever known," Iris Leith, who later became my wonderful Grandma. They have been married for 64 years.

Grandpa's first job after college was a supervisor of the Lake Mills-Scarville cow testing association, for which he earned $65.00 a month (minus the cost of his own transportation). A horse and buggy sufficed for the first few months, until he was able to buy an old Ford for $65.00. He says this was val-

uable job experience; and at the end of 21 months, at age 23, he was employed as the County Extension Director in Winnebago County, succeeding a Dr. Carson, who had initiated a tuberculosis eradication program.

With the help of the Farm Bureau in Winnebago County, Grandpa took the leadership in ridding the world of tuberculosis in poultry, hogs and cattle. Winnebago was the first in Iowa to be rid of this disease.

After work as County Extension Director in Winnebago and Sioux Counties for seven years, Gramp was selected as Assistant Secretary of Agriculture for Iowa, where he served for four years. He took an active role in livestock disease control and eradication, and in the eradication of a most serious outbreak of grasshoppers and chinch bugs, which threatened crops. Only after he distributed more than 300 carloads of poisonous bran and creosote, with the full cooperation of the County Farm Bureaus and Extension Service, were the pests taken care of.

In the early 1930s, Gramp had charge of administering the first Federal Corn Loan Program of 45¢ per bushel. With the help of three assistants, County warehouse boards and corn sealers were set up and trained in a matter of a few weeks. Corn loans were being made at the rate of $1 million a day, totaling more than $50 million, at a cost of one-half cent per bushel. Corn prices more than doubled in one month. Thousands of Iowa farmers were able to save their farms, and every loan was paid in full.

After leaving the Iowa Department of Agriculture, my grandfather was employed as Iowa Representative of the Chicago Producer Livestock Commission Company, which was organized by the Farm Bureau in the early 1920s, and also represented the Livestock Producers Credit Corporation of Chicago.

While engaged in this work, Gramp, with the help of the Iowa and County Farm Bureaus and the Extension Service, organized 70 Cattle Feeders Associations to help livestock producers solve their marketing problems. Study and research committees were set up in these counties. Livestock marketing problems were uncovered, and solutions suggested. A state report of this activity was made to the American Farm Bureau, where a national committee had been established. A well-known agricultural economist, who later became President Kennedy's ambassador to India, was employed. This work was temporarily discontinued due to the outbreak of World War II.

My grandpa was asked to discuss the Iowa report at the American Farm Bureau Convention in Chicago in 1939. This renewed Farm Bureau interest in livestock marketing, and in 1944 he was asked to take charge of this work. Gramp not only headed the Livestock Department, but was later to help set up commodity departments for field crops, poultry, dairy products, and fruits and vegetables. He later became Director of the Commodity Marketing and Research Division. He drafted the National Hog Cholera Bill, and presented it to Congressional committees on behalf of the Farm Bureau, where it passed unanimously.

When asked, my grandfather feels that his significant service to American agriculture was made possible by the Farm Bureau organization structure, the establishment and work of special committees, livestock industry representatives, as well and the State and U.S. Department of Agriculture.

Gramp became very active in the Methodist Church, the Masonic Lodge and Kiwanis Club, which, under his direction as president, landscaped the historic town of Mineral Point, Wisconsin, after a severe ice storm. The Wisconsin-Upper Michigan Kiwanis Club gave him special recognition for this project; and hundreds of trees planted there and in other cities are a living memorial to his work.

Many awards for distinguished service to agriculture were presented to my grandfather by the United States Department of Agriculture, the Iowa, and the Pocahontas County Farm Bureaus.

When he retired from the Farm Bureau in 1968, Gramp was commended by the Board of Directors as follows:

"Whereas: This is the last meeting of the Livestock Advisory Committee at which Herman Aaberg will serve as Staff Secretary;

Whereas: The efforts and abilities of this man have been of utmost benefit to AFBF and its members, as well as the livestock industry and agriculture in general;

Whereas: The activities of this man in the field of agriculture have been both a credit and an asset to AFBF:

BE IT RESOLVED that we, the members of the Livestock Advisory Committe commend Herman Aaberg for outstanding services rendered to AFBF and the agricultural industry."

At his family's request, Gramp has written the story of his life for his descendents. At the request of Carl Hamilton, vice president of Iowa State University, a copy of his life story, plus about 100 pounds of records of his work and publications covering four decades, have been placed in the University Library as a historic record of Iowa, as well as American agriculture for research by graduate students and historians.

My grandfather is the only person who has received the Animal Health Award from the Animal Health Division of the Agricultural Research Service, U.S. Department of Agriculture. It reads, "For advancing animal health programs by creating a harmony of purpose among people in industry and government, and by linking the spirits and energies of people in a common objective."

I would like to digress from my grandpa's distinguished career for just a moment and relate a side of him of which only a handful of his thousands of friends and colleagues throughout the world are aware. In 1962, my parents' marriage broke up and my mother, my sister, age six months, and me age two years, in tow, came to live with her parents. My sister and I have always felt that our grandparents were responsible for raising us, and giving us the love, self esteem and values we will carry with us throughout life.

When my grandpa retired from the American Farm Bureau in 1968, he moved us to Mineral Point, Wisconsin, where he and my Grandma had purchased a farm with a 140-year-old historic stone house. The five of us lived a story book life on this wonderful farm.

On a trip to the Mayo Clinic for routine check-ups, it was discovered that I had to have emergency brain surgery; an operation my grandpa sold several acres of land to pay for. Worse yet, my mother was found to have cancer. She died a few months later.

I feel I could never have made such complete recovery, and gone on to thrive, had my grandparents not been so completely supportive and encouraging. No grandchildren and grandparents have ever been closer. No matter what kind of jams my sister and I got ourselves into over the years, Grandma and Grandpa have always been there to help us out and guide us. And while the effect of this contribution may not be felt as widely as my grandpa's wide-ranging agriculture work, it seems just as remarkable.

Farm Bureau made it possible for this little country boy to save many lives and to help make this world a little better place in which to live.●

REID BUNDY: A CAREER IN JOURNALISM

● Mr. CRANSTON. Mr. President, as those who know me would confirm, I have a great deal of respect for the members of the press. In fact, so great is my regard for the value of the work they do that a career as a "newspaperman" was the first one I pursued right out of college. My view then, as now, was that the importance of the role of the press in a free society cannot be overstated.

The individuals who dedicate themselves to ensuring continuing coverage of local events deserve our thanks. One such individual, Reid Bundy of the Palos Verdes Peninsula News, deserves not only our gratitude, but also our best wishes. After nearly 40 years in journalism, Reid is retiring.

Although I do not wish to make my colleagues from Kansas jealous, Reid left their fine State to go to California in the years following World War II. As a student at the University of Southern California, he honed his journalistic skills as managing editor of the the Daily Trojan. After college, he settled in what is known as the South Bay area of Los Angeles County and contributed his knowledge and expertise to the Torrance-Herald, the Torrance Press-Herald, and the South Bay Daily Breeze from 1950 to 1972, when he became the editor of the paper from which he now retires. Over the last 40 years, Reid has also served his community through his leadership role on a number of civic and service organizations.

People who have committed themselves to serving their community in both their professional and their private lives deserve special recognition. I am very pleased to be able to help make sure that Reid Bundy gets the recognition he so definitely deserves. And I wish him the very best for a happy and healthy retirement.●

COMEBACK IN INDIAN COUNTRY

● Mr. McCAIN. Mr. President, I would like to bring to the attention of my colleagues an article appearing in the October edition of Reader's Digest entitled, "Comeback in Indian Country."

The article highlights some of the most successful Indian economic development projects in the country today. I know there are many more tribes who are ready and willing to pursue business opportunities, but complicat-

ing their efforts are federal policies that present some of the most significant roadblocks to successful economic development. I believe flexible and consistent economic policies are needed—such as the bill I introduced, S. 1203, the Indian Economic Development Act of 1989—in order to assist Indian tribes to attract private sector investment. While I do not agree with every recommendation presented, this article focuses some long overdue attention on the success stories in Indian country and highlights problems in Federal Indian policy that merit our attention.

Mr. President, I ask that a copy of the article entitled, "Comeback in Indian Country" appear immediately following my remarks.

The article follows:

COMEBACK IN INDIAN COUNTRY

(By Randy Fitzgerald)

Today the arid land that is home to the Ak-Chin Indians blooms a brilliant green, much as it did in their ancestors' time. The tribe had farmed the flat deserts of the Southwest for centuries—until 1947 when the Bureau of Indian Affairs (BIA) took over management of their lands.

The BIA decided to lease out the arable portions of the Arizona reservation to non-Indians, returning—at best—$10,000 a year to the Ak-Chin. The tribe's several hundred members lived in huts made of railroad ties and mud, without electricity or running water. Lacking jobs or any control over their land, most had resigned themselves to a life of poverty.

But one family hadn't. In the early 1960s, Leona Kakar and her brothers asked the BIA not to renew the leases so the tribe could begin its own farming operation.

"You can't do that," a local BIA official admonished them. "Farming is too risky here. You'll fail!"

Ignoring this advice, Kakar's older brother, Richard Carlyle, secured a loan and borrowed farm equipment. He hired a local, non-Indian farmer as manager, and ultimately the tribe planted 2000 acres in cotton and grain. Within two years the operation began turning a profit, half of which was pumped back into the business and half into new tribal housing.

Meanwhile, Kakar contacted local BIA welfare offices. "If any people from our tribe come in, send them back to us if they can work, and we'll find them jobs." Soon the tribe's dependence on the government was broken.

Farm profits today exceed $1.5 million a year, a job is available for every tribal member who wants one, and almost every family boasts a modern home. "If we had listened to the BIA," Leona Kakar reflects, "we would still be nothing."

Across "Indian Country," islands of prosperity are emerging, the result of a revolution in attitudes. Native Americans are beginning to declare their economic independence.

Mississippi's Choctaw tribe has turned its reservation into an economic enterprise zone, with no natural resources, just people. Under the leadership of Chief Phillip Martin, the Choctaws attracted an electronics plant, a car-parts assembly factory and a greeting-card manufacturer to their reservation. Over 1,400 jobs have been created for people who had lived largely on welfare.

In Ledyard, Conn., the Mashantucket Pequot tribe operates numerous businesses, including a restaurant and a sand-and-gravel operation. Profits from these enterprises enable the tribe to employ all its members and to maintain its own roads and fire station.

The hills of northeastern Oklahoma are home to the country's second-largest tribe, the nearly 100,000-strong Cherokee nation. In 1975, 90 percent of all the tribe's income came from the government. Today, nearly 60 percent of Cherokee revenues are from its own enterprises and other tribally generated funds. Cherokee Nation Industries, Inc., grossed $24 million last year constructing military components. General Dynamics, one of the prime contractors, cited Cherokee Industries for producing "high-quality products with speed of delivery."

Bitter despair. Sadly, these islands of prosperity exist in a sea of privation. Most Indians have been trapped in a dependent welfare culture. According to the 1980 census, there are more than 1.5 million Native Americans, about half of whom live on or near the 304 reservations in the United States. More than one-third live below the poverty line. Unemployment on many reservations exceeds 65 percent. One in four Indian homes lack indoor plumbing. Alcoholism, crime and suicide are rampant.

And yet $3 billion in federal funds flows to the reservations annually. The Navajos, for example, received more than $250 million from the BIA alone last year. Without those funds, the reservation—25,000 square miles spread over four Southwestern states—would collapse. The nation's largest tribe has a per-capita annual income of about $2,400. Half the 200,000 Navajos are unemployed, and most of those with jobs are employed by the tribal government or local BIA offices.

Navajo lands, however, are abundant in resources. The reservation is estimated to hold up to 40 million tons of uranium, four billion tons of coal and millions of barrels of oil. But the wealth of this resource-rich land lies virtually untapped; its pastures are badly over-grazed; its people are bitter and despairing. Compounding the Navajo's problems is an overly bureaucratic tribal government, riddled with corrpution.

The Navajos' predicament is hardly unique. All tribal lands combined contain about 25 billion tons of surface coal reserves (approximately 15 percent of U.S. holdings) along with billions of dollars' worth of uranium, oil, gas and timber.

So why do the majority of Indian tribes remain among the poorest groups in the United States? In part, the blame lies with federal policy, which has undergone a dizzying series of reversals and contradictions.

Uncle Sam's Promises: By 1868 the last of 370 treaties between the tribes and the federal government had been signed. And though hostilities would continue for another two decades, most Indians were forcibly settled on the reservations designated for them—lands held in "trust," which Uncle Sam promised to protect and enhance.

Then, in 1887, Congress adopted a policy of assimilating Indians into American society. Although it was not widely implemented, the General Allotment Act called for elimination of collective tribal ownership of land. Each Indian family would receive a plot of 40 to 160 acres, and the tribes would be encouraged to become farmers. But most Indians lacked the capital or expertise to farm; many had to sell their lands just to survive. Others were swindled out of their property.

In 1934 this allotment policy was reversed by the Indian Reorganization Act. But by then Indian land holdings had shrunk from 136 million acres to less than 50 million.

Congress changed course once more in 1953 when it voted to terminate the government's special relationship with the tribes. Thousands of Indians were relocated to urban areas, an attempt to solve the reservations' economic problems by reducing their population. Ths strategy was also a failure.

"Termination" was quietly abandoned in the '60s, and an array of social-welfare programs was introduced, which further increased Indian dependence on government aid. Soon almost every reservation contained white-elephant projects, ranging from bankrupt furniture factories to abandoned motels, all foisted on the tribes by Washington. The Economic Development Administration built 37 "industrial development parks" on Indian lands. Nearly a decade after their construction, only two of them had achieved even a 50-percent occupancy rate; five had no tenants at all.

The federal government has invested a total of $30 billion over the past decade to lift reservations out of poverty. While some needed services have been provided, many projects and policies have failed because they were imposed from above, by bureaucracies. In contrast, the investments that have proved successful are the ones the tribes themselves made.

Tribal Enterprise. Along the Columbia River in Oregon, the Wasco and Warm Springs tribes lives as salmon fishermen and traders until 1857 when the government forcibly moved them over 90 miles south, away from the river, to a mountainous desert region of their land. Later joined by a band of Paiutes, they eked out a bare existence as farmers. In 1938 they organized themselves as the Confederated Tribes.

Jeff Sanders, a Wasco Indian who is now general manager in charge of public safety, grew up on the reservation in the '40s and '50s and remembers the tar-paper shacks without indoor plumbing or electricity.

But in one generation the lives of the Confederated Tribes were dramatically transformed. They turned themselves around by organizing their nearly 3000 members as a corporation in 1967, purchasing a sawmill (later building a plywood plant) and harvesting their own timber resources. Under the leadership of business manager Kenneth Smith, only the second member of his tribe to graduate from college, timber revenues were invested in a 160-room recreational resort and a home-building corporation.

In 1979 the tribe installed a hydroelectric generator in a dam on the Deschutes River, becoming the first tribe to receive a federal power license. Today Pacific Power and Light, a subsidiary of PacifiCorp, purchases electricity from the tribe, paying approximately $4 million a year.

Tribal enterprises employ 1200 people, and there's a job for every resident who is able to work. In 1988 revenues exceeded $65 million. "We now control our own destiny," says Sanders, proudly.

Another tribe with reason for pride is the Apache. A century ago, the Apache chief Geronimo surrendered to federal troops, marking the end of armed Indian resistance. Today the descendants of Geronimo maintain their fierce independence on nearly 720 square miles of the Sacramento Mountains in southern New Mexico.

"We are on the road to progress while preserving our heritage," explains Ouida Geronimo Miller, granddaughter of the legendary chief and director of tribal programs for children and the elderly. During her 60 years on the Mescalero Apache reservation, she has seen the tribe struggle to its feet, shedding the yoke of poverty by asserting its independence from federal policymakers.

Fortunes began to change for the Apache with the election of Wendell Chino as tribal president in 1953. In the tradition of strong leaders like Geronimo and Cochise, Chino used the pride and independence of his people to motivate them for economic self-determination. Throughout the '60s he battled the BIA's bureaucracy and their directives on such matters as how to use funding for education and community services.

In 1962 the tribe purchased a mountainous area next to the reservation that it hoped to turn into the southernmost ski resort in the United States. Some BIA officials predicted the venture would fail. Indians had never before been in the ski business. Yet within two decades the ski resort had to be expanded—from one lift to eight—because it was so jammed each weekend. In 1975 the Mescalero opened a $22-million luxury resort called Inn of the Mountains Gods, featuring a 250-room hotel, a 100-acre man-made lake, tennis courts and a golf course. The tribe opened a sawmill in 1987 to complement its logging operation and owns a herd of 4500 cattle.

No More Roadblocks. Four attributes separate successful tribes from their destitute brethren: strong, visionary leadership; a policy of keeping tribal politics out of business decisions; a willingness to hire non-Indian managers to run tribal enterprises as corporations; and determined independence from the federal bureaucracy.

If other tribes are to realize self-sufficiency, roadblocks, must be removed. Regulatory restrictions that obstruct Indian development of their natural resources should be lifted. Action could also be taken on a 1986 Interior Department task-force report that proposed turning reservations into enterprise zones, and offering tax incentives to companies that locate there. Such legislation has been introduced by Sen. John McCain (R., Ariz.), a member of the Senate Select Committee on Indian Affairs.

A 1984 Presidential Commission Report concluded that the BIA should be dismantled. The commission found that the BIA was moving too slowly in assisting tribes to gain more economic independence. The BIA controlled two-thirds of its $1-billion budget, while tribes had decision-making control over only 27 percent of BIA funds.

"The best thing that could happen would be for the tribes to direct the use of federal funding and to assume accountability for their decisions," says Ross Swimmer, who headed the BIA from 1985 to 1989 after a decade as chief of the Cherokee nation. "Abolish the BIA system because it keeps the tribes dependent. Let Native Americans be put in charge of helping themselves to achieve economic independence."

The successes of the Ak-Chin, the Apaches, the Cherokees and other tribes have shown that Native Americans are ready to venture into the economic marketplace on their own terms. As Chief Old Person of the Blackfeet says: "We will make mistakes. But they are less painful than suffering the consequences of other people's mistakes."●

RAOUL WALLENBERG

● Mr. MOYNIHAN. Mr. President, I rise today to honor the memory of Raoul Wallenberg, an honorary citizen of the United States, and an extraordinary man who risked his life to save thousands from the maw of the Nazi Holocaust. He issued Swedish passports to more than 15,000 Jews and indirectly helped approximately 100,000 Hungarian Jews to escape extermination. Today is Raoul Wallenberg Recognition Day, and it is proper and fitting that we observe this day. Raoul Wallenbeg personified all that is noble in the human spirit and he acted to frustrate the maniacal acts of those who personified the bestial possibilities still lurking in the hearts of men.

It is a terrible irony that when Hungary was liberated, Wallenberg was seized not by the Nazis but by the Soviet Union in violation of international standards of diplomatic immunity. He was taken to Lubianka prison in Moscow. He was never released and his fate has never been established. The Soviet Union has refused to investigate reports that he is still alive, maintaining that he died in prison at the age of 35.

I take this occasion to remind my colleagues that I have offered Senate Concurrent Resolution 60 which expresses the sense of the Senate that the Soviet Union should at long last cooperate in an investigation of Raoul Wallenberg's fate, including releasing his prison records. I urge those of my colleagues who have not yet joined as cosponsors of this resolution to do so.●

THE AFRICA GROWTH FUND

● Mrs. KASSEBAUM. Mr. President, sub-Saharan Africa's struggle to develop is a problem that has challenged the international community over the years. As chairman and now ranking member of the Subcommittee on Africa, I have followed these efforts closely.

One of the keys to development and recovery in Africa is a vigorous private sector. In recognition of this, I am pleased to announce that last week the Overseas Private Investment Corporation launched an initiative, the Africa Growth Fund, to help develop the undercapitalized African private sector.

The Africa Growth Fund is a new concept in international venture capital financing. It will provide up to $30 million in loans and guarantees to stimulate private investment in sub-Saharan Africa. Initially, Africa Growth Fund services will be available in some 40 African countries with which OPIC has reached bilateral agreements for offering its political risk insurance.

The fund was announced last week by Fred M. Zeder, President and Chief Executive Officer of OPIC. I would like to include Mr. Zeder's remarks about the fund and the importance of private sector development in the RECORD.

The remarks follow:

AFRICA GROWTH FUND, INAUGURAL RECEPTION, SEPTEMBER 26, 1989

(Remarks of Hon. Fred M. Zeder)

INTRODUCTION

Welcome Ambassadors, president N'Diaye of the African Development Bank, delegates to the Annual Meetings of the World Bank and the International Monetary Fund, Members of the United States Congress, Members of the Board of Directors of the Overseas Private Investment Corporation, clients of OPIC, friends, and particularly the owners and management of the Africa Growth Fund.

As I am sure you all know, we are here this afternoon in these magnificent surroundings to celebrate an historic undertaking by American business—the inauguration of the Africa Growth Fund.

This is not a casually conceived enterprise. This Fund is the natural result of our realization that Africa is a continent going through a profound economic change, a change that offers opportunities for sustainable growth based on the transfer of technology, of know-how, and of competitive access to world markets for quality goods and services.

This economic growth will bring benefits to people throughout Africa in the form of more and better-paying jobs, heightened demand for goods and services from small firms across the continent, and increased revenues to pay for social services: modern schools, health care and hospitals, and up-to-date communications reaching all the people with information they need to make democracy work.

THE AFRICAN GROWTH FUND

The Growth Fund is precisely the right type of operation to spark this dynamic economic activity in Africa. First, because it is privately owned and privately managed, it will be able to be more creative and flexible than a rigidly structured government agency. It can help African and U.S. business react quickly and effectively to the business opportunities that the policy changes in Africa are creating.

Second, it can help start and expand efficient business operations to produce goods and services that people need and are willing to pay for. It will mean that Africa can be competitive without subsidizing business and consumers and thereby diverting scarce resources from essential public services. It is self sustaining.

Third, this Fund will be professionally managed for success—supporting sound business ventures. The highest priority will be given to solid business planning, care for the quality of products and services, and responsiveness to—market demands—what customers need and want. Where there is a human need, there is a human opportunity; and where there's opportunity, there's investment; and with investment, there's sustained economic growth.

Finally, the Africa Growth Fund will be an equity investor. Occasionally, we forget that sub-Saharan Africa, no less than Latin America, Eastern Europe, and some other areas, suffers from a superabundance of loans and a scarcity of successful, equity-funded business enterprises to earn the money with which to service their debt. The

Africa Growth Fund, the first regional equity investment company—anywhere—to be formed in the past twenty years, addresses that problem.

AFRICAN BUSINESSMEN'S ROUNDTABLE

Of course, economic growth in Africa depends on African investment. And I was pleased to learn from Babacar N'Diaye about the steps he is taking to highlight private investment and private sector growth. I understand that he has engaged 25 outstanding independent businessmen in Africa to advise the bank; and he is planning to lead them on a visit to the States early next year. OPIC will be pleased to support this endeavor and to play a welcoming role for their visit. I am sure that our friends from the Africa Growth Fund will also be part of your welcome committee.

IN SUMMATION

I sense a new day in Africa. The leadership of the private sector is making itself heard, and it is producing results * * * results that will benefit all Africans over many years ahead. The Africa Growth Fund will be part of this. American business and industry will be a part of this. So will OPIC.

The U.S. Agency for International Development is also actively involved in this worthy undertaking, and I want to express the appreciation of all of us associated with the development of the Fund for their timely financial support in helping assure its realization.

A great debt of gratitude is owed to the owners of the Africa Growth Fund for their energies and their judgment: the Coca-Cola Company, the Lummus Company, Citicorp and Citibank, the Rockefeller family, and your company, Tom Ryan, M.W. Kellogg.

Thanks, too, to Citicorp Investment Bank, the Fund's private sector financial advisor, Vice presidents Michael Clare and Douglas Warwick, who worked tirelessly in helping us to put the Fund together; and finally the Equator organization, which has given us incredible, long-term support through its extraordinary commitment to creating this Fund, their long and detailed knowledge of Africa, and the unqualified professionalism of president Frank Kennedy, Vice presidents Tom Wescott and Ellen Johnson-Sirleaf, and the ever-present Kenneth Locklin, who has emerged to become the Fund's day-to-day operational manager.●

IN RECOGNITION OF CHINESE DOUBLE 10 DAY

● Mr. WILSON. Mr. President, I rise today to honor a trusted and valued ally to the United States. The Republic of China will be celebrating its national day of independence on October 10, otherwise known as Double 10 Day, and I wish to extend the good wishes of this body and those of the American people to the people of that nation.

The Republic of China has been a bastion of economic opportunity and a staunch friend of the United States and a defender of our national security interests throughout the Pacific Rim basin.

Nowhere have our bonds been stronger than in the areas of commerce and trade. The Republic of China has grown vastly within the past two decades to become an economic power rivaling other Asian nations such as Japan and the Republic of Korea. That economic relationship has been especially close between California and the Republic of China.

The growing importance of open and free trade has become more apparent as we move further into a unified, global marketplace. Even though Congress passed a 1,000-page trade bill giving new powers to the President to break down protectionist barriers locking out United States businesses from foreign markets, the Republic of China has not been a nation that violates the goodwill and trust of the American people.

I have no doubt many of these new initiatives will strain relations with our closest friends and trading partners, but we can rest assured that the relationship enjoyed by our two nations will continue to be strong and resilient.

What I have been especially proud of has been the cultural exchange between our two peoples and the attendant benefits. It is fitting that we also celebrate the 200th anniversary of Chinese immigration to the United States.

Americans of Chinese descent have contributed much not only to California, but to the entire Nation through their thrift, hard work, and intelligence. Their traits are as admirable and deserving of commendation as those of our own forefathers as they set foot in the New World so many years ago.

Chinese-Americans have risen to great heights of prominence within our society and they continue to contribute to our economy, culture, and humanity.

Underlying this relationship, though, is our common and determined opposition to the type of totalitarian extremism that has been practiced across the sea in the People's Republic of China.

On June 4, the world witnessed the terrible price people who yearn for freedom have paid all too often throughout history. The people of Hong Kong and the Republic of China have just cause to fear for the future when they are given such a barbaric and cruel glimpse of it.

The United States remains committed to its security alliances with the Republic of China and we shall not shrink from the responsibility to our friends. We will always be reminded of that warm spring day when the grown children of Mao's cultural revolution began a quiet one of their own by stating that armed force cannot be a substitute for freedom.

The students of Tiananmen Square have shown that tanks and truncheons cannot bury the hopes for liberty that burn in the hearts of millions of Chinese. From Beijing to Tibet, youngsters, workers, mothers, and monks have raised their voices on behalf of tolerance and pluralism before the gun barrels of the world's largest communist power.

The United States and the Republic of China are tied together by the hope and promise that freedom and peace bring to each of our peoples.

It is my hope that our two nations and people will continue the rich and fruitful relationships that we have nurtured together. On this anniversary of their national day of celebration, I urge this body and the people of the United States to wish our neighbors and friends across the Pacific another 100 Double 10 Day celebrations.●

RAOUL WALLENBERG RECOGNITION DAY

● Mr. SIMON. Mr. President, on October 5, 1981, Raoul Wallenberg was declared an honorary citizen of the United States, an honor bestowed on only three other people in U.S. history. This year, President Bush signed a law designating October 5, 1989, as "Raoul Wallenberg Recognition Day." I would, therefore, like to take this time today to recognize the heroic achievements of this extraordinary individual.

What makes Raoul Wallenberg so extraordinary was his willingness to immerse himself in the horror of World War II. A member of an aristocratic family in Sweden, Raoul Wallenberg easily could have remained unassociated with the war. Instead, Raoul chose to accept the request of both the United States and Swedish Governments in 1944 to serve as the First Secretary at the Swedish Legation in Budapest, Hungary. His assignment was simply to save as many Jews as possible from the Nazis. With an almost superhuman effort, Raoul did just that: He saved thousands of Jews from the Holocaust.

Raoul Wallenberg was creative in his rescue approach. In his official capacity, he declared numerous large apartment buildings to be extensions of the Swedish Embassy. In these "safe houses" he set up soup kitchens, hospitals, orphanages, and schools. In addition to this, he saved Jews already bound for death camps by pulling them off trains and helping them to escape. One of the most incredible achievements was the saving of over 70,000 Jews in a single night by helping to reverse an order given by Eichmann.

Another example of Wallenberg's heroism was his redesign of the pass that allowed Jews who could prove they had relatives in Sweden to be placed under Swedish protection. This new design, which was more official looking, fooled many Nazis and prevented the deportation of many of its bearers.

When the advancing Russian Army reached the city of Budapest, 120,000 Hungarian Jews were still alive—the largest surviving Jewish population in all of occupied Europe. Unfortunately, Raoul was unable to save himself. In 1945, he was arrested by Russian soldiers. His fate is still unknown to this day.

Raoul Wallenberg was a light to thousands during the dark days of the Holocaust. His heroic achievements impress upon us the need and the wish to honor him today on the anniversary of his becoming an honorary U.S. citizen.●

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar items numbered 285, 370, 371, 375, 378, 379, 380, 383, 384, 391, 392, and 393. I further ask unanimous consent that the nominees be confirmed en bloc, that any statements appear in the RECORD as read, that the motions to reconsider be laid upon the table en bloc, that the President be immediately notifed of the Senate's action; and that the Senate return to legislative session.

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

The nominations considered and confirmed en bloc are as follows:

FEDERAL TRADE COMMISSION

Deborah Kaye Owen, of Maryland, to be a Federal Trade Commissioner for the unexpired term of seven years from September 26, 1987.

FEDERAL ELECTION COMMISSION

John Warren McGarry, of Massachusetts, to be a member of the Federal Election Commission for a term expiring April 30, 1995.

Joan D. Aikens, of Pennsylania, to be a member of the Federal Election Commission for a term expiring April 30, 1995.

DEPARTMENT OF THE INTERIOR

John M. Sayre, of Colorado, to be an Assistant Secretary of the Interior.

ALASKA LAND USE COUNCIL

Curtis Virgil McVee, of Alaska, to be Federal Cochairman of the Alaska Land Use Council.

DEPARTMENT OF THE TREASURY

John T. Martino, of Pennsylvania, to be Superintendent of the Mint of the United States at Philadelphia.

Barbara E. McTurk, of Colorado, to be Superintendent of the Mint of the United States at Denver.

DEPARTMENT OF LABOR

Gerard F. Scannell, of New Jersey, to be an Assistant Secretary of Labor.

William James Tattersall, of Pennsylvania, to be Assistant Secretary of Labor for Mine Safety and Health, vice David Courtland O'Neal.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Daphne Wood Murray, of Texas, to be Director of the Institute of Museum Services.

DEPARTMENT OF EDUCATION

Leonard L. Haynes III, of Louisiana, to be Assistant Secretary for Postsecondary Education, Department of Education.

Christopher T. Cross, of Maryland, to be Assistant Secretary for Educational Research and Improvement, Department of Education.

STATEMENT ON THE CONFIRMATION OF JOHN M. SAYRE TO BE ASSISTANT SECRETARY OF THE INTERIOR FOR WATER AND SCIENCE

Mr. McCLURE. Mr. President, on October 4, 1989, the Committee on Energy and Natural Resources favorably reported the nomination of John M. Sayre to be Assistant Secretary of the Interior for Water and Science by a unanimous vote.

I am very pleased with the President's nomination of John Sayre. I have known Mr. Sayre and worked with him for many years, both during the time I've served in the Senate as well as in the House, and believe him to be one of the foremost water attorneys in this country today.

Mr. Sayre is currently a partner in the law firm of Davis, Graham & Stubbs in Denver, CO. He has long represented the Northern Colorado water conservancy district and its municipal subdistrict, and in his capacity as counsel has gained extensive experience in municipal and water law issues. He has handled matters involving the Department of the Interior, the Federal Energy Regulatory Commission, the Colorado Water Congress and the National Water Resources Association. I believe Mr. Sayre to be extremely well-qualified for the position to which he has been nominated and I recommend him highly.

Mr. President, I urge my colleagues to join me in supporting Mr. Sayre's confirmation as Assistant Secretary of the Interior for Water and Science.

STATEMENT ON THE CONFIRMATION OF CURTIS V. MC VEE TO BE FEDERAL COCHAIRMAN OF THE ALASKA LAND USE COUNCIL

Mr. McCLURE. Mr. President, on October 4, 1989, the Committee on Energy and Natural Resources favorably reported the nomination of Curtis V. McVee to be Federal cochairman of the Alaska Land Use Council by a unanimous vote.

Mr. McVee is well-qualified for the position of Federal cochairman of the Alaska Land Use Council. From 1971-1984, he served as the State Director of the Bureau of Land Management in Anchorage, AK. During this period, major land legislation was passed and implemented, to include the Alaska Native Claims Settlement Act, the Federal Land Policy and Management Act, and the Alaska National Interest Lands Conservation Act. From 1984-1986, Mr. McVee was president of a joint venture company in Anchorage—Alaska Community Engineering Services. He currently serves as the executive director for the Alaska Miners Association.

Mr. President, I urge my colleagues to join me in supporting Mr. McVee's confirmation as Federal cochairman of the Alaska Land Use Council.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

HEAD START AUTHORIZATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 39, H.R. 1300, the Head Start Authorization Act for fiscal year 1990.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1300) to amend the Head Start Act.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 1300) was ordered to a third reading, was read the third time, and passed.

Mr. MITCHELL. I move to reconsider the vote by which the bill was passed.

Mr. ROTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONGRATULATING THE DALAI LAMA—S. CON. RES. 75

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Concurrent Resolution 75 congratulating the Dalai Lama on being awarded the 1989 Nobel Peace Prize.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 75) congratulating the Dalai Lama on being awarded the 1989 Nobel Peace Prize.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (S. Con. Res. 75) was agreed to.

The preamble was agreed to.

The concurrent resolution and its preamble are as follows:

S. CON. RES. 75

Whereas His Holiness the XIV Dalai Lama of Tibet, spiritual mentor to millions of Buddhists throughout the world, and the leader of the Tibetan people;

Whereas His Holiness the XIV Dalai Lama of Tibet has persistently promoted justice, offered hope to the oppressed, and upheld the rights and dignity of all men and women regardless of faith, nationality, or political views;

Whereas His Holiness the XIV Dalai Lama is a world leader who has admirably and with dedication advanced the cause of regional and world peace through adherence to the doctrines of nonviolence and universal responsibility;

Whereas His Holiness the XIV Dalai Lama has, through his example, his teachings, and his travels, furthered mutual understanding, respect, and unity among nations and individuals; and

Whereas the Norwegian Nobel Committee has awarded His Holiness the XIV Dalai Lama of Tibet the 1989 Nobel Peace Prize: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress commends His Holiness the Dalai Lama for furthering the just and honorable causes that he has championed, and congratulates him for being awarded the 1989 Nobel Peace Prize.

Mr. MITCHELL. I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. ROTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ITALIAN-AMERICAN HERITAGE AND CULTURE MONTH

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Joint Resolution 392 to designate October 1989 as "Italian-American Heritage and Culture Month."

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 392) to designate October 1989 as "Italian-American Heritage and Culture Month."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the joint resolution.

The joint resolution (H.J. Res. 392) was ordered to a third reading, was read the third time, and passed.

The preamble was agreed to.

Mr. MITCHELL. I move to reconsider the vote by which the joint resolution was passed.

Mr. ROTH. I move to lay that motion on the table.,

The motion to lay on the table was agreed to.

BICENTENNIAL OF THE AMERICAN MORGAN HORSE

Mr. ROTH. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of a resolution recognizing the bicentennial of the American Morgan horse.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 191) to recognize the bicentennial of the American Morgan Horse.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. ROTH. Mr. President, I am pleased to submit today a resolution commemorating the bicentennial of the American Morgan horse.

Two hundred years ago, shortly after the birth of our Nation, the first Morgan horse was born in Springfield, MA. This was the beginning of a strong new breed of horses that went on to serve this country as part of the military in every subsequent major American war through the 1940's. The Morgan was found to be an intelligent, hearty, versatile, and easily trained breed, making it well suited for the needs of the military.

The Government continued to raise this horse until the 1940's when the last Government-owned and operated breeding farm was closed. The service of the Morgan horse in the civilian sector has also proven to be invaluable. Many Americans have benefited from its labors by means of farming, logging, carriage drawing, as police mounts, and in handicapped riding programs. They are also proudly displayed for their beauty, talent and dexterity at equestrian shows and exhibitions across the country.

Today there are approximately 115,000 registered American Morgan horses throughout the United States. In my State of Delaware alone, there are total of 172 horses. This horse symbolizes the great pride of this country in being a breed of horse characterized by courage, strength and endurance and is an authentic and important part of our American heritage. I ask you to join me in supporting this resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 191) was agreed to.

The preamble was agreed to.

The resolution and its preamble are as follows:

S. RES. 191

Whereas the American Morgan Horse is the only horse perpetuated as a breed by the United States Government at a Government breeding farm for use by the military;

Whereas the American Morgan Horse served in every major American war from the 1800's through the 1940's and should be recognized for its contribution to America like any other war hero;

Whereas the American Morgan Horse served as this country's early American work horse, clearing the land, plowing the fields, and settling the West;

Whereas the American Morgan Horse is the progenitor of America's light horse breeds and was used to contribute to the development of the American Saddlebred horse, the Standardbred, and the American Quarterhorse;

Whereas the American Morgan Horse continues to serve the people of this country in a variety of ways including farming, cattle ranching and recreation; and

Whereas the American Morgan Horse provides entertainment and sport to Americans in all 50 States as well as foreign countries by means of trail and endurance rides, carriage driving, showing, dressage, western riding, hunter/jumpers and serving the handicapped riding programs: Now, therefore, be it

Resolved, That the period commencing October 9, 1989, and ending October 15, 1989, is designated as "National Morgan Horse Week", and the President is requested to issue a proclamation calling on the people of the United States to observe such period with appropriate ceremonies and activities.

Mr. ROTH. I move to reconsider the vote by which the resolution was agreed to.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL HOSTAGE AWARENESS DAY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Joint Resolution 400, which designates October 27, 1989, as "National Hostage Awareness day."

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 400) designating October 27, 1989 as "National Hostage Awareness Day."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment. If there be

no amendment to be offered, the question is one the third reading and passage of the joint resolution.

The joint resolution (H.J. Res. 400) was ordered to a third reading, was read the third time, and passed.

Mr. MITCHELL. I move to reconsider the vote by which the joint resolution was passed.

Mr. ROTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ACTION ON AMENDMENT NO. 966 VITIATED

Mr. MITCHELL. Mr. President, I ask unanimous consent that action this evening on Amendment No. 966 be vitiated, and that the amendment be withdrawn.

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

ORDERS FOR TOMORROW

RECESS UNTIL 10 A.M.; MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 10 o'clock tomorrow, Friday, October 6; and, that following the time for the two leaders there be a period for morning business not to extend beyond 10:30 a.m. with Senators permitted to speak therein for up to 5 minutes each.

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

PROGRAM

Mr. MITCHELL. Mr. President, I ask unanimous consent that at 10:30 a.m. on tomorrow the Senate begin consideration of S. 1726, the catastrophic health bill, under the provisions of the unanimous-consent request previously agreed to.

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

RECESS UNTIL 10 A.M. TOMORROW

Mr. MITCHELL. Mr. President, if the distinguished acting Republican leader has no further business, and if no other Senator is seeking recognition, I ask unanimous consent that the Senate recess under the previous order until 10 a.m. tomorrow, Friday, October 6.

There being no objection, the Senate, at 11:56 p.m., recessed until Friday, October 6, 1989, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 5, 1989:

FEDERAL TRADE COMMISSION

DEBORAH KAYE OWEN OF MARYLAND, TO BE A FEDERAL TRADE COMMISSIONER FOR THE UNEXPIRED TERM OF 7 YEARS FROM SEPTEMBER 26, 1987.

FEDERAL ELECTION COMMISSION

JOHN WARREN MCGARRY, OF MASSACHUSETTS, TO BE A MEMBER OF THE FEDERAL ELECTION COMMISSION FOR A TERM EXPIRING APRIL 30, 1995.

JOAN D. AIKENS, OF PENNSYLVANIA, TO BE A MEMBER OF THE FEDERAL ELECTION COMMISSION FOR A TERM EXPIRING APRIL 30 1995.

DEPARTMENT OF THE INTERIOR

JOHN M. SAYRE, OF COLORADO, TO BE AN ASSISTANT SECRETARY OF THE INTERIOR.

ALASKA LAND USE COUNCIL

CURTIS VIRGIL MCVEE, OF ALASKA, TO BE FEDERAL COCHAIRMAN OF THE ALASKA LAND USE COUNCIL.

DEPARTMENT OF THE TREASURY

JOHN T. MARTINO, OF PENNSYLVANIA, TO BE SUPERINTENDENT OF THE MINT OF THE UNITED STATES AT PHILADELPHIA.

BARBARA E. MCTURK, OF COLORADO, TO BE SUPERINTENDENT OF THE MINT OF THE UNITED STATES AT DENVER.

DEPARTMENT OF LABOR

GERARD F. SCANNELL, OF NEW JERSEY, TO BE AN ASSISTANT SECRETARY OF LABOR.

WILLIAM JAMES TATTERSALL, OF PENNSYLVANIA, TO BE ASSISTANT SECRETARY OF LABOR FOR MINE SAFETY AND HEALTH.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

DAPHNE WOOD MURRAY, OF TEXAS, TO BE DIRECTOR OF THE INSTITUTE OF MUSEUM SERVICES.

DEPARTMENT OF EDUCATION

LEONARD L. HAYNES III, OF LOUISIANA, TO BE ASSISTANT SECRETARY FOR POSTSECONDARY EDUCATION, DEPARTMENT OF EDUCATION.

CHRISTOPHER T. CROSS, OF MARYLAND, TO BE ASSISTANT SECRETARY FOR EDUCATIONAL RESEARCH AND IMPROVEMENT, DEPARTMENT OF EDUCATION.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES, COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.